

**IN THE HONORABLE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATHI, ANDHRA PRADESH**

**WRIT PETITION (P.I.L.) No. \_\_\_\_\_ of 2019**

**BETWEEN:**

Sandeep Bhavan Pamarati, S/o Veerabhadra Rao Pamarathi,  
D. No. 11-968, Aravinda Nagar, Anantapur, Andhra Pradesh. PIN: 515001  
Occ: II Year LL.B. Student, Sri Vijayanagar College of Law, Anantapur.  
Email: [Sandeep.Pamarati@Gmail.com](mailto:Sandeep.Pamarati@Gmail.com) Phone: +91 9686942588  
Website: [www.ShadesOfKnife.in](http://www.ShadesOfKnife.in) PAN: ANXPP0067C  
Proud Member of MyNation Hope Foundation, [www.MyNation.net](http://www.MyNation.net)

... PETITIONER-IN-PERSON / DEPONENT

**AND**

1] Union of India, Represented by its Secretary,  
Ministry of Law and Justice, Dept. of Legal Affairs,  
Shastri Bhawan, Dr. Rajendra Prasad Road,  
New Delhi, 110001

2] Union of India, Represented by its Secretary,  
Ministry of Social Justice and Empowerment  
Shastri Bhawan, Dr. Rajendra Prasad Road,  
New Delhi, 110011

3] Union of India, Represented by its Secretary,  
Ministry of Women and Child Development,  
Shastri Bhawan, Dr. Rajendra Prasad Road,  
New Delhi 110001

... RESPONDENT NOS 1, 2 and 3

## LIST OF DATES OF KEY EVENTS

<b><i>EVENT TYPE</i></b>	<b><i>EVENT DATE</i></b>	<b><i>BRIEF DESCRIPTION OF EVENT</i></b>
<b>Dowry Prohibition Act, 1961</b>  Main Enactment	20th May, 1961	The <b>Dowry Prohibition Act, 1961</b> came into force during the prime minister-ship of Jawaharlal Nehru (Indian National Congress) with a stated aim to <b>prohibit the evil practice of giving and taking of dowry</b> .
<b>Dowry Prohibition Act, 1980</b>  Main Enactment (Bangladesh)	26th December, 1980	The <b>Dowry Prohibition Act, 1980</b> came into force in Bangladesh, with a stated aim to <b>prohibit the evil practice of giving and taking of dowry</b> .
<b>Dowry Prohibition (Amendment) Act, 1984</b>  Amendment to Main Statute	11th September, 1984	Legislature enacted the <b>Dowry Prohibition (Amendment) Act, 1984</b> during the prime minister-ship of Indira Nehru Gandhi (Indian National Congress) with the following key amendments: <ol style="list-style-type: none"> <li><i>1. Minimum Imprisonment for giving or taking Dowry is six month and may extend to two years. For special reasons to be recorded the Court can impose imprisonment for less than six months.</i></li> <li><i>2. Ceiling on fine increased from Rs.5000/- to Rs.10,000/- or the amount of value of such dowry, whichever is more</i></li> <li><i>3. Presents of customary nature and value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given shall be maintained in a list in accordance with the Rules made under this amendment</i></li> <li><i>4. Minimum Imprisonment for demanding Dowry is six month and may extend to two years. For special reasons to be recorded the Court can impose imprisonment for less than six months.</i></li> <li><i>5. Dowry to be transferred to the woman within three months</i></li> <li><i>6. Entire Section 7 is substituted. The limitation of one year not to take cognizance of a complaint from the date of offence u/s 7(b) is eliminated. Entire chapter XXXVI LIMITATION FOR TAKING COGNIZANCE OF CERTAIN OFFENCES is disallowed.</i></li> <li><i>7. No definition of “person aggrieved” which is mentioned u/s 7(1)(b)(ii)</i></li> </ol>

		<p>8. <i>Non-cognizable offence is made cognizable</i></p> <p>9. <i>Manner in which the State amendment to the Rules framed under this Act may be implemented.</i></p>
<p><b>Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985</b></p> <p>Rules to Main Statute</p>	<p>2nd October, 1985</p>	<p>The <b>Rules to the Dowry Prohibition Act 1961</b> came into force on 2nd day of October, 1985 being the date appointed for coming into force of Dowry Prohibition (Amendment) Act, 1984</p> <ol style="list-style-type: none"> <li>1. The list of presents which are given at the time of the marriage to the bride shall be maintained by the bride.</li> <li>2. The list of presents which are given at the time of the marriage to the bridegroom shall be maintained by the bridegroom.</li> <li>3. Every list of presents shall be prepared at the time of the marriage or as soon as possible after the marriage shall be in writing and shall be signed by both the bride and the bridegroom.</li> <li>4. The bride or the bridegroom may, if she or he so-desires, obtain on either or both of the lists, the signature or signatures of any relations of the bride or the bridegroom or of any other person or persons present at the time of the marriage.</li> </ol>
<p><b>Dowry Prohibition (Amendment) Act, 1986</b></p> <p>Amendment to Main Statute</p>	<p>8th September, 1986</p>	<p>Legislature enacted the <b>Dowry Prohibition (Amendment) Act, 1986</b> (which was effective from 19.10.1986) during the prime minister-ship of Rajiv Gandhi (Indian National Congress) with the following key amendments:</p> <ol style="list-style-type: none"> <li>1. <i>The definition u/s 2 itself is altered to include any event any time after the marriage.</i></li> <li>2. <i>Minimum Imprisonment for giving or taking Dowry is made five years and without any ceiling.</i></li> <li>3. <i>Minimum fine increased to Rs.15,000/- or the amount of value of such dowry, whichever is more</i></li> <li>4. <i>No definition of “person aggrieved” which is mentioned u/s 7(3)</i></li> <li>5. <i>Bailable offence is made non-bailable</i></li> <li>6. <i>Proof of burden thrust on person taking or abetting the taking or demanding of any Dowry</i></li> <li>7. <i>Insertion of section 304B into Indian Penal Code, 1860</i></li> <li>8. <i>Entry of 304B IPC added into First schedule of Code of Criminal Procedure, 1973</i></li> <li>9. <i>Insertion of section 113B into Indian Evidence Act, 1872</i></li> </ol>

<b>Dowry Prohibition Act, 2018</b>  Main Enactment (Bangladesh)	16th September, 2018	The <b>Dowry Prohibition Act, 2018</b> repealed <b>Dowry Prohibition Act, 1980</b> and passed by National Parliament of Bangladesh, <u><i>Jatiya Sangsad</i></u> , and came into force from 1st October 2018 Monday, with a stated aim to <i>prevent filing of false cases by prescribing a punishment of maximum five-year imprisonment or a fine of maximum BDT 50,000 or both</i> . This is done in tune with changing times and demands to curb misuse of beneficial laws.
<b>Administrative Reforms Commission, Government Of Kerala</b>	October, 2018	A Report titled <b>Welfare To Rights - Implementation of Select Legislations</b> from Administrative Reforms Commission, Government Of Kerala.
<b>Supreme Court of India Decisions</b>	19th July, 2005  13th August, 2010  2nd July, 2014	In Sushil Kumar Sharma Vs Union Of India And Ors [(2005) 6 SCC 281], Supreme Court used the words “ <b>Legal Terrorism</b> ”  In Preeti Gupta and Another Vs State of Jharkhand and Another, Supreme Court had lamented about the possible <b>misuse of anti-dowry laws</b> .  In Arnesh Kumar Vs State of Bihar and Anr, a two-judge bench of the Supreme Court observed that <b>498A had become powerful weapon in the hands of disgruntled wives</b>
Writ Petition	TBD	Hence, filing this Writ Petition (as a Public Interest Litigation)

PETITIONER-IN-PERSON / DEPONENT

### VERIFICATION

I, Sandeep Bhavan Pamarati, S/o Veerabhadra Rao Pamarathi, aged 37 years, am the Petitioner-in-person, as well as being the deponent herein to this petition and I am well acquainted with the facts of the case and am competent to swear this affidavit, do hear by solemnly affirm and verify that what is stated in the foregoing affidavit is true and correct to my knowledge and belief, no part of it is false and no material has been concealed therefrom.

Place of filing Petition : AMARAVATHI

Date of filing Petition : 25 - 11 – 2019

PETITIONER-IN-PERSON / DEPONENT

**MEMORANDUM OF WRIT PETITION**  
**(PUBLIC INTEREST LITIGATION)**  
(UNDER ART. 226 OF THE CONSTITUTION OF INDIA)  
**IN THE HONORABLE HIGH COURT OF ANDHRA PRADESH**  
**AT AMARAVATHI, ANDHRA PRADESH**  
(SPECIAL ORIGINAL JURISDICTION)  
**WRIT PETITION (P.I.L.) No. \_\_\_\_\_ of 2019**

**BETWEEN:**

Sandeep Bhavan Pamarati, S/o Veerabhadra Rao Pamarathi,  
D. No. 11-968, Aravinda Nagar, Anantapur, Andhra Pradesh. PIN: 515001  
Occ: II Year LL.B. Student, Sri Vijayanagar College of Law, Anantapur.  
Email: [Sandeep.Pamarati@Gmail.com](mailto:Sandeep.Pamarati@Gmail.com) Phone: +91 9686942588  
Website: [www.ShadesOfKnife.in](http://www.ShadesOfKnife.in) PAN: ANXPP0067C  
Proud Member of MyNation Hope Foundation, [www.MyNation.net](http://www.MyNation.net)

... PETITIONER-IN-PERSON / DEPONENT

**AND**

1] Union of India, Represented by its Secretary,  
Ministry of Law and Justice, Dept. of Legal Affairs,  
Shastri Bhawan, Dr. Rajendra Prasad Road,  
New Delhi, 110001  
2] Union of India, Represented by its Secretary,  
Ministry of Social Justice and Empowerment  
Shastri Bhawan, Dr. Rajendra Prasad Road,  
New Delhi, 110011  
3] Union of India, Represented by its Secretary,  
Ministry of Women and Child Development,  
Shastri Bhawan, Dr. Rajendra Prasad Road,  
New Delhi 110001

... RESPONDENT NOS 1, 2 and 3

The address for service for all notices and processes on the above-named Petitioner is Sandeep Pamarati, S/O Veerabhadra Rao Pamarathi, D. No. 11-968, Aravinda Nagar, Anantapur, Andhra Pradesh. PIN: 515001 Cell: +91-9686942588 Email : Sandeep.Pamarati@gmail.com

For the reasons stated in the accompanying affidavit, it is prayed that this Honourable Court may be pleased to,

1. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to link various marriage enactments of India with Dowry Prohibition Act, 1961, by **making Marriage Registration certificate as a mandatory document for Proof of Marriage, to file a case under any provision of DP Act.**
2. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to **amend the application forms used for Registration of Marriages in all States and Union Territories** to
  - a. capture if any presents were given to either bride or groom before/during/after the marriage ceremony as mandated in Dowry Prohibition Rules (Maintenance of Lists) of 1985.
  - b. declare that there is no dowry given/taken/demanded by either side of bride or bride groom, before/during/after the marriage ceremony.
3. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, such that there is no ambiguity to them whether to prosecute the Dowry givers under **section 3 of DP Act read with section 7 of DP Act** and no discrimination is made between Dowry Giver and Dowry Taker, under **Section 3(1) of DP Act**, in similar fashion as that of made by Bangladesh.
4. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to ensure all the necessary awareness is created at all institutions where Marriages are performed in regards to the Dowry Menace and the legal rights of parties.
5. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to ensure all the necessary sensitization is created at all Fora where Marriages are registered in regards to the Dowry Menace and the legal rights of parties.

6. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to ensure that each Marriage so registered with Marriage Registrars or similar Institutions give out free literature such as a booklet, pertaining to existence of Dowry Laws & relevant provisions of Indian Penal Code 1860.
7. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to ensure that the Name of the enactment be suitably amended from **Dowry Prohibition Act**, to reflect and include all words that align to the demand for money or property under various religions, thereby making it not perceived as an enactment specific to only Hindu religion alone.
8. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to ensure that in all criminal cases filed under **Dowry Prohibition Act 1961 and 498A I.P.C. or any other penal code dealing with Dowry-related crime**, where the accused person/persons are acquitted on merits, the Investigating officers are prosecuted for launching false prosecution *suo moto*, by the same Magistrate who passed an order of acquittal.

**In the Alternative,**

9. Strike down appropriately and sufficiently, *all relevant sections of DP Act, so as to make Giving of Dowry as no more a crime in India as all the persons who give Dowry are never going to be prosecuted at all, in the view of the bar imposed by Section 7(3) DP Act.*

Place of filing Petition : AMARAVATHI

Date of filing Petition : 25 - 11 - 2019

PETITIONER-IN-PERSON / DEPONENT

## **VERIFICATION**

I, Sandeep Bhavan Pamarati, S/o Veerabhadra Rao Pamarathi, aged 37 years, am the Petitioner-in-person, as well as being the deponent herein to this petition and I am well acquainted with the facts of the case and am competent to swear this affidavit, do hereby solemnly affirm and verify that what is stated in the foregoing affidavit is true and correct to my knowledge and belief, no part of it is false and no material has been concealed therefrom.

Place of filing Petition : AMARAVATHI

Date of filing Petition : 25 - 11 - 2019

**PETITIONER-IN-PERSON / DEPONENT**

**IN THE HONORABLE HIGH COURT OF ANDHRA PRADESH**  
**AT AMARAVATHI, ANDHRA PRADESH**

**WRIT PETITION (P.I.L.) No. \_\_\_\_\_ of 2019**

**PUBLIC INTEREST LITIGATION - AFFIDAVIT**

**PARTICULARS OF THE STATUTES CHALLENGED IN THE PETITION:**

**I. SUBJECT MATTER IN BRIEF:**

The present writ petition is filed as Public Interest Litigation (*Pro Bono Publico*) under Article 226 of the Constitution of India, seeking prayers/reliefs for the welfare of all persons in the dominion of India and for protection of their rights that are being trammled & violated, from time immemorial, in regards to Menace of Dowry.

In India, like in many other neighboring countries such as Bangladesh, there is a societal menace called as Dowry. There were (and are) many crimes happening around the central issue of Dowry. Dowry Demand, Dowry harassment, Dowry Death etc. Since such societal problems are to be dealt at the highest level, Legislature, with all its endless wisdom, jumped in to outlaw/criminalize all aspects of and around Dowry in India and had brought in a Legislation in 1961 titled, “**Dowry Prohibition Act, 1961**” hereinafter, ‘**DP Act**’. Thus, came the Dowry Prohibition Act, 1961.

Until the time of enactment of the statute, there is no provision in India to provide a remedy to the Menace of Giving and Taking of Dowry. Along came the Central Rules to support the Act styled as the **Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985**.

There were two amendments made to this Act, one in 1984 and another in 1986, as listed in List of events above. The States and Union Territories have enacted State Rules u/s 10(1) of the Central Act. **See Annexure – A for State Rules.**

Despite making benevolent laws in 1961 and further amendments in 1984 and 1986, prohibiting certain acts related to Dowry, with proposed sanctions of punishment and fine, Dowry Menace in India has NOT come down a bit.

At a bird’s eye view level, the Petitioner presents the following brief measures which would surely arrest the Dowry menace as well as False Dowry litigation in the country.

- **Link Various Marriage Acts of India with Dowry Prohibition Act, 1961:**

As long as marriage laws remain siloed and separate from Dowry law, Dowry menace can never be eradicated in India, in the personal opinion of the Petitioner.

Marriage registration certificate mandatory as proof of Marriage, to file a case under **DP Act**. This direction also helps in tying Compulsory Registration of Marriages Acts enacted by all States, whose objective was to provide legal succor for the women-folks from any Matrimonial or Dowry-related issues. This was proposed in the 270<sup>th</sup> Report of Law Commission of India titled, '*Compulsory Registration of Marriages*'<sup>1</sup>.

- **Amendments to the application forms for Marriage Registration:**

Revise the existing application forms for Marriage Registration in all States and Union Territories, to consist additional fields, as necessary, to capture information, if Lists of Presents were prepared during/after marriage, as mandated in 1984 Amendment to **DP Act**. This can be easily achieved by way of a Government Order notification and doesn't require any amendment to **DP Act**.

The end goal of this Act is that, the articles given during/after marriage can either be Presents or Dowry, but not both, per the convenience of the Family of Bride. The Same person who willingly or otherwise, committed the crime of Giving dowry before, during/after marriage of their daughter but says those articles were only Presents, cannot backtrack and say that Articles were Dowry and file a false and motivated case u/s 3 of **DP Act**. If there was a demand for Dowry in time after marriage, the provision u/s 4 of **DP Act** is always available to be invoked.

It is also a valid question to raise as to why such demand for dowry was not disputed at the time of marriage itself but only on a much later date, predominantly when the relationship got severely strained between the parties (be it couple themselves or the families on both sides) involved.

To include 'no dowry given/taken declaration' in the verification section of the application forms for Marriage Registration of all States and Union Territories.

---

<sup>1</sup> Compulsory Registration of Marriages, 270th Report of Law Commission of India, published on 4 July, 2017.

- **Clarify "person aggrieved" in Section 7(3) of DP Act**

Clarify who is "person aggrieved" in Section 7(3) of **DP Act** who cannot be prosecuted based on their statement.

- If it is bride, then she cannot be prosecuted but her parents who gave dowry should be prosecuted u/s 3 of **DP Act**. The bride may be the Aggrieved person. But her parents should not escape the net of section 3 of **DP Act**.
- If the parents of bride gave dowry, they cannot simultaneously become *persons aggrieved and persons accused* and hence no protection to be bestowed upon them. The Complaint by the daughter should also bind the Dowry-giving parents/guardians of bride along with the parents of husband and husband.
- Clarify which persons can be prosecuted for the crime of Giving Dowry u/s 3 of DP Act, if not the Persons who actually gave Dowry.

- **Menace of Misuse of Police Powers for initiating Motivated/False Charge sheets**

The Investigating agencies be it Police or any other, with powers to Investigate cases related to/involving any element of Dowry have a key role to play in effective implementation of the women welfare laws made ostensibly under the authority conferred on the Legislature by the Article 15(3)<sup>2</sup> of Constitution of India. They are the first leg of protection system of which many corrupt officials take baseless cases to Courts. It then becomes the arduous duty of the Courts to clean up the mess created by the Investigating agencies, by passing judicial decisions and guidelines/frameworks, insistence on following due procedures already available in procedural codes, to protect and uphold the fundamental rights of citizens available under PART-III of the Constitution of India, which are trampled with impunity.

In the following section titled, "*Grounds/Facts in Detail*" of the Petition, this Petitioner elaborates on the above and more legal aspects/concerns prevailing currently and the urgency and importance of proposed measures and consequences thereof.

---

<sup>2</sup> The Constitution of India, 1950, Art. 15(3).

## II. PARTICULARS OF THE PETITIONER-IN-PERSON

I respectfully submit to the Court that I am a Law student, studying II-year LL.B., in the Sri Vijayanagar College of Law and PG Studies, Anantapur, A.P. affiliated to Sri Krishnadevaraya University, Anantapur, A.P. 515001. I had secured 293 rank in the AP LAW CET 2018. Prior to entry into Law education, I have a total of 10 years and 2 months of successful and rewarding experience into Information Technology Industry, the last employment being a 'Solution Architect' at the prestigious LnT Infotech Ltd (LTI), Bengaluru, Karnataka.

As part of full disclosure, I submit that there are two false cases laid against me and my elderly parents as on the date of filing this PIL, *1. CC No. 220/2018 and 2. DVC No. 14/2017 both pending before the Court of 3<sup>rd</sup> Additional First-Class Judicial Magistrate, Ongole, Prakasam District, Andhra Pradesh*. None of the prayers made as part of this Writ Petition have any bearing on the cases on the Petitioner in his personal capacity.

## III. LOCUS STANDI

I submit that I am a public-spirited Law student as well as a Men's/Human Rights Activist, closely associated with not-for-profit worldwide NGO, named and styled as *MyNation Hope Foundation* as a volunteer-member, which has been an active voice for thousands of victims of false matrimonial and domestic violence litigation and neglected Senior Citizens, for the past 20 years.

Working as one of a volunteer-member of MyNation Hope Foundation for the past 2 years, I strongly believe, it is my duty to raise voice to protect/enhance the interests of citizens of our great nation i.e., towards the needs of Indian citizens which include but not limited to, fair investigation and fair trial (*audi alteram partem*), protection from police atrocities using and self-serving interpretation of Gender-biased and Social Welfare Benevolent Acts enacted by the Legislature all of which are discriminatory and violative of the basic fundamental rights of Citizens, utterly unfairly, unjustly and without any legal and empirical basis.

## **DECLARATION AND UNDERSTANDING OF THE PETITIONER:-**

I, Sandeep Bhavan Pamarati (Occ: II Year LL.B. Student), S/o Veerabhadra Rao Pamarathi, aged 37 years, R/o D. No. 11-968, Aravinda Nagar, Anantapur, Andhra Pradesh, PIN: 515001 do hereby solemnly and sincerely affirm and state as hereunder,

1. That the present Petition is being filed by way of Public Interest Litigation under Article 226 of the Constitution of India challenging the constitutional validity of the provisions of the following Statutes, as being discriminative to one another and thereby violative of Articles 14 and 21 of the Constitution of India,
  - a. The Provisions under Section 3 and 7 of Dowry Prohibition Act 1961 are being interpreted incorrectly, thereby violative of Legislature Intent.
  - b. The Application forms for Registering Marriages in all states and union territories under all marriage Acts.
2. That, this Petition is being filed in the larger interest of all the Parents in our society within the jurisdiction of the Respondents herein and that I do not have any personal interest in the matter.
3. That, the entire cost of litigation is borne by me, including any security deposit to be furnished towards costs or any other charges as may be required by the Court, in the course of hearing of this petition. As such, I shall comply with all such and any other relevant requirements of the Court and my PAN card number is ANXPP0067C.
4. That a thorough research has been conducted pertaining to the matter being raised through the instant Writ Petition, all the relevant documents pertinent to the subject as discovered by me are annexed to the Petition.
5. That, to the best of Petitioner's knowledge and research, the issue being raised was not decided ever by a Competent Court and that a similar or identical petition was not filed earlier by me.
6. That, the petitioner has understood that in the course of hearing of this petition, the Court may require any security to be furnished towards costs or any other charges and petitioner shall have to comply with such requirements.
7. That, I never filed any Public Interest Litigation in any other Constitutional court in India, with regard to the same subject matter.

#### IV. GROUNDS/FACTS IN DETAIL, AS NECESSARY TO APPRECIATE THE CONTENTION OF PIL

That, as established briefly in “*I. SUBJECT MATTER IN BRIEF*” section above, the crux of the instant petition is to challenge the wrongly interpreted and on-the-ground, discriminatory provisions in the **DP Act** of India and Rules made thereof under the Act, and therefore, Petitioner prays to this Honorable Court to strike down/read down/amend such provisions sufficiently, which are infringing on fundamental rights of Citizens, to the extent of infringement.

##### 1. Link Various Marriage Acts of India with Dowry Prohibition Act, 1961:

- a) The Petitioner has researched the following Marriage laws in force in India and the observations are noteworthy.
- Indian Christian Marriage Act, 1872
  - The Anand Marriage Act, 1909
  - The Parsi Marriage and Divorce Act, 1936
  - Muslim Personal Law (Shariat) Application Act, 1937
  - The Dissolution of Muslim Marriages Act, 1939
  - Special Marriage Act, 1954
  - The Hindu Marriage Act, 1955
  - Foreign Marriage Act, 1969

None of these laws whisper anything about Dowry or Dowry-like element before/ during/ after a marriage under any of these laws is performed by two parties for a simple and obvious reason that, they pre-date **DP Act** which was enacted much later in 1961.

- b) Similarly, the **DP Act** also does not talk about rituals and customs of marriage under any particular religion. But, the term ‘*Dowry*’ is a specific term which directly refers to Hindu Marriage system. It is not religion-independent. As long as these two intertwined but currently-siloed enactments stay separated, the firm belief of this Petitioner is that, no measure can ever eradicate the menace of Dowry from India.
- c) It is similarly placed to another women welfare enactment, **Protection of Women from Domestic Violence Act, 2005**<sup>3</sup>. Even though, any women in a domestic relationship

---

<sup>3</sup> Protection of women from Domestic Violence Act, 2005 (Act. No. 43 of 2005) enacted on 13<sup>th</sup> September, 2005.

can be an aggrieved person by definition in the Act, no Domestic Violence complaint filed by a Mother-in-law or a Sister-in-law has ever been registered till date in India and a Daughter-in-law or her ilk prosecuted for an offence of Domestic violence, even though we see abundance of evidence scrolling on our television sets on daily basis. The conduct of concerned authorities including Police, Judiciary seems to say that this enactment is meant only for Daughter-in-laws to file cases on her in-Laws.

- d) To this effect, the Petitioner proposes that there be direct nexus established between marriage laws in India with that of DP Act, thereby ensuring any and every marriage performed in India is directly under the umbrella of **DP Act**. It is pertinent to note that there is no prohibition of any sort to perform such cross-collaboration across Acts, to attain a noble cause.
- e) The direct nexus can be achieved by making Marriage Registration certificate as a mandatory document for Proof of Marriage, to file a case under **DP Act**. Once a marriage is thus proved to have legal sanctity, a complaint u/s 3 of DP Act should be maintainable. This can be easily achieved by making necessary amendments to the **Rules made by the States and Union Territories under the DP Act**. This also aligns and gives true effect and impetus to the implementation of the various prevailing **Compulsory Registration of Marriages Acts, supported by the Rules thereof**, enacted by most of the States and Union Territories. **See Annexure – B**.

## **2. Amendments to the application forms for Marriage Registration:**

- a) The next vital aspect to address is the disconnect between the Application forms for Marriage Registration in various States and Union Territories with the provisions of **DP Act**.
- b) A marriage can be registered at any Office of Sub-registrar in any District of India and such registration grants legal sanctity to the marriage in the eyes of law. To refer to an example, Legal status of an applicant seeking Marriage registration is part of the Application form, in more or less, consistently across States and Union Territories. This application form (generally referred to as FORM-A in more States) shall be duly filled up and such application form will be considered by the Sub-registrar, after payment of due registration fee, and enter the marriage particulars into Marriage Register.

- c) Key element that is essential to note is the fields that seek to establish the Legal status of applicants from either Single, Divorcee, Window, Widower. The intent here is that there should not be a living spouse for either of the applicants. It is pertinent to observe that, this field is directly in relation to the various provisions in the various Marriage laws of India. The following provisions are relevant examples.
- d) We can refer to the section 5(i)<sup>4</sup> of the **Hindu Marriage Act 1955**, which is reproduced hereinbelow.

***“Conditions for a Hindu marriage.*—A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely:— (i) **neither party has a spouse living at the time of the marriage;**”** (Emphasis Provided)

- e) From **Special marriage Act 1954**, section 4(a)<sup>5</sup> reads as follows:

***“Conditions relating to solemnization of special marriages.*—Notwithstanding anything contained in any other law for the time being in force relating to the solemnization of marriages, a marriage between any two persons may be solemnized under this Act, if at the time of the marriage the following conditions are fulfilled, namely:—**

***(a) neither party has a spouse living;*”** (Emphasis Provided)

- f) In The Foreign Marriage Act, 1969, section 4<sup>6</sup> says,

***“4. Conditions relating to solemnization of foreign marriages.*—A marriage between parties one of whom at least is a citizen of India may be solemnized under this Act by or before a Marriage Officer in a foreign country, if, at the time of the marriage, the following conditions are fulfilled, namely:—**

***(a) neither party has a spouse living,***

***(b) ... ;”*** (Emphasis Provided)

- g) From section 60<sup>7</sup> of Indian Christian Marriage Act, 1872, we have,

---

<sup>4</sup> The Hindu Marriage Act 1955, § 5(i).

<sup>5</sup> The Special Marriage Act 1954, § 4(a).

<sup>6</sup> Foreign Marriage Act 1969, § 4.

<sup>7</sup> Indian Christian Marriage Act 1872 § 60.

*“60. On what conditions marriages of Indian Christians may be certified.—Every marriage between Indian Christians applying for a certificate, shall, without the preliminary notice required under Part III, be certified under this Part, if the following conditions be fulfilled, and not otherwise:—*

*(1) ... ;*

*(2) neither of the persons intending to be married shall have a wife or husband still living;”* (Emphasis Provided)

h) From section 4<sup>8</sup> of The Parsi Marriage and Divorce Act, 1936,

*“4. Remarriage when unlawful.*

*—(1) No Parsi (whether such Parsi has changed his or her religion or domicile or not) shall contract any marriage under this Act or any other law in the lifetime of his or her wife or husband, whether a Parsi or not, except after his or her lawful divorce from such wife or husband or after his or her marriage with such wife or husband has lawfully been declared null and void or dissolved, and, if the marriage was contracted with such wife or husband under the Parsi Marriage and Divorce Act 18654 (15 of 1865), or under this Act, except after a divorce, declaration or dissolution as aforesaid under either of the said Acts.*

*(2) Every marriage contracted contrary to the provisions of sub-section (1) shall be void.”* (Emphasis Provided)

i) The Petitioner contends that if Legal Status of a party to a marriage performed under the above or any other marriage laws of India, can take such a vital position on the application form for marriage registration, then core elements from Dowry laws and relevant rules should also be made part and parcel of such a Marriage Registration form.

For instance, the *Tamil Nadu Revised Hindu Marriage form has ‘no dowry was demanded, given and taken.’ in the declaration part of the form.* The State of Tamil Nadu thereby aligns to the thought-process that No Dowry declaration is a valid addition to the Application form for Marriage Registration.

j) Given this fact scenario, the Petitioner is unable to fathom why same/similar forms cannot be used by others States and Union Territories as well, at the earliest

---

<sup>8</sup> The Parsi Marriage and Divorce Act 1936 § 4.

opportunity. This revision of form can easily be implemented by way of issuing a Government Order Notification and need not take the form and time of any Statutory amendment via Legislative action.

- k) More importantly, the Petitioner is constrained to bring the below set of fact statements, to the kind notice of this Honorable Court that, **any demand for dowry will not be brought to the notice of concerned authorities such as Police before or during the marriage ceremony.** The marriage is conducted with pomp and show, without slightest whisper about any such crime of demand for dowry as stipulated u/s 4 of **DP Act**. The Dowry giving party to the marriage makes formal complaints **only when the marital relationship is beyond repair and complete breakdown of marriage is on the brink.** Hence this Honorable Court is prayed to take notice and consider such willful conduct of the Dowry giving party to marriage, as a **Perjury on the Court**<sup>9</sup>, with a singular intent only to suppress such information about alleged Dowry crime when it happened but only voice about it, when it is convenient and useful for them. This is selective bias at it's highest and is highly condemnable and punished.

### 3. Clarify "person aggrieved" in Section 7(3) of DP Act

- a) The above question of law which is clearly against principles of natural justice (*nemo iudex in causa sua*) as well as squarely hits at the core objective of the Legislative intent, another section from DP Act presents itself.
- b) The protection from prosecution for Dowry Giver seems to be available u/s 7 of **DP Act** which is reproduced below.

**"7. Cognizance of offences.—**

*(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—*

*(a) ... ;*

*(b) ... ;*

*(c) ... ;*

*(2) ... ;*

*(3) Notwithstanding anything contained in any law for the time being in force a statement made by the person aggrieved by the offence shall not subject such person to a prosecution under this Act."*

---

<sup>9</sup> The Code of Criminal Procedure 1973, § 340.

c) This section does not give any definition of the term “person aggrieved by the offence”. Therefore, by application of mind to the societal circumstances and implication, the possible persons who may be aggrieved by the offence are bride or bride groom or any third party as none of these person are giving or taking dowry generally. It is the parents of the bride and bride groom who are giving and taking dowry. This is evident that the parents of the bride who gave dowry before/during/after marriage cannot claim to be aggrieved person as he/she was a willing partner to the crime of giving of Dowry.

Hence by application of mind and implication, the possible persons who can be prosecuted for Dowry giving are Parents, Guardians and Relatives of bride.

#### **4. Menace of Misuse of Police/Advocacy Powers for hoisting Motivated/False Charge sheets**

a) The duty of any Investigating agency is to investigate any complaint that reports a cognizable offence, in a time-bound and impartial and fair manner totally in alignment with the Article 21<sup>10</sup> of the Constitution of India. The Police are the first leg of civilian protection force which derives it’s powers from Police Manuals and the **Indian Police Act, 1861**<sup>11</sup>. It is public knowledge that some corrupt officials from the Police, under some sort of immoral or unethical influence, take baseless cases to Honorable Trial Courts via defective Charge sheets.

b) The cases then passes onto the Public Prosecutor system of eminent advocates, who should ethically and morally, stand for truth and justice and not play to the tunes of Central or State governments. Even this second layer of protection against false prosecution is also riddled with lacunae. How come a criminal case be taken forward, even when there are patent shortcomings in the Chargesheet filed by Police into Court? **Many Charge sheets filed under sections 498A or 306 I.P.C.<sup>12</sup> or Dowry Prohibition Act 1961 or the Dowry Death u/s 304B I.P.C.<sup>13</sup> or other such laws based on dowry crime, lack even a single cogent primary evidence with which Prosecution intends to prove the guilt of accused.** Many that do not even have any

---

<sup>10</sup> The Constitution of India 1950, Art. 21.

<sup>11</sup> Police Act, 1861.

<sup>12</sup> The Indian Penal Code 1860, § 498A.

<sup>13</sup> The Indian Penal Code 1860, § 304B.

allegations supporting the prosecution case in the witness statements recorded u/s 161 Cr.P.C. make their way to the Honorable Courts.

- c) The Public Prosecutor has moral duty to bring out the truth instead of towing the version of facts put forward by Police u/s 173 Cr.P.C.<sup>14</sup> which not many dutifully perform. The very high quantum of Acquittals is one outcome of such lackadaisical approach towards matrimonial cases. It is another matter that strict application of sections 227, 239 and 245 of Cr.P.C. is hard to see and in cases where accused files application for Discharge from motivated cases, they are faced with dismissal orders which totally lack application of judicial mind. Judicial Precedent on this point is given below.

In *Yogesh @ Sachin Jagdish Joshi Vs State of Maharashtra*<sup>15</sup>, The Apex Court had held in reference to section 227 Cr.P.C. that,

***"15. It is trite that the words "not sufficient ground for proceeding against the accused" appearing in the Section postulate exercise of judicial mind on the part of the Judge to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. However, in assessing this fact, the Judge has the power to sift and weigh the material for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine a prima facie case depends upon the facts of each case and in this regard it is neither feasible nor desirable to lay down a rule of universal application. By and large, however, if two views are equally possible and the Judge is satisfied that the evidence produced before him gives rise to suspicion only as distinguished from grave suspicion, he will be fully within his right to discharge the accused. At this stage, he is not to see as to whether the trial will end in conviction or not. The broad test to be applied is whether the materials on record, if unrebutted, makes a conviction reasonably possible."*** (Emphasis Provided)

- d) It then becomes the arduous duty of the Honorable Courts to clean up the mess created by the Investigating agencies, by passing judicial decisions and frame guidelines,

---

<sup>14</sup> The Code of Criminal Procedure 1973, § 173.

<sup>15</sup> *Yogesh @ Sachin Jagdish Joshi Vs State of Maharashtra*, [(2008) (10) SCC 394]; 2008 (6) SCR 1116], [(2008) 6 SCALE 469].

coupled with insistence on strict following of due procedures already available in procedural codes, to protect and uphold the fundamental rights of citizens available under PART-III<sup>16</sup> of the Constitution of India, which are trampled with impunity. There are a catena of Judgments from Honorable Apex Court of India in this regard which the Petitioner is not reproducing in interest of space.

- e) The Police establishments across the Country, have also passed Guidelines directing their force not to book the complainant or her parents or her relatives, in view of section 7(3) of **DP Act**.

The relevant guideline from the website of '**Special Police Unit for Women & Children**'<sup>17</sup> is reproduced hereunder for the kind consideration of Honorable Court.

*“In view of section 7(3) of The Dowry Prohibition Act, 1961 the complainant or her parents or her relatives shall not be prosecuted under section 3 of The Dowry Prohibition Act, 1961 by any I.O.”* (Emphasis Provided)

- f) Chandigarh Police had issued Circular No: No:- 28471-91/UT/E-6, dated 26-09-2007, stating that,

*“It has been observed that public complainants marked for enquiry to the DSP/SHO/Incharge PPs the enquiry is not conducted properly and aggrieved person is not given justice. The following steps be taken for conducting enquiry into complaints.*

*14. If the enquiry officer reaches the conclusion that the complainant is making false complaints time and again to harass the other person(s), action u/s 182 IPC be recommended in such cases.”* (Emphasis Provided)

There is no track of any such cases which the Chandigarh Police have filed u/s 182 I.P.C.

- g) There are other similar guidelines on the same webpage which is even now available. But the conduct of some officers goes against their own guidelines and this reflects poorly on the authorities at the higher positions in not being in a position to discipline their staff.

---

<sup>16</sup> The Constitution of India 1950, PART-III Fundamental Rights.

<sup>17</sup> 'Special Police Unit for Women & Children',

[https://www.spuwac.com/index.php?option=com\\_content&view=article&id=174%3Aguidelines-on-dealing-with-the-complaints-related-to-dowry-demands-marital-disputes-and-investigation-thereof&Itemid=187](https://www.spuwac.com/index.php?option=com_content&view=article&id=174%3Aguidelines-on-dealing-with-the-complaints-related-to-dowry-demands-marital-disputes-and-investigation-thereof&Itemid=187).

- h) Supreme Court has to intervene and pass order to Police across States that in matrimonial cases, strict utilization of section 41A of Cr.P.C. has to be made before effecting arrests.
- i) Also, strict implementation of section 160 of Cr.P.C. is the need of the day. There are umpteen number of cases, where people are called on their cell phones and threatened with dire consequences, if they do not attend the Police Stations. This is also glamourized in Motion pictures as machoism. The legendary Jurist-par-excellence, Justice (Retd) Shri, V Krishnaiyer, in **Nandini Satpathy vs Dani (P.L.) And Anr**<sup>18</sup>, famously held that,

*“Article 20(3) is a human article, a guarantee of dignity and integrity and of inviolability of the person and refusal to convert an adversary system into an inquisitorial scheme in the antagonistic ante-chamber of a police station... Under the Indian Evidence Act, the Miranda exclusionary rule that custodial interrogations are inherently coercive finds expression (Section 26)... Our purpose is not to sterilise the police but to clothe the accused with his proper right of silence. Article 20(3) is not a paper tiger but a provision to police the police and to silence coerced crimination.”. The principle espoused is based on the maxim “**nemo tenetur prodre accusare seipsum**”, which essentially means “**no man is bound to accuse himself**” (Emphasis Provided)*

- j) With the protection afforded by section 7(3) of DP Act, the floodgates opened up who files complaints claiming to have given dowry, which is a crime by way of section 3 of DP Act. There is no proactive/automatic punitive police action against people filing false Dowry cases. No proactive perjury u/s 340 Cr.P.C. or Contempt of Court proceedings are invoked, unless the accused who suffered years of false prosecution upon him and his elderly parents and relatives, himself takes it upon himself to initiate new set of counter litigation. **It is to be noted by then the accused-acquitted persons already lost their reputation, quality life and may be loss of business, job and most importantly, family members who could not take any more of the ignominy.**
- k) As a ray of hope, once in a while, somewhere in this vast Country, a brave Magistrate directs the police to file a FIR against the Dowry-giving party and such incident is

---

<sup>18</sup> Nandini Satpathy vs Dani (P.L.) And Anr, [AIR 1978 SC 1025], [(1978) 2 SCC 424], [1978 CriLJ 968].

perceived as a rarity. Weblink of the article dated: July 22, 2019 on Indiatoday.in is cited here<sup>19</sup>. The Article is reproduced below.

*“In a rare incident, a court in Rajasthan directed the police on Monday to file a case against the father of a bride for giving dowry to the in-laws.*

*A metropolitan magistrate in Jodhpur gave the order after Ramlal, a former serviceman, insisted during the arguments that he had given adequate dowry and an envelope of cash worth Rs 1 lakh in the marriage of her daughter, Manisha, in 2017.*

*The father-in-law, Jethmal, a government teacher, denied the allegations, according to the defence counsel Brajesh Pareek.*

*“We argued that if taking dowry was a crime, giving dowry was also a crime and appealed to the court to direct the police to file a case against Ramlal also for giving dowry,” Pareek said.*

*Admitting the appeal, Magistrate Richa Choudhary gave directions to the police to file a case against the bride's father for giving dowry. Further hearing in the case will continue.*

*Pareek said this was for the first time Section 3 of the Hindu Marriage Act had been exercised in a dowry case and directions issued to file a case against the person who gave the dowry.*

*Manisha got to a software engineer, Kailash, in 2017. A case was filed by Ramlal alleging that his daughter's in-laws harassed her in the name of dowry and did not let her live with her husband, who works in Noida.*

*“When I took my daughter to Noida, Kailash did not accept her and pushed us away,” Ramlal said in his complaint. He also alleged that her father-in-law nurtured ill-intentions for her. Police completed the investigation in the matter and filed charge sheet in the court, where the arguments have been in progress.”*

*(Emphasis Provided)*

- 1) Accountability for their actions seems feebly ensured in the current day and time. To restore accountability to the full, a healthy amount of fear of prosecution for invoking

---

<sup>19</sup> Giving dowry also a crime: Court asks cops to file FIR against bride's father:  
<https://www.indiatoday.in/crime/story/dowry-crime-police-case-bride-father-jodhpur-court-1572335-2019-07-22>

false prosecution by the same magistrate who passed order of acquittal on the said accused persons, has to be put in place. Honorable Courts do have such authority as postulated in **Rajbir @ Raju and Anr Vs State of Haryana**<sup>20</sup>, and clarified in **Jasvinder Saini and Ors Vs State (Govt of NCT of Delhi)**<sup>21</sup>.

**5. Blatant Discrimination between Dowry Giver and Dowry Taker, Section 3(1) of DP Act**

- a) The Legislature in the ‘Statement of Objects and Reasons’ of the **Dowry Prohibition Bill 1959** having Bill No. 33 of 1959 [later **Dowry Prohibition Act 1961, Act. No. 28 of 1961**], had categorically held that *“The object of this Bill is to prohibit the evil practice of giving and taking of dowry.”* The entire ‘Statement of Objects and Reasons’ is reproduced hereinbelow for the convenience of Court, as introduced by Shri Asoke K. Sen on 21<sup>st</sup> April, 1959.

*“The object of this Bill is to prohibit the evil practice of giving and taking of dowry. This question has been engaging the attention of the Government for some time past, and one of the methods by which this problem, which is essentially, a social one, was sought to be tackled was by the conferment of improved property rights on women by the Hindu Succession Act, 1956. It is, however, felt that a law which makes the practice punishable and at the same time ensures that any dowry, if given, does ensure for the benefit of the wife will go a long way to educating public opinion and to the eradication of this evil. There has also been a persistent demand for such a law both in and outside of Parliament. Hence the present Bill. It, however, takes care to exclude presents in the form of clothes, ornaments, etc., which are customary at marriages, provided the value thereof does not exceed Rs. 2,000/-. Such a provision appears to be necessary to make the law workable.”* (Emphasis Provided)

- b) The Parliament passed the amendment Act of 1984 which introduced, inter alia, the provision u/s 7(3) of **DP Act** and as per the notification issued by the President of India, the amendment received the ascent of the President on 08.09.1986. This amendment would come into statute book with effect from the date of the notification whereby the

---

<sup>20</sup> Rajbir @ Raju and Anr Vs State of Haryana, [AIR 2011 SC 568].

<sup>21</sup> Jasvinder Saini and Ors Vs State (Govt.of NCT of Delhi), [AIR 2014 SC 841].

President of India has given the assent for proclamation of the amendment in the Dowry Prohibition Act which is dated 09.09.1986. It is pertinent to note that this provision effectively prohibits the very same set of person who have committed the crime of giving. But alas, the provision u/s 3 of DP Act was left unamended suitably, **to exclude the giving or abetting of giving of Dowry, from the provision.** This creates the lacuna that, who can actually be ever punished for the crime of giving dowry, if not the very same people who committed the crime. This is directly in contravention of the Legislature Intent given under Statement of Objects and Reasons under the Original legislation, **DP Act.**

- c) The Legislature clearly intends to punish Dowry givers as much as Dowry takers from above statement of objects and reasons. There is no dispute at all around this. This also complies with **Article 21<sup>22</sup> of Constitution of India.** This intent is legalized u/s 3 of **DP Act** which is reproduced below.

**“3. Penalty for giving or taking dowry.—**

*(1) If any person, after the commencement of this Act, **gives** or takes or **abets the giving** or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more:*

*Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.*

(2) ... ;” (Emphasis Provided)

- d) It is pertinent to state here that, if the above is the stated objective position of law in regards to Section 3 applicability on Dowry givers as much as Dowry takers, then in every case registered anywhere in India u/s 3 of **DP Act**, whoever the **Dowry giver should also be arraigned as one of the prime accused along with the Dowry taker.**
- e) Per the Statistical Data from National Crime Records Bureau (hereinafter ‘NCRB’), the report titled, “*Crime in India - 2016<sup>23</sup>*”, **Table 1.3/SLL Crimes - 2014-2016**, there were 10050, 9894 and 9683 incidents reported against **DP Act** for the years 2014, 2015

---

<sup>22</sup> The Constitution of India, 1950, Art. 21.

<sup>23</sup> Statistical Data from the annual report titled, “Crime in India - 2016”, National Crime Records Bureau, published on 10 October, 2017.

- and 2016 respectively. State-wise breakup of incidents reported under **DP Act**, for year 2016 given in **Annexure – C**.
- f) Similarly, the recently released data for the year 2017 in the report titled, “*Crime in India – 2017*”<sup>24</sup> Table 1.3/SLL Crimes - 2015-2017, 10189 incidents were reported against **DP Act**. State-wise breakup of incidents reported under **DP Act**, for year 2017 given in **Annexure – D**.
- g) In all of these 9683 cases filed in 2016 or the 10189 cases filed in 2017, across the length and breadth of our great nation, not one of the Dowry giver was prosecuted. When there is crime comprising of two persons, how can only one person in the crime be prosecuted against and the other person let go Scott-free is first question this petitioner raises.
- h) Per the NCRB report (supra), table titled, Table 3A.9/ Disposal of Persons Arrested For Crime Against Women (Crime Head-wise) - 2016, of the total people 25,063 arrested in 2016 of which 20,400 were charge sheeted, not one of them is a Dowry giver! Moreover, the Acquittal rate in 2016 was 84.7%, which implies that many motivated and/or ill-investigated cases are put to Courts. Similarly, **from 2017 statistics**, it can be observed that, of the total people 19,068 arrested of which 17,789 were charge sheeted (a 93.29% rate of charge-sheeting), not one of them is a Dowry giver! The Acquittal rate even though reduced from 2016, was at 76.8%, which implies that many motivated and/or ill-investigated cases are put to Courts!!
- i) If the interpretation of this section read with section 3 of **DP Act** results in the conclusion that the Dowry giver can be aggrieved person as well, then it is apposite that certain words in the section 3 of **DP Act** needs to be struck down and it should criminalize only Dowry taking and Dowry giving is not a crime.
- j) The foundational question is, how can a person (the father or mother of the bride) who committed a crime of giving dowry also be an aggrieved person, at the same time, by the offence which is obviously committed by themselves needs clarifications from the Court. If the interpretation of this section 7 of **DP Act** read with section 3 of **DP Act** results in the conclusion that the Dowry giver can be aggrieved person as well, then the

---

<sup>24</sup> Statistical Data from the annual report titled, “Crime in India - 2017”, National Crime Records Bureau, published on 10 October, 2019.

moot question is, who, in true sense, can be really prosecuted under section 3 of **DP Act** for the crime of giving dowry, if not the parents of the bride.

- k) From the above discussion, it is apposite that Section 3 of **DP Act** should more likely be read as follows, directly violating the Legislative intent of punishing the Dowry giver along with Dowry taker.

**“3. Penalty for taking dowry.—**

*(1) If any person, after the commencement of this Act, takes or abets taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more:*

*Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.*

*(2) ... ;”*

- l) The Petitioner earnestly prays to bring the following Judicial decisions to the attention of this Court.

1. In *Neera Singh and Ors. Vs State*<sup>25</sup>, it was held by Justice (Retd) Shri. Shiv Narayan Dhingra of High Court of Delhi that,

*“A perusal of the complaint would show that as per allegations dowry demand was made even before marriage i.e. at the time of engagement and an AC was demanded from her father by her in-laws and her father had assured that AC would be given at the time of marriage. However, she told her father You have given car and AC at the demand of in laws, what will happen if they demand a flat tomorrow?. Despite her this conversation with her father and despite her knowing that dowry demand had already been made, she married in the same family irrespective of the fact that she was well-educated lady and was an engineer and her brother was in police. **In fact, these kinds of allegations made after breakdown of the marriage show the mentality of the complainant. I consider where these kinds of allegations are made, the police should simultaneously register a case under Dowry Prohibition Act (in short the 'Act') against the parents of the complainant as well, who married their***

---

<sup>25</sup> Neera Singh and Ors. Vs State, [138 (2007) DLT 152].

*daughter despite demand of dowry. Section 3 of the Act prohibits giving and taking of dowry. If a woman of grown up age and well educated gets married to a person despite dowry demand, she and her family becomes accomplice in the crime under Dowry Prohibition Act.*

*4. Now-a-days, exorbitant claims are made about the amount spent on marriage and other ceremonies and on dowry and gifts. In some cases, claim is made of spending crores of rupees on dowry without disclosing the source of income and how funds flowed. I consider time has come that courts should insist upon disclosing source of such funds and verification of income from tax returns and police should insist upon the compliance of the Rules under Dowry Prohibition Act and should not entertain any complaint, if the rules have not been complied with.” (Emphasis Supplied)*

2. In *Pooja Saxena Vs State & Another*<sup>26</sup>, it was held by High Court of Delhi that,

*“9. No doubt, as per Section 3 of the Dowry Prohibition Act, giving or abetting to give dowry is a punishable offence, but the petitioner does have protection of Section 7(3) of the Act. Section 7(3) provides that notwithstanding anything contained in any law for the time being in force, a statement made by the person aggrieved by the offence under the Act shall not subject him to prosecution under this Act. In the instant case, it is obvious that respondent No.2 has filed his petition under Section 156(3) Cr.P.C. only on the basis of the allegations made by the petitioner Pooja Saxena in her complaint made to CAW Cell which formed basis for the registration of FIR No.232/2009 under Section 498A/406/34 IPC against respondent No.2 and others as well as in her petition under Hindu Marriage Act and Domestic Violence Act. Thus, it is clear that FIR No.59/2010 registered against the petitioner under Section 3 of the Dowry Prohibition Act, 1961 is based upon the statements made by the petitioner in her complaint to CAW Cell and above noted petitions. Therefore, she is entitled to the protection of Section 7(3) of the Act, being the victim of demand of dowry.” (Emphasis Supplied)*

---

<sup>26</sup> Pooja Saxena Vs State and another, [2010 (4) LRC 82 Delhi], [2010 (4) JCC 2780].

Thereafter, SLP Nos. 1339-1340/2011 preferred by Sameer Saxena, respondent in the above case and husband of Pooja Saxena, on whose complaint FIR under Section 3 of the Dowry Prohibition Act was registered against his wife, Pooja Saxena, has been dismissed by Honourable Supreme Court on 7th March, 2011 by passing the following order:- *“Heard the learned counsel for the parties.*

*We see no reason to interfere in the Special Leave Petitions which are, accordingly, dismissed.”*

3. In ***Ram Gopal Sah Vs State of Jharkhand***<sup>27</sup>, High Court of Jharkhand held that,

*“10. The petitioner has sought prosecution on the basis of the statement of giving dowry by the father of the complainant. From perusal of the statement made in the complaint, I find no such incriminating statement of voluntarily giving dowry for marriage. The statement regarding giving presents ‘UPHAR’ does not come within the ambit of definition of dowry. **Moreover, the father of the complainant is an aggrieved person from whom dowry was being demanded. Such aggrieved person is protected under Section 7(3) from prosecution under the Act.***

*11. Section 319, Cr. P.C provides for proceeding against the person other than the accused appear to be guilty of offences on the basis of evidence recorded in course of an enquiry or trial.*

*12. Learned Court below after examining the materials on record and considering the provisions of law has rightly held that the father of the bride does not appear to be guilty of any offence, as the cognizance under any of the provisions of the said Act cannot be taken on any statement made by the person aggrieved, in view of the provision of subsection (3) of Section 7 of the Act.” (Emphasis Supplied)*

4. In ***Yashpal Kumar Vs Bhola Nath Khanna and Anr***<sup>28</sup>, High Court of Delhi held that,

---

<sup>27</sup> Ram Gopal Sah Vs State of Jharkhand, [II (2009) DMC 844], decided on 03 December, 2008.

<sup>28</sup> Yashpal Kumar Vs Bhola Nath Khanna and Anr, [Crl. Rev. Petition No. 523/2009] decided on 1 March, 2012.

*“8. It is thus evident that Section 7(3) is a non obstante clause and will thus prevail on any other law for the time being in force and a statement made by a person aggrieved by the offence under this Act shall not subject him to prosecution under this Act. Thus the decision of this Court in Neera Singh (supra) is an obiter and does not constitute a binding precedent for the reasons that the provisions of DP Act 1961 were not subject matter of the dispute before the Court in the petition under Section 482 Cr.P.C. in Neera Singh's case and thus, this Court did not take into consideration the provisions under Section 7 (3) of the DP Act.*

*9. Further there is no merit in the contention of learned counsel for the Respondent that the Petitioner being the father of the victim girl was not an "aggrieved person". Section 7(3) of the DP Act bars cognizance of a complaint against the person aggrieved by the offence. It cannot be said that only "aggrieved person" would be the victim girl. Even the father of the victim girl, who was made to give dowry, would be an aggrieved person. Similar view has been taken in Ram Gopal Sah v. State of Jharkhand, II (2009) DMC 844.” (Emphasis Supplied)*

5. In **Jamaluddin Ansari Azad Vs State and Another**<sup>29</sup>, High Court of Delhi held that,

*“11. In Pooja Saxena (supra) it was observed that the observations made in Neera Singh's case were obiter and does not constitute a binding precedent for the reason that the provision of Dowry Prohibition Act, 1961 were not the subject matter of the dispute before the Court in the petition u/s 482 Cr.P.C in that case. Moreover, in that case, the Court has not taken into account the protection given to a victim of offence of dowry demand as provided u/s 7(3) of The Dowry Prohibition Act, 1961. In Pooja Saxena (supra), the allegations in the complaint were regarding demand of dowry by the father of respondent no.2 at the time of engagement ceremony of the petitioner, failing which he would call off the marriage. It was observed that the petitioner and her parents were confronted with the unenviable situation either to concede to the demand or face loss of honour of their family in the society and if under that fear the*

---

<sup>29</sup> Jamaluddin Ansari Azad Vs State and Another, [W.P.(Crl) 673 OF 2011] decided on 29 July, 2013.

*petitioner and her parents conceded to the demand for dowry, they cannot be faulted as they were victims of circumstances. As such, Section 7(3) comes to the rescue of the petitioner and she could not be subjected to prosecution for the offence u/s 3 of the Dowry Prohibition Act, 1961.*

*12. A perusal of the complaint u/s 156(3) Cr.P.C filed by respondent no.2 goes to show that he was invoking Section 3 of the Dowry Prohibition Act only on the basis of allegations made in the complaint by Noor Jahan whereas in para 7 of the complaint he did not admit to the contents of the FIR. Merely on the basis of allegations which were not admitted by respondent no.2, the petitioner could not have been booked for offence u/s 3 of the Dowry Prohibition Act. Moreover, as held in Pooja Saxena(supra) and Ram Gopal Shah v. State of Jharkhand, II 2009 DMC 848, the petitioner being father of the complainant is an aggrieved person from whom the dowry was being demanded. Such aggrieved person is protected u/s 7(3) from prosecution under the Act.” (Emphasis Supplied)*

6. In *Ajita David Vs State*<sup>30</sup>, High Court of Madras categorically held that,

*“7. The statement of objects and reasons for the enactment of the Dowry Prohibition Act, 1961 would reflect that the Act is enacted to prohibit the evil practice of giving and taking dowry. But, while dealing with the salient features of the Act 43/1986 which introduced the amendment, it has been stated that the statement made by the person aggrieved by the offence shall not subject him to prosecution under the Act.*

*8. In terms of the statement of objects and reasons of the Dowry Prohibition Act, 1961, provision under section 3 of the Dowry Prohibition Act was enacted to punish not only the receiver but also the giver of the dowry. Section 7(1)(b)(ii) would read that notwithstanding anything contained in the Code of Criminal Procedure, no court shall take cognizance of the offence under this Act except upon a complaint by the person aggrieved by the offence*

---

<sup>30</sup> *Ajita David Vs State*, [2009 MLJ CRI 3 728], decided on 29 June, 2009.

*or a parent or other relative of such person or by any recognised welfare institution or organisation. Section 7(3) of the Dowry Prohibition Act would provide that notwithstanding anything contained in any law for the time being in force, a statement made by the person aggrieved by the offence shall not subject him to prosecution under the Act.*

9. *In order to provide more clarity to the provision under Section 7(1)(b)(ii), the legislature has thought it fit to clarify that a parent or other relative of such a person also is entitled to lodge a complaint apart from the person aggrieved by the offence. Firstly, it is found that Dowry Prohibition Act, 1961 does not define the person aggrieved by the offence. The aforesaid provision made to provide more clarity cannot be interpreted that the word 'parent' does not fall within the category of an aggrieved person by the offence provided under the Dowry Prohibition Act, 1961. The parent of the victim girl is definitely a person aggrieved by the offence. By no stretch of imagination, the legislature would have thought of excluding the parent from the purview of the person aggrieved by the offence while drafting section 7(3) of the Act to exempt from prosecution the person aggrieved by the offence for the statement made by him. At any rate, the phrase "person aggrieved by the offence" employed in sub-section 3 of section 7 of the Dowry Prohibition Act, 1961 cannot be construed that it only refers to the victim girl who was deprived of the marital bliss on account of the harassment meted out to her demanding dowry. In the considered opinion of this court, parents and other relatives of the victim girl can safely be classified as person aggrieved by the offence as contemplated under Section 7(3) of the Dowry Prohibition Act."* (Emphasis Supplied)

7. In *Chitranjan Dev Goel and Ors Vs State (NCT of Delhi)*<sup>31</sup>, High Court of Madras categorically held that,

---

<sup>31</sup> Chitranjan Dev Goel and Ors Vs State (NCT of Delhi), [W.P.(CRL) 2656/2015] decided on 21 March, 2016.

*“12. Reverting to the facts of the present case, it is a matter of record that complaint against the petitioners has been filed by respondent No.3, who is father-in-law of the petitioner No.4 on the basis of allegations made in case FIR No.962/2014 PS Janakpuri. Since FIR No.349/2015 for committing the offence punishable under Section 3 of the Dowry Prohibition Act has been registered against the petitioners based on the averments made by the petitioners of fulfilling the demands to save the marriage, merely because there was no threat given by the respondent No.3 to call off the marriage if demands are not fulfilled, is no ground to hold that it is not covered by the decision in Pooja Saxena’s case. The dowry demands have been allegedly met by the petitioners to save the marriage of petitioner No.4.*

*13. The petitioner Nos.1 to 3 being aggrieved persons from whom dowry was demanded which they have allegedly given to save the marriage of petitioner No.4, are protected from prosecution under Section 7(3) of the Dowry Prohibition Act.” (Emphasis Supplied)*

- m) The Petitioner asserts that, with due respect, that all the above decisions Honorable High Courts, with singular except of the decision from Justice Shiv Narayan Dhingra, blindly followed and applied the provision u/s 7(3), without any judicial application of mind. None of them attempted to assert who can be prosecuted for the crime of giving dowry u/s 3 of **DP Act, in the face of exemption given u/s 7(3)**.
- n) It is pertinent to note here that Administrative Reforms Commission of Government of Kerala had released a report titled, *Welfare to Rights*<sup>32</sup>, in which the following was held that,

*“One major reason for the failure of the Act in curbing the menace is the provision that the giver of the dowry is also equally punishable as the taker.” (Pg. 30 )*

It was further held on Pg. 31 in the section **2.2.1.3 Recommendations** that,

---

<sup>32</sup> Welfare to Rights, 3<sup>rd</sup> Report from Administrative Reforms Commission (ARC), Government of Kerala, issued in October 2018.

*“A major problem in the proper implementation of the Act is the provision of punishing the giver and the taker of dowry on similar lines. Considering the fact that in most cases, giver of the dowry does so under pressure from the other side as well as under the pressures of social norms, an empathetic approach needs to be taken towards the giver. The giver should be treated as a victim rather than a perpetrator, and the punishment for the giver should be removed or at least reduced.” (Emphasis Supplied)*

- o) It is also pertinent to note the earlier report of The National Commission For Women titled ‘*Recommendations and Suggestions on Amendments to The Dowry Prohibition Act, 1961*’<sup>33</sup> of which many recommendations were already incorporated into the 1986 amendment Act to **DP Act**. On Pg. 14 the following was stated,

*“Section 7(3) of the Present Act proposed to be incorporated as Section 3(4) **Giver can be treated as an aggrieved and it becomes important to state that such an aggrieved will not be liable to prosecution.**” (Emphasis Supplied)*

#### **6. Punish the motivated individual who file false Dowry cases, u/s 3(1) of DP Act**

- a) Our neighboring friendly State Bangladesh also had enacted its’ own **Dowry Prohibition Act, 1980 (No. XXV of 1980)** mimicking India’s Dowry Prohibition Act, 1961. After realizing the rampant misuse of the name-sake benevolent law, Parliament of Bangladesh has amended the earlier 1980 Act and passed unanimously, the ground-breaking **Dowry Prohibition Act, 2018** with a stringent provision of five years jail and Tk.50,000 as fines for filling false case against the dowry.
- b) Even our very own Child protection enactment styled, **Protection of Children from Sexual Offences, 2012** which was amended in 2019 styled as **Protection of Children from Sexual Offences (Amendment) Act, 2019**, to enhance the punishment for most crimes under this Act to not less than twenty years, also comes with *Section 22 which prescribes imprisonment of maximum six months, for filing false complaint of false information*. Even though, it is totally out of sync with the punishment prescribed

---

<sup>33</sup> ‘Recommendations and Suggestions on Amendments to The Dowry Prohibition Act, 1961’, The National Commission For Women, available at: <http://ncwapps.nic.in/AnnualReports/200809/Eng/Annexure5.pdf>.

under various provision in this enactment, the respite is that existence of such balancing provision.

- c) It is incorrect and without application of mind to state that misuse of a law cannot be a ground for amendment of law, either by Legislature or by Judiciary, to the extent practicable.

If a crime such as Nirbhaya's case can trigger nation-wise protests and such public demand triggers amendments to existing laws and misuse of same or similar laws is guiding/forcing Honorable Courts to frame/direct guidelines to arrest further misuse, the Petitioner believes and avers that curbing misuse of laws, more so, those laws that impact the whole of the nation such as our India, should be one of the grounds for positive amendments to existing time-lapsed laws. Dowry Prohibition Act is one such enactment, unless revised and clarified, the illegal acceptance of the practice of Dowry will continue unabated.

#### **7. Caution of the Honorable Supreme Court of India on Misuse of Social Welfare Laws**

- a) Honorable Supreme Court of India in the following cases has decried that the Dowry menace is rampant and in fact, growing and spreading into States and Union Territories that earlier had very less to nil Dowry cases.
- b) For the specific purpose of this PIL, the following case laws are cited for consideration by this Honorable Court and relied upon by Petitioner.
- c) In 2005, Section 498A I.P.C. was challenged but upheld by the Supreme Court of India in the case of *Sushil Kumar Sharma Vs Union of India and Ors*<sup>34</sup>. Justice (Retd). Shri. Arijit Pasayat had famously held that,

*“The object of the provision is prevention of the dowry menace. But as has been rightly contended by the petitioner many instances have come to light where the complaints are not bonafide and have filed with oblique motive. In such cases acquittal of the accused does not in all cases wipe out the ignomy suffered during and prior to trial. Sometimes adverse media coverage adds to the misery. The question, therefore, is what remedial measures can be taken to prevent abuse of the well-intentioned provision. Merely because the provision is constitutional and intra vires, does not give a license to unscrupulous persons to*

---

<sup>34</sup> Sushil Kumar Sharma Vs Union of India and Ors, [(2005) 6 SCC 281].

wreck personal vendetta or unleash harassment. It may, therefore, become necessary for the legislature to find out ways how the makers of frivolous complaints or allegations can be appropriately dealt with. Till then the Courts have to take care of the situation within the existing frame work. **As noted the object is to strike at the roots of dowry menace. But by misuse of the provision a new legal terrorism can be unleashed. The provision is intended to be used a shield and not assassins' weapon. If cry of "wolf" is made too often as a prank assistance and protection may not be available when the actual "wolf" appears. There is no question of investigating agency and Courts casually dealing with the allegations. They cannot follow any strait jacket formula in the matters relating to dowry tortures, deaths and cruelty. It cannot be lost sight of that ultimate objective of every legal system is to arrive at truth, punish the guilty and protect the innocent. There is no scope for any preconceived notion or view. It is strenuously argued by the petitioner that the investigating agencies and the courts start with the presumption that the accused persons are guilty and that the complainant is speaking the truth. This is too wide available and generalized statement. Certain statutory presumptions are drawn which again are reputable. It is to be noted that the role of the investigating agencies and the courts is that of watch dog and not of a bloodhound. It should be their effort to see that in innocent person is not made to suffer on account of unfounded, baseless and malicious allegations. It is equally indisputable that in many cases no direct evidence is available and the courts have to act on circumstantial evidence. While dealing with such cases, the law laid down relating to circumstantial evidence has to be kept in view."**

(Emphasis Supplied)

- d) In 2010, the Supreme Court had lamented about the possible misuse of anti-dowry laws in *Preeti Gupta and Another Vs State of Jharkhand and Another*<sup>35</sup>. It was held by eminent Jurist Justice (Retd) Dalveer Bhandari that,

**"30. It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which**

---

<sup>35</sup> Preeti Gupta and Another Vs State of Jharkhand and Another, [AIR 2010 SC 3363].

*are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.*

*31. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.*

*32. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.*

*33. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. **The tendency of implicating husband and all his immediate relations is also not uncommon.** At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. **The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection.** Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness*

*in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.*

*34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.*

*35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy.*

*Unfortunately, a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society.” (Emphasis Supplied)*

- e) In July 2014, in the case of **Arnesh Kumar Vs State of Bihar and Anr**<sup>36</sup>, a two-judge bench of the Supreme Court reviewed the enforcement of section 41(1)(A) of Cr.P.C. which instructs state of following certain procedure before arrest, and went on to observe that the 498A had become a powerful weapon in the hands of disgruntled wives where innocent people were arrested without any evidence due to non-bailable and cognizable nature of the law.

It was specifically held that,

---

<sup>36</sup> Arnesh Kumar Vs State of Bihar and Anr, [(2014) 8 SCC 273].

*“There is phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A of the IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested.”* (Emphasis Supplied)

f) It is submitted that the Petitioner was faced with quite a few questions from concerned citizenry around him, who actively volunteered to support this petition. Most of the contributors are victims of False Dowry cases. Such What-if Scenarios are listed below for kind consideration on this Honorable Court:

i. What if the father of bride gives dowry (Sec 3 of DP Act) but lies on the Form-A?

This should be an alert to the father of groom of possible false criminal cases u/s cruelty to wife for dowry harassment (498A IPC) and taking dowry (Sec 3 of DP Act) on immediate and distant family members and separately-living and abroad-residing relatives

ii. What if the father of groom demands dowry (Sec 4 of DP Act) but lies on the Form-A?

This should be an alert to the father of bride of possible future demands for more dowry

iii. What if the father of groom takes dowry (Sec 3 of DP Act) but lies on the Form-A?

This should be an alert to the father of bride of possible future demands to bring more dowry

iv. What if the father of groom as well as the bride together lie on the Form-A, even in reality there is Dowry exchanged between them?

Both of them will have the consciousness that they lied on Legally admissible documents and awareness of constant fear of no legal protection, in the event there is a disruption to their ward's relationship. Moreover, they will

be more motivated to safe guard their side interest, by ensuring some kind of solid court-admissible evidence exists (or created/manufactured) for giving/taking of dowry.

- v. What if there is a claim of dowry after the statutory limit as prescribed by the State Rules under DP Act or Cr.P.C.?

Honorable Courts would deem such claims as hopelessly barred by limitation and dismiss false/motivated cases

- vi. What if, a motivated Police Investigating officer files a false Charge sheet?

Since the IO will be bound to procure the Marriage application form as well as it's annexures (Lists of Presents and No Dowry declaration) from the concerned Sub-registrar, he/she will not be able to file false Charge sheet, once the Form-A discloses No Dowry given/taken. The lack of evidence to support Dowry element itself removes any chances of allegations of 498A IPC, 304 IPC and provisions of DP Act, altogether.

- vii. What if, under such choking circumstances created by Legislature where Dowry taking or giving had to be reported, the parties decide to NOT register their marriage, after performing the marriage?

Such parties are left to their own fate and are left with no legal protections for their such illegal acts of not registering marriage of their wards, after performing the marriage. They remain a happy bunch, until the fateful event of arising of disputes between both the parties. Since the Government has already mandated registration of all marriages across religions, Courts shall take a narrow view at all the marriages claimed to have performed before certain date of notification of such mandate to be not valid marriages. Not giving any leeway or flexibility to parties coming to Court.

- viii. What if, Government can step in and make some stringent rules?

Alternatively, and accommodatingly, Legislature can mandate all institutions of Marriage across religions as per their respective Laws, to report all marriages performed at their institutions and offices to Sub-registrar having the jurisdiction. Otherwise, no point in expecting citizens to follow the mandate of Compulsory Registration of Marriages and moreover, clever citizens will

bypass benevolent Laws easily, by not registering their marriages with Government agencies. There is no breach of any fundamental rights here under any Articles of Constitution.

- ix. What if, there are no such precedents recently that say, Law should change with changing times and should reflect the sea-changes in the workings of society with such time.

There are recent precedents such as Striking down of 497 and 494 IPC, squarely based on the premise that changing times need change in archaic laws. If they can be struck down, DP Act made in 1961 can also undergo be suitably amended.

- x. What if, there are no practical uses for this Petition?

This Act while ensuring all parties are adhering and sufficiently fearing Dowry laws in India are left with no option but to comply with same and this also effectively, reduces false dowry cases filed under 498A 304B IPC and DP Act, if not bring it to zero, much to the relief of millions of Men and their families, who get routinely implicated in such false cases. This also could mean many men in armed forces can focus on their duty towards nation protection at sensitive National borders, without the constant nagging and panging of false criminal cases within borders.

- xi. What if, a marriage is not registered, is there any issues to face? Like Nikhama is not a valid marriage proof.

Passports, Visas, Joint Property Purchase, Addition to Family Ration Card, Voter ID, Aadhaar Card, child marriage, fraud, bigamy and husbands deserting their wives, women seeking their rights as wives, Universal traceability

- xii. What if, there are any ways to bypass tedious Marriage Registration process?

Notarized Affidavit + Gazette Notification + Property Purchase. Such New Identify so obtained can be used for all issues highlighted in above points.

- xiii. What if, mandatory documents make the registration process tedious?

As per **Justice (Retd) K.S.Puttaswamy and Another Vs Union of India and Ors**<sup>37</sup> judgment by Constitutional Bench of Supreme Court, Aadhaar is not

---

<sup>37</sup> Justice (Retd) K.S.Puttaswamy and Another Vs Union of India and Ors, [(2017) 10 SCC 1].

mandatory for registration of marriage. So, there is no tedious procedure for marriage registration but only excuses.

- xiv. What if, the marriage of woman cannot be performed at all, for lack of/restriction on Dowry giving/taking?

As per Constitution of India, getting a woman married is not the duty of State and no social welfare, women-empowering and beneficial enactment is yet formulated by wise Legislators in Parliament or State Assemblies, to perform marriages to women of India.

- g) It is submitted that for the effective implementation of Social Welfare Legislation passed by Parliament, linking of enactments is allowed and gainfully followed. A recent example follows:

- i. IRDAI may soon link motor insurance premium with traffic violations; pilot project in Delhi

<https://economictimes.indiatimes.com/wealth/personal-finance-news/irdai-may-soon-link-motor-insurance-premium-with-traffic-violations-pilot-project-in-delhi/articleshow/71023474.cms>

- ii. Soon, your bad road manners may increase your car insurance premium

<https://economictimes.indiatimes.com/news/politics-and-nation/soon-your-bad-road-manners-may-increase-your-car-insurance-premium/articleshow/67862646.cms>

- h) Finally, it is submitted to this Honorable Court that Supreme Court in **M/S. Kusum Ingots and Alloys Ltd Vs Union of India and Anr**<sup>38</sup>, held that,

*“A parliamentary legislation when receives the assent of the President of India and published in an Official Gazette, unless specifically excluded, will apply to the entire territory of India. If passing of a legislation gives rise to a cause of action, a writ petition questioning the constitutionality thereof can be filed in any High Court of the country. It is not so done because a cause of action will arise only when the provisions of the Act or some of them which were implemented shall give rise to civil or evil consequences to the petitioner. A writ court, it is well settled would not determine a constitutional question in vacuum.*

---

<sup>38</sup> M/S. Kusum Ingots and Alloys Ltd Vs Union of India and Anr, [(2004) 6 SCC 254].

*The court must have the requisite territorial jurisdiction. An order passed on writ petition questioning the constitutionality of a Parliamentary Act whether interim or final keeping in view the provisions contained in Clause (2) of Article 226 of the Constitution of India, will have effect throughout the territory of India subject of course to the applicability of the Act.*

*A writ petition, however, questioning the constitutionality of a Parliamentary Act shall not be maintainable in the High Court of Delhi only because the seat of the Union of India is in Delhi.” (Emphasis Provided)*

As such, this Court has a sacred duty towards the larger society to ensure the clog in the interpretation of the law impugned in this petition i.e., **DP Act** is sufficiently removed, which will be effective throughout the territory of India, this High Court being a Constitutional Court.

#### **CLOSING COMMENTS:**

Since it is now systematically established from above discussion that, specific provisions of **DP Act** namely, sections 3 and 7, have been grossly misinterpreted at every level and stage, be it by Police officers or by Honorable Judiciary, which conveniently led to misuse of said provisions, with impunity, it is prayed that this august Honorable Court sets things in proper and correct perspective, by giving accurate interpretation to the Legislative Intent, as there is no ambiguity of the same.

#### **V. MAIN RELIEF PRAYERS ARE AS FOLLOWS**

It is respectfully prayed that this Honorable Court may be pleased to issue the following Writ Reliefs in the interest of justice, equity and in accordance to protect the **Articles 14 and 21 of the Constitution of India** of citizens as laid out in above section titled, **“IV.GROUNDS/FACTS IN DETAIL, AS NECESSARY TO APPECIATE THE CONTENTION OF PIL”** on *Urgent Basis to abate the violation of fundamental rights from eternal perpetuity.*

Further, it is pointed out that in view of the Conflicting views passed by different Fora regarding the said provisions of the impugned enactments, the interference of this Court is indispensable to ensure certainty in the lives of citizens at

the receiving end and consistency in the approach of the Legislature and Judiciary towards granting fair trial to the people.

1. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to link various marriage enactments of India with Dowry Prohibition Act, 1961, by **making Marriage Registration certificate as a mandatory document for Proof of Marriage, to file a case under any provision of DP Act.**
2. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to **amend the application forms used for Registration of Marriages in all States and Union Territories** to
  - a. capture if any presents were given to either bride or groom before/during/after the marriage ceremony as mandated in Dowry Prohibition Rules (Maintenance of Lists) of 1985.
  - b. declare that there is no dowry given/taken/demanded by either side of bride or bride groom, before/during/after the marriage ceremony.
3. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, such that there is no ambiguity to them whether to prosecute the Dowry givers under **section 3 of DP Act read with section 7 of DP Act** and no discrimination is made between Dowry Giver and Dowry Taker, under **Section 3(1) of DP Act**, in similar fashion as that of made by Bangladesh.
4. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to ensure all the necessary awareness is created at all institutions where Marriages are performed in regards to the Dowry Menace and the legal rights of parties.
5. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to ensure all the necessary sensitization is created at all Fora where Marriages are registered in regards to the Dowry Menace and the legal rights of parties.
6. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to ensure that each Marriage so registered with Marriage Registrars or similar Institutions give out free literature such as a booklet,

pertaining to existence of Dowry Laws & relevant provisions of Indian Penal Code 1860.

7. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to ensure that the Name of the enactment be suitably amended from **Dowry Prohibition Act**, to reflect and include all words that align to the demand for money or property under various religions, thereby making it not perceived as an enactment specific to only Hindu religion alone.
8. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to ensure that in all criminal cases filed under **Dowry Prohibition Act 1961 and 498A I.P.C. or any other penal code dealing with Dowry-related crime**, where the accused person/persons are acquitted on merits, the Investigating officers are prosecuted for launching false prosecution *suo moto*, by the same Magistrate who passed an order of acquittal.

**In the Alternative,**

9. Strike down appropriately and sufficiently, *all relevant sections of DP Act, so as to make Giving of Dowry as no more a crime in India as all the persons who give Dowry are never going to be prosecuted at all, in the view of the bar imposed by Section 7(3) DP Act.*

**ANNEXURE – A**

**Rules made by States and Union Territories under Dowry Prohibition Act, 1961**

<b>S. No</b>	<b>State Enactment</b>	<b>in Force from</b>
1	Chhattisgarh Dowry Prohibition Rules, 2004	24 <sup>th</sup> March, 2004
2	Delhi Dowry Prohibition Rules, 2000	06 <sup>th</sup> October, 2000
3	Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985	Not available
4	Gujarat Dowry Prohibition Act Rules 2003	11 <sup>th</sup> November, 2003
5	Haryana Dowry Prohibition Rules, 2000	25 <sup>th</sup> August, 2000
6	Haryana Dowry Prohibition Rules, 2003	20 <sup>th</sup> February, 2003
7	Jharkhand Dowry Prohibition Rules, 2002	2 <sup>nd</sup> December, 2002
8	Madhya Pradesh Dowry Prohibition Rules, 2004	25 <sup>th</sup> June, 2004
9	Maharashtra Dowry Prohibition Rules, 2003	03 <sup>rd</sup> November, 2003
10	Orissa Dowry Prohibition Rules, 2000	05 <sup>th</sup> June, 2000
11	Rajasthan Dowry Prohibition Rules, 2004	17 <sup>th</sup> July, 2004
12	The AP Dowry Prohibition Act Rules, 1998	17 <sup>th</sup> November, 1998
13	The Goa Dowry Prohibition Rules, 1998	11 <sup>th</sup> February, 1999

## ANNEXURE – B

### Compulsory Registration of Marriages Acts

S. No	Enactment	in Force from
1	Andhra Pradesh Compulsory Registration of Marriages Act, 2002	25 <sup>th</sup> October, 2018
2	Andhra Pradesh Compulsory Registration of Marriages (Amendment) Act, 2018	26 <sup>th</sup> March, 2010
3	Gujarat Registration of Marriages Act, 2006	31 <sup>st</sup> March, 2006
4	Haryana Compulsory Registration of Marriages Act, 2008	4 <sup>th</sup> November, 2009
5	Jharkhand Compulsory Registration of Marriages Act, 2017	13 <sup>th</sup> March, 2018
6	Maharashtra Regulation of Marriage Bureaus and Registration of Marriages Act, 1998	15 <sup>th</sup> May, 1999
7	Manipur Compulsory Registration of Marriages Act, 2008	30 <sup>th</sup> October, 2013
8	Mizo Marriage, Divorce and Inheritance of Property Act, 2014	4 <sup>th</sup> December, 2014
9	Mizoram Compulsory Registration of Marriages (Amendment) Act, 2011	07 <sup>th</sup> April 2011
10	Mizoram Compulsory Registration of Marriages (Amendment) Act, 2015	16 <sup>th</sup> April 2015
11	Mizoram Compulsory Registration of Marriages Act, 2007	16 <sup>th</sup> April 2007
12	Telangana Compulsory Registration of Marriages Act, 2002	21 <sup>st</sup> May, 2002
13	Uttarakhand Compulsory Marriage Registration Act, 2010	26 <sup>th</sup> March, 2010

### Rules to support Compulsory Registration of Marriages Acts

S. No	Rules in support of Main Enactment	in Force from
1	Andhra Pradesh Hindu Marriage Registration Rules, 1965	2 <sup>nd</sup> March, 1965
2	Bihar Marriage Registration Rules, 2006	Not available
3	Jharkhand Hindu Marriage Registration Rules, 2002	31 <sup>st</sup> December, 2002
4	Mizoram Compulsory Registration of Marriages Rules, 2007	7 <sup>th</sup> December, 2007
5	Orissa Mohammedan Marriage and Divorces Registration (amendment) Rules, 2006	15 <sup>th</sup> September, 2006
6	The Foreign Marriage Rules, 1970	19 <sup>th</sup> August, 1970
7	Uttar Pradesh Hindu Marriage Registration Rules, 1973	15 <sup>th</sup> September, 1973
8	Uttarakhand Compulsory Marriage Registration Rules 2012	12 <sup>th</sup> December, 2012
9	West Bengal Hindu Marriage Registration Rules, 2010	14 <sup>th</sup> July 2010

## ANNEXURE – C

### State-wise breakup of incidents reported under Dowry Prohibition Act, for the year 2016

S. No	State/Union Territory	Incidents
1	Andhra Pradesh	592
2	Assam	234
3	Bihar	1058
4	Chhattisgarh	19
5	Haryana	8
6	Himachal Pradesh	1
7	Jharkhand	1371
8	Karnataka	1698

9	Kerala	3
10	Madhya Pradesh	26
11	Maharashtra	38
12	Odisha	1400
13	Punjab	5
14	Rajasthan	3
15	Tamil Nadu	295
16	Telangana	4
17	Uttar Pradesh	2867
18	Uttarakhand	27
19	Chandigarh	1
20	Delhi UT	18
21	Puducherry	15
<b>TOTAL</b>		<b>9683</b>

**ANNEXURE – D**

**State-wise breakup of incidents reported under Dowry Prohibition Act, for the year 2017**

<b>S. No</b>	<b>State/Union Territory</b>	<b>Incidents</b>
1	Andhra Pradesh	434
3	Assam	191
4	Bihar	1097
5	Chhattisgarh	35
8	Haryana	21
9	Himachal Pradesh	1
10	Jammu & Kashmir	1
11	Jharkhand	1186
12	Karnataka	1567
13	Kerala	9
14	Madhya Pradesh	44
15	Maharashtra	36
17	Meghalaya	1
20	Odisha	2316
21	Punjab	4
22	Rajasthan	1
24	Tamil Nadu	225
25	Telangana	11
27	Uttar Pradesh	2938
28	Uttarakhand	50
30	Delhi	11
31	Puducherry	10
<b>TOTAL</b>		<b>10189</b>

## ANNEXURE – E

### Additional Documentation relied upon

S. No	Enactment of Bangladesh	Effective Date
1	Bangladesh's Dowry Prohibition Act, 1980 (Act No. XXXV of 1980)	01 <sup>st</sup> October, 1981
2	Bangladesh's Dowry Prohibition Act, 2018	

### Application form for Marriage Registration in States and Union Territories

S. No	Marriage Registration Form
1	Application for registration of Hindu Marriage under the Tamil Nadu Hindu Marriage (Registration) Rules, 1967
2	Andhra Pradesh's Application form for Registration of Hindu Marriage (FORM-A)
3	Assam APPLICATION FOR MARRIAGE CERTIFICATE
4	Gujarat Application for filling Memorandum of Marriage
5	Himachal Pradesh's Marriage Registration Form
6	Jharkhand Hindu Marriage Registration Rules 2002 Application
7	Jammu and Kashmir Application Form for Marriage Certificate
8	Karnataka Hindu Marriage form
9	Kerala Hindu Marriage Rules (Form I)
10	Mizoram registration-of-marriages-form
11	Odisha Form of application for Registration of Marriage Under the Hindu marriage Act 1955
12	Telangana Application form for Registration of Hindu Marriage

**ANANTAPUR :: DISTRICT**  
**HIGH COURT OF ANDHRA PRADESH**  
**AT AMARAVATHI**  
(SPECIAL ORIGINAL JURISDICTION)  
**WRIT PETITION (P.I.L.) No. \_\_\_\_\_ of 2019**

**Sandeep Bhavan Pamarati**  
... Petitioner-in-person  
**Vs**  
**UNION OF INDIA**  
... Respondent

**NATURE OF APPLICATION**  
**MEMORANDUM OF WRIT PETITION**  
**(Under Art 226 of Constitution of India)**

**Honourable Court may be pleased to issue a Writ of Mandamus**

1. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to link various marriage enactments of India with Dowry Prohibition Act, 1961, by **making Marriage Registration certificate as a mandatory document for Proof of Marriage, to file a case under any provision of DP Act.**
2. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, to **amend the application forms used for Registration of Marriages in all States and Union Territories**
3. Issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus to Respondents, such that there is no ambiguity to them whether to prosecute the Dowry givers under **section 3 of DP Act read with section 7 of DP Act** and no discrimination is made between Dowry Giver and Dowry Taker, under **Section 3(1) of DP Act**, in similar fashion as that of made by Bangladesh.

**In the Alternative,**

4. Strike down appropriately and sufficiently, all relevant sections of DP Act, so as to make **Giving of Dowry as no more a crime in India as all the persons who give Dowry are never going to be prosecuted at all, in the view of the bar imposed by Section 7(3) of DP Act.**

**FILED ON:- 25-11-2019**

**FILED BY:-**

**SANDEEP BHAVAN PAMARATI (9999)**

**PETITIONER-IN-PERSON**

**[www.ShadesofKnife.in](http://www.ShadesofKnife.in)**

**+91-96869 42588**

**Sandeep.Pamarati@Gmail.com**