



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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The SC/ST POA Act and Their Recent Judgements

Priyanshi Tandon^a

^aICFAI University, Dehradun, India

Received 15 July 2022; *Accepted* 03 August 2022; *Published* 05 August 2022

The article SC and ST Prevention of Atrocities Act 1989 was created to prevent crimes against members of Scheduled Castes and Scheduled Tribal Groups. It also aims to provide special courts to try persons involved in such crimes and to assist victims of such crimes and related matters. This article examines the results that led to the enactment of this law and provides a bird's eye view of its provisions. This article examines the parliament's intent to pass the SC/ST (POA) Act 1989 (including the 2018 Amendment Act) and the SC/ST (POA) Regulations 1995 and other investigations and seeks to support the provisions of that Act. Dalits (legally recognized as Scheduled Castes) and tribes (legally recognized as Scheduled Tribes) are among the most marginalized groups in Indian society. The SC/ST (Prevention of Cruelty) Act of 1989 protects against discrimination and cruelty to the above segments of the population. According to India's Supreme Court, SC/ST law has become a tool of 'blackmail' and is being used by some to exact 'revenge' and satisfy their interests.

Keywords: *scheduled caste, dalit, cruelty.*

INTRODUCTION

The Scheduled Castes and the Scheduled Tribes Prevention of Atrocities Act was framed in the year 1989¹ the act is for the benefit of the marginal societies as they suffer a lot. The act was passed by the demand of Dalits and other lower caste peoples they asked the government to

¹ Scheduled Castes and the Scheduled Tribes Prevention of Atrocities Act, 1989

take serious action for the suffering of ill-treatment and humiliation that the Dalits and other tribal groups are facing in their day-to-day life. In the year 1970 to 1980, the Dalit and the tribal groups completely denied to perform their so-called caste duties and requested the government that they also needed to be treated equally. The act is for both the physical and moral humiliation that they were suffering like the SC/ST categories people were forced to drink or eat inedible or disagreeable things. The people were also forced to walk with painted faces and torn clothes which completely harm the dignity of the lower categories peoples and it affects them both mentally and physically.

The act was passed in 1989 for the whole of India except Jammu and Kashmir. The definition of this act is defined as: -

(A) "Atrocities" means criminal offenses that are punished under Article 3².

(B) "Code" means the Criminal Procedure Code of 1973 (2 of 1974).

(C) "Scheduled Caste and Scheduled Tribe" has the meaning assigned to each in Section (24) and Section (25)³ of Article 366 of the Constitution.

(D) "Special Court" means the special court designated as a special court in Article 14⁴.

(E) "Special Counsel" means a public prosecutor appointed as a special counsel or attorney under Article 15⁵.

(F) Words and expressions used in this Act but not defined and defined in Code or Indian Criminal Code⁶ (45, 1860) are, in some cases, assigned to each in Code or Indian Criminal Code. It has the meanings assigned to it in the Code and the Criminal Code of India, respectively.

² Scheduled Castes and the Scheduled Tribes Prevention of Atrocities Act, 1989, s 3

³ Scheduled Castes and the Scheduled Tribes Prevention of Atrocities Act, 1989, ss 24 and 25

⁴ Constitution of India, 1950, art.14

⁵ Constitution of India, 1950, art.15

⁶ Code of Criminal Procedure, 1860, s 45

Article 17⁷ of the constitution of India already defined the abolition of untouchability and all other similar practices are also forbidden⁸. So this government also passed an act i.e. Civil Rights act 1955 but it was abolished in the year 1976 because the SC/ST still were facing injustice and they did not find any loopholes to overcome it. To combat the inhumane treatment, they receive the government passed the SC/ST POA Act intending to provide the marginal communities justice, equality, freedom, violence, and discrimination.

PUNISHMENTS AND THE OBJECTIVES OF THE SC/ST POA ACT

Punishments are given to those people who are not the member of an SC/ST and they are harming them both morally and physically like they are forced to drink urine and other inedible things, by excluding them from societies, stopping them from some business works, not providing them (SC/ST members) any jobs, beating them, throwing the garbage in front of their houses, forcefully take off their clothes and paints on their body and face, forcefully capturing the lands of the SC/ST farmers, stopping them for voting, treating them as a bonded labor, assaults to the SC/ST women with intent to dishonor or outrage her modesty by harassing her sexually, Contaminates the water of springs, reservoirs, or other sources normally used by enlisted castes or members of enlisted tribes to make them unsuitable for their normally used purposes. Denies the SC/ST members to prevent them from using public resorts which are being used only by other societies(upper class). Force them to leave their residences (house, village, town) where they are living are liable for the punishments for imprisonments which shall not be less than 6 months and extends up to 5 years. In case any SC/ST people are murdered then the punishment is death⁹.

If anyone (not SC/ST) submits or creates false evidence to the Scheduled caste or tribal members with the intent or knowledge that they may be convicted of a crime that is capital

⁷ Constitution of India, 1950, art.17

⁸ Civil Rights Act, 1955

⁹ Dhruvan Gautham Kocheril , Mohan Roy Mathews & Shiv Shankar, 'Scheduled Castes and Tribes (Prevention of Atrocities) Act' (*Legal Service India*) <<https://www.legalserviceindia.com/article/I440-Scheduled-Castes-and-Tribes-Act-.html#:~:text=According%20to%20this%20section%20if,imprisonment%20up%20to%20six%20months>> accessed 23 June 2022

that is punishable by life imprisonment and fines under current law. And if an enlisted caste or innocent member of a tribe is tried and executed as a result of such false or forged evidence, those who submit or forge such false evidence will be sentenced to death. Knowing that he may commit one imprisonment of seven years or more, either to convict an incorporated caste or tribal member or for a crime that is not a capitalist but is sentenced to imprisonment. Imprisonment and fines of 6 months or more and 7 years or more for submitting or creating false evidence. If you commit mischief by fire or explosive with the intention or knowledge that it may damage the property of the caste or tribal members enlisted, you will be punished by imprisonment with work for not less than 6 months. Can be extended to 7 years and fines.

The objective behind this act is to prevent crime against the marginal communities and give them free life. This act also established the special courts to try those accused of such atrocities in the year 1992 there was a case *Mangal Prasad v Additional Session Judges*, the court ruled that the extraordinary court was appointed as a special judge in the sense of Article 2 (d)¹⁰ of the Act. The major objective of this act is to provide the Dalits with social, economic, and political rights and make them an integral part of society.¹¹

THE RECENT JUDGEMENTS OF THE SC/ST POA ACT

After the year 1989, there are various amendments occurred in the year 2015 the government affirm the trust of SC/ST in the law and the new amendment came into effect in the year 2016. It includes the Force head coloring, garland shoes, denying access to irrigation facilities for SC / ST members, use or allowing manual scavengers, starting SC / ST women as devastation, in the name of caste Abuse, using someone as a witch to commit atrocities, social or economic boycotts, prevent SC / ST candidates from submitting nominations to participate in elections, strip off clothes and SC / ST To force SC / ST members to leave their home, village, or place of residence, etc. It also includes hurt, grievous hurt, intimidation, and kidnapping for these crimes the punishment is up to 10 years and this act also brings the new special courts so the

¹⁰ Scheduled Castes and the Scheduled Tribes Prevention of Atrocities Act, 1989, s 2(d)

¹¹ *Mangal Prasad v Additional Session Judges* (1992), AIR All 235

cases are resolved within 2 months¹². It adds the section which is called presumption as to offenses which means the accused already knows that the victim is of the marginal caste. But no changes occur in section 18¹³(which is related to anticipatory bail) of the original Scheduled Caste and Scheduled Tribe act of 1989.

The major amendments and the judgment come in the year 2018 because this amendment introduced Section 18A¹⁴ and this amendment is to protect the innocent from arbitrary arrest¹⁵. There was a case *Subhash Kashinath Mahajan v State of Maharashtra* in which the false allegations were against Subhash so he went to the court for their fundamental rights he file the petition in the Supreme court for his basic rights which comes under Article 21 and 22¹⁶ (Right to life and Personal liberty and Protection against arrest and detention in certain cases)¹⁷. The court held that Allegations of misusing the SC / ST law and filing false proceedings by introducing some safeguards. First and foremost, there is absolutely nothing to prevent the accused from being bailed under this law. The court also ordered a preliminary investigation before registration of the First Information Return (FIR) and demanded that investigators obtain further approval before arrest. In the case of civil servants, the court stated that arrests could only be made with the consent of the appointed authorities, and in the case of non-civil servants, with the consent of the police chief.

After passing the judgment the clash come across the country and people were divided into two sects some people said that the Supreme Court ended the reservation and some said the law will weaken. Because of all these things the government enacted the amendments and said that the SC/ST continues to face the social stigma, humiliation, and discrimination to which they have been exposed for centuries. The 2018 law overturned the Supreme Court's decision on March 20, granting expected bail to individuals accused of atrocities against enlisted caste and enlisted tribal members. The original 1989 law prohibited prior bail. The Supreme Court's

¹² Krishnadas Rajgopal 'Expanding the SC/ST Act' (*The Hindu*) (6 April 2018) 03

¹³ Scheduled Castes and the Scheduled Tribes Prevention of Atrocities Act, 1989, s 18

¹⁴ Scheduled Castes and the Scheduled Tribes Prevention of Atrocities Act, 1989, s 18A

¹⁵ *Ibid*

¹⁶ Constitution of India, 1950, art.21 and art.22

¹⁷ *Subhash Kashinath Mahajan v State of Maharashtra* (2018), AIR 1498

ruling has sparked widespread opposition across the country. Subsequent protests killed several people and destroyed millions of rupees worth of property. The government responded by filing a request for examination with the Supreme Court and then reverting the 1989 law to its original form.¹⁸ In the year 2021, the government also decided to launch the National helpline to ensure proper implementation of the SC/ST act 1989. The ministry of social justice and empowerment also said that a national helpline against atrocities will be applicable throughout the country with a toll-free number. The service will be available in Hindi, English, and all the other regional languages of the states and the union territories. The purpose of the helpline is to raise awareness of the provisions of the law aimed at eliminating discrimination and protecting everyone.¹⁹

Hurling casteist abuses must be in public view this judgment comes in the year 2022 in the case of RiteshPais V State of Karnataka which occurred in the year 2020 in this case Ritesh made the casteist abuse against the Mohan who was working with others in the basement of the building and all the workers are employed by the building owner Jayakumar R Nair²⁰. Justice M Nagaprasanna stated in his verdict that "Reading the above statement reveals two factors: one is that the basement of the building is not a public place, and the second is that of the claimant and other parties or claimants of Jayakumar R. Nair. It was only a friend. *"Throwing abuse is neither a public place nor a public place where the law is attracted,"* the court said.

In addition, the court stated that there were other factors in the case. Defendant RitheshPias was in dispute with the owner of the building, Jayakumar R. Nair, and was lagging in the construction of the building. The court concluded that Nair shot Pierce *"on the shoulder of his employee (Johan)."* The High Court also dismissed the indictment, stating that *"damage should*

¹⁸ Krishnadas Rajgopal, 'Supreme Court upholds amendments made to nullify own judgement diluting provisions of SC/ST Act' (*The Hindu*, 9 February 2020) <<https://www.thehindu.com/news/national/supreme-court-upholds-constitutional-validity-of-scst-amendment-act-2018/article30780857.ece>> accessed 11 July 2022.

¹⁹ 'Government to launch National helpline to ensure proper implementation of SC/ST Act' (*The Economic Times*) (12 December 2021) 04

²⁰ Ratna Singh, 'Hurling Casteist abuses must be in public place or in public view to constitute offence under SC/ST Act' (*Bar & Bench*, 25 June 2022) <<https://www.barandbench.com/news/hurling-abuses-must-be-in-public-place-for-offence-under-scst-act-karnataka-high-court>> accessed 11 July 2022

*occur in a criminal dispute punished under Section 323 IPC*²¹." However, in this case, Mohan's wound certificate has a simple scar on his forearm and another scar on his chest. No bleeding is shown. Therefore, a simple scratch cannot be punished under Section 323 of the IPC, the judgment said. The High Court dismissed the proceedings pending in the Lower Court, stating: Criminal proceedings are completely unjustified and lead to abuse of legal proceedings²².

CONCLUSION

This act is basically to give relief to marginal communities who suffer a lot from the upper caste or communities. SCs and STs face various forms of defamation, despite many efforts to improve socio-economic conditions. So this act provides all the rights and equalities to the SC/ST communities which are needed to them those are mentioned in our constitution like Article 14(right to equality) Article 15 (prohibition of discrimination based on caste) Article 17(untouchability) Article 19(freedom of speech and expression and the most importantly Article 21(right to life and personal liberty).

The law provides an efficient system for eliminating social stigma as a powerful weapon on paper, and the implementation of rules becomes very important for achieving social change. The act may be holding some drawbacks to the people who are innocent and are falsely accused and for that, some of the guidelines are already given. The SC-ST Act is a backbone aimed at preventing atrocity against the marginalized communities of India and has proven to be fruitful in mediating justice for the improvement of India and its citizens. This act aims not only for the three pillars of democracy but also for social equality, which is possible if citizens act following the enacted law. This Act helps to overcome all the problems those were facing by the SC/ST communities so that they can easily enjoy their life.

²¹ Indian Penal Code 1860, s 323

²² 'For SC/ST Atrocities act to apply, hurling of abuse has to be in public place' (*The Economic Times*) (23June 2022)