

DOWRY PROHIBITION ACT, 1961

28 of 1961

[20th May, 1961]

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STATEMENT OF OBJECTS AND REASONS "The object of this Bill is to prohibit the evil practice of giving and taking of dowry. This question has been engaging the attention of the Government for some time past, and one of the methods by which this problem, which is essentially a social one, was sought to be tackled was by the conferment of improved property rights on women by the Hindu Succession Act, 1956. It is, however, felt that a law which makes the practice punishable and at the same time ensures that any dowry, if given does enure for the benefit of the wife will go a long way to educating public opinion and to the eradication of this evil. There has also been a persistent demand for such a law both in and outside Parliament. Hence, the present Bill. It, however, takes care to exclude presents in the form of clothes, ornaments, etc., which are customary at marriages, provided the value thereof

does not exceed Rs. 2,000. Such a provision appears to be necessary to make the law workable".-Gaz. of Ind., 1959, Ext., Pt. II, S. 2, p. 397. Act 63 of 1984- The evil of dowry system has been a matter of serious concern to every one in view of its ever-increasing and disturbing proportions. The legislation on the subject enacted by Parliament; i.e., the Dowry Prohibition Act, 1961 and the far-reaching amendments which have been made to the Act by a number of States during the seventies have not succeeded in containig the evil. As pointed out by the Committee on the Status of Women in India, the educated youth is grossly insensitive to the evil of dowry and unashamedly contributes to its perpetuation. Government has been making various efforts to deal with the problem. In addition to issuing instructions to the State Governments and Untion territory administrations with regard to the making of thorough and compulsory investigations into cases of dowry deaths and steping up anti-dowry publicity. Government referred the whole matter for consideration by a Joint Committee of both the Houses of Parliament. The Committee went into the whole matter in great depth and its proceedings have helped in no small measure in focussing the attention of the public and rousing the consciousness of the public against this evil. 2. The following observations made by late Pandit Jawaharlal Nehru which have been quoted by the Committee indicate the role which legislation can play in dealing with the evil :- "Legislation cannot by itself normally solve deep-rooted social problems. One has to approach them in other ways too, but legislation is necessary and essential, so that it may give that push and have that educative factor as well as the legal sanctions behind it which help public opinion to be given a certain shape." The recommendations made by the Joint Committee of the Houses to examine the question of working of the Dowry Prohibition Act, 1961 have been considered keeping in view these observations and after taking into consideration the comments received on the Report from the State Governments, Union territory administrations and the different administrative Ministries of the Union concerned ,with the matter. One of the important recommenda- tions of the Committee for dealing with cruelty to a married woman by the husband or the relatives of the husband on the ground of non-receipt of dowry or insufficient dowry has already been given effect to by the Criminal Law (Second Amendment) Act, 1983. This Act amended, inter alia, the Indian Penal Code to include therein a provision for punishment for cruelty to married women and was aimed at dealing directly with

the problem of dowry suicides and dowry deaths. 3. The Joint Committee has recommended that the definition of "dowry" contained in section 2 of the 1961 Act should be modified by omitting the expression "as consideration for the marriage" used therein on the ground that it is well nigh impossible to prove that anything given were a consideration for the marriage for the obvious and simple reason that the giver i.e., the parents who are usually the victims would be reluctant and unwilling to set the law in motion. The omission of the words "as consideration for the marriage" would make the definition not only wide but also unworkable, for, if these words are omitted, anything given, whether before or after or at the time of marriage by any one, may amount to dowry. The Supreme Court has also placed a liberal construction on the word "dowry" as used in section 4 of the Dowry Prohibition Act, 1961, relating to demanding dowry. In the circumstances, it is proposed to substitute the words "in connection with the marriage" for the words "as consideration for the marriage" instead of omitting those words. 4. Section 3 of the Dowry Prohibition Act relating to the offences of giving or taking of dowry is being amended in accordance with the recommendations of the joint Committee to make the punishment for the offence more stringent. All presents given at the time of marriage to the bride and certain types of presents given at the time of marriage to the bride room are proposed to be excluded from the purview of the offences under the section. However, the recommendations of the Committee for exempting the giver of dowry from punishment is not being given effect to as such exemption may only prove to be counter-productive. 5. Section 4 of the Dowry Prohibition Act relating to penalty for demanding dowry is proposed to be amended to make the punishment thereunder more stringent on the lines recommended by the Joint Committee. 6. Section 6 of the Act is being amended in accordance with the recommendation of the Joint Committee, to reduce the time limit within which dowry received in connection with the marriage of a woman by any other person should be restored to the woman from one year to three months. Likewise, the punishment for failure to restore such dowry within the said time limit is being made more stringent on the lines recommended by the Committee. Under a special provision which is being included in section 6 where a person is convicted for failure to restore the dowry to the woman concerned within the period specified in the section, the court may, in addition to awarding punishment, issue a direction requiring him to restore the property

to the woman within the period specified in the direction. In case of non-compliance with the direction, the value of the property would be recoverable from such person as if it were a fine and the amount so recovered may be paid to the woman concerned or, as the case may be her heirs. 7. Sections 7 and 8 of the Dowry Prohibition Act are proposed to be amended to give effect to the recommendations of the Committee as to cognizance of offences under the Act and making offences under the Act cognizable. 8. The Bill seeks to achieve the above objects.-Gaz. of Ind., 9-5-84, Pt. II, S. 2, Ext., p. 13 (No. 33). Act 43 of 1986.- The Dowry Prohibition Act, 1961 was recently amended by the Dowry Prohibition (Amendment) Act 1984 to give effect to certain recommendations of the Joint Committee of the Houses of Parliament to examine the question of the working of the Dowry Prohibition Act, 1961 and to make the provisions of the Act more stringent and effective. Although the Dowry Prohibition (Amendment) Act, 1984 was an improvement on the existing legislation, opinions have been expressed by representatives from women's voluntary organisations and others to the effect that the amendments made are still inadequate and the Act needs to be further amended. 2. It is, therefore, proposed to further amend the Dowry Prohibition Act, 1961 to make provisions therein further stringent and effective. The salient features of the Bill are :- (a) The minimum punishment for taking or abetting the taking of dowry under section 3 of the Act has been raised to five years and a fine of rupees fifteen thousand. (b) The burden of proving that there was no demand for dowry will be on the person who takes or abets the taking of dowry. (c) The statement made by the person aggrieved by the offence shall not subject him to prosecution under the Act. (d) Any advertisement in any newspaper, periodical journal or any other media by any person offering any share in his property or any money in consideration of the marriage of his son or daughter is proposed to be banned and the person giving such advertisement and the printer or publisher of such advertisement will be liable for punishment with imprisonment of six months to five years or with fine up to fifteen thousand rupees. (e) Offences under the Act are proposed to be made non-bailable. (f) Provision has also been made for the appointment of Dowry Prohibition Officers by the State Governments for the effective implementation of the Act. The Dowry Prohibition Officers will be assisted by the Advisory Boards consisting of not more than five social welfare workers (out of whom at least two shall be women). (g) A new offence of "dowry

death" is proposed to be included in the Indian Penal Code and the necessary consequential amendments in the Code of Criminal Procedure, 1973 and in the Indian Evidence Act, 1872 have also been proposed. 3. The Bill seeks to achieve the aforesaid objects.-
Gaz. of Ind. 21-8-86, Pt.II, S. 2, Ext., p. 6 (No. 41).

1. Short title, extent and commencement :-

(1) This Act may be called the Dowry Prohibition Act, 1961.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

1. The Act came into force on 1st July, 1961-See S.O 1410, dated 20-6-1961- Gaz. of Ind., 1961, Ext. Pt. II, S. 3(ii), p. 1005.

2. Definition of "dowry" :-

In this Act, "dowry" means 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 any other person; at or before ¹[or any time after the marriage] ²[in connection with the marriage of the said parties, but does not include] dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies. ³ [x x x]

OBJECTS AND REASONS "Either directly or indirectly".- "The Committee feel that the words "whether directly or indirectly" should be inserted after the words "or agreed to be given" in order to prevent property being indirectly given as dowry."

1. Substituted for the words "or after the marriage" by Dowry Prohibition (Amendment) Act (43 of 1986), S. 2 (19-11-86).

2. Substituted for the words "as consideration for the marriage of the said parties, but does not include" by the Dowry prohibition (Amendment) Act (63 of 1984), S. 2(a) (2-10-85).

3. Explanation I omitted ibid, S. 2(b).

3. Penalty for giving or taking dowry :-

¹[(1)] If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable

²[with imprisonment for a term which shall not be less than ³[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 a term of less than ⁴[five years].]

⁵ [(2) Nothing in sub-section (1) shall apply to, or in relation to-

(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf): Provided that such presents are entered in a list maintained in accordance with the rules made under this Act;

(b) presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf): Provided that such presents are entered in a list maintained in accordance with the rules made under this Act: Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.]

1. S. 3 renumbered as sub-sec. (1) by the Dowry Prohibition (Amendment) Act (63 of 1984), S. 3 (20-10-85).

2. Substituted for the words "with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both", *ibid*, S. 3(a).

3. Substituted for the words "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" by the Dowry Prohibition (Amendment) Act (43 of 1986), S. 3(a) (19-11-86).

4. Substituted for the words "six months", *ibid*, S. 3(b).

5. Inserted, *ibid*, S. 3(b).

4. Penalty for demanding dowry :-

If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be 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:'. Provided 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.]

4A. Ban on advertisement :-

If any person-

(a) offers through any advertisement in any newspaper, periodical journal or through any other media, any share in his property or of any money or both as a share in any business or other interest as consideration for the marriage of his son or daughter or any other relative,

(b) prints or publishes or circulates any advertisement referred 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 reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than six months.]

S.4A S.4B

5. Agreement for giving or taking dowry to be void :-

Any agreement for the giving or taking of dowry shall be void.

6. Dowry to be for the benefit of the wife or her heirs :-

(1) 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-

(a) if the dowry was received before marriage, within ¹[three months] after the date of marriage; or

(b) if the dowry was received at the time of or after the marriage, within ¹[three months] after the date of its receipt; or

(c) if the dowry was received when the woman was a minor within ¹[three months] after she has attained the age of eighteen years and pending such transfer, shall hold it in trust for the benefit of the woman.

⁴[(2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified therefor ⁵[or as required by sub-section (3),] 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 ⁶[which shall not be less than five thousand rupees, but which may extend to ten thousand rupees] or with both.]

(3) Where the woman entitled to any property under sub-section (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being ³[Provided that where such woman dies within seven years of her marriage, otherwise than due to natural causes, such property shall,- (a) if she has no children, be transferred to her parents, or (b) if she has children, be transferred to such children and pending such transfer, be held in trust for such children.] ⁸[(3 A) Where a person convicted under sub-section (2) for failure to transfer any property as required by sub-section (1) ³[or sub-section (3)] has not, before his conviction under that sub-section, transferred such property to the woman entitled thereto or, as the case may be, ¹⁰[her heirs parents or children] the Court shall, in addition to awarding punishment under that sub-section, direct, by order in writing, that such person shall transfer the property to such woman or, as the case may be ⁶[her heirs, parents or children] within such period as may be specified in the order, and if such person fails to comply with the direction within the period so specified, an amount equal to the value of the property may be recovered from him as if it were a fine imposed by such Court and paid to such woman or, as the case may be, ⁶ [her heirs parents or children]

(4) Nothing contained in this section shall affect the provisions of S. 3 or Section 4.

Ss. 6A and 6B

1. Substituted for the words "one year" wherever they occur by the Dowry Prohibition (Amendment) Act (63 of 1984), S. 5(a) (2-10-85).

4. Substituted, *ibid*, S. 5(b).

5. Inserted by the Dowry Prohibition (Amendment) Act (43 of 1986), S. 5(a) (i), 5(b) and 5(c)(i) (19-11-86).

6. Substituted for the words "which may extend to ten thousand rupees", *ibid*, S. 5(a)(ii).

8. Inserted, *ibid*, S. 5(c).

10. Substituted for the words "her heirs" wherever they occur, *ibid*, S. 5(c)(ii).

7. Cognizance of offences :-

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,-

(a) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this

Act;

(b) no court shall take cognizance of an offence under this Act except upon-

(i) its own knowledge or a police report of the facts which constitute such offence, or

(ii) a complaint by the person aggrieved by the offence or a parent or other relative of such person, or by any recognized welfare institution or organisation;

(c) it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorised by this Act on any person convicted of any offence under this Act.

(2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973, shall apply to any offence punishable under this Act.]

1 [(3) Notwithstanding anything contained in any law for the time being in force, a statement made by the person aggrieved by the offence shall not subject such person to a prosecution under this Act.]

1. Inserted by the Dowry Prohibition (Amendment) Act (43 of 1986), S. 6 (19-1 1-86).

8. Offences to be cognizable for certain purposes and to be bailable and non-compoundable :-

(1) The Code of Criminal Procedure, 1973 shall apply to offences under this Act as if they were cognizable offences- (a) for the purposes of investigation of such offences; and (b) for the purposes of matters other than-(i) matters referred to in section 42 of that Code; and (ii) the arrest of a person without a warrant or without an order of a Magistrate.

(2) Every offence under this Act shall be **1** [non-bailable] and non-compoundable.]

1. Substituted for the word "bailable" by Dowry Prohibition (Amendment) Act (43 of 1986), S. 7 (19-11-86).

8A. Burden of proof in certain cases :-

Where any person is prosecuted for taking or abetting the taking of any dowry under section 3, or the demanding of dowry under section 4, the-burden of proving that he had not committed an offence under those sections shall be on him. Section 8A

8B. Dowry Prohibition Officers :-

(1) The State Government may appoint as many Dowry Prohibition Officers as it thinks fit and specify the areas in respect of which they shall exercise their jurisdiction and powers under this Act.

(2) 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 far as possible, the taking or abetting the taking of, or the demanding of, dowry;

(c) to collect such evidence as may be necessary for the prosecution of persons committing offences under the Act; and

(d) to perform such additional functions as may be assigned to him by the State Government, or as may be specified in the rules made under this Act.

(3) The State Government may, by notification in the Official Gazette, confer such powers of a police officer as may be specified in the notification on the Dowry Prohibition Officer who shall exercise such powers subject to such limitations and conditions as may be specified by rules made under this Act.

(4) The State Government may, for the purpose of advising and assisting the Dowry Prohibition Officers in the efficient performance of their functions under this Act, appoint an advisory board consisting of not more than five social welfare workers (out of whom at least two shall be women) from the area in respect of which such Dowry Prohibition Officer exercises jurisdiction under sub-section (1).]

9. Power to make rules :-

(1) The Central Government may, by notification in the Official Gazette, make rules¹ for carrying out the purposes of this Act.

²[(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the form and manner in which, and the persons by whom, any list of presents referred to in sub-section (2) of section 3 shall be maintained and all other matters connected therewith; and

(b) the better co-ordination of policy and action with respect to the administration of this Act.]

²[(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or ⁴ [in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1. For Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985-See Gaz. of Ind., 19-8-85, Pt. II, S. 3(1); Ext., p. 2 (No. 366).

2. Sub-sec. (2) renumbered as sub-sec. (3) and before sub-sec. (3) as so renumbered sub-sec. (2) inserted by Dowry Prohibition (Amendment) Act (63 of 1984), S. 8 (2-10-85).

4. Substituted for the words "in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following" by the Delegated Legislation Provisions (Amendment) Act (20 of 1983), S. 2, Sch. (15-3-84).

10. Power of the State Government to make rules :-

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the additional functions to be performed by the Dowry Prohibition Officers under sub-section (2) of section 8B;

(b) limitations and conditions subject to which a Dowry Prohibition Officer may exercise his functions under sub-section (3) of section 8B.

(3) Every rule made by the State Government under this section shall be laid as soon as may be after it is made before the State Legislature."

