

Immoral Traffic (Prevention) Act, 1956/86
Dowry prohibition Act, 1961
Dowry prohibition (maintenance of lists of presents to the Bride and Bridegroom) Rules, 1985
Indecent representation of women prohibition Act, 1986/2003

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Sec. 370 IPC (Gender Neutral) : Trafficking of person (Cognizable and Non Bailable) SDPO/Dy.SP is the I.O.

- **Ingredients :**
- Trafficked for the purpose of exploitation. Investigating Officer to find out recruitment, transporting, harboring.
- Transferring or receiving a person or persons (male/female) using threats, force or other forms of coercion or by abduction or by practicing fraud or deception or by abuse of power or by inducement including giving or receiving of payments or benefits in order to get achieve consent of such person.
- Exploitation shall include any act of physical or any form of sexual exploitation, slavery or servitude or the forced removal of organs, selling of Human organs, sales of children for exploitation, forced labour, begging and migration
- *The consent of the victim is immaterial in determining the offence of trafficking.*

Sec. 370 IPC Trafficking of person Contd....

- **Investigation :**
- SDPO/Dy SP is the Investigating Officer.
- I.O should record statement of the *VOCSET (Victim of Commercial Sexual Exploitation and Trafficking)* or of the person trafficked for other purposes like slavery, organs removal etc. Use audio-video electronic means of recording verbatim as per 161 (3) Cr. PC.
- Send requisition to court for Sec 164 Cr. PC statement of victims. (Take care to de-traumatize victims before recording their statement)
- Send victims for medical examination u/s 164 (A) Cr. PC (for female), and male victims separately
- Send accused including “so called customers” for medical examination u/s 53,53 A Cr. PC

Sec. 370 IPC Trafficking of person Contd....

- **Punishment and Trial :- In camera Trial.**
- When accused is in a different Jail/ at a far away place Prosecutor can file requisition for audio-video electronic trial as per Sec.275 Cr. PC.
- *Shall not be less than 7 years, but up to 10 yrs and shall also be liable to fine.*

Investigation of Immoral Traffic Prevention Act, 1956 (In Short ITP Act)

- There are certain basic principles in ITP Act/IPC:
- Principle of urgency in rescue/raid :
- All Inspectors of Police and ACsP are appointed as Spl. Police Officers (GO Rt. No. 475 Home (Pol.D) Dept, dtd.16/08/1991) to be assisted by SIs/ ASIs/ HCs/ PCs u/s 13 (2) ITP Act. Only SPO is authorized to investigate.
- Arrest to be made by SPO or under his direction, or subject to his prior approval by police Sub-Inspector (PSI) sec 14(1)
- SPO by an order in writing may direct any officer subordinate to him sec. 14(2) to conduct raid / rescue.

ITP Act Contd....

- SI of police may arrest offenders who are likely to escape/ destroy evidence/ give false identity- but shall report to SPO immediately as per Sec 14(3) and make a mention in the CD
- *Separate traffickers from the victims* immediately at the scene of rescue. Get them medically examined for sexual exploitation presence of S.T.D (Sexually Transmitted Diseases), HIV etc.,

ITP Act Contd....

- **Principle of search and seizure :**
- SPO to record grounds of his belief before search. Sec. 15(1)
- Among panch witnesses one should be a woman. Sec. 15 (2)
- All persons to be rescued. Sec. 15(4). Rescue is not state-specific.
- Production before appropriate Magistrate sec. 15(5)
- Medical examination for age, STD diseases. Sec. 15(5A)
- Legal protection from prosecution for SPOs / panchas.
- 2 woman police officers to accompany rescue team sec. 15 (6A)
- *Only SPOs/ Deputies are empowered to conduct rescue.*
- (Delhi admn. vs Ramsingh AIR 1962 SC 63)
- Seize all registers, municipal / panchayat receipts / condoms / porn sites etc., available from the scene of crime.

ITP Act Contd....

- **Principle of background (Home) verification :**
- Inquiry into home verification. Probation officer may be directed by judicial magistrate under Sec.17 (2), NGO sec. 17A may be directed to verify. Satisfy correctness of information-need for care & custody.
- Remember false addresses are given both by victims and accused traffickers.
- Safe custody of the *VOCSET (victim of commercial sexual exploitation and trafficking)* is important to preclude re-trafficking.
- Magistrate to keep a list of 5 experienced social workers (3 women). u/s 17(5) to advise him.
- Check up capacity or genuineness of parent/ guardian or husband to take care of the victim. (Sec. 17A)

ITP Act Contd....

- **Principle of organized crime perspective :**
- Secret net works.
- Driven by profit
- Source – Transit – Destination
- Cut outs
- Commoditization
- Indoctrination of victims
- Drugs / Alcohol etc.

ITP Act Contd....

- **Principle of criminal liability of exploiter/so called customer :**
- Sec. 6(2) ITP Act... Where any person is found with a child in a brothel.. Presumed to commit the offence
- Sec. 6 (2A)... Commercial sexual exploitation of child / minor.
VOCSET (Victim of Commercial Sexual Exploitation and Trafficking)
- Sec. 7(1)...Who carries on prostitution and person with whom such prostitution is carried on. If with child or minor not less than 7 yrs imprisonment. Sec. 7(1A)
- Magistrate to order the SPO for recovery of jewellery, wearing apparel, property belongings of victims to prevent re trafficking.
- Most often the victims go back for recovering their earnings. Magistrates play vital role in prevention.

ITP Act Contd....

- **Principle of basket of crime concept :**
- Wrongful restraint / confinement
- Kidnapping / Abduction
- Causing bodily injury
- Rape / Gang rape
- Threatening
- Drugging
- Selling / Buying
- Different crime partners.

ITP Act Contd....

- **Principle of continuing crime concept :**
- Starts from Source – Transit – Destination. Sec. 5(3) (a)
- FIRs can be registered at the Source/Transit/Destination Investigated / Charged separately.
- Age determination (If trafficked at 16 yrs, rescued at 21 yrs, affirmed in Sec.164 Cr.P.C, then Sec. 366A, 372, 373, 376 (D) of IPC are applicable).
- Application of stringent provisions of law is the key to prosecution and prevention.

ITP Act Contd....

- **Principle of Burden of Proof :**
- Presumption of adults (above 18 yrs age) living on the earnings of prostitution and exercising influence over the movements of a prostitute. If found in the brothel (Sec. 4 (2) C ITP Act).
- Presumption of person (s) found with a child/minor in a brothel that he committed an offence of detaining the child in premises where prostitution is carried on (Sec. 6(2) ITP Act).
- When a person with holds jewellery, wearing apparel, money or other property belonging to a woman or a girl confined in a brothel for sexual exploitation or when the person threatens such victim woman or girl with legal proceedings in case she takes away such jewellery, money or property is presumed to have detained such woman/girl for *C.S.E (Commercial Sexual Exploitation)* (Sec. 6(3) ITP Act).

ITP Act Contd....

- **Sec. 3 Punishment for keeping a brothel** or allowing premises to be used as a brothel – 2 years and fine.
- **Sec. 4 Punishment for living on the earning of the prostitution.** Not less than 7 years if minor is exploited.
- **Sec. 5 Procuring, inducing, taking the person for prostitution** : not less than 3 years. In case *child* is exploited not less than 7 years till life.
- **Sec. 6 Detaining a person in the premises** where prostitution is carried on not less than 7 years. Customers also liable.
- **Sec. 7 Prostitution in the vicinity of public places.** Up to 3 years. If a customer is found with *child* not less than 7 years.

Dowry Prohibition Act, 1961

- Definition of “dowry”.- In this Act, “dowry” means any *property or valuable security* given or
- agreed to be given either *directly or indirectly* -
- (a) by one party to a marriage to the other party to the marriage; or
- (b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;
- at or before or any time after the marriage in connection with the marriage of the said parties, but
- does not include] dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Dowry Prohibition Act, 1961 contd...

- **Sec 3 : Penalty for giving or taking dowry.**
- 1) If any person, 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/bridegroom without any demand having been made in that behalf.
- Provided that such presents are entered in a list maintained in accordance with the *Dowry prohibition (maintenance of lists of presents to the Bride and Bridegroom) Rules, 1985*.

Dowry Prohibition Act, 1961 contd...

- **Sec. 4. Penalty for demanding dowry.**
- If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which *shall not be less than six months*, but which may extend to two years and with fine which may extend to ten thousand rupees.
- **Sec. 5. Agreement for giving or taking dowry to be void.** Any agreement for the giving or taking of dowry shall be void.

Dowry Prohibition Act, 1961 contd...

- **Sec. 6. Dowry to be for the benefit of the wife or her heirs.**
- (1) Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman
- (a) if the dowry was received before marriage, at the time of or after the marriage, within 3 months after the date of marriage; or
- (b) if the dowry was received when the woman was a minor, within 3 months after she has attained the age of eighteen years and pending such transfer, shall hold it in trust for the benefit of the woman.
- (3) Provided that where such woman dies within seven years of her marriage, otherwise than due to natural causes, such property shall,
 - (a) if she has no children, be transferred to her parents or
 - (b) if she has children, be transferred to such children and pending such transfer, be held in trust for such children.

Dowry Prohibition Act, 1961 contd...

- Sec. 7 Cognizance of offences. All offences are cognizable.
- Sec. 8 Offences to be cognizable for certain purposes and to be bailable and non-compoundable.

THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986

- Sec. 2 (a) *“advertisement”* includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas;
- (c) *“indecent representation of women”* means the depiction in any manner of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to, or denigrating, women, or is likely to deprave, corrupt or injure the public morality or morals;

THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986 contd...

- **Sec. 3. Prohibition of advertisements** containing indecent representation of women. No person shall publish, or cause to be published, or arrange or take part in the publication or exhibition of, any advertisement which contains indecent representation of women in any form.

THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986 contd...

- **Sec. 4 Prohibition of publication** or sending by post of books, pamphlets, etc., containing indecent representation of women. No person shall produce or cause to be produced, sell, let to hire, distribute, circulate or send by post any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which contains indecent representation of women in any form.

THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986 contd...

- **Sec. 5 Powers to enter and search.** - (1) any Gazetted Officer authorised by the State Government may, within the local limits of the area for which he is so authorised, -
- (a) enter and search at all reasonable times, with such assistance, if any, as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;
- (b) seize any advertisement or any book, pamphlet, paper, slide film, writing, drawing, painting, photograph, representation or figure which he has reason to believe contravenes any of the provisions of this Act;

THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986 contd...

- **Sec. 6 Penalty.** - Any person who contravenes the provisions of section 3 or section 4 shall be punishable on first conviction with imprisonment of either description for a term *which may extend to two years*, and with fine which may extend two thousand rupees.
- And, in the event of a second or subsequent conviction with imprisonment for a term of *not less than six months* but which may extend to five years and also with a fine not less than ten thousand rupees but which may extend to one lakh rupees.

THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986 contd...

- **Sec. 8 Offences to be cognizable and bailable.** - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under this Act shall be bailable.
- (2) An offence punishable under this Act shall be cognizable.