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# REMEDIES AGAINST FALSE SC/ST ACT CASES IN INDIA

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*Krishang Sharma*<sup>1</sup>

## I. ABSTRACT

In India, one of the greatest evils of the society is the caste system which has continued through ages and has been seen as putting great hindrance in the development of the country, the brotherhood among the citizens, and the fraternity of the nation. The government has taken many steps over the period to remove this ill practice from society and one among those steps was the scheduled caste and scheduled tribe (prevention of atrocities) act<sup>2</sup>. This legislation can be categorized as the main legislation formulated to protect the rights of the backward classes in India. This act was enacted in 1989 to "safeguard the rights" of these classes and bring them justice. The act has gone through many amendments since its enactment. But as usually seen every good deed is converted to a bad deed when got into the wrong hands. People who are covered under this act were seen spreading hatred and threatening the upper caste for their revenge under the false name of this act. Hence, in this research paper, we are going to discuss the complete history, its need in the present world, its provisions, amendments, loopholes, and some of the Supreme Court judgments that dealt with it. We will also be discussing both, the positive and the negative aspects of this act as well as the impact on society.

## II. KEYWORDS:

*Caste system, SC/ST Atrocities Act, misuse, supreme court, false cases*

## III. INTRODUCTION

The caste system is nothing new in Indian society and is not just a problem of modern India but also has been a problem for ages.

The traditional benchmark for classifying social classes since antiquity is the caste system. Ever since the caste system has become ingrained in society.

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<sup>1</sup> University Five Year Law College, University Of Rajasthan.

<sup>2</sup> the scheduled caste and the scheduled tribes (prevention of atrocities) act is India Act No. 33 of 1989.

The caste system is thought to have originated from two main perspectives: the first is the Varna system, which emphasizes ideological concepts, and the second is categorization based on socioeconomic factors. The original varnas and jatis evolved through the ancient and medieval periods to become the current caste system in India.

The four main social classes that were used to establish a hierarchy in the community were the Shudras (the laboring class), Vaishways (the traders and farmers), Kshtriyas (the warriors or Rajahyas), and Brahmins (the priests).

Brahmins were the highest caste and Shudras were the lowest among them.

The lowest rung of the shudras were called the untouchables. In today's society, though people still refer to this varnas and jati system sometimes but now broadly categorized as general, OBC (other backward class), scheduled caste, and scheduled tribes

The people of lower caste faced a major issue of discrimination in the society. The scheduled caste tribes (prevention of Atrocities) Act, 1989<sup>3</sup> was enacted to strengthen the rights of this section of the society.

I was reading a newspaper and I got to know about this act and while reading this act it seemed like it could be equally misused as it is helpful, when I started researching about it deeply I got to know about the statistics of the cases. And I was shocked at how can people misuse these types of acts which are meant to uplift them only. Then I decided to do detailed research about this topic and this motivated and made me write this paper.

#### **IV. RESEARCH OBJECTIVES**

1. To examine the historical context, legislative framework, and all the important provisions relating to “*the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989*”<sup>4</sup> in India.

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<sup>3</sup> the scheduled castes and the scheduled tribes (prevention of atrocities) act is India act no. 33 of 1989.

<sup>4</sup> the scheduled castes and the scheduled tribes (prevention of atrocities) act is India act no. 33 of 1989.

2. To look at the challenges and limitations faced in the Implementation of “*the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989*”<sup>5</sup> effectively.

## V. RESEARCH QUESTIONS

1. What is the historical context behind the enactment of the “*Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989*”<sup>6</sup> in India?
2. What are the important provisions and legislative framework related to this act?
3. What are the limitations and challenges faced in the implementation of this act?

## VI. RESEARCH HYPOTHESES

“*The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989*” is effective in protecting the rights of the backward classes in India

“*The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989*” is being used as a weapon to harass the innocent people belonging to the upper class

## VII. RESEARCH METHODOLOGY

This paper utilizes a hybrid research methodology which consists of both doctrinal research as well as an empirical research approach. Doctrinal research, known as library-based research, primarily involves the study and analysis of legal statutes, case law, and academic writings. Whereas, the empirical way of research is the research based on the observation and measurement of phenomena, as directly experienced by the researcher. This method is ideal for exploring the theoretical and conceptual dimensions of law with the inclusion of real-world data and a statistical approach. It systematically presents legal doctrines and principles. In doctrinal research, primary sources include statutory materials, judicial decisions, authoritative literature, real-life data, and statistics. Secondary sources like commentaries, articles, and legal summaries are also essential. The research process entails identifying, gathering, and critically evaluating these sources. The goal is to form logical conclusions and provide

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<sup>5</sup> the scheduled castes and the scheduled tribes (prevention of atrocities) act is India act no. 33 of 1989.

<sup>6</sup> the scheduled castes and the scheduled tribes (prevention of atrocities) act is India act no. 33 of 1989.

insights into the legal questions being studied. This paper aims to deliver a thorough and unified view of the legal structure relevant to the topic addressed.

## VIII. LITERATURE REVIEW

The paper roams around the “*Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989*” which has been in talks and debates since its enactment. The literature covers its historical context, legal framework, implementation challenges, and social impact. It also draws upon some important provisions of the constitution of India.

This paper also analyzes many important precedent judgments that have played a very crucial role in shaping the interpretation and implementation of this act. These include cases like “*Balothia v. Union of India (1994)*”<sup>7</sup>, and “*Subhash Kashinath Mahajan v. State of Maharashtra (2018)*”<sup>8</sup>

The literature reviewed in the paper provides a comprehensive legal framework governing the implementation of “*the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989*”<sup>9</sup>. The paper seeks to analyze the law on this subject by examining statutory provisions alongside authoritative judicial pronouncements.

### A. Who are SC and ST

Scheduled Caste and Scheduled Tribe is the official term which is used for members of the lower class, or depressed class as they were known during the British era, who are thought to suffer from social, economic, and cultural backwardness and who fall under the long-standing untouchable category. These people are granted with special accommodations and reservations because of their suffering from isolation and a lack of resources. Since they are a minority, the Indian Constitution makes special mention of them. “*In India, there are presently 10.89 corer STs that are affiliated with 705 different groups and approximately 24.2 corer SCs that are affiliated with approximately 1108 groups.*”<sup>10</sup> Scheduled Tribes are defined by the constitution's “*Article 366*”<sup>11</sup> as tribal

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<sup>7</sup> State of Madhya Pradesh and another v. Ramakrishna Balothia and other 1995 (2) SCC 22

<sup>8</sup> Subhash Kashi Nath Mahajan v. the state of Maharashtra & Anr., (2018) 6 SCC 454

<sup>9</sup> the scheduled castes and the scheduled tribes (prevention of atrocities) act is India act no. 33 of 1989.

<sup>10</sup> Census of india 2011

<sup>11</sup> Article 366- Constitution of the republic of India, 1950

groups within groups that are deemed to be Scheduled Tribes under "Article 341"<sup>12</sup> and Scheduled Castes as castes or races within castes and races deemed under "Article 341" as Scheduled Castes. Clause 1 of Article 341 states that any caste tribe, group, or racial group may be added to the list of Schedule Tribes or Schedule Castes by the President, subject to consultation with the Governor of the relevant state or Union territory.

### **B. Atrocities against scheduled castes and tribes**

The term Atrocity is not defined explicitly in "the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (POA), 1989"<sup>13</sup>. But is referred to as the crimes that are punishable under section 3, which enlists many crimes that can be committed against a person belonging to the scheduled castes and scheduled tribes by someone who does not belong to the same caste.

The term atrocities were re-defined by the Ministry of Home Affairs as any offence punishable by "Indian Penal Code, 1860" committed by a non-Scheduled Caste or Tribe member against someone belonging to this class.

In the case of "State of Madhya Pradesh and another v. Ramakrishna Balothia and others 1995"<sup>14</sup>, where the court said that the offenses of atrocities were committed to subjugate the Scheduled Tribes and Castes to humiliate and subjugate them.

In the case of "Mangal Prasad v. Vth Additional District Judge (1992)"<sup>15</sup> the Allahabad High Court opined that the SC/ST act was primarily enacted to make the Dalit an integral part of the society and to provide them with better opportunities, along with social, economic, and political rights.

### **C. Constitutional provisions relating to this act**

The conditions were not favorable for the SC/ST even after independence and hence the head of the drafting committee, Dr B.R Ambedkar made provision for the removal

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<sup>12</sup>Article 341- Constitution of the republic of India, 1950

<sup>13</sup> the scheduled castes and the scheduled tribes (prevention of atrocities) act is India act no. 33 of 1989.

<sup>14</sup> state of Madhya Pradesh and another v. Ramakrishna Balothia and others 1995 (2) SCC 22

<sup>15</sup> Prasad v. vth additional district judge (1992) air 1992 all 235.

of untouchability from the society and protect other interests of the SC and ST classes. Here are some of them from the constitution of India

- **Article- 17** This article of the Indian constitution represents a very important step in building an egalitarian society. It abolishes untouchability and makes its practice a punishable offense in India; the constitution of India has laid the foundation stone for a more inclusive and just social order. But the strong presence of caste-based discrimination and the misuse of laws designed to protect marginalized communities embarks the need for continued efforts to make the vision of the constitution into reality
- **Article- 14** it provides a guarantee to every citizen of the country that every citizen is equal in the eyes of law. It prohibits arbitrary discrimination and establishes the principle of the rule of law, which ensures that all citizens will be equally treated in similar circumstances. This important provision also plays an important role in creating fairness and justice in legal proceedings and promoting a just society
- **Article 15-** it compliments Article 14 only. It explicitly prohibits discrimination against any citizen based on any of the grounds like religion, race, caste, sex, or place of birth. It further ensures that no individual should face restrictions in accessing public places or opportunities based on these criteria are mentioned above. This article also empowers the state to implement affirmative action for the advancement of socially and educationally backward classes and to promote equality and social justice.
- **Article 46-** This article mandates the state to promote the educational interests and economic interests of the scheduled castes, the scheduled tribes, and other weaker sections of the society. It also emphasizes the need for special care to uplift these marginalized communities, recognizing their historical injustice and also keeping in mind the social injustice they have faced. This article serves as a directive principle, guiding the state to implement affirmative action policies, such as reservation in education and employment, to ensure equal opportunities and protect these groups from societal injustice

- **Article 330** - this article provides for the reservation of seats in the Lok Sabha (House of People) and state legislative assemblies for the people belonging to the scheduled caste and scheduled tribes. This provision aims at ensuring adequate political representation for these communities and enabling them to be part of the legislative process and bring their concerns to the table, the main aim of the constitution is to empower the marginalized society by making them able to influence policy-making and governance of the country, thereby addressing historical inequalities.
- **Article 332-** this article extends the reservation of seats for the scheduled caste and scheduled tribes in the state assemblies. It ensures that their voice is represented at the state governance level also which is crucial for addressing their issues and problems at the state level.
- **Article 335-** this article acknowledges the claim of the scheduled caste and scheduled tribes in the appointment of services and posts in the union and state government jobs. It also mandates the claim of these communities to be taken into account while making appointments, ensuring that they receive fair representation in public services. The aim here is to provide justice for the injustice done to them in history.
- **Article 243** - This article mandates the Establishment of the panchayati raj institutions At the village Intermediate and district levels A proper and decentralized governance this article Also powers the local government allowing Scheduled caste and scheduled tribes to actively participate in the decision-making process That will affect their communities directly or indirectly. Article 243 aims to enhance the political representation of the marginalized and enable them to address just specific issues. The and needs effectively.
- **5<sup>th</sup> schedule-** The fifth schedule of the Indian Constitution talks about the administration and governance of the scheduled areas and scheduled tribes. It also empowers the president to declare certain regions as scheduled areas and can also outline the framework for governance of this region. While ensuring the rights and



interests of the scheduled tribes, this schedule Emphasizes the need for a special provision to guard the cultural social, and economic rights

- **6<sup>th</sup> schedule-** This schedule Of the Indian constitution provides the administration of tribal areas in the northeastern states of India It Also establishes an Autonomous district council with legislative administrative and judicial power to ensure better self-governance of the tribal communities this provision also recognizes the unique culture and social identities of these communities. And allowing them to manage their Affairs and resources by themselves.
- **Article 338-** This article is enacted in the constitution of India to Establish a national commission for the scheduled caste Its task is to investigate and monitor the implementation and safeguards For the scheduled cast, this commission is responsible for evaluating the effectiveness of All The policies and programs which are aimed for protecting The rights and interests of the scheduled castes. This provision ensures the commitment of the state to ensure the welfare of the scheduled cast and provides a mechanism for accountability and restructuring of their issues.
- **Article 339-** This article aims to establish a national commission for scheduled types similar to the Commission for the scheduled caste. This commission is responsible for investigating and monitoring the implementation of safeguards for scheduled tribes. It also ensures that their rights and interests are protected by focusing on the unique challenges faced by scheduled tribes. This article aims to promote the welfare of the schedule types and empower them to facilitate their participation in the social economy and political space of the country.

#### **D. Misuse of the SC and ST Act and its consequences**

Till now we have discussed the background of this act, now will move further and will talk about the main topic on which this paper is titled. *"The scheduled caste and scheduled tribes (prevention of atrocities) Act, 1989"*<sup>16</sup> was enacted in India primarily to prevent the atrocities that were going on and on in the society against the lower caste

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<sup>16</sup> the scheduled castes and the scheduled tribes (prevention of atrocities) act is India act no. 33 of 1989.

people because of the old age caste system, since every coin has two faces this act which was earlier formulated for protecting one's rights is now seen as being used as a weapon to infringe on others' rights, especially those belonging to the upper castes.

A survey was conducted by the National Judicial Academy in the year 2016 in which a total no. of 11060 cases were investigated under this act and it was found that out of those 5347 cases were false<sup>17</sup>. Even the judiciary has also raised concerns over this issue of misuse of the act in several cases.

This number which is seen in the report is not at all ignorable and must be worked upon by the lawmakers or the parliament because here approximately half of the cases investigated under this act are false which means that every other case being filed in this act is false and is used as a legal tool to harass the upper caste.

#### **E. Loopholes in the present legislation**

Certain loopholes are present in the present act which tends to contribute towards the increasing false cases under this act.

**Anticipatory bail-** There is no such provision of anticipatory bail given under this act and hence once a complaint is filed there is no provision for anticipatory bail for the accused this act is being misused the most because of this provision because when one person belonging to lower caste wants to take revenge from a person belonging to the upper caste on a personal matter that person will try his best to defame the upper caste person by sending him to jail and since there is no provision for anticipatory bail the bad deeds of the person belonging to the lower caste will be fulfilled.

This act was enacted to ensure quick justice for the people of SC and ST but is now being used the most to threaten the upper cast. The person who is arrested under this act is presumed guilty until and unless proven innocent in the court whereas in actual law a person is innocent until and unless proven guilty.

**A large amount of compensation-** it has also been one of the major motivations for allegedly greed for a high amount of compensation. The compensation awarded to the lower caste people has now been increased by the recent amendment which aimed

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<sup>17</sup> reports based on NCRB data, 2017

to help the lower castes and rightly compensate for the wrong done to them. But ended up being a motivation for false cases.

#### **F. Remedies against false cases filed under the act**

There is no express or specific provision for the people who became the prey of a false accusation under the SC ST act for some ulterior motives, but still, there are some remedies provided in the Indian laws that can be sought by the person who is falsely accused under the SC ST act

- A writ can be filed before the respective high court seeking justice for the infringement of fundamental rights like the right to life and liberty, guaranteed under Article 21 of the Indian constitution.
- The person can seek anticipatory bail from the court, there is no such provision given for granting anticipatory bail to the accused, but it is seen that anticipatory bail has been granted in many recent judgments in false SC ST Cases.
- The person who has been falsely accused can file a counterclaim against the member of the SC ST category who falsely accused him.
- The person can also file a case of defamation against the person who falsely accused him as given under the BNS (IPC)

#### **G. Case laws:**

- "X vs. The State Of Kerala 2022"<sup>18</sup>

The Kerala high court improvised on the necessity of looking into the facts or history in matters relating to this act, where the complainant and the accused were previously on bitter terms or had a litigation history this can be a valid reason to prime facie doubt the case of complainant. In this case, the Kerala High Court granted the pre-arrest bail to the accused after imposing certain conditions.

- "Dr. Shubhash Kashinath Mahajan v. State of Maharashtra and Ors. (2018)"<sup>19</sup>

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<sup>18</sup> X vs. the state of Kerala 2022 2022 khc online 3437

<sup>19</sup> Subhash Kashi Nath Mahajan v. the state of Maharashtra & Anr., (2018) 6 SCC 454

Certain conditions were laid down to prevent the misuse of the Anti-Atrocities law by the Apex Court while granting bail to the accused which are;

- To reduce false cases, a preliminary investigation can be conducted by the DSP to evaluate whether the allegations are true or frivolous.
- In a scenario where it is apparent that there has been some misuse or abuse of the law, arrest in such a case should be initiated after the approval of an appointing authority in the case of a public servant.
- There is no such bar on giving anticipatory bail to the accused if the judge prima facie finds that no case is made out or if any maliciously intentions are noticed by the court.
- If a non-public servant is being arrested, SSP approval is required. Failure to follow the aforementioned guidelines will be deemed contempt.
- *“Prathvi Raj Chauhan v. Union Of India & Others (2020)”*<sup>20</sup>

The constitutional validity of the 2018 amendment was upheld by an Apex Court bench consisting of three judges. The Court further disregarded the ruling in the Mahajan case and declared that the SC-ST people were being unduly pressured by these guidelines.

## IX. CONCLUSION

*“The schedule caste and schedule tribes (prevention of atrocities) Act, 1989”*<sup>21</sup> was enacted in India to uplift the backward classes and protect their rights; the act has gone through many amendments throughout the period to strengthen it.

As we have discussed there have been many instances where this act has been misused to fulfill one's ulterior motives. This made a section of society criticize it for its loopholes. Even the Supreme Court has also made reservations regarding the misuse going on of this act

### Suggestions

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<sup>20</sup> Prithvi Raj Chauhan v. Union of India & others (2020) air 2020 Supreme Court 1036

<sup>21</sup> the scheduled castes and the scheduled tribes (prevention of atrocities) act is India act no. 33 of 1989.

The implementation of this act must be reformed with a proper investigation of every complaint so that no innocent should get punished falsely under this act. The trials must not be elongated and be speedy instead to get the case disposed fast

An amendment is needed as the need of the hour to address the loopholes the stop the misuse going on of this act without disturbing the main objective of this act which can include strong safeguards for the accused against false complaints. There must be a penalty and a punishment added for the people who are misusing it.

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