

Current's

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**THE
DOWRY
PROHIBITION
ACT, 1961**

(Act No 28 of 1961)

and

**The Dowry Prohibition (Maintenance of Lists of
Presents to the Bride and Bridegroom) Rules, 1985;**

with

**Relevant Sections of Statutes Referred
Statement of Objects and Reasons**

Bare Act

With Short Notes

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(ACT NO 28 OF 1961)

and

**THE DOWRY PROHIBITION (MAINTENANCE OF
LISTS OF PRESENTS TO THE BRIDE AND
BRIDEGROOM) RULES, 1985**

with

- **List of Amending Acts;**
- **Relevant Sections of Statutes Referred;**
- **Statement of Objects and Reasons; and**
- **Short Notes**

CURRENT PUBLICATIONS, MUMBAI

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STATEMENT OF OBJECTS AND REASONS

The Dowry Prohibition Act, 1961 (Act No. 28 of 1961) - 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 ensure 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.

LIST OF AMENDING ACTS

1. Dowry Prohibition (Amendment) Act, 1984 (63 of 1984)
 2. Dowry Prohibition (Amendment) Act, 1986 (43 of 1986)
-

THE DOWRY PROHIBITION ACT, 1961

(ACT NO. 28 OF 1961)¹

[20th May, 1961]

An Act to prohibit the giving or taking of dowry.

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows:-

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 date² as the Central Government may, by notification in the Official Gazette, appoint.

NOTES

☐ This Act came into force with effect from 1-7-1961.

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 other person, to either party to the marriage or to any other person,

at or before ³[or any time after the marriage] ⁴[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 Laws (Shariat) applies.

⁵[***]

Explanation II- The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code (45 of 1860).

NOTES

☐ The definition of dowry is amended twice once by Amendment Act 63 of 1984 and other time by Amendment Act 43 of 1986.

Property or valuable security should be as consideration for the marriage. Even then demands made after the marriage could also be a part of the consideration because an implied agreement has to be read to give property or valuable securities, even if asked after the marriage, as a part of consideration for marriage.

The amended definition does not leave anything to doubt that demands made after the solemnization of marriage would be dowry. It is made clear that property or valuable securities need not be as a consideration for marriage as was required to be under the unamended definition. *State of H.P. v/s Nikku Ram. (1995) 6 SCC 219.*

☐ Additional demand of dowry is also covered by definition of dowry. *Ram Singh v/s State of Haryana. (1998) 8 SCC 70 - AIR 1998 SC 2628.*

1 Extended to Pondicherry by Act 26 of 1968, Sec. 3 and Schedule. Pt. 1 (w.e.f 1st August, 1968), and to Dadra and Nagar Haveli by Regulation 6 of 1963 (w.e.f 1st July, 1965).

2 1st July, 1961 vide Notification No. S.O. 1410, dated 20-6-1961, vide Gazette of India, Extraordinary, Pt. II, Sec.3(ii), p.1005.

3 Subs. by Act 43 of 1986, S 2, for the words "or after the marriage" (w.e.f. 19-11-1986).

4 Subs. by Act 63 of 1984. S.2, for the words "as consideration for the marriage of the said parties, but does not include" (w.e.f. 2-10-1985).

5 Explanation I omitted by Act 63 of 1984, S.2 (w.e.f. 2-10-1985).

- ☐ The word "agreement" referred in S.2 of the Act has to be inferred on the facts and circumstances of each case. *Pawan Kumar v/s State of Haryana. (1998) 3 SCC 309 - AIR 1998 SC 958.*
- ☐ Expression "Or any time after marriage" and "in connection with the marriage of the said parties" are of wide meaning & scope. *Ashok Kumar - v - State of Haryana AIR 2010 SC 2839.*

3. Penalty for giving or taking dowry- ⁶[(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 ⁷[with imprisonment for a term which shall not be less than ⁸[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 ⁹[five years].

¹⁰[(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 the 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.]

NOTES

- ☐ Court's approach in dealing with the cases under the Act should be realistic so as to further the object of the Act. At the same time it cannot be lost sight that the Act, though a piece of social legislation, is a penal statute. Court must critically analyse the evidence and decide the case in a realistic manner. *S.Gopal Reddy v/s State of A.P. (1996) 4 SCC 596.*
- ☐ In Bihar, by Bihar amendment Act, it is obligatory to obtain sanction for prosecution under the Act. *Rajesh Kumar Kejriwal v/s State of Bihar (1997) 10 SCC 524.*
- ☐ Demand for dowry and harassment. Appellant who was the sister-in-law of deceased was convicted under sections 304-B/34, 498-A IPC and under sections 3 and 4 of the Dowry Prohibition Act. On appeal, the High Court gave her benefit of doubt and acquitted her of the charges under sections 304-B/34 IPC. Her convictions under

6 S.3 Re-numbered as sub-section (1) thereof by Act 63 of 1984, S.3 (w.e.f. 2-10-1985).

7 Subs. by Act 63 of 1984, S.3, for "with imprisonment which may extend to six months or with fine which may extend to five thousand rupees, or with both" (w.e.f. 2-10-1986).

8 Subs. by Act 43 of 1986, S.3, for "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" (w.e.f. 19-11-1986).

9 Subs. by Act 43 of 1986, S.3, for "six months" (w.e.f. 19-11-1986).

10 Ins. by Act 63 of 1984, S.3 (w.e.f. 2-10-1985).

section 3 and 4 of the Dowry Prohibition Act was maintained. Held, demand for dowry and harassment for that reason are the essential ingredients of the offence under section 304-B, IPC. Section 3 and 4 of the Dowry Prohibition Act make out independent offences, but in the instant case or was demand for dowry coupled with harassment which constitutes the basis of the prosecution case. Once the charge under section 304-B was not found established, it was not possible to record conviction under section 3 and 4 of the Dowry Prohibition Act. *Sakhi Mandalani v. State of Bihar*, (1999) 5 SCC 705.

¹¹**[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.]

NOTES

- ☐ The object of S.4 of the Act is to discourage the very demand for property or valuable security as consideration for a marriage between parties thereto. Having regard to the object of the Act, liberal construction has to be given to the word 'dowry' used in S.4 to mean any property or valuable security which if consented to be given on the demand being made would become dowry within the meaning of S.2. *L.V.Jadhav v/s Shankar Rao Abasahid Pawar* (1983) 4 SCC 231 - AIR 1983 SC 1219.
- ☐ In a writ petition by parents against callous and biased investigation, Supreme Court suggested creation of a special magisterial machinery for prompt investigation of offence under the Act and association of female police officers of sufficient rank and status with the investigation. *Bhagwant Singh v/s Commissioner of Police*. (1983) 3 SCC 344 - AIR 1983 SC 826.
- ☐ Demand for dowry and harassment. Appellant who was the sister-in-law of deceased was convicted under sections 304-B/34, 498-A IPC and under sections 3 and 4 of the Dowry Prohibition Act. On appeal, the High Court gave her benefit of doubt and acquitted her of the charges under sections 304-B/34 IPC. Her convictions under section 3 and 4 of the Dowry Prohibition Act was maintained. Held, demand for dowry and harassment for that reason are the essential ingredients of the offence under section 304-B, IPC. Section 3 and 4 of the Dowry Prohibition Act make out independent offences, but in the instant case or was demand for dowry coupled with harassment which constitutes the basis of the prosecution case. Once the charge under section 304-B was not found established, it was not possible to record conviction under section 3 and 4 of the Dowry Prohibition Act. *Sakhi Mandalani v. State of Bihar*, (1999) 5 SCC 705.
- ☐ Cruelty by husband and dowry death. The term "soon before" is not synonymous with the term "immediately before". Demand of dowry, cruelty or harassment based upon such demand and the date of death should not be too remote in time which under the circumstances be treated as having become stale enough. Where the dispute stood resolved and there was no evidence of cruelty or harassment thereafter, no

11 Subs. by Act 63 of 1984, S.4, for S.4 (w.e.f. 2-10-1985).

presumption could be drawn against accused. Where the dispute was shown to have never been settled or resolved as in the instant case of continuous harassment warranting presumption to be drawn. *Kana Raj v. State of Punjab & Ors. JT 2000 (5) SC 223.*

- ☐ Deceased married to Accused A-2 only 1½ years ago. Death unnatural. Real sisters of deceased also married in same house. Complaint by her to father after 15 days. Evidence establishing demand of dowry and harassment by three accused but not by fourth one, (Accused -3). Accused-3 was acquitted of the charges, but there was nothing to interfere in the findings with regard to others. *Nathu Ram and ORS. V. State of Rajasthan, JT 2000 (4) SC 551.*

12[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 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 reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than six months.]

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 ¹³[three months] after the date of marriage; or
- (b) if the dowry was received at the time of or after the marriage, within ¹⁴[three months] after the date of its receipt; or
- (c) if the dowry was received when the woman was a minor, within ¹⁵[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.

¹⁶[(2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified thereof ¹⁷[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

12 Ins. by Act 43 of 1986, S.4 (w.e.f. 19-11-1986).

13 Subs. by Act 63 of 1984, S.5, for "one year"(w.e.f. 2-10-1985).

14 Subs. by Act 63 of 1984, S.5, for "one year" (w.e.f. 2-10-1985).

15 Subs. by Act 63 of 1984, S.5, for "one year" (w.e.f. 2-10-1985).

16 Subs. by Act 63 of 1984, S.5, for sub-section (2) (w.e.f. 2-10-1985).

17 Ins. by Act 43 of 1986, S.5 (w.e.f. 19-11-1986).

which may extend to two years or with fine ¹⁸[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.

¹⁹[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
- (c) if she has children, be transferred to such children and pending such transfer, be held in trust for such children.]

²⁰[(3A)Where a person convicted under sub-section (2) for failure to transfer any property as required by sub-section (1) ²¹[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, ²²[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, ²³[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, ²⁴[her heirs, parents or children].]

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

²⁵[**7. Cognizance of offence-** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)-

- (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.

18 Subs. by Act 43 of 1986, S. 5 for "which may extend to ten thousand rupees" (w.e.f 19-11-1986)

19 Ins. by Act 43 of 1986, S.5 (w.e.f. 19-11-1986).

20 Ins. by Act 63 of 1984, S.5 (w.e.f. 2-10-1985).

21 Ins. by Act 43 of 1986, S.5 (w.e.f. 19-11-1986).

22 Subs. by Act 43 of 1986, S.5, for "her heirs" (w.e.f. 19-11-1986).

23 Subs. by Act 63 of 1986, S.5, for "her heirs" (w.e.f. 19-11-1986).

24 Subs. by Act 63 of 1986, S.5, for "her heirs" (w.e.f. 19-11-1986).

25 Subs. by Act 63 of 1984, S.6, for S.7 (w.e.f. 2-10-1985).

Explanation- For the purposes of this sub-section "recognized welfare institution or organisation" means a social welfare institution or organisation recognized in this behalf by the Central or State Government.

(2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply to any offence punishable under this Act.]

²⁶[(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.]

27[8. Offences to be cognizable for certain purposes and to be bailable and non-compoundable-(1) The Code of Criminal Procedure, 1973(2 of 1974) 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 ²⁸[non-bailable] and non-compoundable.

29[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.

30[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 offence 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 a 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

26 Ins. by Act 43 of 1986, S.6 (w.e.f. 19-11-1986).

27 Subs. by Act 63 of 1984, S.7, (w.e.f. 2-10-1985).

28 Subs. by Act 43 of 1986, S.7 for "bailable" (w.e.f. 19-11-1986).

29 Ins. by Act 43 of 1986, S.8 (w.e.f. 19-11-1986).

30 Ins. by Act 43 of 1986, Sec 8 (w.e.f 19th November, 1986).

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 rules for carrying out the purposes of this Act.

³¹[(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.]

³²[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 ³³[in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session 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.]

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.]

31 Ins. by Act 63 of 1984, Sec 8 (w.e.f. 2-10-1985).

32 Sub-Section (2) renumbered as sub-section (3) by Act 63 of 1984, S. 8 (w.e.f. 2-10-1985)

33 Sub. by Act 20 of 1983, S. 2 and Sch. for the words "in the successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following" (w.e.f. 15-3-1984).

34 Sub. by Act 43 of 1986, S. 9 for Sec. 10 (w.e.f. 19-11-1986)

THE DOWRY PROHIBITION (MAINTENANCE OF LISTS OF PRESENTS TO THE BRIDE AND BRIDEGROOM) RULES, 1985¹

G.S.R.664 (E) - In exercise of the powers conferred by section 9 of the Dowry Prohibition Act, 1961 (28 of 1961), the Central Government hereby make the following rules, namely:-

1. Short title and commencement- (1) These rules may be called the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985.

(2) They shall come into force on the 2nd day of October, 1985 being the date appointed for the coming into force of the Dowry Prohibition (Amendment) Act, 1984 (63 of 1984).

2. Rules in accordance with which lists of presents are to be maintained- (1) The list of presents which are given at the time of the marriage to the bride shall be maintained by the bride.

(2) The list of presents which are given at the time of the marriage to the bridegroom shall be maintained by the bridegroom.

(3) Every list of presents referred to in sub-rule (1) or sub-rule (2)-

- (a) shall be prepared at the time of the marriage or as soon as possible after the marriage;
- (b) shall be in writing;
- (c) shall contain-
 - (i) a brief description of each present;
 - (ii) the approximate value of the present;
 - (iii) the name of the person who has given the present; and
 - (iv) where the person giving the present is related to the bride or bridegroom, a description of such relationship;
- (d) shall be signed by both the bride and the bridegroom.

Explanation I- Where the bride is unable to sign, she may affix her thumb-impresion in lieu of her signature after having the list read out to her and obtaining the signature, on the list, of the person who has so read out the particulars contained in the list.

Explanation II- Where the bridegroom is unable to sign he may affix his thumb-impresion in lieu of his signature after having the list read out to him and obtaining the signature on the list to the person who has so read out the particulars contained in the list.

(4) The bride or the bridegroom may, if she or he so desires, obtain in either or both of the lists referred to in sub-rule (1) or sub-rule (2) the signature or signatures of any relations of the bride or the bridegroom or of any other person or persons present at the time of the marriage.

¹ Published in the Gazette of India, Extraordinary, Part II, Sec. 3(i) under G.S.R. 664(E), dated 19th August, 1985.

APPENDIX I
RELEVANT EXTRACTS FROM THE INDIAN PENAL CODE
(45 OF 1860)

2304-B. 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 demand to have caused her death.

Explanation- For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 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.

3|CHAPTER XXA
OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

498-A. Husband or relative of husband of a woman subjecting her to cruelty- 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 to cause grave injury or danger to life, limb or 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.

APPENDIX II
RELEVANT EXTRACTS FROM THE CODE OF CRIMINAL PROCEDURE,
1973
(2 OF 1974)

174. Police to enquire and report on suicide, etc.- (1) When the officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the State Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death,

2 Ins. by Act 43 of 1986, Sec. 10 (w.e.f 19th November, 1986).

3 Ins. by Act 46 of 1983, Sec. 2.

describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any); such marks appear to have been inflicted.

(2) The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

⁴[(3) 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 any other reason considers it expedient so to do,

he shall, subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the State Government if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction of the road as would render such examination useless.

(4) The following Magistrates are empowered to hold inquest, namely, any District Magistrate or Sub-divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate.

176. Inquiry by Magistrate into cause of death- (1) ⁵[When any person dies while in the custody of the police or when the case is of the nature referred to in clause (i) or clause (ii) of sub-section (3) of section 174], the nearest Magistrate empowered to hold inquests shall, and in any other case mention in sub-section (1) of section 174, any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence.

(2) The Magistrate holding such inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter prescribed according to the circumstances of the case.

(3) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

4 Subs. by Act 46 of 1983, S.3, for the words "When there is any doubt regarding the cause of death, or when of or any other reasons the police officer considers it expedient so to do."

5 Subs. by Act No. 46 of 1983, Sec. 4 of the words "When any person dies while in the custody of the Police".

(4) Where an inquiry is to be held under this section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known, and shall allow them to remain present at the inquiry.

Explanation- In this section, the expression "relatives" means parents, children, brothers, sisters and spouse.

6[198-A. Prosecution of offences under section 498-A of the Indian Penal Code-

No Court shall take cognizance of an offence punishable under section 498-A of the Indian Penal Code (45 of 1860) 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 Court, by any other person related to her by blood, marriage or adoption.]

THE FIRST SCHEDULE

I. OFFENCES UNDER THE INDIAN PENAL CODE

Section	Offence	Punishment	Cognizable or non-Cognizable	Bailable or non-bailable	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)
[304-B	Dowry Death	Imprisonment of not less than seven years but which may extend to imprisonment for life.	Cognizable	Non-bailable	Court of Session]
7[CHAPTER XX-A- OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND					
498-A	Punishment for subjecting a married woman to cruelty.	Imprisonment for three years and fine	Cognizable if information relating to the commission of the offence is given to an officer in charge of a police station by the person aggrieved by the offence or by any person related to her blood, marriage or adoption or if there is no such	Non-bailable	Magistrate of the first class.

6 Ins. by Act 46 of 1983, Sec. 5.

7 Ins by Act No. 46 of 1983, Sec. 6.

Section	Offence	Punishment	Cognizable or non-Cognizable	Bailable or non-bailable	By what Court triable
(1)	(2)	(3)	(4)	(5)	(6)
			relative by any public servant belonging to such class or, category, as may be notified by the State Government in this behalf].		

APPENDIX III

RELEVANT EXTRACTS FROM THE INDIAN EVIDENCE ACT, 1872

(ACT 1 OF 1872)

8[113-A. Presumption as to abetment of suicide by a married woman- When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanation- For the purpose of this section, "cruelty" shall have the same meaning as in section 498-A of the Indian Penal Code (45 of 1860).

9[113-B. Presumption as to Dowry Death - When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

Explanation - For the purpose of this section, "dowry death" shall have the same meaning as in Sec. 304-B of the Indian Penal Code (45 of 1860).

8 Ins. by Act No. 46 of 1983, Sec. 7.

9 Ins. by Act No. 43 of 1986, Sec. 12 (w.e.f 19th November 1986).

RELEVANT SECTIONS OF STATUTES REFERRED

THE INDIAN PENAL CODE, 1860

30. "Valuable Security"- The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

ILLUSTRATION

A writes his name on the back of a bill of exchange. As the effect of this endorsement is transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a "valuable security".

THE CODE OF CRIMINAL PROCEDURE, 1973

42. Arrest on refusal to give name and residence - When any person, who, in the presence of a police officer, has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in India, the bond shall be secured by a surety or sureties resident in India.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.
