

**Court No. - 88**

**Case :-** APPLICATION U/S 482 No. - 10631 of 2024

**Applicant :-** Ankit Singh And 3 Others

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** D.K.Ojha, Vikas Kumar Ojha

**Counsel for Opposite Party :-** G.A.

**Hon'ble Vikram D. Chauhan, J.**

1. In this Court sizable number of litigations arising out of Dowry Prohibition Act, 1961 are coming up. The disputes are matrimonial dispute. Section 3 of the Dowry Prohibition Act is quoted hereinbelow:-

*"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) Nothing in sub-section (1) shall apply to, or in relation to, -*

*(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf):*

*Provided that such presents are entered in a list maintained in accordance with the rules made under this Act;*

*(b) presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf):*

*Provided that such presents are entered in a list maintained in accordance with the rules made under this Act:*

*Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not*

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*excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given."*

2. As per Section 3(2) of the Dowry Prohibition Act, 1961, presents given at the time of marriage to the bride or bridegroom which are entered in the list maintained in accordance with the Rules made under the Act shall not be construed as dowry under Section 3 of the Dowry Prohibition Act.

3. The Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985 has been enacted. Rule 2 is quoted hereinbelow:-

**"2. Rules in accordance with which lists of presents are to be maintained.-** (1) *The list of presents which are given at the time of the marriage to the bride shall be maintained by the bride.*

(2) *The list of presents which are given at the time of marriage to the bridegroom shall be maintained by the bridegroom.*

(3) *Every list of presents referred to in sub-rule (1) or sub-rule (2),-*

(a) *shall be prepared at the time of the marriage or as soon as possible after the marriage,*

(b) *shall be in writing,*

(c) *shall contain,-*

(i) *a brief description of each present;*

(ii) *the approximate value of the present;*

(iii) *the name of the person who has given the present; and*

(iv) *where the person giving the present is related to the bride or bridegroom, a description of such relationship;*

(d) *shall be signed by both the bride and the bridegroom.*

*Explanation 1.- Where the bride is unable to sign, she may affix her thumb impression in lieu of her signature after having the list read out to her and obtaining the signature, on the list, of the person who has so read out the particulars contained in the list.*

*Explanation 2.- Where the bridegroom is unable to sign he may*

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*affix his thumb-impression in lieu of his signature after having the list read out to him and obtaining the signature, on the list of the person who has so read out the particulars contained in the list.*

*(4) The bride or the bridegroom may, if she or he so desires, obtain on either or both of the lists referred to in sub-rule (1) or sub-rule (2) the signature or signatures of any other person or persons present at the time of the marriage."*

4. The legislature in its wisdom carved out an exception by providing that the presents which are given to the bride or the bridegroom at the time of marriage are not construed as dowry attracting Section 3 of the Dowry Prohibition Act. In order that the aforesaid exception is available to an individual, it is necessary that the aforesaid presents are entered in a list maintained in accordance with the Rules made under the Dowry Prohibition Act. The Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985 have been framed in this respect by the Central Government in the Indian marriage system gifts and presents act as a token of celebration and honouring the important event. The legislature was aware of the Indian tradition and as such the above mentioned exception was carved out. The above mentioned list would also act as a measure to thrash out the allegations of dowry which are subsequently levelled in matrimonial dispute. The maintenance of the list is also important so that both the parties to the marriage and their family members may not level false allegation of taking dowry or giving dowry in a marriage subsequently. The arrangement made by the Dowry Prohibition Act may also assist in subsequent litigation between the parties to arrive at a conclusion whether the allegations with regard to the taking or giving of dowry is covered by the exception carved out under section 3(2) of the Dowry Prohibition Act, 1961.

5. Before this Court the parties to the marriage are filing cases with allegations of dowry, however, no list in terms of Section 3(2) of the Dowry Prohibition Act and Rules of 1985 are being filed by the husband or the wife or their family members. It may be a case where no list is being prepared by the parties to the marriage. It has not been brought to the notice of this Court that the aforesaid provision is in any manner being monitored or implemented by any responsible officer of the State Government. Section 3(2) of the Dowry Prohibition Act, 1961 is required to be implemented in its letter and spirit so that citizens are not subject matter of frivolous litigation.

6. As per the aforesaid provision of law, list of presents which are

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given at the time of marriage without the demand of dowry are required to be entered in a list and the aforesaid list is required to be signed by both bride and bridegroom. Under section 8B of the Dowry Prohibition Act, Dowry Prohibition Officers are required to be appointed for the purpose to see that the provisions of the Dowry Prohibition Act are complied with.

7. The Chief Secretary, U.P. or any other officer authorised by him shall file an affidavit as to whether in terms of Section 8B of the Act, Dowry Prohibition Officers have been appointed by the State Government.

8. In the event, Dowry Prohibition Officers have not been appointed till date, the State Government shall explain as to why the Dowry Prohibition Officers have not been appointed when the dispute of dowry is rising.

9. In the event, the State Government has appointed Dowry Prohibition Officers, it is then imperative that the steps taken by such Dowry Prohibition officers towards implementation of the provisions of the Dowry Prohibition Act is shown in respect of preparation of list of presents given in the marriage as per section 3(2) of the Dowry Prohibition Act. The State Government shall also disclose the orders issued for implementation of the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985. The Dowry Prohibition Officers are enjoined with the duty to ensure compliance of the Dowry Prohibition Act and the Rules framed thereunder. The affidavit shall also disclose how many Dowry Prohibition Officers have been appointed throughout the State and at what level.

10. The State Government shall also file an affidavit to the effect whether at the time of registration of marriage, list of presents as required by the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985 are being taken by the officers and being maintained so that subsequently in the event there is dispute between the parties to marriage with regard to the presents being given in marriage being designated as dowry, the same can be verified.

11. The State Government shall also file an affidavit whether any rules (for carrying out the purpose of the Dowry Prohibition Act) in terms of Section 10 of the Dowry Prohibition Act has been enacted by the State Government. A copy of the same shall also be placed before this Court on the next date.

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12. List this case on 23.5.2024 as fresh.

**Order Date :- 8.5.2024**

VMA