

Dowry Prohibition (Haryana Amendment) Act, 1976

HARYANA

India

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Act 38 of 1976

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Dowry Prohibition (Haryana Amendment) Act, 1976 Haryana Act No. 38 of 1976 Statement of Objects and Reasons. - Under the provisions of the Dowry Prohibition Act, 1961, the giving, taking or demanding of dowry is punishable with imprisonment which may extend to 6 months or with fine which may extend to Rs. 5,000 or with both. But they have not proved to be deterrent enough to root out the evil system of dowry from the present society. The situation demands that the punishment to be provided for offences under the Dowry Prohibition Act, 1961 should be made more stringent and rigorous. The provisions of the present Dowry Prohibition Act, 1961 have also not proved to be very effective against ostentatious display of dowry. The evil of dowry has taken the shape of a contagious disease only because open display of dowry has the tendency of propagating the evil, even amongst those who are not in a position to give dowry. There is, therefore, a dire need for stoppage of display of dowry. Finally the existing provisions of the Dowry Prohibition Act, 1961 do not cover the cases of persons denying conjugal rights to the wives on the ground of non-payment of dowry or on the ground that the dowry paid is insufficient. Persons guilty of such conduct should be dealt with not only by infliction of a heavier measure of punishment but also be compelling them to bear the maintenance charges of their forsaken wives. It is, however, felt that while making provision for rigorous action against such behaviour on the part of guilty husbands, the law should at the same time afford an opportunity to the married couples to come to terms and to drop further proceedings. The Haryana Dowry Prohibition Bill, 1976 already passed by the Haryana Vidhan Sabha has not been assented to by the President on account of some technical objections. In the present Bill the technical objections raised have been removed without adversely affecting the substantive objects of the previous Bill. The Dowry Prohibition (Haryana Amendment) Bill, 1976 seeks to achieve the object of making the dowry prohibition law more extensive and more effective. Published vide Haryana Government (Extra.), dated the 7th July, 1976, page 1314. Received the assent of the President of India on the 5th August, 1976, and first published for general information in the Haryana Government Gazette (Extraordinary), Legislative Supplement Part I of 11th August, 1976. An Act to amend the Dowry Prohibition Act, 1961, in its application to the State of Haryana. Be it enacted by the Legislature of the State of Haryana in the Twenty-seventh Year of the Republic of India as follows :-

1. Short title.

- This Act may be called the Dowry Prohibition (Haryana Amendment Act, 1976.(2)For Sections 2, 3 and 4 of the Dowry Prohibition Act, 1961 hereinafter referred to as the principal Act), the following shall be substituted, namely :-

2. Definitions.

- In this Act, unless the context otherwise requires, -(i)"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 or after the marriage as consideration for 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.Explanation I. - For the removal of doubts it is hereby declared that any presents made at the time of marriage to either party to the marriage in the form of cash, ornaments, clothes or other articles, shall not be deemed to be dowry within the meaning of this section, unless they are made as consideration for the marriage of the said parties.Explanation II. - The expression "valuable security" has the same meaning as In section 30 of the Indian Penal Code (45 of 1860).(ii)"marriage expenses" shall include expenses incurred directly or indirectly at or before the marriage on -(a)Thakka, Tikka, Shagan and Milni ceremonies;(b)the gift made by one party to a marriage to the other party to the marriage or by the parents, grandparents and brothers of either party to a marriage, to either party to the marriage or the blood relations thereof;(c)illumination, food and the arrangements for serving food to the members of the marriage party and other expenses incidental thereto.Explanation. - For the removal of doubts, it is hereby declared that any made by a person other than those specified in sub-clause (b), at the time of marriage to either party to the marriage shall not be deemed to be marriage expenses.

3. Bar of certain acts.

- No person shall -(a)give or take or abet the giving or taking of dowry ;(b)demand, directly or indirectly, from the parents or guardians of a bride or bridegroom, as the case may be, any dowry ;(c)incur marriage expenses the aggregate value whereof exceeds five thousand rupees ;(d)display any gifts made at or before the marriage in the form of cash, ornaments, clothes or other articles ;(e)take or carry in excess of -(i)twenty-five members of the marriage party; and(ii)eleven members of the band;(f)deny conjugal rights to his wife on the ground that dowry has not been given or the dowry given is insufficient.

4. Penalty.

(1)If any person contravenes any of the provisions of section 3, he shall be punishable with imprisonment which may extend to six months and with fine which may extend to five thousand rupees.(2)The court trying an offence under clause (f) of section 3 relating to conjugal rights may, at

any stage of the proceedings, on the execution of a bond by the husband undertaking not, to demand dowry and to allow conjugal rights to the wife, drop the proceedings.(3)Any proceedings dropped under sub-section (2) shall revive if the court is satisfied, on an application made by the wife in this behalf, that the husband has failed to carry out the undertaking, or has otherwise acted contrary to the terms of the bond, and thereupon the court shall proceed with the case from the stage at which it was dropped :Provided that no application under this sub-section shall be entertained if it is made after the expiry of a period of three years from the date on which the proceedings were dropped.(4)The court may direct that the fine, if any, imposed for the contravention of clause (f) of section 3, or such portion thereof, as the court may deem proper shall be paid to the wife."

5. Amendment of section 6 of Parliament Act 28 of 1961.

- In sub-section (2) of section 6 of the principal Act, for the words "or with fine which may extend to five thousand rupees, or with both", the words "and with fine which may extend to five thousand rupees" shall be substituted.

6. Substitution of section 7 of Parliament Act 28 of 1961.

- For section 7 of the principal Act, the following section shall be substituted, namely :-"7. Cognizance of offences. - Notwithstanding contained in the Code of Criminal Procedure, 1973 (2) of 1974,(a)no court inferior to that of a Judicial Magistrate of the first class shall try any offence under this Act;(b)no court shall take cognizance of any such offence except on a complaint made by any party to the marriage or her father, mother or brother or a Gazetted Officer specially authorized by the State Government in this behalf, within a period of one year from the date of the marriage ;(c)no court shall take cognizance of any such offence except with the previous sanction of the District Magistrate or of such officer as the State Government may, by general or special order, specify in this behalf ;(d)no enquiry shall be got made through any Police Officer below the rank of a Deputy Superintendent of Police;(e)no woman shall be called to a Police Station for the purpose of an enquiry regarding any offence under this Act,".