

Insulting remarks to SC, ST

November 12, 2020

Since many years the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 has been misused to satisfy vested interests. The law has been used to rob a person of his personal liberty merely on the unilateral word of the complainant. The recent Supreme court verdict helps to check the “false implication of innocent citizens on caste lines.”

In news: The Supreme Court has stated that insulting remarks to SCs/STs within four walls is no offence.

Placing it in syllabus: Society – Welfare of SCs, STs

Static dimensions

1. Provisions of the Act
2. Criticisms of the Act

Current dimensions

1. SC ruling and its importance

Content:

Recent SC ruling and its importance:

- The Supreme Court quashed charges under the SC/ST Act against a man who had allegedly abused a woman within her building.
- The court relied on its 2008 verdict when it had drawn a distinction between the expression “**public place**” and “**in any place within public view**”.
- The court said that if an offence is committed outside the building like in a lawn outside a house, which can be seen by someone from the road or lane outside the boundary wall, then that would certainly be a place within the public view.

- The court said that **insulting remarks made to a person belonging to SCs and STs within four walls of a house, with no witnesses, does not amount to offence.**
- All insults or intimidations to a person will not be an offence under the SC/ST Act unless such insult or intimidation is on account of the victim belonging to Scheduled Caste or Scheduled Tribe.

Its importance:

- The **court has reiterated that the object of the Act is to punish the violators who inflict indignities, humiliations and harassment.**
- The court issued a slew of **guidelines to protect public servants and private employees from arbitrary arrests** and directed that public servants can only be arrested with the written permission of their appointing authority.
- In the case of private employees, the Senior Superintendent of Police concerned should allow it.
- A preliminary inquiry should be conducted before the FIR is registered to check whether the case falls within the parameters of the Atrocities Act and if it is frivolous or motivated.
- The **anticipatory bail should be allowed if the accused is able to prima facie prove that the complaint against him is malafide.**

Provisions of the Act:

The Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 is an Act of the Parliament of India enacted to prevent atrocities against scheduled castes and scheduled tribes. The Act is popularly **known as the SC/ST Act, or the Prevention of Atrocities Act (POA), or the Atrocities Act.**

- It **delineates specific crimes against Scheduled Castes and Scheduled Tribes as atrocities** and describes

strategies and prescribes punishments to counter these acts.

- The **police can arrest the offender without a warrant** and start an investigation into the case without taking any orders from the court.
- The Act calls upon all the states to convert an existing sessions court in each district into a Special Court to try cases registered under it.
- It provides for the appointment of Public Prosecutors/Special Public Prosecutors for conducting cases in special courts.
- It **creates provisions for states to declare areas with high levels of caste violence to be “atrocities-prone”** and to appoint qualified officers to monitor and maintain law and order.
- It provides for the **punishment for wilful neglect of duties by non-SC/ST public servants.**
- It is implemented by the State Governments and Union Territory Administrations, which are provided due central assistance.
- For speedy trial, **Section 14** of the Act provides for a Court of Session to be a Special Court to try offences under this Act in each district.
- In August, 2018, the Act was amended that added **Section 18A** which states that, for the Act, the preliminary enquiry shall not be required for registration of a First Information Report against any person.
- The provision of **section 438 (pre-arrest bail) of the Code of Criminal Procedure (CrPC) shall not apply** to a case under the Act.

Criticisms of the Act:

The Act is conceived as a strong safeguard against castes and tribes that have been historically exploited and abused.

But it is **criticised on the following grounds:**

- The courts have observed the misuse of the Act against the people of other communities when numerous complaints are filed under the Act, right after elections, with the motive of settling the score with their opponents after losing the election.
- In some other instances, the act has been misused in matters concerning property disputes.
- In **Sharad vs. State of Maharashtra case**, the Court took into cognizance that there have been cases of rampant misuse of the act against public servants/ quasi-judicial/ judicial officers.
- The Act is also prone to misuse on account of monetary incentive being available for merely lodging a case under the Act.

Mould your thought:

1. Critically analyse the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989.

Approach to the answer:

- Write the provisions of the act
- Write how it is misused rather than getting used
- Write the importance of recent judgement
- Conclusion (Give a balanced one)