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Orissa Act No. 1 of 1976

THE DOWRY PROHIBITION (ORISSA AMENDMENT) ACT, 1975

An Act to amend the Dowry Prohibition Act, 1961 in its application to the State of Orissa

Be it enacted by the Legislature of the State of Orissa in the Twenty-sixth Year of the Republic of India, as follows :

Short title, extent and commencement

1. This Act may be called the Dowry Prohibition (Orissa Amendment) Act, 1975.

Insertion of new Sections 6-A and 6-B.

2. In the Dowry Prohibition Act, 1961 (8 of 1961) (hereinafter referred to as the Principal Act), after Section 6 the following sections shall be inserted, namely :

"6-A. Penalty for denial of conjugal right by the husband - (1) If any person denies conjugal rights to his wife on the ground that dowry has not been given or on the ground that the dowry given is insufficient, he shall be punishable with imprisonment which may extend to one year, or with fine which may extend to ten thousand rupees or with both.

(2) The Court trying an offence under this section may, at any stage of the proceedings, on the execution of a bond by the husband undertaking not to realise the dowry or any portion thereof, as the case may be, 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 in that behalf by the wife 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 three years from the date on which the proceedings were dropped.

(4) The Court may direct that the fine, if any, imposed under this section or such portion thereof as the Court deems proper, shall be paid to the wife as compensation".

"6-B. Maintenance to be paid by husband on his conviction - (1) On conviction of a person for an offence under Section 6-A, the Court trying the offence may, on a claim made by his wife in that behalf within two months from the date of the order of

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conviction, order such person to make a monthly allowance for the maintenance of his wife at such monthly rate not exceeding five hundred rupees, as the Court deems proper :

Provided that no such order shall be made without giving the parties concerned a reasonable opportunity of being heard.

(2) In determining the monthly allowance under this section regard shall be had to-

(a) the position and status of the parties;

(b) the reasonable wants of the wife;

(c) the value of the wife's property and income derived from the wife's own earning or from any other source; and

(d) the amount of compensation awarded under Section 6-A.

(3) The maintenance allowance so ordered shall be charged on the property, if any, of the husband, whether acquired before or after the date of the order.

(4) Where a complaint has been filed by the wife for an offence under Section 6-A the husband shall not transfer any of his assets till-

(a) where no claim for maintenance has been preferred under this section, the date of expiry of the period of limitation specified in Sub-section (1) for filing such claim; and

(b) where such claim is preferred, the disposal of the claim.

(5) Notwithstanding anything contained in any other law, the wife may enforce any claim for maintenance against any property transferred by the husband in contravention of the provisions of Sub-section (4) as if such transfer were null and void.

(6) The provisions contained in Sub-section (3) of Section 123 of the Code of Criminal Procedure, 1973 shall, so far as may be, apply to the recovery of the maintenance allowance ordered under this section."

3. Amendment of Section 8. - In Section 8 of the Principal Act, for the words "Every offence" the words, "Save as otherwise provided, every offence" shall be substituted

