

# Despite Much Fanfare

## The Actual Workings Of The Legal Machinery

In the last issue of **Manushi** we reported the case filed by Shail Khanna for the return of her dowry after she was forced to leave the house of her husband, Satish Chawla, who, along with his parents, had subjected her to a great deal of brutal maltreatment, accompanied with demands for more dowry. (See No. 23, page 29). We are giving further details in a review of the same case, as well as the latest verdict of subjudge J.K. upon the matter, with a view to illustrating how blatantly anti-women the functioning of the legal itinerary continues to be, despite the pious claims made by the government about the new legislation that is being enacted to curb cruelty to women in marriage and curb the evil of dowry.

Shail Khanna, who lives with her parents in our neighbourhood, came with them to **Manushi** for advice concerning a legal dispute with her husband over custody of the articles given by her father in dowry. Shail, a graduate, now age 25, was married in October 82 to Satish Kumar Chawla, resident of Vijay Nagar, who is a partner in his father's wholesale hosiery business. Her family saw Satish only a couple of times before the marriage, which took a month after the engagement.

The wedding expenses totalled to over a lakh. The dowry included a colour television, a sofa set, double beds, a dressing table, Godrej almirah, a sewing machine, gold ornaments, a diamond ring,

a very elaborate wedding party. The flow of gifts began before the marriage and continued after the marriage, at every festival and on every visit of one family to the other's house.

After the wedding, Shail discovered that Satish was mentally unbalanced,

out to be a nightmarish experience. Satish's initial treatment of Shail can be categorised as mental cruelty, and as such, was not provided for in law as a penal offence, until the recent amendment, section 498A, which may conceivably cover it. For instance, Satish used to insist



Shail and her husband, Satish Chawla

violent and ill tempered. One of his eyes was seriously defective, a fact which had been concealed before marriage.

All kinds of lies had been told before the marriage by his parents. He was, according to his own confession, not a graduate as they had claimed he was.

Shail tells us that her marriage turned

that she sit up with him every night and watch a film on video till 2.30 a.m. She had to get up at 6 a.m., otherwise her parents-in-law complained that she was lazy. If she felt sleepy while watching the film, Satish would fly into a rage and hurl things such as a clock or a lamp around the room. He would hit his head against the wall or the

bed, and go on like that all night long so as to prevent her from sleeping, or he would keep turning the light on and off. His personal habits were also filthy, for instance, he refused to brush his teeth, change his underwear or have a bath for weeks on end. Being forced to live in close proximity to such a person was very torturous for Shail.

Shail bore all Satish's tantrums which usually took place in their bedroom at night. But she kept smiling and acting normal in front of her in-laws, as well as in front of her parents on the rare occasions when she was allowed to meet them. "Even if I wept all night", she says, "I would come down in the morning as if everything was all right." Once, she even swallowed a lot of pills in a bid to end her life.

She had to do all the housework and everything she did was criticised. However, her mother-in-law preferred to look after Satish's needs herself so that he should remain in her hands. Shail was not allowed to wear any of the jewellery her parents had given her except the *mangalsutra*. She was not given any money or allowed to buy anything or go anywhere, not even as far as the local market. When she bought some clothes with money given by her own relatives, her mother-in-law violently objected.

Since Satish not only fought with her but also constantly quarrelled with everyone in the house, the couple were thrown out of the house by his parents. After staying for some time with Shail's relatives, they took a separate one room flat. Satish stopped working in his father's shop, and became unemployed. He now began to demand that her father give him Rs 50,000 to set up his own business. Shail suspects that this may have been a deliberate plot laid by his family. Since her father had already given a video and a refrigerator after the marriage, on the in-laws' demand, Shail resisted this new demand. Satish used often to break whatever came his way around the house and also hit Shail in an attempt to terrorise her into submission. In Shail's words: "In

some ways, things got worse when we lived on our own. When we lived in a joint family, he quarrelled with everyone—his father, mother, brother, sister. So my turn came less frequently. But when we were alone, he had only me to abuse."

On one occasion, Shail says, Satish left the gas knob turned on and asked her to make tea. Fortunately, she noticed the smell before she lit a match. When later questioned about this in the presence of others, Satish said it was a mistake.

One day, Satish suddenly decided to return to his parents' house. Shail refused to go with him but he insisted on taking her things along. A quarrel ensued and Satish began beating her with a tubelight in the presence of her sister and in full view of the neighbours, who came to her rescue.

When her father got to know what Shail was suffering, he had a nervous breakdown. When she went to the hospital to see her father, Satish put another lock on the door over the one she had put there. The police told Shail that, as the wife, she had full right to break the lock. But the landlord who, Shail alleges, was bribed by Satish, intervened and prevented her from taking her things away, saying that since Satish was the one in whose name the house was rented, his permission must be taken. Thus Shail was prevented, at this juncture, from taking her dowry articles which belonged to her by law, because of social pressures which worked against her and in favour of her husband who was seen as the owner of the house and everything in it.

This same prejudice may be clearly seen in the judgment delivered by subjudge J.K. Pali when the case for custody of the goods, then lying in the police station, came up before him. Significantly, Satish's lawyer was one Mr Rajan Saluja. Readers may remember that this gentleman, also a resident of Lajpat Nagar, had been prosecuted in 1982 on the charge of having maltreated and murdered his wife, Chandramohini. Several protest demonstrations had been held outside

Saluja's house. On one occasion, he was even stripped and marched to the police station where he received protection and refuge. This eminent gentleman, who seems to have set up as something of an expert on how to torture one's wife and get away with it, now applies his technique to defend another wife torturer. Saluja drew up an application for Satish, in which it is claimed that the dowry articles were "voluntarily given" and that Shail left her matrimonial home for no reason, taking with her the video, taperecorder and her jewellery.

In addition, he as good as accuses Shail's father, Mr S.K. Khanna, of wanting to sell her, when he says: "The father of the girl is a very greedy man and is adamant to spoil the life of the couple and has put an undue influence on the girl and wants to do (sic) her second marriage, without taking any legal divorce from the court of law, for valuable consideration." He further accuses Mr Khanna of wanting to take away goods belonging to Satish to give them in the dowry of his younger daughter.

We have found that this tactic is commonly used by husbands and in-laws. After months on years of torture they first force the wife to leave the marital home or themselves throw her out. Then if her parents offer her support and protection instead of forcing her to go back and be tortured again by her husband, her parents are often accused of wilfully breaking the marriage of their daughter for selfish ends. It is partly for fear of such fantastic accusations that women's parents often hesitate to support them, since any support is liable to be construed as interference in the married life of the couple.

The application drafted by Saluja in defence of Satish goes on to say that "if the articles are given to the girl the same shall be a certificate of dissolution of marriage which shall otherwise ruin the life of the couple as at this stage the girl is under the influence of her father and absolute (sic) unable to understand the

right and wrong of her future life. More so, the handing over of the articles to the girl shall result in the loss of reputation of the applicant and his family members.”

All these arguments are blatantly in violation even of the very inadequate Dowry Prohibition Act, according to which it is a punishable offence not to transfer all the dowry articles to the woman within a year of marriage. Yet the judge, J.K. Pali, handed over the dowry articles to the custody of Satish on an indemnity bond of Rs 20,000 though the goods are worth much more than that sum. The judge states that dowry items cannot be called *stridhan* but are “household articles generally given by the parents of the girl for her marriage and which are of common use.” And yet he hands over all the so called joint property to the husband. His logic is that since the “marriage is still subsisting” and the articles were recovered from “the husband’s” house they should be handed over to him. Thus the matrimonial home is also assumed to be the exclusive domain of the husband.

Shail also filed a criminal case accusing her husband and his parents of attempting to extort money from her by threatening her. The same judge dismissed this case on August 25, 1984, saying that Shail’s statement that she was physically abused and threatened and money was demanded from her was unproved. The fact that she could not recall the exact dates when such threats were issued is mentioned by the judge— as if she should have maintained a minute by minute diary while living under such extreme tension. Moreover, the judge illogically states that the threat of extortion cannot be true since “no actual delivery of the amount of Rs 50,000 took place.” Thus he penalises the woman’s parents for not having succumbed to the final attempt at extortion while he ignores the threats as well as the earlier occasions when Shail’s parents had complied with her husband’s demands, for example, for a video. He further states that Shail “has not shown anywhere that she felt any such fear of injury or danger to her life.”

Shail’s parents had also alleged that they were cheated into the marriage alliance since the groom’s family had furnished false particulars regarding the boy saying that he was a graduate when he was actually a matriculate. The worthy judge dismissed this charge of fraud under Indian Penal Code, section 420, since the father of the boy, who had given the particulars, at the time of marriage, has



since expired.

On all these flimsy grounds the judge states that he does not “find any ground to proceed against the accused persons under any offence in the challan” and therefore discharged the accused and dismissed Shail’s petition. **Manushi** lawyers, Geeta Luthra and Pinky Anand, are going to handle the appeal against this decision and are also contemplating filing a case of cruelty in marriage under section 498A.

Both judgments are rife with contradictions and violate elementary norms of justice. The judge admits that

the goods were meant for the joint use of husband and wife and were in their joint possession; even using his faulty logic, the goods should have been equally divided and not landed over to the sole custody of the husband. To argue that the marriage is still subsisting is to ignore the reality of the situation which is that Shail has separated from Satish and is living with her parents. By the time the case comes up before a higher court, the goods will be considerably depreciated in value through constant use by Satish and his family. It is well known that in our society, household goods are given by the bride’s parents not as free gifts to the couple but as an investment to ensure the girls survival in her in-laws’ family. Once she has returned to her parents and has to start a new life, the goods should be returned to her for her use.

Shail’s parents allege that the judge was bribed by Satish which would account for his self contra-dictory decision. They are planning to file a suit for divorce on grounds of cruelty.

—**Manushi**

## Not Funny

I am sending you a so-called joke which was relayed over Vividh Bharati in a programme sponsored by the distributors of Kingston television, Manoj Electronics, Daryaganj, Delhi, on July 17, 1984 at 9.30 p.m. It was as follows :

Father : Will you have a lolly-pop ?

Son : No.

Father : Shall I buy you a toffee?

Son : No.

Father: Will you eat fried gram and puffed rice ?

Son : No.

Father : Ah, I see—you want to chew my brains as your mother does.

**Radheyshyam Tripathi,**  
**Varanasi**  
(translated from Hindi)