

# CHAPTER - 1

## INTRODUCTION

### STATEMENT OF PROBLEM

Bride-burning has been very much in prominence in the recent past. It has shocked the sensibility for the general public. In most of the cases, bride-burning seems to be associated with dowry demands where the victim is often a young and recently married woman. Many such cases go unreported but those that are reported are enough to unnerve all right thinking members of the society. The harassment and violence against the bride revolves around the demand for more and dowry which often culminates in the death of the bride.

Many questions can be raised about the recent increase in killing and burning of young brides for non – fulfillment of demands or insufficient offer of dowry .They are murdered for not bringing ad-equate dowry. It may shock a Westerner, but it no longer shocks Indians. Bride – burning has become quite a regular feature in the newspaper these days. The young married women are not only the victims of fire but also they are the victims of strangulation, poisoning, injury inflicted by heavy weapon, being compelled to commit suicide and so on.

Over the past few years, the phenomenon of bride – burning has registered a sharp increase throughout India. Dowry –deaths have increased nearly 11 times from 427 in 1983 to 4,856 in 1991. Around 990 cases of dowry –deaths were reported in 1985. In 1989, there were 4,836 in1990. According to a newspaper reports the number of dowry deaths increased to 5,582 in 1993 from 4,962 than the year 1992 which was 5,157 in 1991. But recently, The Times of India has reported that the cases of dowry death have registered a less figure of 4,277 during 1994 than the previous years in the country.

The figures from the Delhi alone show that a large number of Reported cases of bride –burning had gone up to 690 which was the highest in 1985.Many more cases go unreported or recorded simply as accidental death un connivance with police officials. As many as 3,108 dowry complaints were filed in 1986 in spite of stringent Laws. Over 90 percent of the cases of women burnt in Delhi were registered as accidents, only five percent were noted Down as murders and five percent as suicides .The frequency of unnatural deaths of house wives in Delhi has increased from the one in 14 days to one every 12 hours. ‘In the country’s capital, Says Khushwant Singh, alone on an average two young women go up in smoke everyday.

### SCOPE OF STUDY

The basic aim of work is to describe the various aspects and causes of this menace and to throw light on the extent of the fast spreading evil. The malady is deep-rooted and has its origins in several social, economic and psychological factors. It is intended to identify the factors which are responsible for increasing the cases of “bride-burning “ , in spite of a number of preventive measures undertaken by the government.

The objective of the present study is to find out ways and means for prevention and control of bride-burning cases. There is need to supplement the punitive measures by appropriate preventive measures.

Keeping in view the prevailing situation an-depth study of the subject is need of the day; so that suitable measures may be suggested and incorporated in the statutes for combating and eradicating the evil.

## **OBJECTIVES OF THE PRESENT STUDY**

The present study was undertaken keeping in a view the following objective:

1. To develop a theoretical perspective on offenders committing the crimes of bride-burning.
2. To enquire into the causes and factors leading to bride-burning.
3. To analyze the emerging patterns of aggression against brides.
4. To determine the socio-economic background of the victims, their Husbands, in –law, and parents.
5. To evaluate the existing legal measures and to assess the impact of Dowry Prohibition Act, 1961.
6. To review the role of enforcement agencies in dealing with the problem of Bride-burning.
7. To draw conclusion and to pure forward suggestion in order to eradicate The menace of bride-burning.

## **CHAPTER - 2**

### **THEORETICAL PERSPECTIVES**

The last few year have witnessed an alarming increase in the number of cases in which married women die in circumstances which are highly suspi-cious.As these deaths have come to the associated with dowry, in popular p-parlance they have come to be called as ‘dowry-deaths. In majority of cases, the victims is often a young and a recently married women, the phrase “bride-burning” has come in vogue.

The major questions often strike in the minds of the people about ‘bride-burning’ firstly, how common is this problem in our society and secondly what causes the in-laws and husband to the violent toward the bride/daughter-in-law?

Since dowry related crimes and other forms of violence against women in an area product of socio-cultural context, besides exploring liner relationship between forms of such violence and other Variables such as types of dowry demands, socio-economic background of victims or of interacting families etc., there is a need to develop theoretical framework by evolving concepts and theories to understand the problem of bride-burning. Attempt has been made in this chapter to analyze the problem of ‘bride-burning’ with a psychological and sociological back-drop.

### **(A) GOLDEN TIPS OF BRIDE-BURNING**

The Law Commission of India has India has identified certain factual Components of a typical “bride-burning” (dowry-death).The following analysis of these components, elementary though it may appear, is basic to understanding of this peculiar social phenomenon:

- I. **Sex:** The person who dies in a dowry-death is women.
- II. **Age:** She is mostly in her twenty.

- III. **Status:** She is a married woman, totally dependent on her husband or his relatives. In many cases, she has already become a mother, or is about to become a mother.
- IV. **Mode of death:** In the vast majority of cases the death occurs as a result of burns sustained by the women in a fire-though some cases of injuries or poisoning have also been known
- V. **Condition:** The woman is extremely unhappy, by reason of the demand for dowry. She has no other cause for unhappiness except that resulting from or connected with the demand for dowry.
- VI. **Nature of the Act:** Initially, a case of dowry death is presented (and even recorded) as one of accident or suicide. Homicide takes a back seat, and is brought into the front only with great reluctance, and only after great persuasion.
- VII. **Locale:** The death mostly takes place within the house; the victim of the “accident” is always behind closed doors, when she dies.
- VIII. **Reporting:** The death, where reported to the police by the husband or his relatives, is reported as caused by suicide, but where it is reported by the woman’s own parents or relatives, “the suspicion of homicide is put forth.

**The features of dowry deaths mentioned above are significant enough.** The first factors mentioned above (age’s and status of the victim) show that we are confronted here with the death of a person who is, or has become, too weak to resist. The will and power to resist has been largely eroded by the persistent demands. In spite of these, there are several factual components of a dowry-death.

Bride-burning (dowry-death) is a matter of great concern. It is a matter of shame that bride –burning has become a day to day phenomenon in our country. Brides are burnt to death or driven to commit suicide due to non-payment of dowry. The cause of bride-burning is mostly (with the exception of few cases) their incapacity to bring the expected or desired dowry in cash or kind or things demanded by their husbands and in-laws at the time of marriage or subsequently other occasions.

The dowry-based marriages in contemporary Indian society are imposing a heavy burden on the bride’s parents especially those who are not affluent. It is evident that married women are increasingly beaten, tortured, burnt to death and forced to commit suicide or murdered on account of dowry after the solemnization of marriage.

### **(B)WIFE-BEATING IN INDIAN SETTING**

The age old phenomenon of wife-beating has unique manifestation in India. It is clearly associated with social pattern of the society where family feuds, excessive alcoholism and frequently demands of subsequent dowry installments are quite common. In most of the Indian homes, wife-beating is in fact one of most accepted crimes committed against women. It exists mostly in slums and amongst working class. In fact, now it is gradually creeping amongst, middle class and rich families as well.

The problem of wife-beating is not confined to one particular strata of society alone. It exists every where though in different forms. In upper middle class it is symbolic just as pushing, slapping or throughing of objects. In middle class families it can amount to any aggressive form such as attach with knife or gun, strike with an object, kicking or biting. In lower-class groups particularly families living in slums, women are subjected to beating frequently by their husbands. According to a survey conducted by the Women Centre in Bombay, Women of all ages, from 16to 65 are victim of wife- beating.

The wife – beating seems to get camouflaged under the term ‘dowry-deaths. The deaths which occur within the ultimate manifestation of the violence suffered by most Indian women in varying degrees. The genesis of such deaths lies in the tension created by persistent demands, accompanied by beating and torture for dowry by the greedy husbands and in-law. The greed for money, the aggressiveness increased by resistance to the demands, which the young bride can be exploited and all combine to encourage the family members to take the bride’s life.

There are many cases in which the fathers of the brides have to incur heavy debts or even sell their property to meet the dowry demands of the eligible bridegrooms and their parents. In several cases, they continue to fulfill the demands of their daughter’s in-law forgetting that a woman cannot buy peace, not to speak of affection, by meeting the monetary demands of her in-law. The demand may lead to constant nagging and bullying which is even more damaging to the human spirit.

Thus, the institution of marriage may be regarded as the central feature of all forms of human society with which we are acquainted. It stands in an especially close relation to the family-using this term for the group consisting of parents and children. This social group rests absolutely on the institution of marriage. Marriage has two main functions; it is the means adopted by human society for regulating the relations between the sexes; and it furnishes the mechanism by means of which the relation of a child to the community is determined.

### **(C) DOWRY RELATED VIOLENCE**

The problem of family violence, especially violence towards Women, is not a new one and evidence about the incidence can be found throughout historical records of many cultures. However, awareness about the extent and nature of these issues came to the forefront during 1970s in USA as result of the National Family Violence Surveys. In India, it was only during the early 1980s, in the wake of dowry and related problems, that crimes against women came to be recognized as an important social problem.

Dowry related violence and bride-burning [dowry-death] are only peculiar to our country and largely in a culture –specific behaviour where besides the husband, normally his kin also join together in persecuting the bride. The dowry and related customs provide a good excuse to husband and his kin for humiliating, insulting and even beating up of the women.. Impressionistic accounts documenting the coercion and the violence arising from this practice are in plenty, but very few studies have attempted to understand the problem and its impact on women’s life situation from a sociological perspective.

Persons participating in dowry related violence against the bride are found to be mostly husband mother in-law and sibs of husband. In the majority of the cases the husband and the mother –in-law of the victim and played a leading role in planning and executing the crime. They observed that it appears from the data that the marital disharmony or dissatisfaction relating to dowry surfaced largely during the early years (2-5) of marriage. However, it cannot be construed as specific to victims of dowry related violence, since studies in other cultures also indicated that eruption of violence in a marriage usually took place in the early years of marriage.

The alarming increase in the incidences of crime against women for reason of dowry indicate that it is rather a manifestation of social process patterned both in its causation and distribution at structural level which cause distress to hundreds of women in similar life situations, than personal difficulties arising in marriage simply because of failure in mutual communication etc. Wright Mills called such phenomena as public issues involving crises in

institutional arrangements or threats to important values cherished by the public. To understand such issues, one is required to take beyond them to trace linkages among a great variety of other structural contexts.

As a matter of fact, the crimes appear to be a product of socially structured expectations about dowry giving, the inferior status of women and consequently the low bargaining power of the women and her parents, the growing urban consuming among lower and middle class sections of the society and the lack of effective legal and social sanctions against such crimes.

Dowry related violence in contemporary society can be understood as an issue arising out of the socio- cultural construction of the images and the role of women in the institution of marriage. By the same implication, to solve such problems, one cannot turn to private solutions but one has to adhere to social policies and institutional alternatives.

#### **(D) WIFE - BATTERING**

The problems of 'wife- battering' have only come into the limelight in the past few years, its progression toward public awareness paralleling the growth of the women's movement. Historically, there has never been any public outcry against this brutality. But now we are learning that the problem is far more pervasive and terrible than it was ever thought to be and that the myths which had previously rationalized why such violence occurred between men and women who supposedly loved each other are untrue.

Today, many men still believe their rights to rule their women are primary. This notion has been supported not only by the religion but by the law, beginning with the century-old right of a husband to beat his wife with a stick "no thicker than his thumb". In many cases, the girl is persuaded by her own parents to bear everything quietly, not to discuss her misery with others and encouraged to go back to a violent home.

A woman is trained right from her childhood that the man she is going to marry will be her 'pat pameshwar' (God husband) and if she wishes to have salvation- her 'Gait' can only be through subservience to him and total abeyance, irrespective of whether he is good or bad. This determination of the unquestioned power structure good or bad. This determination of the unquestioned power structure in favor of husband is called the 'marriage gradient' power structure in favor of husband is called the 'marriage gradient' by sociologists.

Prior research on family violence had tended to be clinically oriented and to focus on the pathology of the individuals involved primarily the intrapsychic conflicts of the man and the women. Sociologists Straus, Steinmetz and Gilles found that at least 28 per cent of all family members experience violence in their marriages. When the incidence rate reaches this level, we are dealing not with a problem of individual psychology but with a serious social disorder. A combination of psychological and sociological variables better explains the battered woman syndrome.

#### **(E) SOCIOLOGICAL THEORIES**

A proliferation of sociological approaches to study the problem began developing in the past decade. There are not only vastly different research designs with assorted theoretical

Perspectives but also differing units of analysis and definitions. There seems to be two major divisions categorized by focus; one group studies the family as whole in a violent

culture framework where spouse abuse is only one of many forms of violence's and the other focus on the marital relationship within the patriarchal family.

Sociologists observed, that structural violence refers to the structural patterning of the family, cultural norms and values and also political and economic system of a particular society that determine who will injure and who will endure. Some individuals are deprived of society's benefits and are rendered more vulnerable to sufferings than others. Structural violence establishes physical violence. Women experience both structural and behavioral violence. In the patriarch from other men; they become victims of men in their own families. In many societies women are not allowed to born even (feticides) or female children are killed fore fear of financial burden in their marriages. Pregnant and lactating women are ill fed and may face risk of death in child birth in many societies. Most pitiable condition are of single women like unmarried, widowed, deserted or divorced. Outside the patriarchal families these women are considered to be easily available and are more vulnerable to rape or economic exploitation. They are erotic, objects – cum – victims in contemporary societies. They will have to be conscious and take their own initiatives in redefining their role models and breaking the irrational traditions.

Thus, sociologists have explained why aspect of violence and not what the term violence in itself means. No doubt many manifestations of violence against women such as feticide, female infanticide, bride - burning, wife – battering, deprivations and discriminations in child rearing practices have their causes in the social structure and system.

It is generally observed that men who batter deny actions but to a large extent due to some reasons, for denial is the woman's peculiar self image. It is believed that denial and silence over the issue is feminine. The values taught during socialization tend to force the women to remain silent for a long time. Folklore and mores emphasize the divinity in the husband's home . A complaining woman is regarded as deviant and often the material home is economically and socially too deprived to accept a battered girl back home.

Though the emphasis is on the battering of law middle – class wives by alcoholic husbands, the truth is that the problems cut across economic and social barriers. The upper strata women are not visible because they refrain for coming out in the open to own their problem. It is only since a few women form the upper middle – class became aware that economic and educational backgrounds really have little to do with the problem of wife – battering.

## **CONCLUSION**

However, as theories discussed above wear development in the west they were primarily confined to the issues of violence between spouses or one actor using violence against other member of the family in out country most familiar from of violence pertains to the dowry related violence and bride burning

The bride who entered the house as a bahu is tortured physically and mentally by being abused and beaten the violence in the practice of dowry and bride burring is the fate of a bride in her new home the greed of dowry and other reasons involved therein are the motives in which the young brides become the victims of domestic and fire by their husband and in laws

The bride – burning is the as extreme from of wife beating and domestic violence the wife beating and domestic violence reach to such an extern that the bride is burnt alive or killed in some other way or pushed to commit suicide sometime they are burnt alive or killed in order to give the color of suicide the actors involved in bride burning are the member of the family the husbands and in law accused of maltreating harassing and inflicting brutalities on

young bride and systematically torturing her and finally get rid of the bride by setting her on fire or being compelled to commit suicide with a hope that groom can remarry and may reap bigger dowry.

### **CHEPTEER 3**

#### **CAUSATIVE FACTORS**

There is absolutely no doubt that recent increase in the incidents of bride burning are closely associated to dowry appears to be the main factors around which the ill- treatment of the bride hinges are most of the harassment, bride burning and suicide evidently result from the dissatisfaction of the husband and in laws over inadequate dowry brought by the bride. The present chapter is devoted to examine and analysis the various factors to murders and suicide of brides in their matrimonial home.

A number of issues centre round the factorial analysis. What are the dominant factors leading to bride- burning? Is it associated with a greedy motive to extract money from bride and her parents? Can a handsome dowry be considered as a security for standard living? Dose poor dowry be bride lower her position in the matrimonial home? Dose the demand for good dowry arise out of desire of the husband and in-laws to have luxurious life without efforts? Is incompatibility and maladjustment between husband and wife one of the factors leading to bride- burring? Can the desire “to have a son and not daughter” be regarded in some cases a factor responsible for bride – burning? In what ways the rigidity of divorce law affect the life patterns of the bribe and the bridegroom? Does it provide an opportunity to the husband to dissolve marriage tie by executing the murder of wife? Does this rigidity compel the wife to continue a tormented life until she commits suicide with a view to ending marriage tie? Whether the social – economic inequalities are responsible for incidents of bride – burning? Whether the unemployment and poverty of the husband and in laws lead to the demand of more and more dowry resulting ultimately in murder or suicide of the bride? Does the attitude of in-laws become troublesome for young bride? Are the parents of bride themselves responsible for the miseries of their daughter? These are the issues which have been discussed threadbare in this chapter.

#### **DETERMINING FACTORS IN BRIDE-BURNING**

A phenomenon such as bride-burning cannot be explained on the basis of a single factor. The motive of the offenders is to extract the money from the bride’s parents. Dowry is the main tool of exploitation against the married women. The in-laws of the bride in an attempt to extract more and more dowry, both in cash as well as in kind create an atmosphere of harassment and cruelty.

When the bride’s relatives are not able to provide the complete dowry at the time of the marriage, the bride may be harassed by her husband, her mother-in-law or other members of her husband’s family in order to bring pressure on her relatives. In exceptional cases, the torture may turn to murder. When murder occurs, the bride usually burns to death “accidentally” in a kitchen.

#### **Dowry – A Social Malaise**

Dowry is not plain buying and selling, neither it can be waived away in simplistic terms. It has no religious significance, only the sanction of a society that has reduced a woman to unproductive position and has considered her a gift to a man to be sent to him in the most splendid packing possible. Today the custom remains as a visible symptom of a deep

malaise in society, inextricably knitted in Indian society and so much importance is placed on getting a girl married that parents of unmarried girls are willing to meet almost any demand in order to get their daughters married.

A complaint of insufficient dowry brought by the bride has now degenerated into a fixation with almost every mother-in-law and daughters. The bride's life is made miserable. She is compelled to go to her parents to extort more and more presents in cash and kind from them. When the poor girl finding her parents impecunious, returns empty handed, she is invariably taunted, tormented and even tortured, sometimes to the extent of burning her alive.

The system of dowry is thus a major social evil, extortionist in Principle and foreign to ancient Indian culture. Dowry has become a social evil and has also led to the emergence of various social, economic, psychological and ethical problems in the society.

### **Incompatibility Between Husband and Wife**

There could be another explanation for a bride – burning Adjustment in new environment becomes problematic particularly in a joint family. Conflicts arise between husband and wife and daughter – in – law and parents or sibling-in-law right from the beginning. Over small conflicts, therefore, the girls rush to their parents', house to seek their (Parents') sympathy. The parents generally advises them to go back and adjust. These girls, therefore, remain frustrated, unable to cope with the harsh realities of married life and getting no emotional support either from their husbands or their own parents. In some extreme cases, they seek the easy way of "ending it all" by committing suicide. Some of the cases, thus, reported as dowry – deaths are in fact cases of impulsive suicides.

It appears that large number of cases of bride – burning or suicides are not related to dowry, but they are the tragic consequences of incompatibility between husband and wife. They will continue to be so till men and women can face marital conflict squarely in the face and say to each other and to themselves that they had better parts like friends. Angela Desponded claims this is not possible because all our ideas of 'character' and fidelity stem from the concept of a one-man woman.

In Indian Society, the choice of a spouse remains very largely a matter for negotiation and decision by the family elders. As the custom prevails in a large number of cases arranged marriages are performed with a parents' consent. Elders choose a spouse, considering factors like dowry, whereas the watch in totally unsuitable either because the boy is handsome and the girls is not beautiful and having not good features or the boy is educated where as the girl is uneducated. These factors ultimately lead to adjustment problems.

In India, even today the joint family system is predominant and the bride had to live with the parents of the groom after marriage. The parents want to have authority over the bride and in case if she opposes this it leads to conflict, which in turn leads to the torture of the bride.

### **3 Ill-treatment- Desire to Have Son and Not Daughter.**

Indian social system gives considerable importance to the birth of the male child. In Hindu society a male child is considered not only desirable but a religious necessity. This lure for male child often generates conflicts when wife fails to procreate a son. There are number of incidents where women are terrorized and even killed for being unable to produce a male child. Parental preferences of sons give rise to female feticide. With the introduction of sex determination test in our country female feticides are mostly aborted. Delhi Police with you



for you always Disuse reports that of 8000 abortions that followed sex – determination test only one involved a male fetus i.e. 7999: 1 ratio.

The root cause behind all these incidents is the concept of patriarchy. The patriarchal ideology and joint form of family exist as a cultural norm. The patriarchal family in India is also patriarchal and matrilineal male possessiveness and woman subordination is accepted as a social norm.

In the matrilineal family, as son is looked upon as the natural successor, supporter and heir of the family. A father relives through his son. Unlike a daughter who must change loyalties after marriage, a son is considered to be a god investment and insurance for the future. The strong preference for a son has to be understood in terms of dowry interlinked with the family.

Economically a female child is considered a drain on the family purse. She takes away considerable money in the form of wedding expenses and a dowry. As she grows up, a girl is trained in the parental home to take up the role of a house wife, but when she takes the role she has been groomed for she becomes an asset in the house of the in-laws.

In rural areas, woman as a daughter is never welcome. The birth of even a fifth son is an occasion for congratulations, whereas the coming of even the first daughter plunges in the whole household into disappointment, if not mourning. The birth of a daughter is generally regarded as a decree for fifty or sixty thousands against the parents.

Even in some cases, if a bride is incapable of producing offspring, within few years of marriage she is ill – treated, harassed and tortured or burnt to death. She becomes the victim of taunts commented by her husband an in-laws and particularly by her mother-in-law and sister-in-law. She is treated as barren (bench). This problem is not only confined in middle or lower class but it is also frequently prevalent in higher educated and higher cultured society. Sometimes, she is compelled to commit suicide and her husband is advised to get second marriage.

These are all frightening indicators of a deep – seated social malaise, whereby it seems all right for a male dominated society to victimize powerless woman. There is the violence in latent and manifest forms against women rampant even at the close of the 20<sup>th</sup> century.

#### **4. Rigidity of Divorce Law**

Marriage constitutes the very basis of social organization and creates mutual rights and obligations between husband and wife. Spastic Hindu Law regarded it as not only indissoluble but also eternal. This sacramental character of Hindu marriage gave rise to certain anomalies. In traditional Hindu Society, woman had no right to break the marriage tie.

Divorce was unknown to high case Hindus, comprising three Verna. Marriage bond was indissoluble not only for this life but for lives to come. The older generation usually accepted the life pattern believing it to be preordained by destiny, and tried to make the best of the lot. The Hindu society which was inextricably ‘bounty by caste ethics and discipline’ did not permit its member to go against its caste rules. The violation of the rule led to immediate excommunication from the caste – community and to almost insurmountable problems. Thus, Hindus conceived of marriage as a sacramental union or a holy union. It in was a sacrament in the sense that wife could never ask for divorce, or for another husband, even if her husband was a lunatic, impotent, a leper, a deserter, chronic patient of venereal disease, or even a eunuch, or a dead man. As regards the husband he, could always mock at this sacrament with impunity

and arrogance by taking another wife into another and he would do so as many times as he liked.

It is evident that ancient Hindu law did not recognize divorce. Nor did any other matrimonial cause find a significant place in the law of marriage and marital relations.

The successive individual and collective efforts to mitigate the hardship of women and elevate their marital status culminated in the passing of the Hindu Marriage Act, 1955. Now marriage's no longer treated as a union for life, or regarded as an indissoluble union of husband and wife. The husband or the wife can now file a petition in the courts for granting judicial separation or divorce. Section 9 and 13 of the Hindu Marriage Act, 1955, for the first time systematically codified the law of matrimonial relief including restitution of conjugal rights, nullity of void and voidable marriages, judicial separation and divorce. Thus, in the modern Hindu Law three theories of divorce i.e., faults grounds, breakdown ground and divorce by mutual consent are recognized and divorce can be obtained on the basis of any one of them. Further, the customary mode of divorce is also retained.

The Marriage Laws (Amendment) Act, 1976, inserts a new section 13-B, under which divorce by mutual consent is recognized. That section lays down that a petition for the lines of the Special Marriage Act, 1954, is divorce by mutual consent may be presented jointly by both the spouses with the following averments that:

- (i) They have been living separately for a period of one year.
- (ii) They have not been able to live together, and
- (iii) They have mutually agreed to live separately. On the motion of both the
- (iv) Parties made not earlier than six months after the date of the presentation of the petition referred to in sub-section (1) and not later than eighteen months after the said date, if the petition is not withdrawn in the meantime, the court shall, on being satisfied, after hearing the parties and after making such inquiry as it think fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree.

It is clear from the above provision that after the presentation of the petition, the parties are required to wait for six months, though not for more than eighteen months, and then to move a motion in the court that divorce be granted. The parties are also free to withdraw the petition at any time. But once a joint petition has been moved, one of the parties to it cannot withdraw the petition or his or her consent to the petition. If no motion is moved within eighteen months, the petition shall stand dismissed. The period of eighteen months is an upper limit for the withdrawal of the petition, but the court has power to grant divorce even after the expiry of that time if other conditions are fulfilled.

No doubt, section 10,13,13(1-B) of the Hindu Marriage Act contains provisions for providing matrimonial relief to the battered wives but these provisions are only illusory and it has to remain only on the pages of the books. Still the unfortunate brides are not able to get the protection of these provisions. Since the marriage the persistent demand of dowry becomes the routine work, the brides become the victim of violence and harassment by the cruel hands of their husbands and in-law. Persistent demand of dowry amounts cruelty and till now it has not been included under the head of cruelty for the grant of the matrimonial relief in Hindu Marriage Act 1955.

Section 14 of the Marriage Law (Amendment) Act, 1976, lies down that no marriage may be dissolved unless the period of one year has elapsed since the solemnization of the marriage though in the case of exceptional hardship to the petitioner or exceptional depravity on the part of the respondent, the marriage may be dissolved earlier. This is based on

the assumption that it is the duty of every married person to give fair trial to the marriage. The drawback of this provision is that under section 14 of the Hindu Marriage Act, there is one year bar to divorce. A petition for judicial separation or divorce can be presented to the court only after one year has elapsed from the date of the marriage. This is, however, relatable in case of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent. But the terms 'exceptional hardship' and 'exceptional depravity' have not been defined in the Matrimonial Causes Act from where they have been borrowed. They have also not been defined in the Special Marriage Act or the Hindu Marriage Act. The words 'hardship' and 'depravity' are of wide ambit but they have been qualified by the word 'exceptional' which means beyond the ordinary run of complaints which come before the court.

A divorced woman is looked down upon by the society and does not enjoy good social status in society. Even a divorced woman is not given welcome at their parental home. In many cases it is felt that divorce is not only failed to solve the problem but creates more. Several divorced woman feel that it would have been better for them not to have gone for a divorce at all.

When a woman having a child seeks divorce, future of the child is doomed. Moreover, a divorced woman may face a lot of problems in negotiating her remarriage she may suffer from inferiority complex which may affect her conjugal and social life.

According to a survey it was observed that after divorce the majority of the respondents' found it difficult to establish a satisfactory social life. They were for the most part confined to the home meeting only their relatives. This was mainly because they themselves were embarrassed to go out as there was in the beginning a considerable loss of self esteem in the women. Though only three of the fourteen respondents reported that there was overt hostility towards them, the majority felt that they were looked upon as 'marked women', who at best were regarded as unfortunate women who had no home of their own.

### **(B) Situation – Social and Economic Factors in Bride – Burning.**

The other factors which lead to the cases of bride burning may be covered under the head of social and economic factors. Ram Abuja in his book, Crime against Women, observed that the economic situation in a bride's conjugal home contributes much to her adjustment soon after her marriage. It may be often a cause of her humiliation and cruel treatment. In a materialistic society, there are constant pressures on individuals and families for having more and more money not only to provide more comforts to themselves and family members, but also to have some future security.

Further, he noted that on rough estimate the ration of male and female was almost equal in these groups and there should be no need to pay and get a husband. But for economic security. The boys postpone their marriage every parent and his daughter want a boy with a job and till they get jobs. Since the problem of educational unemployment exist in its active form in our country, in many cases the boys have to spend money to get jobs. The parents have already spent money in getting their sons admitted to good institutions, in completing their education, in getting their daughters married, and so forth. They, therefore, accept money to their son's marriage out of economic necessity. The problem of dowry is, thus, basically a problem of demand and supply.

It is axiomatic in every society that a woman has less intrinsic value than a man. And dowry is not just a bad isolated custom but a typical expression of a social – economic system built on that axiom.

### **1. Socio – Economic Inequalities**

The status of woman is linked up with India's socio – economic development which is again caught up in the web of world – wide capitalism. Such development can generate job opportunities only for few and encourage a limited enclave type of 'modernization'. The result is a widened socio – economic gap between men and men and between men and women. The traditional and high case customs suggest that the men are always economically and socially 'superior' and this demonstrates their values in the marriage market.

The system of mate selection seems to have become a matter of calculation where both the parties try to gain and advance socially and economically. One deliberates and manipulates in order to obtain the most profitable economic and socially transactions.

The model of transaction of dowry forms an ideological part of the well-to-do sections are influenced to imitate it as a mechanism of upward social and economic mobility. More so, the social environment of urban milieu allows the vulnerable sections to adopt more easily the social practices associated with the higher castes and classes.

## **2. Economic Inequality – Unemployment and Poverty of Husband and In-Laws.**

The economic dependency of women continues to be a fundamental feature of any society, especially with regard to middle class and upper middle class families. Economic inequality, unemployment and poverty have direct bearing on cases of bride- burning in India. Economic dependence determines the relationship of husband and wife not only in India but even in other countries.

Inequalities among sexes also exist in relation to employment. The problem of female employment in India begins at the very level of measurement itself. S is the case in most third World Countries women in India constitutes the bulk of the "invisible labor force", especially in rural areas. Statistical data measures employment largely in terms of case income and so fail to provide an accurate index of the female contribution to the national economy. The size of this 'submerged activity' can be gauged from the estimates the Nationals Sample Survey 1977-78 which classified around 44 million rural women as engaged in domestic work and another 27 millions suppliers of free goods and services. –The failure to take into account this enormous workload handled by women prevents the full understanding of their economic planning needs.

Several studies conducted in India demonstrate correlation between bride – burning on the one hand and economic inequality, unemployment and poverty on the other. Deaths in Delhi, U.P. and other states attract the most attention. In U.P. the upward thrusting middle class and lower middle class accounts overwhelmingly for the tragic incidents. In Delhi, the brides burn in homes where the income is likely to fluctuate, and families are large and space little. According to a newspaper report, in two – third of the 33 cases studied in Delhi, the husband had no steady source of income. They were either an autorikshaw driver, or a self employed mechanic or a bookseller at the Railway Station or worked on daily wages, or a DTC Conductor or an NDMC employee. Most of these men had neither a guaranteed income nor a distinct professional identity. Many of them had day to day earning and often were just hand to mouth. In this situation of insecurity and tension the girl's families are sometimes the only source to tap for money. Many families had six or more members not necessarily employed. They required support instead of providing it. They made more demands of dowry upon the daughter-in-law.

Unemployment and under-employment have been burning problems in India causing and adding much to the human misery. It has become a malady having complex set of

factors. The multiplicities of causes that lead to unemployment are difficult to differentiate from other forces of society. Though, unemployment has been considered mainly an economic problem, it is a social problem as far as its effects are concerned. The problem of unemployment is always prone to assume serious proportions. In India too, the problem is acute with a tendency to become chronic.

The economic problems arising out of unemployment affect a person's social and personal standing both within and outside the family. If the situation persists any length of time it might even lead to increased antisocial and criminal activities. Employment enables one to meet and satisfy the different demands in one's life.

The problems of poverty due to unemployment are the concern of economists. Frustration though mainly a psychological phenomenon, its effects, however, would be disastrous to society.

### **3. ATTITUDE OF IN-LAWS**

During the days of child marriages the daughter-in-law would enter her in-laws home in the subordinate role of the child. As an elder and head of the family, the mother-in-law had complete authority over her. In fact it was the duty of mother-in-law to train the stranger, the way and means of the household so as to enable her to take over the administration of the family in future. The daughter-in-law lost her individuality when she entered her husband's home and began to adopt herself to the traditions and customs of the family both mental and physical. She had to adjust herself to the mother-in-law, sister-in-law and other in-laws. She had to respect and obey all the elder members of her family, besides attending on the home duties such as cleaning, washing, drawing water, cooking, rearing children, tending cattle, nursing the aged, etc. but in the present society, the daughter-in-law is no more a child, particularly the educated working woman is not at all a child to obey and to be subservient to her mother-in-law. But she happened to be a woman of more self-confidence, knowledge and experience and views more educated than her mother-in-law's. They have studied the theories and view more educated than her mother-in-law. They have studied the theory of child care, house keeping and behaviour patterns and they are now more aware of the society than the mother-in-law. All these pursuits deprive and nullify the mother-in-law's superior position, elderly personality and source of knowledge and tend to promote the friction between them, particularly if they happen to live in the same house. Now the young couples desire in more numbers to have a separate shelter when they are married.

Most probably troubles come from mother-in-law's side. Having accustomed to work from childhood and with the completion of marital obligation, the old mother-in-law faces a boring and unworthy situation which is killing time. As is said, "an idle mind is a devil's workshop", the mother-in-law, who idly roams here and there without any work, tries to find fault with the daughter-in-law who is fully involved in family work. She tries to nag the daughter-in-law at every type of work. Thus, the troubles arise on account of mother-in-laws.

Unwelcome interference and nagging. A mother-in-law, who is authoritarian and meddling, gets displeased when the daughter-in-law is not good at cooking and obstructs her mother-in-law in having a good relationship with the husband. Often, she treats her daughter-in-law as a captive, and in some cases, as a domestic servant.

The maiden sister-in-law also some time creates friction between mother-in-law and daughter-in-law. When daughter-in-law comes to new house the brother may be generally very close to his wife in the early year of marriage. At times, sisters may be neglected. In such instances, the sister feels isolated and deprived of her brother's love and affection. As a result,

they try to find fault with the daughter-in-law. She is misunderstood to have captured and prevented their brother from keeping close contacts with his sisters.

When bride happens to be the only daughter of her parents, she finds even more difficult to adjust to the new environment. Sometimes, she is over dependent and seek help and attention of her parents. In such circumstance, the disputes and discord between mother-in-law and the daughter -in-law increase considerably. On such complex occasions, it is difficult to pinpoint exact cause, the person or the situation responsible for discord. In such case the embarrassed and puzzled husband is a silent spectator and is overwhelmed by two forces pulling towards opposite direction, namely his household and wife. In that the wife urges the husband to stay away from his parents and relatives. If not, in these crucial times, she stay with her husband and do the familiar duties but she wants her husbands assurance of kind treatment and a sympathetic dealing from the members of the house and if this is not available she could live separately with her husband . It is observed that cruelty meted out to daughter-in-law at time is so inhuman that she decides to live away from -in –laws family even deserting her husband.

In some cases the attitude of the father-in-law and brother-in-law is also troublesome. The brides are subjected to torture and cruel treatment by their father-in-law and brother-in-law due to the bringing of inadequate dowry. The following decided cases are illustrative of this situation.

#### 4. LACK OF EDUCATION IN THE FAMILY

The constitution of India and host of other statutes bestowed upon women the privilege of equals rights with men, the same facilities of education, the same opportunities of profession and employment. But the bulk of India women are deprived of this boom of raised status, mainly because majority of them are devoid of education, even the elements of literacy

Such lack of education has its impact upon the whole social structure including the educated also and lower facilities for the girls or women within the household, inequality of wages between female and labor, the burden of the domestic work resting upon women unshared by the male members even when women are working outside all day.

Illiteracy is the great barrier to any improvement in the position of women in employment, health, the exercise of legal and constitutional rights, in attaining equality of status and opportunities in education itself.

Female literacy and education along with employment and income are decisive for the improvement in the quality of the family. Life. The female literacy percentage is till only a little more than half of males. And the gap between the two, in percentage points, is not closing but rather widening from 17.02 in 1951 to 22.07 in 1981.

#### Literacy rates from 1901-1991

Census Year	Literacy Rate		
	Male	Female	Total
(1)	(2)	(3)	(4)
1901	9.83	0.60	5.35
1911	10.56	1.05	5.92
1921	12.21	1.81	7.16
1931	15.59	2.93	9.50
1941	24.90	7.30	16.10

1951	24.95	7.93	16.17
1961	34.44	12.95	24.02
1971	39.45	18.69	29.45
1981	56.37	29.75	43.56
1991	63.86	39.42	52.11

\*Source: Census of India, 1991

The one of the reasons for the problem of bride- burning is inequality. Due to the educational inequality between males and females, for a variety of reasons, a greater proportion of males than females with educated. There are not only more marriageable males than females with education, but males have more number of years of education than the females. In such a situation, dowry is demanded or offered as a compensation to make the educated males marry the less educated or illiterate's females. More often, the less educated or illiterate brides are taunted, tortured or burnt to death. It is axiomatic that the greater difference between the educational attainments or prospective brides and grooms, the larger are the dowries demanded and given.

Similar education inequality exists among marriageable males and females. One of the consequences of this is that the parents of males with education demand dowry and those of males with higher education demand a larger dowry to marry less educated females to their sons. Similarly, the parents of females with less or no education willingly offer money. IN this process, the practice of demanding and giving dowry becomes a social custom and even the parents of males without education demand dowry and those of females with education offer it. If these demands are not met, the bride are tortured, harassed and even burnt alive or pushed to commit suicide.

## 5. Parents too guilty

The Dowry based marriages in which the better positioned bridegrooms are highly rated have increased on account of the new forces of modernization along with the consumer culture of a partially profit-oriented society. It is this demand of 'desirable' bridegrooms that has made of bride's parents to dance in the way the bridegroom, his parents and kinds tune. All social groups have their own criteria of choice and considerations for selection of bridegroom and the value of women is frequently under-rated in this male dominated society. The parents are in competition to give their daughters in marriage to a 'desirable' bridegroom that has made of bride's parents to dance in the way the bridegroom, his parents and kinds tune. All social groups have their own criteria of choice and consideration of selection of bridegrooms and the value of woman is frequently under-rates in this male dominated society. The parents are in competition to give their daughter in marriage to a 'desirable' and better boy and this is to be according to their custom and usages, on the one hand and the social pressure of the present society on the other.

It may be noted that the majority of parents like to give their daughter in marriage in higher-status families. Because of this they are required to pay higher amount of dowry. It does not become a problem if the parents solemnize the marriage of their daughters in families which are equal to the status of there own. the amount of dowry remains within the payable limits. Since, psychologically the present want that their daughters should not suffer economically well-off and the prospective son-in-law is in a better occupational position. The education qualification of girls bears little weight age in marriage negotiation. It is interesting to note that in urban areas the parents generally discourage education beyond matriculation as the parents generally discourage education beyond matriculation as the increase in education qualified boy and in such cases the amount of dowry will be higher.

There appears to be two peculiar situations in which the parents of girl cannot shed responsibility. One is to bring up girls in the most protected way. As a result, girls are not able to manage crisis situations that might arise out of the blue. They grow up with an inferiority complex and a fear psychosis. When transplanted to another houses they are at a loss to handle various things which boys normally manage effortlessly. They puts an additional strain on husbands and is a potential invitation to strain. Another fault which they commit is to get a boy into wedlock for his daughter and can go any length to get him. Since a good boy, as they see him can ensure a secure happy home for their daughter they would allow nothing to permit the boy to slip thought. This includes promises which they know the can't keep. After marriage, when promises turn out to be hollow, friction de4velops and the marriage goes sour. If the bride's parents forego this mad such to get a particular groom at any cost, most of the resultant unpleasantness can avoided.

## **CONCLUSION**

It appears form the above discussions that no single factor is responsible for bride-burning but it may be explained in terms of multiple factors. The young married women are victims of dowry atrocities culminating in the dastardly act of murder or suicide. Now-a-days dowry payment has become almost an indispensable condition of marriage. The amount of dowry is fixed in accordance with the educational, occupational and familial status of the groom. The dowry is demanded by the greedy husband and in-laws in cash as well as in kind and it continue till the death of the bride takes place. They want to raise their status by receiving more dowries. If the bride fails to bring sufficient/desired dowry, she gets low status in the new family and becomes the victim of harassment and violence which results in murder or suicide. It is only those who are confident of fending for they outside the marriage can manage to escape death by fire. There is a fear of social stigma that what people will say upon her return to he parent's home. The rigidity of divorce law provides and opportunity to the husband and in-law to get rid of the bride. Because they have desire to perform second marriage and get more handsome dowry again. The parents always pray for a son. Firstly, a boy brings happiness since he stays with the parents, continue the family line and support parents in their old age. Secondly a son brings dowry and the girl is a liability. She has to be sent to her in laws with a fabulous dowry.

The soico-economic inequalities create the dowry related crimes. Sometimes, the unemployment and poverty of the husband and in-laws motivate them to demand more and more dowry and an atmosphere of insecurity is created for women. The parents of a bride fall victim to their emotions to ensure the safety and well being of their daughters. As one time economic involvement was not so much of a burden but the cycle is perpetuated beyond their economic resources. In majority of the cases, the parents of the girls want to get a good match for their daughter at any cost.

## **CHAPTER-4**

### **PATTERNS OF AGGRESSION:MURDER AND SUICIDE**

It has been analyzed that the cases of killing of brides are becoming very common on account of the greediness of husband and in-laws for extracting money and other valuable from bride's parents. Often the bride is subjected to continuous torture that may lead to her death. She may on account of persistent harassment commit suicide. In many cases causing death is plain and simple murder which is committed in a number of ways. To cover up such murders as cases of suicides, sometimes material evidence is either removed or manipulated. Young brides are strangulated and hanged to make it a case of suicide. The most common form of killing of young bride is killing by burning and in majority of cases sprinkling of kerosene



oil. It is, therefore, no surprise that this form of murder involving bride has assumed the name of “bride- burning”.

The mode and manner of bride burning vary from family to family but what remains constant is the story of inhuman torture and violence. In this chapter, it is proposed to account for the incidence of murder, homicide and suicide involving young brides with a view to demonstrating the patterns of aggression against them.

The incident of bride burning brings two families in juxtaposition with other. The parental family casts blame on in-laws’ family in the event of natural or unnatural death of a bride. The husband and in-laws make the death appear either as accidental or suicidal. It is pointed out that, “in almost all the cases of unnatural death of their daughter, parents try to affix the label of homicide. In order to avoid social stigma, husband and in-laws try to make all suicides to be accidental deaths. In respects of homicide, their first choice is for the label of accidental death and if it fails they go for a suicide theory.

In a case, the Supreme Court observed that where occurrence, burning of deceased took place in the open courtyard during daytime which is not consistent with the theory of suicide and the dying declaration of the victims along with the evidence of natural witness fully established the charges of murder. With common intention leveled against the accused and in-laws of deceased, it was a case of murder and not suicide.

Yet, in another recent case, the Supreme Court observed that the plea of accused was the deceased committed suicide in room bolted from inside. No evidence was produced regarding the same. It was further held that if the deceased had committed suicide, she, as a mother would be the last person not to save her daughter of tender age. The fact that the child also received burns and died would positively go to show that both of them were burnt to death at the hands of some other who can be none else than the two accused. This is very telling circumstance and it completely rules out the theory of suicide.

These observations clearly demonstrate that the cases of bride-burning which go to the apex court are mainly cases of murder. It is, therefore, necessary to analyses the date pertaining to murder and accidental death on all India basis involving both male and female as victims.

## **(A) MURDER**

---

Homicide is mainly a masculine crime. The murder of a woman is inspired by many factors, such as illicit relation, petty quarrels, felling of revenge, the desire to remarry, the desire to get another dowry and so forth. Many murders are disguised as suicides and some are termed as “dowry-death”. There has been an alarming increase in the number of murders following harassment and violence for dowry. Some of them breathe- taking in brutality.

The Government of India report ‘Crime in India’ is the only available publication about crime data in the country. Even this report does not provide the extent of homicide by sex. This report also lists the motives of murder such as dowry demands. During 1991, 1707 murders were reported involving dowry in India. The States of Uttar Pradesh recorded highest number of 1155 murders for the motives of dowry in the same year. In 1988,887 murders were reported in the country for the motives of dowry.

A total of 1,63,522 accidental deaths were recorded by police in the country during 1988 against 1,52,314 accidental deaths recorded in 1987 and 1,18,594 deaths recorded during 1978. The incidence of accidental deaths in the country recorded an increased of 7.3

percent in 1988 over 1987. Of all the victims of accidental deaths during 1988, female victims account for 32.6 percent (53,287) in the country.

The accidental deaths are steadily increasing year in the country. It, further, shows that out of every two accidental deaths one is of female. But the basic question remains unsolved that how many cases of homicide and suicides, in which dowry was directly or indirectly involved, have been labeled simply as accidental deaths.

## **(B) SUICIDE**

Suicide has become an ever present condition even as sickness, disease and death. Its evolution is composed of undulating movements, distinct and successive which occur spasmodically develop for a time and then stop only to begin again.

Suicide is one type of voluntary human behaviour due to stress and strain and various internal and external forces. But at present suicide assumes different dimensions and pointed significance when it happens to a woman in her in-laws or husband's home.

The demands for dowry in the form of gifts to the bride and groom and continued demand for money have become a predictable way in which young brides are humiliated. The parents of the girls spent huge amounts of money on lavish wedding to impress the in-laws and tried to meet all demands for gifts and valuables with the hope that the girl would never return to her native home creating a "stigma". Young women discovering that there was no place for them in their in-laws as well as parents' homes resorted to commit suicide in a desperate bid to escape humiliation and violence. If the husband and in-laws receive dowry from her parents, it would make her even more vulnerable to violence and humiliation. At a time they are compelled by their husband and in-laws to commit suicide.

The annual publication, *Accidental death and suicides in India*, brought out by the national crime record bureau showed that a total number of 64,270 suicides were reported in India during 1988 compared to 58,568 in 1987 registering an increase of 9.7 per cent in 1988 over 1987. The numerical increase registered during 1988 over 1987 was of 5,702 suicidal deaths. The total number of suicidal deaths in India recorded in 1988 was an all-time high during the period of 11 years since 1978.

## **CONCLUSION**

It appears from the various patterns of aggression adopted against the young women. In many cases, the death of the bride is caused in a number of ways which is plain and simple murder. Sometimes, they are pushed to commit suicide or strangled and hanged to give the color of suicide. In case of natural or unnatural death of a bride, the parental family casts blame on in-laws' family and the husband and in-laws' family made the death appear either as accidentally or suicidal. The most commonly used methods against the bride were by burning by sprinkling of kerosene oil, poisoning, strangulating, hanging and beating to death.

## **CHAPTER-5**

### **THE SOCIOLOGICAL APPROACH TO BRIDE- BURNING**

*This chapter is based on the survey of 208 cases collected from a journal.*

The present chapter is divided into seven sections. First section deals with the distribution of dowry related offences. The data have been classified on the basis of place of occurrence, reporting to the police, initiation of criminal proceedings nature and type of dowry harassment, the dowry demands modus operandi of dowry related crimes and the motives involved in such cases. The second section relates to the victim's personal and social background. The distribution is made on the basis of the age of the victims duration of the marriage, occurrence of death within a beyond seven years, educational status of the victim, rural and urban background of the victims, religion of the victim, cast, family composition, and the nature of marriage of the victims. Next section deals with personal and social background of the husband. Analysis has been made of such variables as educational status, occupational status, economic status and second marriage. Fourth section of the chapter has been devoted to the analysis of the sociological data relating to the parents of the victims. It covers such aspects as educational status, occupational status, economic status and the fulfillment of the dowry demands In the fifth section-----n the analysis has been made of the sociological background the victim's in-laws. This included educational status, occupational status and income. On the basis of the analysis of the sociological data of the victim, her husband, her parents and her in-laws, the sixth section is devoted to the recording of the findings of the study. The last section is devoted to inferences from the findings and the conclusion of the chapter.

## **(A) DOWRY RELATED OFFENCES**

### **(1) Place of occurrence- Death**

In majority of cases, the death of the victims appears to have occurred at their in-law's home. The data revealed that in 39 (66.8 percent) out of 208 cases, the death of the victims occurred at their in-law's home, in 55 (26.4 percent) cases at different hospitals and in 2 (0.9 percent) cases, the victim's death occurred at their parent's home. In 3 (1.4 percent) cases, the dead bodies of the victims were found in well, in 2 (0.9 percent) cases in river, in 2 cases the victim's dead body was found on the railway line. In remaining 5 (2.4 percent) cases, an attempt was made to cause the death of the victims but they were rescued.

As far as the post-mortem is concerned in 117 (56.2 percent) out of 208 cases, dead bodies of the victims were taken into custody by police and post-mortem were carried out. In 42 (20.2 percent) cases, the dead bodies of the victims, were cremated in secrecy without giving any information to the victim's parents and in remaining 49 (23.5 percent ) cases no information regarding the post mortem of the dead body of the victims could be obtained.

### **2. Reported to Police**

Out of 208 cases bride- burning in 182 (87.5 percent) cases was recorded to the police and were recorded as FIR s under Section 154 Cr.P.C. In 21 (10 percent) cases, the police refused to register the cases and the FIR s were given to the Additional District Magistrate and in 3 (1.4 percent) cases reports were given to the Judicial Magistrate of the concerned district

The interviews of the parents of the victims disclosed that only in 29(13.9 percent) cases, the dying declarations of the victims were recorded either by the police or doctor or magistrate. In remaining cases there was no information regarding the dying declarations of the victims. In 26 (12.5 percent) cases, the victims blamed in their dying declarations that they had been burnt by pouring kerosene oil by their husbands and in-laws. In remaining 3 (1.4 percent) cases, they admitted that they had poured kerosene oil on themselves and set on fire. But some of the parents claimed that such statements were made under pressure from the victim's husbands and in-laws.

In 203 (97.6 percent) cases, FIR was lodged with the police by the victim's father or mother or brother or some relative. In 4 (1.9 percent) cases it was made by neighbor and in one case FIR was lodged with the police by the victim's husband that she had committed suicide.

+

### **(3) Criminal Proceedings Initiated Against the Husband and in-laws**

In majority of cases, the victim's parents were aware of the harassment and violence that their daughters were being subjected to. In 6 (2.8 percent) cases, criminal proceedings were initiated against the husband and in-laws of the victims by their parents but later on compromises were made.

In the second case complaint was filed under Section 125 Code of Criminal Procedure for maintenance by the victim who was withdrawn. But after she returned to her husband's house she was subjected to more harassment and was eventually burnt to death.

### **(4) Nature and type of dowry harassment to occurrence of death.**

Bride-burning is generally understood to involve the murder of a young bride on the alter of dowry or any other person by the husband and in laws. But before the act of killing, several forms of harassment, battering and domestic violence take place against the victim. The harassment, battering and violence generally started with comments followed by insult, abuses and denial of food.

In our study, all the brides were reported to have been ill-treated soon after the marriage. In 156 (75 per cent) cases it was alleged that the victims were battered by their husband and in laws, in 37 (17.7 per cent) cases the victims were insulted and taunted and 12 (5.7 per cent) cases were for denial of the victims by their husbands and

In 14 (6.6 per cent) cases, the victims were battered and ousted from the in-laws home. They remained at their parent's home for few months/years. In 2 cases, the victims remained at their parent's home for a period of 4 months, in 2 cases for 7-8 months and for one month, one year, 2 years and for three years in one case each. In 5 cases the victims stayed at their parent's home for a period several months.

It was found that all the brides (except in 3 cases) were reported to have been the victims of ill-treatment and battering within a few days for the marriage. In 22 (14.1 per cent) out of 156 cases, the ill-treatment and battering started within a few days of victim marriages, in 48 (30.7 per cent) cases after 4-5 months, in 39 (25 per cent) cases after one year and in (7.6 per cent) cases the ill-treatment and battering were started after two year of the victims marriage.

In 13 (6.2 per cent) cases, it was alleged that the victims husbands and in laws refused to allow the brides to visit to their parents home and they were also prohibited social functions

### **(5) The Dowry – Given and Demanded.**

Dowry takes different forms of depending upon the socioeconomic groups involved. By and large, it includes money, land and building, transport aids like scooter, car, cycle, jewelry and household equipment whether given as dowry or as gifts to the daughter.

It was found that dowry demands were made both before the marriages at the time of marriage, but in majority of the cases of the dowry was demanded with force after marriage. These demands were made either as an exercise of the rightful prerogative of the groom and his family or to express dissatisfaction with meager dowry at the time of marriage.

The survey that in 165(79.3 per cent) cases, dowry was demanded specifically in cash as well in kind. In 36 (17.3 per cent) cases, there was no specific demand of dowry but the victims' husband and in laws were expected dowry either in case or electronics gadgets. It 98 (59.4 per cent) out of 165 cases, dowry was demanded as hard cash by the victims husband and in-laws after the marriages. The hard cash demanded varied from Rs. 5,000 to 1, 00,000. In many cases cash was demanded to establish or expand business, to get service or to buy expensive articles. In few cases, the cash was demand for purchasing land. In 67 (40.6 per cent )cases, dowry was demanded in the form of electronics gadgets and domestic goods such as, T.V (colored), V.C.R., radio, watch motorcycle, scooter, moped, cycle, gold and silver ornaments, furniture such as sofa set, double bed etc. Other demands included such things as household utensils, admiral, fan, cloths, fridge, buffalo etc .But the most commonly demanded gold ornaments as a presentation for herself.

When these demands were not met, the victim's husband and in-law started maltreating the young brides' .Harassment and battering took place against the young brides and at the climax they were murdered by their husbands and in-laws.

#### **(6) Modus Operandi of Dowry Death/Murder, Suicide and Attempted Murder.**

Different methods were alleged to have been adopted in killing the brides. The most commonly used methods were burning, poisoning, strangulating, hanging and to death. Out of 208 cases, 190 (91.3 per cent) cases resulted in murder, 13 (6.2 per cent) cases resulted in suicide and in 5 (2.4 per cent) cases, and an attempt was made to cause the victims death.

As far as the nature of murder is concerned, in 88 (46.3 per cent) out of 196 cases, the victims were alleged to have been killed by the burning by the husband and in-laws. The second most common method of bride's murder was alleged to be by poisoning. This modus operandi was adopted in 32 (16.8 per cent) cases. Strangulation was the cause of death in 26 (13.6 per cent) cases. In 6 (3.1 per cent) cases, the victims were alleged to have been beaten to such extent that it caused their death.

The survey revealed that in 2 (1.0 per cent) cases victims were shot down by the fire arms. In 4(2.0 per cent) cases, the victims were to have been murdered by stabbing with knife.

A common procedure adopted in 14 (7.3 per cent) cases was murder followed by disposal of death body in such a manner that if it was recovered it may look like a case of suicide. Out of these 14 cases, in 5 cases strangulation was followed by hanging and in4 cases, it was followed by setting the bodies on fire. In one case death body was placed on railway line. In 4 cases, the death bodies were thrown either in well or in the river. In remaining 18 (9.4 per cent) cases, information about causes of the death was not available.

In 13 (6.2 per cent) cases, the victims were alleged to have committed suicide. It was alleged by the victim's parents in the FIRs that the victims were subjected to harassment, battering and violence by their husband and in-laws for bringing insufficient dowry and they are abetted to commit suicide. In few cases it was, further, alleged that the victims in order to relieve themselves, from the continuous harassment, battering and violence, committed suicide.

## **(7) Motive in Bride-Burning**

In our study the data revealed that in majority of cases (except in 7 cases), dowry was attributed as motive for bride –burning. It was started by the victim’s parents in the interviews that on account of their failure to give adequate dowry or fulfils continued demands of huge dowry their daughters was subjected to harassment, battering and violence to such an extent that resulted in murder or suicide. However, in 7 (3.3 per sent) cases out of 208, the outer motives were also attributed in murder or suicide of the brides. In 3 out of seven cases, the victims’ husbands were having illicit relations with another girls and it created a maladjustment between and husband and wife. In 2 cases the victims had –produced the female child. Further in all these cases, harassment, battering and violence were accelerated upon the victims by their husband and in-laws that resulted in murder or suicide.

The motive behind it was to perform the second marriage and there was no any way out except to get rid of the bride by killing.

On the basis of above data it may be observed that the problem of bride-burning is not and can not be an-causal problem but it is the product of a multi-dimensional process.

### **(B) VICTIMS’S PERSONAL AND SOCIAL BACKGROUND**

#### **1. Age of the victim**

The survey reveled that the age of the brides at the time of marriage ranged between 15 years and 30 years as it is evident from the table below .

**Table, showing victims’s Age group at marriage**

<b>S.I No.</b>	<b>Age Group</b>	<b>Frequency</b>	<b>Percentage</b>
1	2	3	4
1.	15-18	33	15.94 percent
2.	19-22	163	78.47 percent
3.	23-26	9	4.35 percent
4.	27-30	2	0.97 percent
	<b><u>TOTAL NO</u></b>	<b><u>207</u></b>	<b><u>100 percent</u></b>

It was discovered during the survey that 33 (15.9 percent) victims were married before attaining the legal age of marriage but the victim’s parents did not disclose the real age of the victims in the FIR. It also indicated that the majority of the victims (78.7 percent) were married in the age group 19-22 years.

Table, given below shows the age of the victims at the time of premature death.

**Table Showing Victim’s Age Group at the Time of Death**

<b>S.I. No.</b>	<b>Age Group</b>	<b>Frequency</b>	<b>Percentage</b>
1	2	3	4
1.	15-18	3	1.48 percent
2.	19-22	132	65.03 percent

3.	23-26	52	25.61 percent
4.	27-30	16	7.88 percent
	Total No.	203	100 percent

In 3 (1.4 percent) out of 203 cases, the victims at the time of death were between the age group of 15-18 years, in 132 (65 percent) cases between 19-22 years, in 52 (25.6 percent) cases between 23-26 years and in 16 (7.8 percent) cases, the victims at the time of death were in the age group of 27-30 years. In 5 cases, the victims survived. Out of these 5 cases, in 3 cases the victims were in the age group of 19-22 years at the time of attempted murder. In one case she was approximately of 24 years of age and yet another victim was of 27 years of age. In majority of the cases under present survey 132 (65 percent) out of 203 cases, the victims were in the age-group of 19-22 years, this constituted 65 percent of total cases studied. The mean age of the victims at the time of death was 22.1 percent years. As noted above the mean age at the time of marriage of victim was 20.8years. This establishes the fact that bride-burning generally takes place shortly after marriage.

## 2. Duration of Marriage

In 202 cases, the duration of marriage ranged from less than 6 months to 14 years and in one case no information was available regarding the date of marriage.

**Table showing Duration of Marriage**

S.I. No	Months/ years	Frequency	Percentage
1	2	3	4
1.	0-6M	14	6.93 percent
2.	6-12M	39	19.30 percent
3.	1-2 Y	56	27.72 percent
4.	2-3Y	34	16.83 percent
5.	3-4Y	15	7.43 percent
6.	4-5Y	13	6.44 percent
7.	5-6Y	10	4.95 percent
8.	6-7Y	7	3.47 percent
9.	7-8Y	5	2.47 percent
10.	8-9Y	4	1.98 percent
11.	9-10Y	2	0.99 percent
12.	12-13Y	2	0.99 percent
13.	13-14Y	1	0.49 percent
	<b>Total No.</b>	<b>202</b>	<b>100 percent</b>

This survey revealed that in 14 cases, the time-gap between marriage and death was less than 6 months. It is interesting to note that on one of 14 cases, the time-gap between marriage and death was less than 2 months and in 3 cases, the time-gap between marriage and death was less than 3 months. In 39 cases, the time-gap between marriage and death was about 6 months to 14 months, in 56 cases 1 to 2 years, in 34 cases 2 to 3 years, in 15 cases 3 to 4 years, in 13 cases 4 to 5 years, in 10 cases 5 to 6 years, in 7 cases 6 to 7 years, in 5 cases 7 to 8 years, in 4 cases 8 to 9 years, in 2 cases 12 to 13 years and in one case, the time-gap between marriage and death was about 14 years. In 53 out of 202 cases the mean length of marriage was 7.4 months, In 149 cases, the mean length of marriage was 3.4 years.

These figures indicate that the first two years of married life were very crucial in a bride's marital life. In 109 (53.9 percent) out of 202 cases, bride-burning took place within two years of marriage. The figures show that longer the time is married life and lesser are the chances of victimization.

### 3. Bride- Burning Within Seven Years and After Seven Years of Marriage

The period if seven years is legally relevant for the purposes of criminal prosecution. Any death occurring within a period of seven years of marriage leads to a legal presumption that it was a case of dowry death.

The survey revealed that in 188 (93 percent) out 202 cases, the victims died within seven years of their marriage and in 14 (7 percent) cases, they were died after seven years of their marriage. In remaining 4 out of 5 cases, an attempt was made to cause the death of the victims within seven years of their marriage and in one case after seven years of her marriage.

### 4 Educational Status

Another variable which affects the social status of a person is education. It enhances not only respectability but is economically rewarding. With a view to examining the educational status of the victims as a variable affecting the bride-burning the survey included data on that account as well.

**Table, showing educational status of victims**

<b>S.I. NO</b>	<b>Level of Education</b>	<b>Frequency</b>	<b>Percentage</b>
1	2	3	4
1	Illiterate	46	22.12 percent
2	Literate	62	29.80 percent
3	Up to High School	38	18.27 percent
4	Up to Intermediate	20	9.62 percent
5	Graduate	11	5.29 percent
6	Post Graduate	4	1.92 percent
7	No information	27	12.98 percent
	<b>Total No.</b>	<b>208</b>	<b>100 percent</b>

The survey revealed that in 46 (22.1 percent) cases, the victims were illiterate, 62 (29.8 percent) were literate, 38 (18.2 percent) were educated up to High School level, 20 (6.9 percent) up to Intermediate, while 11 (5.2 percent) Graduates and in 4 (1.9 percent) cases, the victims possessed post graduate degree. In remaining 27 (12.9 percent) cases, no information was available regarding the educational status of the victims. Among educated victims, one possessed M.A. B ED. Degree. She was more qualified than her husband

### 5. Rural & Urban Background of the Victims.



Bride burning is not merely an urban phenomenon. But this evil is also dominating the rural scene. The survey revealed that in 113(54.3 per cent) out of 280 cases, the victims were background and they were married in rural areas. In 68 (32.6per cent) cases, the victims were from urban background and were married in urban. In 11 (5.2 per cent ) cases, the victim were from urban background but they were married in rural area an in 16 (7.6 per cent ) cases, the victims were from rural background but they were married in urban areas.

## 6. Religion

The problem is not only confined to a particular religious community i.e. Hindu but it has permeated even among other religious communities in India as is evident table giving below.

**Table showing distribution of victims According to the religion.**

<b>S.No.</b>	<b>Religion</b>	<b>Frequency</b>	<b>percentage</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
<b>1.</b>	<b>Hindu</b>	<b>189</b>	<b>90.87 per cent</b>
<b>2.</b>	<b>Muslim</b>	<b>17</b>	<b>18.17 per cent</b>
<b>3.</b>	<b>Sikh</b>	<b>1</b>	<b>0.48 per cent</b>
<b>4.</b>	<b>Jain</b>	<b>1</b>	<b>0.48 per cent</b>
<b>Total No.</b>		<b>208</b>	<b>100 per cent</b>

## 7. Family composition

The classic form of the family in India is that of the joint family. It is prescribed in some of the sacred Hindu books. It prevailed in India for centuries. The joint family structure is today more characteristic of rural than urban families; of the upper caste and wealthier strata of society than of the lower and poorer strata; of the more orthodox sector than of those which have taken over western traits; and of Hindu THAN OF Muslim communities. But even among urban Westernized and Muslim families, the patterns of interpersonal relationship set by the joint family are not wholly ignored, and influence of the orthodox scriptural joint family can still be seen everywhere in India.

The sample data showed in almost all the cases, the victims had been living in the joint family from the date of marriage till their demise. However in 3 cases, the victims were living separately with their husband prior to death for duration not longer than one month, to months and ten months. It is interesting to not that despite separate living of the victims, the in-law continued to exert influence on their sons. They were alleged to be involved in the harassment, battering, violence and murder of the brides.

The survey result are pointed to the fact that bride-burning occurs in houses where husband and wife are living in the family. Incidence of bride –burning seems to the negative aspects of otherwise esteemed system of the joint family.

## 8. Arranged marriage

Marriages in India are generally arranged by the parents and relatives of the boy and girls. Even among educated and urban based families, the traditional system or arranged marriage is followed. In such marriages matters relating to dowry, other exchange of gifts and the entertainment of 'barat' (marriage party)

Are also settling. Failure to fulfill the promises leads to bitterness among the two families. The boy's family may feel cheated if insufficient dowry in cash or in kind is brought by the bride. The tussle starts immediately after the marriage. The in-law of the bride begins to subject her to harassment.

The survey data testified the fact that it almost all the cases of bride-burning reported to police, the marriage was the arranged one. There was complete absence of love marriage. The romantic love as bases of marriage was conspicuously absent. In this type of marriage, the prime consideration is usually the girl and the emotional attachment with her. Dowry or the other monetary benefits remain a secondary or no consideration at all. It cannot be said that bride-burning does not occur in cases of love –marriage. In view of the meager sample it would be hazardous to reach any such conclusion.

## **9. ISTRIDHAN**

Literally the word Istridhan means Woman's property. But in Hindu law it has, all along, been given a technical meaning. In the entire history of Hindu law, women's right to hold and disposal of property has been recognized. It is defined as "the Istridhan constituted those properties which she received by way of gift from her relations which included mostly movable property as ornaments, jewelers and dresses. The gift made to her by strangers at the time of the ceremony of marriage or at the time of bridal procession also constituted her Istridhan. The property is Sridhar or woman's estate, mostly depends upon the source from which it has been obtained.

### **(C) ENUMERATION OF WOMAN'S PROPERTY/ISTRIDHAN**

#### **1. Gift and Bequests from Relation**

Such gifts may be made to woman, during maidenhood, overture or widowhood, by her parents and their relations, or by the husband and his relation. The property coming under this head was technically known as Istridhan..

#### **2. Gifts and Bequests form Strangers**

Property given by gifts inter vivos or by Strangers to a woman, during maidenhood or widowhood, constitutes her Istridhan. The same is the position of gifts given to a woman by strangers before the nuptial fire or at the bridal procession. Property given to a woman by a gift inters vivo or bequeathed to her by strangers during overture is Istridhan. The position before 1956 was that the gifts received from strangers during overture were Istridhan, but these were during her husband's lifetime under the husband's control. On his death, these became her full-fledged Irishman.

#### **3. Property Acquired by Self- exertion and Mechanical Arts**

A woman may acquire property at any stage of her life by her own self-exertion, such as by manual labor, by employment, by singing, dancing etc, or by any mechanical art. According to Hindu law, the property acquired during widowhood or maidenhood is her Istridhan.

#### **4. Property Purchased with Istridhan.**

According to Hindu law it is a well-settled law that the properties purchased with Istridhan or with the savings of Istridhan, as well as all accumulations and saving of the income of Istridhan constitute Istridhan.

#### **5. Property Acquired by Compromis**

When a person acquires property under a compromises. What estate he will take in it, depends upon the compromise deed. In Hindu Law there is no presumption that a woman who obtains property under a compromise takes it as a limited estate. Property obtained by a woman under a compromise-where-under she gives up her right to her Istridhan will be Istridhan.

#### **6. Property Obtained by Adverse Possession**

In all schools of Hindu law it is a settled law that nay property that a woman acquires at any stage of her life by adverse possession is her Istridhan.

#### **7. Property Obtained in Lieu of Maintenance**

According to Hindu law the payments made to Hindu female in lump sum or periodically for her maintenance, and all the arrears of such maintenance constitute her Istridhan. Similarly, all movable and immovable properties transferred to her by way of an absolute gift in lieu of maintenance constitute her Istridhan.

#### **8. Property Obtained by Inheritance**

A Hindu female may inherit property form a male or a female. She may inherit it form her parents side or form husband's side. As to the property inherited form a male, the female heirs are divided into two: (a) those who are introduced into the father's gore by marriage, such as intestate's widow, mother, etc, and (b) those that are born in the family, such as daughters, sisters, brother's daughters etc.

#### **9. Share Obtained on Partition**

When a partition place, except in Madras father's wife, (not in the Dayabhaga School) mother and grandmother take a share in the joint family property.

### **CONCLUSION**

The problem of bride- burning has been analyzed by looking into age, education, in come, caste, family composition, ill- treatment and humiliation, patterns of bride's murder, and motives in regard to 208 bride- burning cases. Based on this, two propositions have been drawn: (1) the most important factor contributes to the bride- burning is offender's motives and (2) the economic situation in the family of a bride's husband contributes much to her adjustment soon after her marriage as well as to her humiliation and cruel treatment.

The motive for the murder of the young wife had been that she had brought insufficient dowry in her marriage. The consequences of the demand for dowry are dowries are obviously disastrous not only for the wife and the husband and their two families, but also for the marriage itself. The dowry demand is not merely a demanding of cash and goods beyond the

capacity of bride's family to give but rather a question of the inter-relatedness of psychological, social and economic factors.

In majority of bride- burning cases, as revealed from the survey, the trouble is created by the women themselves for their own sex. It has been found that is the mother-in-law or sister – in- law or both, who often prove tyrant rather than the husband and father – in -law.

The findings of the present study suggest concluding that practice of dowry is widely prevalent in Hindu society but it has spread to other communities also. Even the educated, modern and sophisticated urban youth does not feel shy of demanding dowry. The study also revealed that the system of dowry has given rise to several social problems and it has made lives of young wives miserable in their new home. It puts a young Woman's life under constant oppression and thus, results in maltreatment of young wives. The present survey confirms the prevailing view that the practice of dowry perpetuates inferior status of woman in their matrimonial home.

The case history of every bride- burning reveals that the tragedy is not a sudden or unpredictable event. In almost very case of bride- burning there is a long history of harassment, torture and violence by the husbands and in-laws. The bride's parents are often come to know about what is happening, but they advised her to return to her husband's home. The victim meekly obeys the wisdom of her parents as she too sees no future of herself outside her husband's home

## **CHAPTER-6**

### **LAGAL ASPECTS OF BRIDE-BURNING**

Women claim to be the largest minority in India with a verity of social and economical disability which prevents them from exercising their human rights and freedom in society. During the last few decades a number of laws were enacted with a few to ensuring equality of status and opportunity for women and to ameliorate certain unhappy condition in women, particular Hindu women, found themselves .One of the most burning issue of our time is the burning of the bride herself. How does law deal with this issue is the subject – matter of this chapter. An attempt is made in this chapter to examine and analyses some of the legislations which have been enacted or amended by the parliament with a view to check the social the social of dowry demand and bride- burning.

Three major statutes govern criminal trials and punishment. The India penal code, 1980, lays down the classification of offences and stipulates punishment. The code of criminal procedure, 1973 lays down procedural rules for investigation and trial and the Indian Evidence act, 1872, prescribes the rules of evidence which are to be followed during a trial.

Besides the above a special status, Dowry Prohibition Act, 1961, was enacted by the parliament with a view to eradication the social evil of dowry from the society. This statute applies to all communities irrespective of their religious affiliations. The increasing number of the cases of bride-burning led to the setting up a Joint Parliamentary Committee in 1980 to evaluate the provisions of Dowry Prohibition Act which was further amended in 1984 and in 1986 to curb the menace of dowry and bride-burning.

#### **(A) THE DOWRY PROHIBITED ACT, 1961**

The dowry has been an old practice in the Hindu Society which has led to the torture of brides in various forms including murder. Debates in Parliament and state Legislatures, extensive publicity by the media and the growth of women's organizations have succeeded in generating collective consciousness of the community to the evil of dowry and to the horror of dowry- death. Our society, which till very recently condemned those who could not provide dowry, is now undergoing a swift change. The husbands and in-law are being exposed and ostracized for torturing brides to death. All civilized people will have to resist with courage, for the insane greed that prompts dowry killing threaten not only women but the entire society.

As the problem was assuming enormous proportions, it started agitating the minds of the people both outside and inside the Parliament and the State Legislatures. As a result, the Dowry Prohibition Bill, 1959, with the main object of eradicating the evils of dowry system, was introduced by the government in the Lok Sabha on April 24, 1959. The Bill was referred to a Joint Committee in September, 1959. The Bill was considered at the joint sitting of both Houses of Parliament held on 6<sup>th</sup> and 9<sup>th</sup> May, 1961.

This act provided that if any person, "after the commencement of this Act, gives or takes or abets the giving or taking of dowry," shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees or with both.

In light of recommendations of the Joint Parliamentary Committee and the Law commission of India, the Dowry Prohibition (Amendment) Act, 1984, was passed with a view to curbing the dowry menace. It came into force throughout the country from October 2, 1985 and covered all persons irrespective of their religion. The definition of dowry had been changed slightly, punishment has been enhanced and minimum and maximum punishment limits have been laid down.

The Dowry Prohibition (Amendment) Act, 1984, seeks to clarify the definition of "dowry." by substituting the words "as consideration for the marriage" with words in connection with the marriage in Sections 2 of the Act of 1961. These words even widen the meaning of dowry but retained the essential character of dowry. Further, under section 3 of the Act the punishment was enhanced. It provides that the offence is punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years, and with fine which may extend to ten thousand rupees for taking or giving dowry. Section 4 of the Act was substituted and the punishment was enhanced for demanding dowry. Under section 7, a wide amendment was made. Under section 8 to the Act, offences were made cognizable for the purposes of investigation

The Dowry Prohibition (Amendment) Act, 1986, brought into the existing law several changes. The term "dowry" has been widely defined in amended section 2. Further, Section 3 was amended to provide for minimum sentence which may be awarded if special reasons exist. A new Section 4- A was added putting ban on certain aspects of matrimonial advertisement. Some modifications were further made in Section 6 (3) of the act. Under Section 8 of the Act, offences were made non- bailable. Two new Sections 8-A and 8-B were added to shift the burden of proof and to provide for appointment of dowry prohibition officers, Section 10 was substituted to provide for rule making power by the state government.

This Amending Act brought certain necessary changes in Indian Penal Code, 1860 of Criminal Procedure, 1973, and the Indian Evidence Act, 1872, in order to curb the increasing number of dowry death and dowry harassment. The definition of "dowry- death" was changed to "death of woman within seven years of marriage if the death was caused by burns or bodily injury and was preceded by dowry related harassment." Section 304-B was inserted in

the first schedule of the Code of Criminal Procedure, 1973, along with relevant entries in all the six columns of this Schedule. The Indian Evidence Act was amended to insert a new Section 113-B dealing with presumption as to dowry death.

### **1. Nature of Offence under Dowry Prohibition Act**

The Act promises to curb the evil of dowry demands. The Dowry Prohibition (Amendment) Act, 1984 and 1986 make the offence cognizable, non-compoundable and non-bailable respectively

### **2. Section 2- Definition of Dowry**

Generally in present context the term, 'dowry is understood as nothing but an unwilling extraction from bride's father of all the things that the bridegroom's parents desire for agreeing to accept the girl in a marriage to their son, If it is not given, the marriage may not take place, the wedding ceremony may be halted and pressure be brought on the bride's parents to make a promise, or agree to fulfill the promise of desired gifts within a stipulated period failing which a threat is made of sending the bride back to the parent's home for good.

Under Section 2 of the Dowry Prohibition Act, 1961, the definition of dowry is defined as. "any property or valuable security given or agreed to be given either directly or indirectly:

- a) By one party to a marriage to the other party to the marriage,  
Or
- b) by the parents of either party to a marriage or by any other person to either party to the marriage or to another person, at or before or after

The marriage as consideration for the marriage of the said parties, but does not include dower or Maher in the case of persons to whom the Muslim Personal Law (Shariat) applies".

91<sup>st</sup> Report of the Law Commission of India recommended the definition of dowry as under:

"Dowry means money, or other thing estimable in terms of money, demanded from the wife or her parents or other relative by the husband or his parents or other relatives, where such a demand is not properly referable to any legally recognized claim and is related only to the wife's having married into the husband's family.

It is apparent that the scope of the meaning of the word dowry as generally understood has been amply broadened under this definition and covers a wide spectrum of transaction practices that form part of marriages in different regions in the country.

### **3. Section 3 Penalty for Giving or Taking Dowry**

Section 3 of the Dowry Prohibition Act 1961, provides that, "If any person after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both."

But now the punishment has been enhanced and a minimum and maximum punishment limits have been laid down by the Dowry Prohibition (Amendment) Act, 1984. The Amending Act provides that, "the offence is punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees or the amount of the value of such dowry, whichever is more."

Provided that the court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than six months.

Under the Dowry Prohibition (Amendment) Act 1986, further the punishment was enhanced to curb the evil practice of dowry. The amending Act of 1986 provides for the offence of giving or taking dowry a “punishment which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more.

Provided that the court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for term of less than five years.”

#### **4. Section 4- Penalty for Demanding Dowry**

Section 4 of the Dowry Prohibition Act, 1961 provides that:  
“If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both:

Provided that no court shall take cognizance of any offence under this Section except with the previous sanction of the State Government or of such officer as the State Government may, by general or special orders, specify in this behalf.

Under Section 4 of the Dowry Prohibition (Amendment) Act, 1984, the punishment has been enhanced and a minimum and maximum punishment limits have been laid down. The Amending Act provides that, the offence is punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees.

Proviso of the Section says that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

#### **Offence of Demanding Dowry is constituted when Demand is accepted**

This is an open fact that married women are victims of dowry demands. It is not only that demands of dowry are confined at the time of marriage but extended to the various festivals. In cases coming under the Dowry Prohibition Act of 1961, there was some constituted when demand is accepted.

But the Dowry Prohibition (Amendment) Act, 1984 makes it is clear that nay such demand is a complete offence at the time it is made irrespective of the fact whether it is accepted by the other party or not.

#### **5. Section 4-A Ban on Advertisements**

A new section 4-A has been inserted under the Dowry Prohibition (Amendment) Act, 1984. It provides that if any person;

- (a) offers, through any advertisement in any newspaper, periodical or through any other media any share in his property or any other money or both as a

shares in any business or other interest as consideration for the marriage of his son or daughter or any other relatives;

- (b) Prints or publishes or circulates any advertisement referred to in clause (a), he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to five years, or with fine which may extend to fifteen thousand rupees;

Provided that the court may, for adequate and special reason to be recorded in the judgment, impose a sentence of imprisonment for a term not less than six months.

#### **6. Section 5-Agreement for Giving or Taking Dowry to be void**

Section 5 of the Dowry Prohibition Act, 1961, provides that, "Any agreement for giving or taking dowry shall be void." It is under such an agreement the giver has not the dowry to the Taker, the agreement cannot be enforced. But it does not mean that if taker has received the dowry, he can retain it as is Apparent from section 6 of the Act.

#### **7. Section 6- Dowry to be for the benefits of the Wife or Her Heirs**

Section 5 of the Dowry Prohibition Act, 1961, provides that where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman within one year after the date of receipt.

Under the Dowry Prohibition (Amendment) Act, 1984, the time limit has been reduced within which the third party who has received the dowry or who in its possession should return it to the bride within three months. The minimum and maximum punishment has; been laid down. Section 6 (1) of the Amending Act provides that whosoever, whether the bridegroom, his parents or relations or any other person, has received the dowry must hold it in trust for the bride and must transfer it to her within the period of three months. Sub – Section (2) of Section 6 of the Dowry Prohibition (Amendment) Act, 1984, lays down that if he fails to do so, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years or with fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees or with both.

Under sub – Section (3) of Section 6 of the Act, a new proviso has been inserted by the Dowry Prohibition (Amendment) Act, 1986. It lays down that if the woman dies within seven years of her marriage, otherwise than due to natural causes, such property shall go to her children and if there are not children then to her parents.

Sub – Section (3-A) of section 6 of the Act, further, lays down that even after his conviction he must transfer the dowry to the woman within the time as specified in the order. If such person fails to comply with the direction within the period so specified, and amount equal to the value of the dowry may be recovered from him as if it were a fine imposed by such court and paid to such woman, or, her heirs.

This provision in fact protects the interest of the wife in the matrimonial home by providing that if dowry is received by any person from in – laws side, that person is obliged to transfer it to her. If the wife dies before receiving it, her children or parents are entitled to claim it from the person holding it. The Amending Act has also strengthened the hands of the court to ensure the restoration of dowry to women entitled to it.

#### **Section 7 – Cognizance of Offences**



Under Section 7 of the Dowry Prohibition Act, 1961, it was not stated as to who could file a complaint for the prosecution of a dowry offence and it created some difficulties of interpretation. Now under Section 7 (1) (b) (ii) of the Dowry Prohibition (Amendment) Act, 1984, any one of the following persons can file a complaint:

- (a) Aggrieved Person
- (b) A parent or other relative of the aggrieved party, and
- (c) Any recognized welfare institution or organization.

In Case of dowry offence, the aggrieved person is regarded the bride or the bridegroom on whose behalf dowry is given or agreed to be given. In most of the cases, the dowry demand is made from the parents, or guardian and where dowry is paid, the maker of the payment is the guardian or parent of the other party, yet the aggrieved person is not considered to be the parent or guardian of the bride or bridegroom, but the bride or bridegroom.

Section 7 (1) (b) of the Dowry Prohibition (Amendment) Act, 1984, specifically lays down that cognizance of the dowry offence can be taken by the court:

- (i) On the basis of its own knowledge, or a police report of the facts which constitutes such offence, or
- (ii) Upon a complaint by the person aggrieved by the offence or parent or other relative of such person, or by any recognized welfare institution or organization.

Under The old Section, the court has no power to take cognizance of a case slow-motion or on the report of the police.

Section 8-Offences to be Cognizable for Certain Purposes and to be Non-Arrestable and Non-Compoundable

Under section 8 of the Dowry Prohibition, Act, 1961, the dowry offences were non-cognizable, arrestable and non-compoundable. By virtue of the Dowry Prohibition (Amendment) Act, 1984, Section 8 (1) now has made dowry offences cognizable for two purposes:

- (a) for the purposes of investigation of such offences, and
- (b) for the purpose of matters other than-
  - (i) matters referred to in Section 42 of the Code of Criminal Procedure, 1973, and
  - (ii) The arrest of a person without a warrant or without an order of a magistrate.

Neither the original Act nor the Dowry Prohibition (Amendment) Act, 1984, had made the dowry offences as cognizable for the non-arrestable, the amendment Act made these offences as cognizable for the purpose of investigation. Under this Section a police officer has the power to investigate any dowry offence, without waiting for a complaint to be filed. At the same time no person can suffer any harassment as he cannot be arrested without a warrant or an order of a magistrate involved in the offence. Similarly, in connection with dowry offence, arrests cannot be made under Section 42 of the Cr.P.C Further, sub – Section (2) of Section 8 of the Act lays down that every offence under this Act shall be non-compoundable.

The Dowry Prohibition (Amendment) Act, 1986, has made dowry offences non-arrestable offence under Section 8(2).

## **Section 8-A : Burden of Proof in Certain Cases**

Section 8-A and 8-B have been inserted by the Dowry Prohibition (Amendment) Act, 1986. Section 8-A of the Act provides that where any person is prosecuted for taking of abetting the tacking of any dowry under Section 3, or the demanding of dowry under Section 4, the burden of proving that he had not committed and offence under these Sections shall be on him.

### **11. Section -8-B: Dowry Prohibition Officers**

Section 8-B (1) of the Act provides that the State Government may appoint as many Dowry Prohibition Officers as it may consider necessary. They shall Exercise their jurisdiction and powers under this Act. Sub-Section (2) of Section 8-B of the Act provides that every Dowry Prohibition Officer shall exercise and perform the following powers and functions, namely:

- (a) To see that the provisions of this ;Act are complied with,
- (b) To prevent, as for as possible the taking or abetting the taking of, or demanding of dowry,
- (c) To collect such evidence as may be necessary for the prosecutions of persons committing offences under the Act, and
- (d) To perform, or as may be specified in rules made under this Act.

Sub-Section (3) of section – B of the Act provides that the State Government may confer such power of a police officer on the Dowry Prohibition Officer who shall exercise such power subject to such limitations and condition as may be specified by rules made under this Act.

Sub – Section (4) of the Section 8-B of the Act, further, lays down that the State Government may appoint an advisory board consisting of not more than five social workers (our of whom at least two shall be women) for the purpose of advising an assisting the Dowry Prohibition Officers in the efficient performance of their functions under this Act.

### **12. Section 9- Power to Make Rules**

Section 9 of the Dowry Prohibition Act, 1961, lays down that the central Government may make rules for carrying out the p0urpose of this Act. Such rules may provide the form and matter in which any lists if presents shall be maintained and all other matters connected therewith and the better coordination of policy and action with respect to the administration of this Act.

The Central Government had made the Dowry prohibition (Maintenance of lists of presents of Bride and Bridegroom) Rules. 1985

### **13. Section 10-Power of states Government to make Rules**

Section 10of the Dowry Prohibition Act, 1961, provides 5hata the state government may make rules for carrying out the purpose of this Act. Such rules may provide for all or any of the following matters namely

- (a) the addition functions to be performed by the Dowry Prohibition Officer may under sub –section (2) of section 8-B

- (b) limitation and condition subject to which a Dowry Prohibition may exercise his function under sub- section 8-B

The state statutes on dowry are still valid so far they are not consistent with which the Amending Act of 1984 and 1986 respectively.

In spite of this amendment, the spate of bride-burning (dowry-death) in the country is not on the decline at all. The Dowry Prohibition (Amendment) Act 1986, has also failed to achieve its objective and the dowry menace remains almost usually as usual.

## **(B)DOWRY RELATED OFFENCES AGAINST WOMEN UNDER THE INDIAN PENAL CODE**

The Indian Penal Code did not contain any specific provision to deal with dowry cases till 1983 when it was amended to meet the new situation by adding few new offences. It is intended here to discuss and analyse and dowry related offences under the I.P.C. These offences may fall either under general provisions or under specific provisions.

Due to lack of specific provision pertaining to violence against the women within the home, the husband and the in-laws could be convicted under the general provision relating to murder, abetment to suicide, causing hurt and wrongful confinement. But with a view to combating the increasing menace of cruelty to married women related to dowry and dowry death, specific protective provision has been created in the Indian Penal Code by the Criminal Law (Second Amendment) Act, and the Dowry Prohibition (Amendment) Act, 1986 respectively.

### **1. General Provisions**

Assault/Criminal force (S.352), Outraging the modesty of a woman (S.354), voluntarily causing and grievous hurt (SS.323-329), Wrongful confinement (S.342), Murder (S.302), Attempt to commit murder (S.307), Abetment to commit suicide (S.306).

### **2. Specific Provisions**

Cruelty to Women (S.498 – A) and Dowry death (S.304 – B)

As far as general provisions are concerned the physical abuse of females can be charged under Section 352, I.P.C for criminal force or assault and under Section 345, I.P.C for outraging the modesty of women. There is no separate provision for wife-battering either in the I.P.C or in any other law. The cases of wife – battering may be covered by general provision contained in the I.P.C relating to voluntarily causing hurt and voluntarily causing grievous hurt under section 323 to 349 I.P.C. The harassment of extracting more and more dowry from her parents. As noted in earlier chapters that the brides are beaten or tortured with they refused to comply with dowry demanded. Sometimes, the besting couples with harassment results in murder or suicide. To meet such cases the general provisions of the I.P.C were generally applied.

But these provisions did not take into account the specific situation of women facing violence within the home as against assault by husband and in-laws. It was extremely difficult for women to prove violence by husbands and in-laws beyond reasonable doubt. There would be no witness to corroborate her evidence as the offence is committed within the four walls of the home. Even if the beating did not result in grievous hurt (Section 325, I.P.C), the routine and persistent beatings would cause grave injury and mental trauma to the woman. Generally

complaints can be registered only after an offence has been committed. But in a domestic situation a woman needed protection even before a crime committed when she apprehended danger to her life as she has been living with her assaulter and has also been dependent on him. The increasing cases of dowry harassment, cruelty, wife-battering and bride-burning attracted the attention of several women's organization. Initially, only dowry-related violence was highlighted by women activists. But later on, all violence faced by women within homes was attributed to dowry demands by the women activists. The women's organization pressurized the government to make a special provision for protection against violence under all circumstances.

The criminal Law was amended to create special categories of offence to deal with Dowry harassment, cruelty to married women and dowry deaths.

“Whoever being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.”

Explanation – For the purposes of this Section “Cruelty” means-

- (a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or cause grave injury or danger to life, limb health (whether mental or physical) of the woman; or
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

In cases of dowry demands where death/suicide had occurred the police generally charged the husband and in-laws of the victims either under Section 306, I.P.C. for murder or Section 302, I.P.C for abetment to suicide 302, I.P.C provides:

“Who-ever commits murder shall be punished with death, or imprisonment for life and shall also be liable to fine.”

Section 306, I.P.C. provides:

“If any person commits suicide, whoever, abets the commission of such suicide shall be punished with imprisonment of either description for a term which may extend to ten years, and shall be, also be liable to fine”.

Murder by burning is extremely difficult to prove. Perhaps that is why dowry-deaths through burning are common. A victim is led to suicide through extreme harassment or cruelty. Most of the bride-burning cases registered by the police relate to abetment to suicide under Section 306, I.P.C and not murders. Under the existing laws it is impossible to prove abetment to suicide in the court of law, if the victim has not left any note behind a dying declaration.

The increasing number of dowry-death cases attracted the serious attention of the legislature and the Dowry Prohibition (Amendment) Act, 1986 was passed. It introduced a new offence of Dowry Death by inserting a new Section 304-B in the Indian Penal Code. The Section runs:

**“Dowry Death”:**

- (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.

Explanation – For the purpose of this Sub – Section “dowry” shall have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961.

- (2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

Further, the Dowry Prohibition (Amendment) Act, 1986, inserted a new Section 113-B in the Evidence Act, relating to a presumption as to dowry death. The presumption of dowry death under Section 113-B imposes a heavy burden on the accused to prove that he is innocent.

## **(C) INDIAN EVIDENCE ACT**

The Indian Evidence Act provides for detailed rules which are followed by the courts in the determination of an issue. In matters involving criminal acts the prosecution is under a heavy responsibility to prove the case beyond reasonable doubt. In cases of bride-burning/deaths, harassment and cruelty, dowry related murders and suicide, the prosecution is under duty to produce evidence in the proof of these crimes. The burden is heavy. If the prosecution fails to prove any of the ingredients of the offence, he loses the case. The law as it stood before 1983 was least helpful to the prosecution. As noted earlier two amendments in the law made in 1983 and 1986 created presumptions as regard harassment and dowry death. In spite of such presumptions the burden on the prosecution remains onerous.

As the death or suicide takes place generally in the marital home only the family members have privy or knowledge to the gruesome events. Prosecution hardly gets direct evidence of the bride-burning cases. Many a time the case is based on circumstantial evidence like letters written by the brides to her parents, evidence of neighbors and the dying declaration, if any made by the victims. It would be necessary to discuss this kind of evidence in detail taking into account the statutory provision and its judicial interpretation.

### **1. Dying Declaration**

Dying declaration is covered by Section 32 of the Indian Evidence Act. It runs as follows:

“When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person’s death comes into question: such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.”

This Section comes into play when the person whose statement is sought to be proved has died, or cannot be found, has become incapable of giving evidence or whose attendance can not be procured without delay or expense which under the circumstances of the case appears to the court to be unreasonable.

### **2. Judicial Interpretation of S.32 (1)**

The Supreme Court was confronted with a situation when there were as many as four dying declarations made after one another. The Court had to decide which one should be relied upon. In this case a young bride dying of third degree burns allegedly made four dying declarations accusing her mother-in-law and father-in-law of burning her. The deceased in her dying declaration stated that her mother-in-law sprinkled kerosene oil from behind and burnt her. In the next statement she is alleged to have stated that her clothes got burnt catching fire from the above, thereby indicating that it was an accident. In the third statement she was rather vague as to who exactly poured kerosene oil and set fire on her and she was rather vague as to who exactly poured kerosene oil and set fire on her and she only stated that it could be possible that her mother-in-law and father-in-law talking behind her and suddenly they poured kerosene oil and they set her on fire. Their Lordships of the Supreme Court held that under these circumstances, the irresistible conclusion is that the dying declarations are inconsistent and in such situation it is not possible to pick out one statement where the accused is implicated and base the conviction on the sole basis of such a dying declaration.

Sometimes, the dying declaration of a bride before the parents come is to exculpate her husband; but when the parents come on the scene, she feels more confident and gives a version, which involves them. The Court are generally beset with the problem of assessing this conflicting evidence and in a quite few cases, having regard to the presumption of innocence, till it is displaced by acceptable evidence which brings home beyond reasonable doubt the offence to the accused, an acquittal follows.

### **3. Circumstantial Evidence**

There are a number of cases where the husband and wife are alone in home. In other cases there are other members of the family, such as the mother-in-law, the father-in-law, sister-in-law and other near relative. It is difficult in such case to say with any certainty or beyond all reasonable doubt, among them or whether all of them or whether all of them were guilty of burning her and causing her death. To establish a case against the husband where he alone is charged or where he faces trial along with other relatives the prosecutions generally relies on circumstantial evidence. The courts have insisted that the circumstantial evidence against the accused should be definite, conclusive in nature and must be consistent with the guilt.

To prove guilt of an accused person by circumstantial evidence. They are:

- (1) the circumstances from which the conclusion is drawn should be fully proved;
- (2) the circumstances should be conclusive in nature;
- (3) All the facts so established should be consistent only with the hypothesis of guilt and inconsistent with innocence.
- (4) The circumstances should, to a moral certainty, exclude the possibility of guilt of any person other than the accused.”

### **4. Heavy Burden of Proof**

Many a time culprits in dowry offences including bride-burning escape punishment because of non-availability of evidence beyond reasonable doubt. In *Liachames deviv*. State of Rajasthan, dowry death case, the trial court acquitted the accused mother-in-law as it considered the evidence before it not sufficient for conviction. The High Court, on the other hand, found the evidence sufficient to convict the accused. The Supreme Court agreed with the appreciation of the evidence by the High Court. The doctor who treated the young daughter-in-law clearly deposed that the latter told him categorically that it was the mother-in-

law who poured kerosene on her. The trial court said that since it did not fall in the category of dying declaration it was not sufficient to convict the accused, despite the fact that there was corroborative evidence. The Supreme Court said that Dr. Goel who received Pushpa (wife) and admitted her in the emergency ward had testified that neighbors brought Pushpa told him that her mother-in-law had burnt her. It was true that Dr. Goel had not recorded this statement in the medical register but that was not ground to disbelieve him. DR. Goel was a disinterested person. The High Court had accepted his version and there was no reason to reject it. Dr. Goel himself had treated the victim. Therefore, there was no question of finding out from the doctor whether Pushpa was in a position to give her statement or not. Moreover, the statement before the doctor was not recorded as a dying declaration. It was a communication by the patient to the doctor who treated her. He was a Government Doctor on duty in the hospital at that time. Nothing and been elicited form his cross-examination that he was interested in or endemically disposed towards the mother-in-law.

#### **(D) THE CODE OF CRIMINAL PROCEDURE**

Despite the media focus of bride-burning, the police approach on being informed of an unnatural death is to suspect nothing and straight way proceeds on the assumption of suicide. The police officials have themselves said that only foolish policemen will be at pains to register every case and endorse it as a crime, because if the volume of crime cases registered is very high, he will be the first to be transferred form his police station. Neither the local police nor the government stand to pain by registering a high crime rate.

Section 174 of the code of Criminal Procedure contains a provision that when a police officer receives information that a person has committed suicide, or has been killed by another or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation to the nearest Executive Magistrate empowered to hold inquests.

The Criminal law (Second Amendment) Act, 1983, has amended the Code of Criminal Procedure, 1973, by inserting a new Sub-section (3) to Section 174 of the Code. The new Sib-section empowers the police as well as the Magistrate to hold such an inquiry when a woman dies while living with her husband and her in-laws or other relations of the husband during the first seven years of her marriage. The Sub-Section lays down the following: “When-

- (i) The case involves suicide by a woman within seven years of her marriage; or
- (ii) The case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or
- (iii) The case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf; or
- (iv) There is any doubt regarding the cause of death; or
- (v) The police officer for nay other person considers it expedient to do so”.

Ordinarily, a death of a person in police custody raises a suspicion torture by police. Under the new provision a similar suspicion arises when a married woman dies while living with her husband or in – laws during the first seven years of her marriage. This is a warning to the husband and in-laws that the newly wedded wives coming to live with them for the first time are a sacred trust. If they violate the confidence reposed in them by the parents of the brides then their conduct would be judged by the same standard as the conduct of the police is judged in respect of person in police custody. In both these cases the person in custody is under the overall power of the custodians and if such a person dies in such custody then a suspicion arises that the custodian must have murdered her.

In Section 176 of the code of Criminal Procedure, in Sub-Section (1), for the words, “When any person dies while in the custody of the police”, the words, brackets and figures’ when any person dies while in the custody of the police or when the case is of the nature referred to in clause (1) of clause (ii) of Section 174 have been substituted.

Further, under the Criminal Law (Second (Amendment) act, 1983, a new Section 198-A, prosecution of offences under Section 498-A the Indian Penal Code has been inserted in the Code of Criminal Procedure. The new Section lays down that, “No court shall take cognizance of an offence punishable under Section 498-A of the Indian Penal Code except upon a police report of facts which constitute such offence or upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father’s or mother’s brother or sister or, with the leave of the courts, by any other person related to her blood, marriage or adoption.” This provision is enacted to ensure that the husband and the in-laws of the married woman are not harassed by a complaint lodged by a person who is having personal grudge against them ;and is not concerned with the death of the married woman but motivated by an ulterior purpose.

Section 161 of the code of Criminal Procedure provides that any police officer making an investigation may examine orally any person supposed to be acquainted with the facts and circumstance of the case. He may, states the section, reduce into writing any statement made to him in the course of an examination under this section; and if he does not so, he shall make a separate and the true record of the statement of each such person whose statement he records.

If therefore, appears that there are legal provisions no doubt, but how far these provisions safeguard women’s interest? The laws, both substantive and procedural, have failed to facilitate the punishment of the guilty and to create terror in the mind of culprits. Mere enactments and legislations do not always bring the desired change and impact. In fact implementation of law accounts much importance. Because these enactments and legislations are still a matter in the book of law alone and the ration of bride-burning, suicide and cruelty to bride is on the increase. The judicial system through at the higher level seems to be alive to this social malady but this progressive attitude is a poor injustices and harassment which the bereaved member of bride’s family suffers at the lower level of the judiciary.

The casual manner in which cases of bride-burning are investigated, prosecuted and tried show a lack of various functionaries of the criminal justice system. The husband and in-laws escape punishment on the account of many loopholes in our existing criminal justice system. The system needs a complete overhauling. Mere patch work will not suffice.

## **CHAPTER-7**

### **ROLE OF ENFORCEMENT AGENCIES**

The law – enforcement agencies i.e. the police and judiciary play an important role in the control of crime against women and particularly in bride – burning cases. The law – enforcement is a continuous process from the time crime is reported till the criminal is prosecuted and punished. This is a long process involving various stages such as, investigation, prosecution, trial and judicial decision.

The primary function of the police is the enforcement and administration of laws. For an effective enforcement of laws, police are vested with numerous statutory powers. The role of the judiciary stands next to the police. It has always been assigned high prestige under the democratic constitutional systems, particularly in view of the challenging tasks entrusted to it.



## **(A) POLICE**

The police force is the principal agency of the criminal justice for the enforcement of laws. They occupy a strategic, position with reference to crime causation, probably next to the family and other personal groups in importance. Its primary duty is not only to prevent the violation of laws like murder, suicide, rape, arson, grievous hurt, cruelty etc, but to prevent the offences like dowry related crimes. The police select the law to enforce according to their wish. Sometimes, they launch a special drive against a particular crime and enforce the relevant law more vigorously.

### **1. Preventive Role**

The prime object of every law is to prevent the commission of crime. Very often, it is said that prevention is better than cure. Similarly, it is better to prevent the commission of crime rather than to prosecute the offender. The police are vested with certain powers under different laws to perform this preventive function.

The police are assigned their powers of preventing crime under section 149, 150, and 151 of the Code of Criminal Procedure (Cr.P.C.). Wide powers are also given to the police under Section 23 of the police Act, 1861.

Section 149 of the Cr.P.C. provides officer may interpose for the purpose of preventing and shall, to the best of his ability prevent the Commission of any cognizable offence. Under Section 150 of the Cr.P.C a police officer may exercise the power to prevent the commission of a crime if he receives any information regarding the design to commit any cognizable offence. The powers of arrest have been conferred on the police officers under Section 151 Cr.P.C. to arrest a person without a warrant if he knew that the person arrested has a design to commit a cognizable offence.

### **2. Bringing the Offender to Justice**

One important function entrusted to the police force is to apprehend the offender and then to proceed against him according to law. In the process of bringing the offender to justice two important functions of the police are:

- (I) Investigation and
- (II) Prosecution

#### **(I) Investigation**

The criminal investigation commences when the police comes to know of the commission of a cognizable offence or where a Magistrate gives an order to a police officer to investigate a non – cognizable offence. The distinction between cognizable and non-cognizable offences also demarcates the powers of the police in respect of criminal investigations.

The Supreme Court in case has viewed the investigation of an offence as generally consisting of:

- (i) ascertainment of the facts and circumstances of the case,
- (ii) preceding to the spot
- (iii) Discovery and arrest of the suspected offender.
- (iv) Collection of evidence relating to the commission of the offence.

- (v) Formation of the opinion as to whether on the material collected there is a case to place the accused before a magistrate for trial, and if so, taking the necessary steps for the same by the filing of a charge-sheet under section.

## **(II) Interrogation**

Interrogation is one of the important parts of criminal investigation. Interrogation means to question a suspect and to find out the truth. The suspect of the crime may be questioned either on the spot or at the police station. The police use the method of 'third degree' in interrogation of suspects and it is an illegal practice.

Section 161 of the Cr.P.C. empowers a police officer making an investigation to examine any person, who is acquainted with the facts and circumstances of the case. Sub – section (2) of Section 161 Cr.P.C. provides protection to witnesses against question which have a tendency to expose them to a criminal charge or penalty.

## **(III) Prosecution**

Prosecution is an important area of criminal justice system. After the completion of the investigation and the submission of the charge sheet there arises the need for criminal prosecution to establish the guilt of the accused. In the conduct of prosecution the duty of the police is to place all the relevant material before the Court. It is not their duty to seek conviction only, but to see that justice is done. Section 24 and 25 of the Cr.P.C. lays down that the state shall appoint the public Prosecutors and Assistant Public Prosecution set-up envisaged by the Code consists of Public Prosecutors (including Additional Public Prosecutors and Special Public Prosecutors), and Assistant Public Prosecutors. While the former are to conduct prosecutions and other criminal proceedings on behalf of the state in the courts of Session and the High courts, the later are to conduct prosecutions on behalf of the state in the courts of Magistrates.

## **MISTAKES COMMITTED BY THE I.O.'S**

While actually proceeding for inspection of the scene of crime there are certain do's & don'ts which every police officer must take note of :-

Do's:-

- (i) Always proceed of the spot with substantial help to the form of man power.
- (ii) Always carry investigating box which should be operational in every respect.
- (iii) Pay respect to dead body if any:-
- (iv) Remove the injured person to hospital immediately
- (v) Photograph the scene of crime before it is inspected.
- (vi) Remove the necessary persons from the scene.
- (vii) Entire areas should be isolated protected and guarded.
- (viii) Take note of everything.

Don'ts:-

- (i) Never reach the place of incident late as the curious on lookers with spoil the physical clues.
- (ii) Do no have pre-set ideas about the occurrence.
- (iii) Do not touch the articles until it is identified as photographed.
- (iv) Do not give your immediate reaction / opinion about the incident.

## **(B) ROLE OF LOWER JUDICIARY**

The lower judiciary performs an important function in the prosecution of offences. After the investigation is complete, the police is bound to submit a report under Section 173(2) of the Cr.P.C. On receiving the police report the Court may take cognizance of the offence under section 190 (1)(b) and 193 of the Cr.P.C. and straightway issue process. The lower judiciary exercises their control over the police in the exercise of their statutory functions, like granting bail and

### **1. Bail**

The code has classified all offences into bailable and non-bailable. In bailable offence the accused has a right to be released on bail. In non-bailable offence bail cannot be claimed as matter of right, but at the discretion of the Court.

Section 436 of the Cr.P.C. provides that if a person accused of a bailable offence is arrested or detained without warrant he has a right to be released on bail. Section 437 of the Code provides that a person accused of non-bailable offence is arrested or detained without warrant he may be released on bail. But in such a case bail is not a matter of right, but only a privilege to be granted at the discretion of the Court. Section 439 (1) of the Code gives very wide discretion to the High Court and the Court of Session in the matter of granting bail.

### **2. Remand**

Remand is the custody of an accused given to the police beyond twenty four hours. The police are empowered to keep the accused under custody till the investigation is completed but they cannot detain any person in their custody for more than twenty-four hours.

Section 167 of the Cr. P.C lays down that whenever an accused person is arrested and detained in custody by the police and it appears that the investigation cannot be completed within twenty-four hours as fixed by Section 57, the accused person must be forwarded to Judicial Magistrate. The Magistrate to whom the accused is in such custody as such Magistrate thinks fit for a term not exceeding 15 days in the whole. However there is no obligation on the part of the Magistrate to grant remand as a matter of course.

## **© PENAL SANCTIONS AND SENTENCING IN DOWRY RELATED CRIMES.**

Penal sanctions against offenders involved in dowry related offences are provided in the Indian Penal Code 1860, and the Dowry Prohibition Act, 1961. A study of these statutes indicates that courts are duly armed with the conventional penal sanctions for such crimes. The Indian Penal Code provides the following types of legal sanction:

- (i) Sentence of death
- (ii) Sentence of imprisonment for life
- (iii) Imprisonment for a term which may be rigorous or simple, and
- (iv) Fine.

The Dowry Prohibition Act provides for only two types of penal sanctions namely:

- (i) Imprisonment for a term and
- (ii) Fine

Both the two laws contain provisions for a minimum sentence of imprisonment in relation to dowry offences. The power of the courts in relation to imposition of penal

sanctions is controlled and regulated by various provisions of the Code of Criminal Procedure, 1973. These provisions determine the jurisdiction of the criminal courts, the power to impose various sentences and limitation on such powers. The Cr.P.C Code also confers power to pass alternative and additional sanctions.

It is intended, here, to discuss the nature of sentencing structure and the judicial discretion in sentencing of offenders in dowry related crimes.

## **1. Sentencing Structure**

The purpose of a criminal trial is to determine the guilty of the offence to the accused to which he is charged. The law confirms a considerably wide discretion on the judge and provides few criteria that should guide him in his sentencing function. The exercise of judicial discretion in sentence determination depends upon several legal factors which include the organization and the hierarchy of the courts nature of offences availability of different sentencing measures mandatory sentences and the age of the offenders.

In dowry related offences the sentencing structure is determined by the Indian Penal Code, 1860, and the Dowry Prohibition Act, 1961. Different sentencing structure is provided in penal provisions of these laws. It would be desirable to discuss these provisions at this stage.

Section, 302 I.P.C. provides punishment for murder. That Section provides that, whosoever commits murder shall be punished with death or imprisonment for life and shall also be liable to fine.

The offence of dowry death is punishment with minimum sentence under section 304-B I.P.C. which provides that a person shall be punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

The offence of abatement of suicide under section 306, I.P.C. is punishable with imprisonment up to ten year and fine.

Under Section 498 –AN I.P.C. the offence of cruelty by the husband or his relatives has been made punishable with imprisonment up to three years and fine.

The offence of dowry death under Section 304-B I.P.C. has been made punishable only with imprisonment and a fine has not been added to this offence.

The Dowry Prohibition Act lays down a number of punitive provisions relating to the dowry offences. Under Section 3 of the Act a minimum of five years imprisonment and a minimum fine of fifteen thousand rupees or the value of dowry whichever is more, is prescribed for giving or taking or abetting the giving or taking of dowry. The Court may however for adequate and special reasons may impose a sentence of imprisonment less than five years.

Under Section 4 of the Act the offence of demanding dowry is punishable with imprisonment for a term not less than six month but which may extend two year and with fine which may extend to ten thousand rupees.

The offence of two of dowry in one form or the other through an advertisement is punishable with six month to five years imprisonment and a fine up to fifteen thousand rupees under Section 4-A of the Act .

Section 6 provides that the dowry received by a person other than the woman in connection with whose marriage it is given, is to be transferred to the woman or her heirs within

a period of three months, failing which imprisonment from six months to two years and a fine from five thousand rupees can be imposed upon the offenders.

## **2. Compensation to Victim**

In dowry related crimes the victim besides physical harassment and injury also suffer monetarily. Repeated dowry demands some of which are often fulfilled enrich the taker of dowry unlawfully and unjustly. It is just and reasonable that such offender ought not to retain the gains of crime. They must be made to retune any monetary gain which they have illegally obtained.

The function of a criminal Court is to punish the offender which that of a civil Court is to make the wrongdoer compensate for the loss or injury censed to the aggrieved party. However, if these two procedures can be combined with out affecting the criminal and civil process, it would be just and expedient to do so as it would save time and money in seeking remedies in two different courts. Section 357 of Cr.P.C. 1973 incorporates this idea to an extent and empowers the Court to grant compensation to the victim. This provision can be used liberally by the courts in at least some of the dowry related comes.

The amount of compensation could in no case exceed the amount of fine, and the quantum of fine would again depend upon the limit up to which the fine was awardable by the sentencing court for the particular offence and also upon the extent to which the sentencing Court had power to impose fine.

However such compensation can be ordered only if the accused is convicted and sentenced.

### **(D) Crime Against Women Cell**

According to our Hindu Law there is a sufficient gap given by the law to give / take divorce. If a woman wants to divorce her husband Vis-à-vis- this have to give certain reasons such as – (i) separation for more than one year (Hindu Law (ii) treatment or (iii) battering etc. It WAS FELT THAT Delhi Police must have some special unit to deal with such matters before the registration of case and if necessary after registration of case. This call is headed by Addl. Commissioner of Police & Assisted by Dy. Commissioner of Police & other staff. Beside this, each district have one branch of the call. The call in each distinct is headed by an Asst. Commissioner of Police. The main object of the call is to patch up & to settle down the differences between husband & wife by presentation & telling them the reality of the life. it is a fact that most of the time the party crime in hast without considering the whole aspect with cool mind and in some cases other relations or friends also aggravate the situation. This cell tries the rifts patched up by mutual negotiation of both parties. Due to this positive thinking, it has been found that 66% cases were solving just by mutual negotiation. On receiving the complaint, inquires are conducted by the cell. Both the parties are called. Reasons are trace and efforts are being made to amicable settle down the matter. For this sell out efforts are made. Concerned parties, their relatives are cell. In some cases the Dowry articles are returned on mutual consent. In such which could not be settled or sorted out, are either referred to concerned Distt. For investigation by the Distt. Cell or are investigated by cell itself.