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DOWRY PROHIBITION ACT
WHAT IS DOWRY

- Property or valuable security
- Given or agreed to be given
- Directly or indirectly
- By one party to the marriage to the other party
- Before, at the time of or after marriage
- In connection with the marriage
- Dower or Mehr excluded (Section 2 of the Dowry Prohibition Act)
Offences under the Act

• Giving, taking or abetting the giving or taking of Dowry (Section 3)
• Demanding Dowry directly or indirectly (section 4)
• Agreement to give or take Dowry - declared void (section 5)
Offences under the Act

• Offering, through advertisement, any share in the property or any money as consideration for marriage of son or daughter or any other relative or

• Printing, publishing or circulating any such advertisement (Section 4A)

• Not transferring the Dowry for the benefit of the wife or her heirs within the stipulated period (Section 6)
Offences relating to dowry under the Indian Penal Code

- Cruelty by husband or relatives of the husband (Section 498 A)
- Dowry Death (Section 304 B)
Section 498-A

• Wilful conduct 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

• 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.
SECTION 304-B

- 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,
Investigation of Dowry related Offences

• Offences under the Dowry Prohibition Act
  – Non-cognizable
    • so far as arrest without warrant is concerned
  – and cognizable
    • so far as investigation without the orders of the Magistrate is concerned
  – Non-bailable and
  – Non compoundable
Investigation

• Offences under the Indian Penal Code
  – Cognizable, non bailable and non compoundable
  – Police to inquire and report on Dowry suicides and Dowry Deaths to the Executive Magistrate empowered to hold inquests (Section 174 Cr. P.C.)
  – Executive Magistrates should hold an inquiry into the cause of death either instead of or in addition to the investigation held by Police Officer in case of Dowry Deaths
Trial of offences

• Offences under DP Act cannot be tried by any Court inferior to the Metropolitan Magistrate or Judicial Magistrate of First Class

• Court not to take cognizance of the offence except upon
  – Police Report
  – Its own knowledge
  – Complaint by the person aggrieved by the offence or the relative of such person or by recognized welfare organization
Trial of offences contd...

• Offence under Section 498 A to be tried by Judicial Magistrate of First Class

• Court not to take cognizance of the offence except upon
  – A police report
  – 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
  – With the permission of the Court, by any other person related to her by blood, marriage or adoption
Trial of offences contd..

• Offence under Section 304 B to be tried by Court of Session

• Provisions pertaining to Limitation
  – Not applicable to offences under the Dowry Prohibition Act
Rules of Evidence

• Burden of proving that he had not taken, demanded or abetted the taking or demanding of Dowry rests on the accused (Section 8 A of Dowry Prohibition Act)

• Presumption as to the abetment of suicide by a married woman (Section 113 A of Indian Evidence Act)

• Presumption as to Dowry Death (Section 113 B of the Indian Evidence Act)
Enforcement of the provisions of the Act

• Appointment of Dowry Prohibition Officers (Section 8 B)
  – Powers and functions:
    • To see that the provisions of the Act are complied with
    • To prevent the taking or abetting the taking of or demanding of Dowry
    • To collect such evidence as may be necessary for the prosecution of persons committing offences under the Act
    • To perform such additional functions as assigned by State Government *vide* Rules made under the Act
Enforcement

• Appointment of an Advisory Board
  – Constitution
    • Not more than 5 social workers out of whom at least 2 shall be women
  – Powers and functions
    • Advising and assisting the Dowry Prohibition Officers in the efficient performance of their functions under the Act
Enforcement

- Central Government and State Governments to make Rules for the effective implementation of the Act (Sections 9 and 10 of the Act)
  - Exercising the power so conferred, the Central Government made:
    - The Dowry Prohibition (Maintenance of lists of Presents to the bride and bridegroom) Rules, 1985
    - Incorporated Rule 11 A in the All India Services (Conduct) Rules, 1968 prohibiting the giving, taking or demanding of Dowry by a Member of the Services
Any Questions?