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CONTRACTUAL MARRIAGES AND REVERSE DOWRY: A SOCIO-LEGAL STUDY OF THE PUNJAB STATE

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1. INTRODUCTION

In Punjab from the last many years there is a trend of contractual marriages and Reverse Dowry to facilitate the youth settle abroad. In such marriage, the intention is not to marry and live like a married couple but only to aid each other to settle in the desired country. In these so-called contractual marriages, the bride and groom perform marriage or get their marriage registered with an understanding to separate from each other amicably once they settle abroad. The present study identifies the factors responsible for such contractual marriages in the state of Punjab. The study also reveals the extent of such cases in Punjab and the role of immigration agents in facilitating and encouraging people to adopt such malpractice for their own financial gains. Apart from this the rising cases of dispute in the courts in case the parties fail in fulfilling the promise is also a part of the study. The study proposed legal reforms or policy recommendations for mitigating disputes and ensuring the rights of individuals involved.

2. BACKGROUND

The concept of these sham marriage can be understood by an illustration that a studious girl with limited financial resources is eager to study and settle in a western country for her better future,

whereas on the other hand a not so studious but well-off boy in Punjab is longing to go to the West by any means. Somehow through advertisements or social linkage or by other means the family of boy come to know about the said girl and the families meet and settle that their boy will be married with the girl with a sole aim that the girl will make all efforts to settle the boy abroad and until that objective is achieved all financial expenses on the girl such as expenses on English language efficiency test, expenses on her immigration to abroad for further studies, college fee, accommodation etc. will be borne by the family of the groom. On the basis of this mutual agreement between the families of the girl and the boy, a sham marriage is performed and got registered with the State authorities. Once the girl reaches the foreign shore under the garb of further studies, she sponsors the immigration of the boy who is shown to be her husband and this way the boy also reaches the desired country. Once this foreign dream is achieved, they separate from each other and got a divorce. In this process, the family of groom is paying and spending lacs of rupees on the bride, merely to enable the settlement of their boy in the desired foreign country and as such it is being called as reverse dowry. Not all the contractual marriages achieve their proposed objectives. Where, in such marriages, the groom is refused Visa, or due to any reason is unable to go abroad or settle there then in such eventualities the groom or his family often tend to blame the bride and her parental family claiming that they have played their part of agreement by spending money on the bride for sending her abroad, but the bride, once she reached the foreign land, changed her conduct towards the groom and is not making sincere and fruitful efforts to sponsor her spouse to visit abroad as per their deal. Nowadays, people are approaching the law enforcement agencies with alleging that they have been duped by the girl and her family by making them to pay lacs of rupees to her and her family on account of contractual marriage, to facilitate the girl (bridegroom) to move abroad on the pretext of further studies but thereafter on reaching foreign shores, the girls have abandoned the deal and refused to call the boy (groom) to abroad and hence

they have been cheated. The law enforcement agencies are in dilemma as to whether in this factual matrix, any criminal offence has taken place, if so then who did it? No body can deny the fact that marriage among Hindus cannot be a contract as it is a sacrament, as discussed above. The question is whether the girl or her parental family can be said to have cheated and defrauded the family of the groom on account of refusal of visa to groom or failure of groom to settle abroad due to any reason? Punjab State Women Commission chairperson Paramjit Kaur Landran initially termed the problem as personal matter of families. Later she said she would look into it. "Such a marriage is a mockery of our sacred religious practices and can be termed sacrilege. Also, it is a violation of the Hindu Marriage Act and can invite criminal action. I will ensure speedy action against people who publish such ads," said Landran¹.

3. FACTORS LEADING THE PEOPLE TO ENGAGE IN CONTRACTUAL MARRIAGES

3.1 Trend to settle abroad: Foreign dreams have always fascinated Punjabis. The trend in the people of Punjab to settle abroad is a major factor that led the people of Punjab to adopt any means to settle abroad. Moving and settling in any foreign country requires to follow the rules and regulations. It means the process is not easy and demands lot of money, education, language requirement etc. Most of the relatives and families especially in the Doaba area are living abroad and USA, UK, Canada and Australia are the prominent countries among that. Most of the Punjabis are attracted by the financial status and living style of such relatives. This attraction leads the people of Punjab to engage in contractual marriages as an easy means to settle abroad.

3.2 The division of family holdings, including agricultural land and unemployment in the region has fueled an obsession to seek fortunes abroad: The increase in the unemployment rate

¹Retrieved from <<https://www.bhaskar.com/local/punjab/jalandhar/news> on 6th of January 2025.

in the region of Punjab is also another factor that compel them to settle abroad to secure their future. In Punjab, agriculture is the main profession of people but that also face a setback as farmers are engaged in agitation to fulfil their demands of MSP and most of the farmers are in debt. Moreover, the new generation of Punjabi farmers does not want to engage in agriculture as it demands lot of hard work and labour. the primary objective of clearing the IELTS or moving to a foreign country is to escape growing unemployment and the drug menace in Punjab. Parents wish to keep their children away from these negative influences, and from an early age, children are taught that their future lies abroad.

3.3 Development of the foreign countries: There is no denial in the fact that the countries like USA, UK, Canada, Australia and New Zealand are the developed countries and we still cannot match with them in terms of the beauty of these countries, the financial and other securities and the employment rate in such countries. The development of these countries attracts the people of the Punjab region to settle in such countries.

3.4 Role of the immigration agents, IELTS institutions and advertisement agencies: The immigration agencies of Punjab are mostly involved in using defrauding means to gain money. They also encourage the people to engage in contractual marriage in case they don't fulfil the criteria and eligibility conditions to settle abroad. Moreover, the Matrimonial advertisements in Punjab's vernacular dailies openly offer financial incentives to lure prospective brides for Punjabi men who dream of settling abroad. Cracking the International English Language Testing System (IELTS) exam is considered a significant achievement in Punjab. One can easily notice the advertisement in the matrimonial columns of newspapers, which read as 'groom wanted for a girl with 7 bands in IELTS', which is a clear indication that the marriage will be on contractual basis. Thus, Immigration agencies, Matrimonial ads, IELTS institutes and even Punjabi movies add to this trend of 'contractual marriages'. Dozens of sham marriage advertisements appear in vernacular dailies,

clearly revealing a ‘business’ of illegal immigration in Punjab. The ads marked ‘Vyay Kaccha’ or ‘Court marriage only’ invite expressions of interest especially from girls’ parents whose daughters score good grades in IELTS exam (above 6 points) and have dreams to travel to foreign shores The ad reads: “Jatt Sikh girl IELTS 6 band, *Australia jaan wastey kharcha karan waale ladke di lor hai. Vyah kaccha*” (Jatt Sikh girl needs a boy who can bear her expenses to settle in Australia. Marriage would be a fake one). Such advertisements are a mockery of laws and enforcement agencies.

4. EXTENT OF CONTRACTUAL MARRIAGE CASES IN PUNJAB

The state of Punjab has become a hub for contract marriage fraud. According to a report in Dainik Bhaskar, nearly 3600 Punjabi men have lost Rs. 150 crore in the past 5 years due to this scam. Out of this number, 3300+ complaints have been registered with the Ministry of Foreign Affairs and 3000 complaints pertain from the State of Punjab². According to news in Hindustan Times, 12 cases were reported in a month in the district Ludhiana in Punjab, especially in the rural areas³. Apart from these, there are number of cases in which the groom has gone into depression or committed suicide.

5. LEGAL ASPECT

Many criminal cases have been lodged in the State of Punjab against the girl and her parental family for offences u/s. 420 IPC (now section 318(4) BNS, 2023). Let’s examine the bare text of the provision of section 318 BNS to understand better:

²Retrieved from <https://www.bhaskar.com/local/punjab/jalandhar/news/3600-girls-got-contract-marriage-to-settle-abroad-150-crore-cheated-many-boys-have-committed-suicide-128650259.html> on 02.01. 2025.

³Retrieved from <https://www.hindustantimes.com/cities/chandigarh-news/rise-in-cases-of-complaints-against-women-for-duping-grooms-with-spouse-visa-promises-sparks-police-investigation-101689874952499.html> on 02.01.2025.

“Section 318 of The Bharatiya Nyaya Sanhita (BNS)⁴ Cheating: (1) Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

(2) Whoever cheats shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

(3) Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

(4) Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

The provision of section 318(1) defines “cheating”, the punishment of which is provided u/s. 318(2) BNS. The offences u/s. 420 IPC is now sec. 318(4) of BNS, 2023, as Indian Penal Code, 1860 has since been repealed by the Bharatiya Nyaya Sanhita, 2023 w.e.f. 01.07.2023.

In the case of *R.K Vijayasarathy v. Sudha Seetharam*⁵, Supreme Court laid down the following ingredients to constitute an offence under Section 420:

⁴ Bhartiya Nyaya Sanhita, 2023, (Act No. 45 of 2023)

⁵ AIRONLINE 2019 SC 534

1. A person must commit the offence of cheating under Section 415; and
2. The person cheated must be dishonestly induced to: deliver property to any person; or
3. Make, alter or destroy valuable security or anything sealed or signed and capable of being converted into valuable security.

In *State of Andhra Pradesh v. S. Narsing Rao*⁶ the Court emphasized that Section 420 IPC is applicable when the accused has a dishonest intention at the time of committing the act of cheating, and this intention must be proven beyond a reasonable doubt.

In *S.S. Ahluwalia v. State of Bihar*⁷ the Supreme Court held that mere misrepresentation of facts or false promises is not enough to establish a case under Section 420 IPC unless it is shown that there was a deliberate intention to deceive and induce the victim to part with property.

In the given factual matrix, it cannot be said that the girl or the family of the girl induced the family of the boy to deliver any property or valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security because at the time of making a mutual agreement of marrying the boy with the girl with understanding to spend lacs of rupees on immigration of the girl to abroad for further studies, the family of the boy is well aware about its consequences. The acceptance of offer given by the family of boy to marry the girl with their boy and the family of the boy will incur all expenditures on sending girl to abroad and in lieu of that the girl will sponsor her spouse abroad to settle him thereat, cannot be termed as inducement on the part of the girl or her parental family. Further, the complaint to the police is made only when the groom is unsuccessful in going or settling abroad. It gives rise to another question, that if any money has been spent by the family of the groom for sending the bridegroom abroad, that was for the

⁶ (1999) 4 SCC 128

⁷ (1988) 2 SCC 134

good of the daughter-in-law, not any stranger and the spending money on once's daughter-in-law whether attracts the offence of cheating merely on failure of groom to get visa or settle abroad, is not a legal question. If the offence of cheating does not cover such activities, then how the police and courts are expected to handle such matters. It is observed that the police are registering the cases of cheating against the girl and her parental family on allegations of above sort. It seems the codified law under the BNS, 2023 lacks something. Either the above facts do not make out any criminal offence, only a social wrong, and if offences seems to have been found, then the BNS needs to be revisited to cover above referred matters.

In *Beant Singh v. Jaskaranjit Kaur*⁸, a case was filed under Section 5 of Hindu Marriage Act 1955 and Section 420 of Indian Penal Code. In this case bridegroom was already settled in Canada and groom wanted to go to Canada and paid Rs. 4 lakhs to the uncle of wife and marriage settled and performed. Husband was interviewed for grant of visa; however, he could not get through the interview and as such, was denied the visa. Punjab and Haryana High Court held that wife could not be blamed in such cases and there was no cheating and fraud on part of wife or his uncle.

6. CONCLUSION

The zeal among the youth in Punjab to settle in European countries for better life is giving rise to failed attempts in achieving the objective. One of such methods is discussed above whereby many succeed and many lose. Those who lose, tend to blame the others which in the cases discussed above is the bridegroom and her parental family. Settling abroad using marriage as a base which may be sham, is on the rise. Since this is ongoing so its after effects will surface soon. It is being seen that once the couple settles abroad, they separate from each other and in some cases, they decide to live together as spouses. Many marriages are being made in Punjab with sole objective of settling

⁸ 2010 LawSuit (P&H) 4619.

abroad by sending the bridegroom to foreign shores at first for studies and then she sends sponsorship to her spouse. One of the reasons for the desire to settle abroad, may be the lack of justifiable employment as per the educational qualifications, the other may be the better European governance when compared to our country. Another reason may be the rising tax rates, disparity between the value of rupee and US dollar or Pound Sterling or the Euro. Europe and USA have built their infrastructure with good policies and good governance, so it can be done by us too. If it is done, there will not be any need for anyone to leave the motherland to foreign shores in the name of better future. Though, for people crime is when the groom fails to settle abroad and the blameworthy is his wife and her parents. The good governance, employment as per the qualification, if given the people would not run away to foreign lands. So, to contain this evil in the bud, the ruling classes has to ponder to make sure the youth stay in the country and play role in nation building. As far as the codified law is concerned the government may make State Amendment in the General Penal Law or come up with a special legislation to handle this issue before it goes out of proportion. By any means such pressing issue crave urgent attention. Increased awareness, better legal protections, and a commitment from both families and the government to conduct thorough background checks can help curb this trend. While the situation is concerning, proactive measures can help protect potential victims and reduce the incidence of such fraudulent activities in the future. The employment opportunities in the Punjab region can help in decreasing the trend and obsession of settling abroad. There should be a legal check on the immigration agents and the advertisement agencies who encourage the people to engage in the practice of such contract marriages.