

## AN EVALUATION BY MEDICAL COURTS REGARDING MEDICAL EVIDENCE IN DOWRY DEATHS

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### ABSTRACT:

Dowry Death has been one of the most barbaric forms of cruelty inflicted on young brides in the matrimonial home. Over the years, it assumed dangerous proportions calling for immediate legislative changes. Supreme Court judgment dated 11th Oct 2006 held that the demand for dowry or money from the parents of the bride has shown a phenomenal increase in last few years. Cases are frequently coming before the Courts, where the husband or in-laws have gone to the extent of killing the bride if the demand is not met. These crimes are generally committed in complete secrecy inside the house and it becomes very difficult for the prosecution to lead evidence.

Forensic medical evidence has proved to be a crucial area in establishing the fact of 'unnatural' death before the Indian courts. An evaluation of cases indicates that proper scientific evidence has assisted the courts to establish the cause of deaths, while the absence of it has created a dilemma, leading to the acquittal of the accused. The paper emphasizes on the significance and indispensability of Forensic Medical evidence for the purpose of prosecuting an accused for the offence.

**Key Words:** Dowry, Medical Evidence, Death, Forensic Evidence, Cause of Death.

### INTRODUCTION

Dowry is one in every of the persistent evils of Indian society. it's assumed tremendous proportions over the years compelling the Indian law-makers to style stern laws for curtailing the evil. Section 304B IPC, 1860 stands testimony to the very fact. It's been invoked in thousands of incidents regarding unnatural deaths of Indian brides within the

safety of their marital homes. In the recent judgment of Supreme Court dated eleventh October 2006 it absolutely was command that the demand for dower or cash from the oldsters of the bride has shown an exceptional increase in previous couple of years. Cases area unit often coming back before the Courts, wherever the husband or in-laws have gone to the extent of killing the bride if the demand isn't met. These crimes area unit typically committed in complete secrecy within the house and it becomes terribly tough for the prosecution to guide proof. No member of the family, albeit he's a witness of the crime, would come out to depose against another friend. The neighbours, whose proof is also of some help, area unit typically reluctant to depose in Court as wish they require to stay distant and don't want to antagonise a neighbour-hood family. The oldsters or different relations of the bride being aloof from the scene of commission of crime aren't during a position to present evidence which can incriminate the defendant except relating to the demand of cash or dower and harassment caused to the bride. But, it doesn't mean that against the law committed in secrecy or within the house ought to go undisciplined. Forensic proof has been Associate in Nursing innate a part of the method, since the 'unnaturalness' of the death needs to be established, before a court will proceed with examination of the case for dower death.

**RESEARCH PROBLEM:** Whether dowry deaths in India go unnoticed as they seem to be dubbed as 'accidental deaths'?

#### **REVIEWS OF LITERATURE:**

1. This book speaks about the concept of dowry. The presents that were given to the daughter on the occasion of marriage instituted her "stridhan" i.e, separate property. ([Stoker 2006](#))
2. This paper speaks about the impact of dowry system. Nearly 16000 women have been killed in dowry disputes from 1989 to 1991 about 15 a day. Another study reports every 42 minutes a woman is burned to death due to dowry. ([Chhabra 1986](#))
3. According to this report the dowry deaths reported in 2010 was 8391 and increased to 8618 in 2011. There was a marginal decrease in 2012. More than 800 dowry deaths take place every year. (Govt. Of India 2013)
4. This book speaks about the medical evidence regarding the dowry cases. Many of the most startling and dangerous crimes go undiscovered and unpunished when demonstrated without medical evidence. Same goes for the case of barbaric crime of dowry death. ([Elwell 1860](#))

5. This book speaks about the Deaths in connection with Dowry. In the case of occurrence of a dowry death the husband and his relatives are deemed to have caused death and will be awarded imprisonment of seven years or life. ([Vij 2008](#))
6. This book speaks about the cruelty related to dowry. The cruelty be it mental or physical which drives women to commit suicide or causes serious injuries to body or health..the husband will be imprisoned. ([Narayan Reddy 1994](#))
7. This book describes the punishment for dowry death. The case involves death of a women within seven of years of marriage with a reasonable e suspicion behind it. If requested the body will be sent to post mortem. (Mathiharan. K, Patnaik, A. K)
8. This book details the punishment provided for dory deaths. The wife is abused by the husband or in laws and has died with 7 years of marriage...then the court presumes that they have caused the death. In case suicide it is considered as though they have abetted it. ([Parikh 1988](#))
9. This book details about the harrows of the women in dowry harassment. The women subject to cruelty by husband or any other kind of harassment such as the domestic violence which is in connection with dowry then the court presumes such person shall cause dowry death. ([Bardale 2011](#))
10. This paper illustrates the extent of dowry system.This mainly due to illiteracy and happens in arranged marriages as opposed to love marriages. Also due to the Oedipal supremacy if mother in laws. Shows the monetary dependence of husbands, and is a form of marital unhappiness. (Dasgupta. Et. Al)
11. This paper describes about the medical evidence related to dowry death. The victims purpose of making a dying declaration to protect the interest of the children and relatives. The medico legal personnel, the pathologist or forensic expert to furnish facts without motives. (D. K. Satpathy)
12. This paper deals with Forensic evidence has been an innate part of the process, since the ‘unnaturalness’ of the death has to be established, before a court can proceed with examination of the case for dowry death. ([Dube and Yadav 2015](#))
13. The court in this case had held that irrespective of the connection of the suspect..if a person irrespective of the fact that such person is directly or indirectly responsible for death by virtue of presumption will be held liable. (P.B.Sawant v. State of Haryana, AIR 1995, SC 120.)
14. The wife had died due to burning. But she was subject to torture and harassment by husband before for dowry. The defendant argued that the butts were accidental but

medical evidence proved it to be a case of dowry death as skull, was found broken before. So husband held. (J. Prem Kanwar v. State of Rajasthan, AIR 2009, SC 1242.)

15. Majority of dowry death occur due to burning. It is decide upon the other than normal circumstances. Also included under are suspicious conditions and other bodily injury or harm. (J. Kans Raj v. State of Punjab and Ors., AIR 2000, SC 2324.)
16. The wife slipped into well and died. The court rubbished the opinion that it was murder. But the Doctor opined it was homicide as there were other traced of injury due to physical harassment in connection with dowry. (M.V. Manjunatha Gowda v. State of Karnataka, AIR 2003, SC 809.)
17. The wife's body was recovered from well. The defendant held it to be accidental falling. But the prosecution negated the claim with medical evidence. The husband was held. (J. Deen Dayal v. State of Uttar Pradesh, AIR 2009, SC 1238.)
18. The wife's death was caused due to Asphyxia as claimed. But the medical evidence proved it to be the compression around neck. As special chemical test for poison failed. So accused held. (Trimukh Maroti Khan v. State of Maharashtra, AIR 2007.)
19. The wife had set herself ablaze over the torture of husband regarding inadequate dowry. Her tranche and vocal cords were charred but she gave dying declaration. So husband was held. (Rajeev Kumar v. State of Haryana, AIR 2014, SC 907.)
20. The deceased wife was beaten up for dowry. The trial court and the HC held the husband liable. But the SC held that the viscera of the victim was unavailable as the Doctor did not conduct proper post mortem. So the accused was let free. (Chotan Sao v. State of Bihar, AIR 2014, SC 227.)

#### **OBJECTIVES:**

1. To understand the extent of dowry deaths in India.
2. To understand the evaluation of medical evidence in the court.
3. To understand the cause of difficulty in such cases.

#### **NULL HYPOTHESIS:**

The dowry deaths are not usually brought to light and the victims are not served justice.

**ALTERNATE HYPOTHESIS:**

The dowry deaths are proved by the medical evidence and the victims are served justice.

**RESEARCH METHODOLOGY**

This paper depends on secondary data. The secondary data is collected from books, journals, articles and e-sources. This research paper is analytical and descriptive in nature.

**SOURCES OF STUDY:**

The data are collected from various sources like newspaper, journals, websites and books. The data gathered will help in identifying key parameters to examine through further exploration and thus help in defining the objectives of the research.

**THE IMPORTANCE OF DOWRY IN INDIAN SOCIETY**

Dowry system is deeply unmovable in Hindu culture and is that the customary apply of giving gifts in money and sort by the bride's family thereto of the groom. The origin of the apply of dower is also copied to the Hindu ritual of "Varadakshina" that was related to "Kanyadaan" in ancient Hindu tradition. wedding was thought of a religious ritual and not a contract beneath Hindu Law, Kanyadaan being primarily the gift that the daddy of the bride created to they in step with National Crime Records Bureau, the amount of dower deaths reportable in 2010 was 8391 that redoubled to 8618 in 2011. the amount indicated a marginal decrease in 2012 and 2013, at 8233 and 8083 severally.

The country, thus, reports over 8000 deaths thanks to dower each year. Fighting dower through Legislations: the primary noticeable decide to tackle the matter of dower was sought-after by the Hindu Succession Act, 1956 by conferring improved property rights on girls, however the evil persisted. In 1961, dowry Prohibition Act was passed that was the primary penal law to ban this apply. By the latter half the 70's, it absolutely was completed that this law too had not lived up to the expectations Associate in Nursing a Parliamentary Committee was appointed to review the law and counsel measures once an empirical survey. TWO of the main lacunas noticed were the phrases 'in thought of marriage' and 'at or before marriage'. This unclarity of the legal provisions was consequently cured by the amendments of 1984 and 1986 severally, by that 'in thought of marriage' was replaced by 'in reference to marriage' and therefore the words 'any time once marriage' were additional. In 1983, Section 498-A was additional to the legal code, 1860 that stated each physical and

mental cruelty as cognoscible and non-bailable offence. However, in spite of all efforts, the menace of bride murder or bride burning continued to rise and Section 304B was incorporated within the Indian legal code 1860 to create dowry deaths a particular crime beneath the law.

The legal position, because it stands currently, is that so as to determine the offence beneath Section 304B IPC the prosecution is obligated to prove that the death of a lady is caused by any burns or bodily injury or otherwise than beneath traditional circumstances and such death has occurred among seven years of her wedding which before long before her death she was subjected to cruelty or harassment by her husband or any relative of her husband. Such harassment and cruelty should be in reference to any demand for dowry. Once these aspects are established by the prosecution, by virtue of the presumption beneath Section 113B of the Evidence Act 1872, the court shall presume that the defendant who has subjected the deceased married woman to cruelty before her death caused the dowry death in reference to any demand for dowry. Irrespective of the very fact whether or not such person is directly chargeable for the death of the deceased or not, by virtue of the presumption, he's deemed to have committed the dowry death.

**Proving dowry Death:** In order to hunt the conviction of a defendant in Nursing for the offence of dowry death, the prosecution is obligated to prove that: (a) The death of a lady was caused by burns or bodily injury or had occurred otherwise than beneath traditional circumstances; (b) Such death occurred among seven years after marriage; (c) The deceased was subjected to cruelty or harassment by her husband or by any relative of her husband; (d) Such cruelty or harassment was meted out to the deceased before long before her death; (e) Such cruelty or harassment was for or in connection with the demand of dowry; and If all of the above conditions are present, then there's a presumption that the defendant has committed the crime of dowry death. **Medical proof to Prove Death:** The 1st element relates to the character of death of the lady. The term "normal circumstances" apparently refers to natural death. In different words, the expression "otherwise than beneath traditional circumstances" would mean the death not in usual course however apparently beneath suspicious circumstances, if not caused by burns or bodily injury.

### **UNDERSTANDING OF DOWRY DEATHS WITH HELP OF CASE LAWS**

Majority of the dowry deaths occur thanks to burning, such a lot so, dowry death has nearly become synonymous to Bride Burning. different modes typically adopted by the defendant is also drowning, hanging, strangulation, poisoning, dyspneic etc. Establishing the

reason for death and thereby the very fact that the death wasn't in traditional circumstances is crucial to proceed with a charge of dower death. In several things, the deaths area unit shrouded in mystery, or the bodies area unit just disposed of while not health check. Ascertaining the precise reason for death and whether or not constant is accidental, dangerous or cutthroat in nature is that the responsibility of the rhetorical doctor. In case wherever the death is just accidental, no charge beneath Section 304B is also sustained; however in things wherever dangerous or cutthroat deaths area unit concerned, the defendant is also command accountable for the death of the adult female. it's necessary that the investigation lays adequate stress on deciphering the cause and circumstances concerning death with the help of rhetorical specialists. The following is also indicated as details during this regard. Common causes of dower Death: (a) Death thanks to Burning (b) Death thanks to Drowning (c) Death thanks to physiological state (d) Death thanks to Poisoning Death thanks to Burning: Nature of death If burn injuries, ascertain the time and date Depth/ extent of burn. whether or not the victim was admitted in the hospital or not. Presence of any smell of kerosene oil or any other ignitable substance. whether or not the burn is ante-mortem or post-mortem. Any associated health problem. Death thanks to Drowning: Condition of garments. Presence of froth at mouth and nostrils. Condition of eyes and tongue. dead body spasm -presence of mud and weeds; decomposition. symptom body covering anserine Injury marks on the body Rigor mortis and Post-mortem staining.

Death thanks to Asphyxia: External proof of compression, admire ligature marks, bruises, nail marks or the other injury round the neck. Condition of eyes, tongue, external orifices and actuation of secretion. symptom and petechial haemorrhage. proof of struggle. variations in antemortem and postmortem hanging. Death thanks to Poisoning: Smell from mouth. Condition of eyes, teeth, tongue, nails, etc. Presence of froth at mouth. symptom or the other color modification Contents of abdomen etc. Evaluation of Medical proof by Courts: In many cases before the courts in Asian country, medical reports and skilled testimonies have helped to establish the guilt of the defendant in cases of dower deaths. Case Law on death thanks to Injury not Burn Injury: In Prem Kanwar vs. State of Rajasthan, the lady allegedly died thanks to burning and therefore the father expressed that the defendant accustomed harass and torture her for dower. The medical proof expressed that the complete body was burnt, together with the hairs of the deceased, the outer portion of the bone had start off and therefore the bones of the bone of the deceased were broken. The doctor opined that the deceased died as a result of burns was well established, however her bone bones were already broken and thus, she had been killed before being burnt. The Supreme Court safely

relied on the proof to uphold the guilt of the defendant that the court expressed clearly showed the greed of the defendant in persistently harassing and beating the lady for dower.

In *State of Karnataka vs. M.V. Manjunath Gowda & Anr.* during a case of dower death, the husband placed up the plea that the married woman had met a dangerous death once she slipped into the well whereas reaching to fetch water. The court rubbished the claim of the husband stating that the medical proof indicated injuries on the bone and therefore the right facet of the bone region broken into 5 fragments. The doctor opined that the death was cutthroat thanks to shock and harm as a result of head injury and that they were sufficient in standard course of nature to cause death. In addition to this proof, the court found proof on record to point that before long before her death she was subjected to cruelty or harassment in reference to the demand of dower by her husband. The court consequently guilty the defendant beneath Section 304B IPC. In one more case before the Karnataka judiciary Mahadevamma died Associate in Nursing untimely death. At the time of wedding, there was Associate in Nursing agreement for Rs.20000 and half dozen tolas of gold as dower to run in 2 instalments. The woman lived for a few time within the marital home and a baby was born to them. However, her in-laws unbroken on the persistent demand for cash for construction of house, twenty days once that she died. One in every of the contentious problems before the court was with regard the reason for death. The defense placed the argument that the lady had brain disease and she or he fell from stairs thereby and sustained injuries, leading to death. The court relied on the doctor opinion that the tongue was projecting, severe red congestion was gift round the neck and chest had little superficial abrasions. On dissection, the doctor found contusion gift on the left temporal region with haematoma. The brain matter was shrunken and liquefied. The thorax region was intact, congested, Adam's apple was broken. He opined that the death was thanks to physiological state as a result of hanging. Further medical clarification was sought-after that established that the death was one in every of kill on account of the presence of injury on the left temporal region. There was no proof with relevancy the defense competition that the deceased was full of brain disease. This proof established the guiltiness of the defendant within the death of the lady, and albeit a requirement for dower couldn't be established, the court command the defendant accountable for offences of instigation and cruelty.

Case Law on Death thanks to Head Injury not Drowning: In *Deen Dayal vs. State of U.P.*, the body of a adult female was recovered from within a well. The competition of the husband and his relations was that the death was accidental on account of falling down into the well. The prosecution command the story that the body had been thrown into the well as



there have been unsuccessful demands of dower. The medical proof within the case established that death was caused thanks to coma ensuing from head injury. Such injuries, the doctor expressed, were presumably caused by some blunt weapon. He found no water within the lungs or the windpipe. He additionally said that if there was water within the well then those injuries could not presumably be caused (by falling down into it). In examination, he said that each of the injuries can be caused by dashing against 2 completely different projections. Under persistent examination, he additionally said that as a result of falling from a high place with face downward, one injury might presumably be caused whereas the opposite can be caused by dashing against some stone. The Court commanded that the medical proof negated the story of the defence, more so, since the well was a kutchra well, was coated by picket planks and there was water within the well. Therefore, the court opined, that there was little doubt that her body was dropped into the well once she was dying or already dead. The Supreme Court confirmed conviction of the defendant for the offence of dower death.

Case Law on Death thanks to Asphyxia not Snake Bite: Similarly, wherever the death was expressed to be snake bite, however the medical proof clearly established that she had died thanks to physiological state as a result of compression of neck and therefore the general and specific chemical testing didn't reveal any poison, the court upheld the order of conviction of the defendant. Case Law on Recording of Dying Declaration: In *Rajeev Kumar vs. State of Haryana* dying declaration was recorded that expressed that the husband of the deceased accustomed to taunt her for inadequate dower and being bored stiff with such conduct, she wet kerosene on herself and set herself ablaze. The defence questioned the dying declaration on the bottom that her voice box and trachea had been tormented by burns and it absolutely was not possible for her to own created any statement. Medical opinion was sought after on the problem. whereas the recording of the dying declaration had been certified by a doctor WHO expressed that she was fit to build a press release, in post mortem it absolutely was found that the voice box and trachea were burnt. However, the doctor processed that once the voice box and trachea area unit burnt, the person cannot speak, however once the voice box and trachea area unit within the method of being burnt, the person will speak. Another medical opinion was brought during which expressed that if the fold of the voice box is burnt, such person is also able to speak however it's going to not be terribly clear. The Court commanded that there was no inconsistency within the statements; rather the medical proof at the side of the ocular proof dying declaration relating to torture within the hands of her husband.

Case Law on Non-Examination of Doctor throughout Trial and FSL Report: In *Chhotan Sao vs. State of state* the apex court questioned the scanty report and therefore the non-examination of the doctor to line aside the conviction of the defendant for the offence of dower death. The case concerning the death of one Babita WHO, it absolutely was alleged was crushed up and compelled to consume poison that resulted in her death. The deceased had additionally complained of the harassment featured within the hands of the defendant thanks to demand for more cash in addition to threats to kill just in case of non- fulfillment. supported the proof of witnesses and different materials on record, the court moreover because the judicature guilty the defendant for the offence. In appeal, the Supreme Court command that a heavy feature of the case was that the doctor WHO had conducted the post-mortem had not been examined.

The court noting just mentioned that the viscus had been sent for analysis however no report received until then; and no apparent injury external or internal had been found on post mortem examination. Accordingly the court all over that the very fact recorded by the courts below that Babita died Associate in Nursing unnatural death wasn't supported any legal material on record. "The non-examination of the doctor WHO conducted the post-mortem in addition to the failure to provide the rhetorical Laboratory Report relating to the examination of viscus of the deceased leaves a opened hole within the case of the prosecution relating to the character of the death of Babita Hindu deity." The Court consequently guiltless the defendant of all charges.

## **CONCLUSION AND SUGGESTIONS**

As has been emphasised way back the importance of medical testimony in elucidating and fixing the character and extent of crime and therefore the degree of its penalisation, is incredibly properly changing into each year a lot of apparent and higher understood. Medical proof has incontestable that while not it, several of the foremost surprising and dangerous crimes would go undiscovered and undisciplined. constant stands true for the barbaric offence of dower death. Dowry could be a serious menace to the society and it's necessary that the evil of dower is tackled within the simplest manner. The productive prosecution and conviction of defendant demands that effective rhetorical proof is adduced whereby the reason for death and connected problems may be well established before the Court of Law. Medical proof plays a vital role in determination of guilt or otherwise of the defendant and it's imperative that the Criminal Justice System lays redoubled stress on skilled opinion for effective and economical dispensation of justice.

**REFERENCES****BOOKS:**

1. Amarpal Dhillon, *The origins of the Hindu Dowry Tradition*, 2008.
2. Bardale. R, *Principles of Foreign Medicine and Toxicology*, Jaypee Brothers medical publishers, 2011
3. John J. Elwell, *A Medico Legal Treatise on Malpractice and Medical Evidence*, Alfred Elwell and Co., 1860.
4. Mathiharan. K, Patnaik, A. K, *Modi's Medical Jurisprudence and Toxicology*, Lexisnexis Butterworths, 2006.
5. Parikh.C. K, *Parikh's book of Medical Jurisprudence Toxicology*, 5<sup>th</sup> ed. 1988.
6. Reddy. KSN, *The Essentials of Foreign Medicine or Toxicology*, 31<sup>st</sup> ed., Om Sai Graphics, 2012.
7. Vij. K, *Textbook for Forensic Medicine and Toxicology: Principles and Practice*, Elsevier, 2011.

**REPORT:**

1. National Crime Records Bureau, *Crimes in 2013*, Govt. Of India.

**PAPERS:**

1. Angela K. Carlson, Whitley, *Dowry Deaths*, University of puget sound law review, 1994
2. Das Gupta. Et.All, *Burn Wife Syndrome*, Ann academy of medicine, Singapore,1984.
3. Dipa Dube, Mukesh Yadav, *Medical Evidence in Dowry Deaths: An Evaluation by Indian Courts*, J Indian Acad. Forensic med., 2015.
4. D.K.Satpathy, *Burning Brides- A Medico Legal Study*, 1995.
5. Dr.Lakshmi T and Rajeshkumar S “In Vitro Evaluation of Anticariogenic Activity of Acacia Catechu against Selected Microbes”, International Research Journal of Multidisciplinary Science & Technology, Volume No. 3 , Issue No. 3, P.No 20-25, March 2018.
6. Trishala A , Lakshmi T and Rajeshkumar S,“ Physicochemical profile of Acacia catechu bark extract –An In vitro study”, International Research Journal of

Multidisciplinary Science & Technology, Volume No. 3 , Issue No. 4, P.No 26-30,  
April 2018.

**CASES:**

1. Chowgada v. State of Karnataka, AIR 2007.
2. Chotan Sao v. State of Bihar, AIR 2014, SC 227.
3. Deen Dayal v. State of Uttar Pradesh, AIR 2009, SC 1238.
4. J. Kans Raj v. State of Punjab and Ors., AIR 2000, SC 2324.
5. J. Prem Kanwar v. State of Rajasthan, AIR 2009, SC 1242.
6. M.V. Manjunatha Gowda v. State of Karnataka, AIR 2003, SC 809.
7. P.B.Sawant v. State of Haryana, AIR 1995, SC 120.
8. Trimukh Maroti Khan v. State of Maharashtra, AIR 2007.
9. Rajeev Kumar v. State of Haryana, AIR 2014, SC 907.



