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DOWRY LEGISLATION

Double-edged Sword

A growing number of women are misusing anti-dowry provisions to harass their husbands.

By Namita Bhandare

Ramesh Lal, 65, was going home. He had completed the check-in formalities at the Indira Gandhi International Airport in Delhi, stated his meal preferences, got his allotted seat and now looked forward to the flight back to London, where he lives. That's when the police arrested him. "What's this?" asked a stunned Lal. The policeman replied that he had orders to arrest him. "What's my crime?" was the next logical question. "You are charged under Sections 498A and 406." That was a lot of jargon to Lal. The cold reality of the figures sank in slowly when he realised he was being arrested for a crime he had no knowledge of: harassing his daughter-in-law for dowry.



Section 498A of the Indian Penal Code (IPC) was meant to be a weapon of empowerment for women. On the basis of a complaint filed by a woman, a husband and his family members could be packed off to jail. A small step for the abolition of dowry, a giant leap for the women's movement? Hardly. In fact, since the section was introduced in 1984, the number of dowry deaths has trebled: from 52 in 1985 to 151 in 1997. On the other hand, there has been an unforeseen repercussion: use of the law to harass the husband and his family.

Lal's is one such case. Not because he could never have harassed his daughter-in-law, but because she and his younger son had obtained a divorce by mutual consent six months earlier. What's more, the ex-daughter-in-law had signed documents stating that she had received whatever was due to her. The complaint was dismissed once Lal established that his son's ex-wife had concealed her divorce at the time of filing the complaint. But not before he was forced to spend five nights in jail. Why did she do it? "I can't say," says the retired government official. "She probably wanted to humiliate me and extract some sort of revenge for a marriage gone sour."

The law has rebounded in a way never anticipated by legislators. Says K.C. Jain, an advocate who's dealt with over 300 matrimonial cases: "It's supposed to protect women, but nowadays, the law is being used against the husband and his family."

The provision was made primarily due to the increasing incidence of dowry deaths in the early '80s and the failure of the Dowry Prohibition Act of 1961. But it hasn't helped much. In Delhi alone as many as 16 dowry deaths have been reported till March this year -- that's roughly five a month and over one a week. But complaints filed by women under Section 498A in the capital have also gone up: from 222 in 1985 to 853 in 1997. This year, the Crime Against Women Cell of the Delhi Police has already received over 120

complaints. Says Yamin Hazarika, DCP in charge of the cell: "People are beginning to talk about these things. Women are coming out in the open."

Though Hazarika acknowledges that a large number of cases registered with her are false, she hastens to qualify, "Nobody comes here unless she believes she is being harassed." Figures of misuse are hard to come by. It doesn't help that the police inquiry is frequently superficial and there are allegations that the police take advantage of their powers to arrest the husband to make a quick buck.

Priya Aggarwal had been married eight months and was pregnant when her husband died. Since she had invested Rs 2.5 lakh in her husband's business, it was decided to settle things once and for all by paying her Rs 3.55 lakh along with 21 gold guineas. Her brother-in-law Vineet Aggarwal, however, says Priya has already taken her jewellery and other possessions, which is denied by Priya. So, when it was time to pay up, Priya changed her mind, filing a case under Section 498A and claiming stridhan amounting to nearly Rs 25 lakh.

Women's organisations feel that a woman resorts to 498A only when she finds all avenues of justice closed. "Sometimes," says Padma Seth, adviser to the National Commission for Women, "a woman is left with no other way to make her appeal heard." By law, Priya is entitled to half her husband's estate. It's a claim that could take a couple of decades to settle in the normal course. Whisper "dowry harassment" and things move fast: arrests are made, summons are sent by the police and reputations torn apart. If the complaint is dismissed, the woman is back to square one. She has nothing to lose. Often, lawyers egg on their clients to use this section to get a better settlement; fix errant husbands; send taunting mothers-in-law scurrying for cover; get leverage for the custody of children; demand property rights. "You have to bolster laws relating to women to avoid this," says Geeta Luthra, another advocate.

Nikhil Banerjee knew his wife was having an affair. One day, while his wife presumed he was out of station, Banerjee, loaded with a camera, recorded his wife's escapades. Armed with evidence, he filed a case of adultery and got not only his wife, but the lover arrested too. She responded with a case under 498A. Eventually, the two obtained a divorce by mutual consent.

Advocate Kamini Jaiswal warns that with cases such as these surfacing, the patience of the judges is running out, and it is the genuine victims who will suffer eventually. But then, adultery laws too are discriminatory. Adultery is punishable by imprisonment but only when the husband files a complaint. The wife has no corresponding right -- not surprising, since most laws on matrimonial matters were framed in the 19th century and no one has bothered to update them. Maintenance is another matter that has women activists grinding their teeth. Under Section 125 of the CRPC, a Hindu woman is entitled to a maximum of Rs 500 a month. Custody of children often goes to the father. The concept of marital rape is non-existent and often even reports of domestic violence, which come under the general provisions of the IPC, are not taken seriously. Says Nivedita M.V. Monga, project officer with the Multiple Action Research Group: "Even the police tend to say, 'Yeh to ghar ki baat hai (This is a family matter)'."

Ramesh Gupta, a criminal lawyer, says the law should be changed to recognise that husbands too need protection. "There should be some provision under which he can also make a complaint against his wife." But Monga feels the cases are exaggerated. "Thousands of laws are being misused. Everyone is focusing on this alone because a change in the power structure affects men." It doesn't say much for the judicial system, but for some women misusing the law is their only road to justice.

Some names have been changed to protect the identity of the persons.