

THE CRIMINAL LAW (SECOND AMENDMENT) ACT, 1983
(46 OF 1983)

[26th December, 1983]

An Act further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872.

Be it enacted by Parliament in the Thirty-Fourth Year of the Republic of India as follows:-

Statement of Objects and Reasons – The increasing number of dowry deaths is a matter of serious concern. The extent of the evil has been commented upon by the Joint Committee of the Houses to examine the working of the Dowry Prohibition Act, 1961. Cases of cruelty by the husband and relatives of the husband which culminate in suicide by, or murder of, the helpless woman concerned, constitute only a small fraction of the cases involving such cruelty. It is, therefore, proposed to amend the Indian Penal Code, the Code of Criminal Procedure and the Indian Evidence Act suitably to deal effectively not only with cases of dowry deaths but also cases of cruelty to married women by their in-laws.

2. The following are the changes which are proposed to be made:-

(i) The Indian Penal Code is proposed to be amended to make cruelty to a woman by her husband or any relative of her husband punishable with imprisonment for a term which may extend to three years and also with fine. Wilful conduct of such a nature by the husband or any relative of the husband as is likely to drive the woman to commit suicide or cause grave physical or mental injury to her, and harassment of a woman by her husband or by any relative of her husband with a view to coercing her or any of her relative to meet any unlawful demand for property would be punishable as cruelty. The offence will be cognizable if information relating to the commission of the offence is given to the officer in charge of a police station by the victim of the offence or a relative of the victim of the offence or in the absence of any such relative, by any public servant authorised in this behalf by the State Government. It is also being provided that no Court shall take cognizance of the offence except upon a police report or a complaint made by the victim of the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or with the leave of the Court by any other person related to her by blood, marriage or adoption, (*vide* clauses 2, 5 and 6 of the Bill).

(ii) Provision is being made for inquest by Executive Magistrates and for post-mortem in all cases where a woman has, within seven years of her marriage, committed suicide or died in circumstances raising a reasonable suspicion that some other person has committed an offence. Post-mortem is also being provided for in all cases where a married woman has died within seven years of her marriage and a relative of such woman has made a request in this behalf (*vide* clauses 3 and 4 of the Bill).

(iii) The Indian Evidence Act, 1872 is being amended to provide that where a woman has committed suicide within a period of seven years from the date of her marriage and it is shown that her husband or any relative of her husband had subjected her to cruelty, the Court may presume that such suicide had been abetted by her husband or by such relative of her husband (*vide* clause 7 of the Bill).

The Bill seeks to achieve the above objects.

1. Short Title.– (1) This Act may be called THE CRIMINAL LAW (SECOND AMENDMENT) ACT, 1983.

2. **Amendment of Act 45 of 1860.** – In the Indian Penal Code (45 of 1860), after Chapter XX, the following Chapter shall be inserted, namely: –

“CHAPTER XX-A
OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

498-A. Husband or relative of husband of a woman subjecting her to cruelty.-

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.- For the purpose of this section, "cruelty" means–

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

3. **Amendment of Section 174.**– In the Code of Criminal Procedure, 1973 (2 of 1974), (hereinafter referred to as the Code of Criminal Procedure), in section 174, in sub-section (3), for the words “When there is any doubt regarding the cause of death, or when for any other reason the police officer considers it expedient so to do, he shall”, the following shall be substituted, namely: –

“When–

(i) the case involves suicide by a woman within seven years of her marriage: or

(ii) the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or

(iii) the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf; or

(iv) there is any doubt regarding the cause of death; or

(v) the police officer for any other reason considers it expedient so to do, he shall”.

4. **Amendment of Section 176.**– In section 176 of the Code of Criminal Procedure, in sub-section (1), for the words “When any person dies while in the custody of the police”, the words, brackets and figures “When any person dies while in the custody of the police or when the case is of the nature referred to in clause (i) or clause (ii) of sub-section (3) of section 174” shall be substituted.

5. **Insertion of new section 198-A.**– In the Code of Criminal Procedure, after section 198, the following section shall be inserted, namely.–

“198-A. Prosecution of offences under section 498-A of the Indian Penal Code.–

No court shall take cognizance of an offence punishable under section 498-A of the Indian Penal Code (45 of 1860), except upon a police report of facts which constitute such offence or upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or with the leave of the Court, by any other person related to her by blood, marriage or adoption.”

6. **Amendment of first Schedule.**– In the Code of Criminal Procedure, in the first Schedule, after the entries relating to section 498, the following entries shall be inserted, namely. –

CHAPTER XX-A
OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

<i>Section</i>	<i>Offence</i>	<i>Punishment</i>	<i>Cognizable or non-cognizable</i>	<i>Bailable or non-bailable</i>	<i>By what Court triable</i>
1	2	3	4	5	6
498-A.	Punishment for subjecting a married woman to cruelty.	Imprisonment for 3 years and fine.	Cognizable if information relating to the commission of the offence is given to an officer in charge of a police station by the person aggrieved by the offence or by any person related to her by blood, marriage or adoption or if there in no such relative, by any public servant belonging to such class or category as may be notified by the State Government in this behalf.	Non-bailable	Magistrate of the first class.

7. **Amendment of Act 1 of 1872.**– In the Indian Evidence Act, 1872, after section 113, the following section shall be inserted, namely:–

“113-A. Presumption as to abetment of suicide by a married woman.– When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanation.– For the purposes of this section, “cruelty” shall have the same meaning as in section 498-A of the Indian Penal Code (45 of 1860).”
