

BALANCING PROTECTION AND PERSECUTION: THE DILEMMA OF FALSE CASES UNDER SC/ST ACT

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ABSTRACT

In Indian society, the most marginalized groups are Dalits and Tribals, who have historically endured numerous acts of violence against them. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was established to safeguard marginalized communities from past oppression and discrimination. Nonetheless, the Act cannot be deemed effective legislation owing to escalating worries regarding its misuse through false cases. This research paper examines the dilemma of balancing the Act's protective purpose with the growing trend of false accusations. The Act establishes rigorous protections for victims but also presents difficulties for individuals falsely accused, resulting in possible exploitation. This paper conducts a doctrinal analysis of essential legal provisions and significant rulings to investigate the judicial response to false cases under the S.C./S.T. Act, as well as the repercussions of these cases on the legal system and authentic victims. The research paper examines the wider societal consequences of false allegations, such as the deterioration of trust in the legal system and the stigmatization of genuine victims. The research paper examines legal protections and judicial interpretations to recommend improvements that balance the safeguarding of vulnerable populations with the prevention of wrongful prosecution. The paper emphasizes the necessity of legal and procedural modifications to guarantee justice for vulnerable communities and individuals wrongfully accused, maintaining the Act's purpose while ensuring equity in the judicial process. This balanced approach is essential for sustaining the S.C./S.T. Act's legitimacy and fostering trust in the legal system.

KEYWORDS: Atrocity, Caste System, False Accusation, Scheduled Castes, Scheduled Tribes.

I. INTRODUCTION

The caste system has been a part of Indian culture from ancient times until now. The caste system in India is a unique and ancient kind of social stratification based on birth, linked to notions of purity and social position. It is regarded as a peculiar characteristic of Indian society. The Spanish term “casta,” which implies breed, race, or a set of inherited traits, is where the word “caste” originates. The origin cannot be pinpointed to a certain time or source.¹ It fundamentally came from the varna system, which initially aimed to categorize individuals based on their qualities and aptitudes. Over time, it developed into the caste system, which established an individual's social standing and employment according to their birth.² This caste structure prevalent in the Indian society serves as a chief encumbrance to the national unity and fraternity of the nation which as stipulated by the preamble of the Indian Constitution.³

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¹ DR. S.R. MYNENI, SOCIOLOGY 380-385 (2d ed., Allahabad Law Agency 2006).

² Deepa Bharath, What is India's caste system? Is it contentious in U.S.?, AP News (Feb. 20, 2023, 7:36 PM), <http://www.apnews.com/article/india-government-seattle-religion.html>.

³ Ridhima Chadda & Arshdeep Singh Chahal, Controversies Around Sc/St Act: Its Impact Use And Misuse, 1 LCJLS, 1, 1 (2022).

Interminably, it has persistently troubled individuals from marginalized communities. The caste systems are broadly categorized into General or open category, Backward Class or Other Backward Class, Economic Weaker Sections, Scheduled Castes and Scheduled Tribes.⁴ The Scheduled Castes and Scheduled Tribes are officially designated groups of historically disadvantaged or marginalized populations in India.⁵ Typically, S.C.s/S.T.s have endured decades of societal, economic & political marginalization, frequently encountering discrimination, exploitation, exclusion, and violence owing to their caste and tribal identities. They experienced social exclusion, economic exploitation, and a deprivation of human dignity and self-esteem.⁶ In 2016, the National Crime Record Bureau reported that nearly 144,000 incidents of atrocities against S.C. and 23,408 incidents against S.T. were brought before the courts for trial. The majority of afflicted individuals are predominantly women or members of marginalized social strata.⁷ A major legislation, the S.C.s/S.T.s Act, 1989, was created to address and stop the past injustices experienced by S.C.s & S.T.s. This was a measure implemented to provide communal fairness for individuals from these marginalized strata. This Act cannot be deemed successful legislation. Dalits continue to experience discrimination. Conversely, there is significant apprehension regarding the potential abuse of the Act's powers against innocent individuals, especially through the initiation of fraudulent proceedings. The Act aims to safeguard vulnerable populations; nonetheless, claims of fraudulent accusations have prompted concerns regarding its possible exploitation. The Supreme Court of India has characterized the Act as a device of "blackmail," utilized by certain individuals to demand "vengeance," serve vested interests, and settle personal grievances.⁸ This has engendered a dilemma: although the SC/ST Act is crucial for safeguarding the rights of marginalized groups, its misuse undermines the credibility of legitimate claims and threatens the integrity of the legal principle of justice.⁹

⁴ *Id.* at 2.

⁵ NATIONAL HUMAN RIGHTS COMMISSION, CONSTITUTIONAL AND CIVIL RIGHTS TO PROTECT SCHEDULED CASTE AND SCHEDULED TRIBES FROM ATROCITIES AND THE LAW AGAINST WITCH HUNTING 1(NHRC India 2021).

⁶ Anil Kumar K, *Contemporary Problems of Scheduled Castes and Scheduled Tribes in India*, Anthropology (July 16, 2021) <http://www.longdom.org/open-access/contemporary-problems-of-Scheduled-Castes-and-Scheduled-Tribes-in-India.html> .

⁷ NATIONAL HUMAN RIGHTS COMMISSION, *supra* note 5 at 6.

⁸ Sethu Krishnan M, *SC/ST Prevention of Atrocities Act – Recent issues and court Rulings*, Clear IAS, (Sep. 26, 2024) <http://www.clearias.com/sc-st-prevention-of-atrocities-act/.html>

⁹ Krishnadas Rajagopal, SC/ST Act being used for blackmail, says Supreme Court, *The Hindu* (March 20, 2018, 7:20 PM), <http://www.thehindu.com/news/national/scst-atrocities-act.html> .

OBJECTIVE

The aim of this article is to examine the dilemma of balancing the Act's protective intent with the increasing prevalence of false accusations. The study seeks to elucidate the influence of false cases on the Act's efficacy and credibility through an analysis of law provisions and judicial interpretations. The study will also recommend amendments to resolve this issue, ensuring that the SC/ST Act continues to serve as an effective instrument for justice while reducing its potential for misuse.

RESEARCH METHODOLOGY

This research utilizes a doctrinal legal research technique to examine the SC/ST Act, 1989, in conjunction with its related amendments. The primary emphasis is on a comprehensive analysis of pertinent clauses of the SC/ST Act, 1989, in addition to rulings by Supreme Court and High Courts concerning false cases. Primary data was collected through the Constitution of India. Secondary sources, including legal commentary, case law analyses, and academic articles and journals accessible online, are also referenced to offer other insights and viewpoints. Throughout this Article, the citation structure of the bluebook 19th edition is utilized..

II. WHO ARE SCHEDULED CASTES AND SCHEDULED TRIBES?

S.C. & S.T. is the authorized name for members of the inferior category or the miserable category who belong to the longstanding untouchable group and are considered to suffer due to societal, financial and cultural backwardness. These individuals endure hardships due to segregation and insufficient facilities and resources, therefore receiving specific recognition, provisions, and reservations under the Indian Constitution.¹⁰ The Constitution designates specific social groups, races, and clannish people as S.C. & S.T. in accordance with Article 341 and 342.¹¹

1. The Scheduled Castes

The expression Scheduled Caste was at first launched by the Simon Commission. In 1928, under the leadership of British MP Sir John Simon, this commission arrived in India to evaluate the constitutional reforms implemented in 1919. The G.O.I. Act, 1935 was created based on commission's report. The term Scheduled Caste was included in Indian legislation for the first time. The Act established a distinct constituency for Scheduled Castes, permitting only

¹⁰ Chadda, *supra* note 3, at 3.

¹¹ NATIONAL HUMAN RIGHTS COMMISSION, *supra* note 5 at 2.

Scheduled Caste candidates to contest in that designated area.¹² These castes occupy a subordinate position within the religious hierarchy. For centuries, these individuals have been regarded as invulnerable and, because to their caste, have endured persecution. The classification of classes is to defend the interests of affected people by caste prejudice and to offer them specific allowances to facilitate their advancement alongside the broader population in developmental pursuits. ‘Schedule’ refers to a Schedule appended to the Constitution. ‘Scheduled Castes’ refers to social groups, races, tribes, subdivisions within these categories that are recognized as Scheduled Castes under Article 341 for constitutional reasons.¹³

“The communities designated as Scheduled Castes are specified in Article 341(1) of the Constitution. The Constitution (Scheduled Castes) Order, 1950 enumerates 1,241 distinct ethnic groups designated as Scheduled Castes throughout various states and union territories, indicating a current population of around 201.4 million SC’s.”¹⁴

2. The Scheduled Tribes

Scheduled Tribes comprise individuals from several tribes, predominantly residing in forested areas, while some are nomadic. Individuals who are often not affiliated with any organized religion are sometimes regarded as outcasts. They possess unique traditions, attire, culinary practices, and a distinct culture. Several clans or clannish communities experience primordial ways of thinking, geological remoteness, reticence, and societal, edifying, and fiscal underdevelopment. “Article 342(1) of the Constitution of India stipulates that the President may, regarding any State or Union Territory, and in the case of a State, following consultation with its Governor, issue a public notification to designate specific tribes, tribal communities, or subdivisions thereof as Scheduled Tribes in relation to that State or Union Territory, as applicable.”¹⁵

“The communities designated as Scheduled Castes are specified in Article 342(1) of the Constitution. The Constitution (Scheduled Castes) Order, 1950 enumerates 705 specific vulnerable tribal groups across 29 Indian states and 7 U.T.’s indicating current inhabitants of 104.3 million ST’s.”¹⁶

¹² Zaid Chaudhary, *Know what are the scheduled Castes and Scheduled Tribes*, Youth in Politics (Oct.12, 2022) <http://www.youthinpolitics.in/blog/know-what-are-the-scheduled-castes-and-scheduled-tribes.html> .

¹³ NATIONAL HUMAN RIGHTS COMMISSION, *supra* note 5 at 2.

¹⁴ Chaudhary, *supra* note 12.

¹⁵ NATIONAL HUMAN RIGHTS COMMISSION, *supra* note 5 at 3.

¹⁶ Chaudhary, *supra* note 12.

III. VARIOUS FORMS OF ATROCITIES AGAINST S.C.'s & S.T.'s:

In India, where class domination prevails, atrocities against marginalized groups frequently make headlines. These individuals frequently encounter inequity, segregation, brutality. More than 1.44 lakh cases of atrocities against S.C.'s and 23,408 cases of atrocities against S.T.'s were brought before the courts in 2016, the year the National Crime Record Bureau last published statistics on the subject. The majority of sufferers are individuals from economically disadvantaged backgrounds. Violence against Dalits has persisted far into the twenty-first century, despite constitutional safeguards protecting their rights in post-independence India. The State and society are involved in perpetuating their marginalization. Victims of caste violence frequently face institutional bias from the police as their initial obstacle in seeking justice. The police must document their First Information Reports (FIR), a task they frequently hesitate to undertake.¹⁷

The term 'atrocities' is not explicitly defined in the S.C.'s & S.T.'s Act, 1989; however, section 3 of the Act enumerates several violations perpetrated by individuals from higher class against persons of these groups. These atrocities possess a significant historical and social context. These frequently manifest in cruel and humiliating ways, robbing S.C.'s and S.T.'s of their fundamental human rights. Notwithstanding, numerous protections afforded by our legal system, many of these atrocities persist. Some of these are enumerated below:

1. **Honour Killing:** "When a couple prefers to marry athwart caste boundaries, it is frequently perceived as a profound dishonour to the family members. To maintain the family honour within the caste it leads to the acts of violence including murder of the couple is known as honour killing." This is a sociological phenomenon observed in several communities globally.¹⁸ In Indian Society, where caste system persists through endogamy (is the practice of marrying within one's own social group, tribe or caste)¹⁹ honour killings are widespread. Dalits are almost always at the receiving end of the violence.
2. **Cow Vigilantism:** The phrase "cow vigilantism" denotes the lawlessness occurring under the guise of cow protection, which has escalated over the previous two years. Dalits and Muslims are consistently the targets of cow vigilantism. Consequently, episodes of cow-related violence directed toward Muslims and Dalits have increased

¹⁷ NATIONAL HUMAN RIGHTS COMMISSION, *supra* note 5 at 6.

¹⁸ Ananya Poddar, *Reprehensible Behaviour: The Social Meaning Behind Honour Killings in India*, Department of Sociology, Brown University 1 (2020).

¹⁹ Muhammad Rizwan Safdar, *Socioeconomic Determinants of caste-based Endogamy: A Qualitative Study*, 8(2) JoECS 39, 39 (2021).

markedly in recent years.²⁰ Due to their concentration in the leather-making industry utilizing cow hides, Dalits are consistently targeted by vigilantes.

3. **Social and Economic Boycott:** As per the language of **Section 2(eb)** of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 “**Social Boycott** means refers to the prohibition of an individual from providing or receiving customary services, abstaining from social interactions typically maintained with others, or isolating an individual from the community.”²¹ In rural contexts, members of Scheduled Castes and Scheduled Tribes may face ostracism from social or religious gatherings, be denied access to temples and other spiritual institutions, or be restricted from utilizing communal resources such as wells, ponds, tanks, or other water sources, as well as common sanitation facilities, or residing in areas designated for upper castes. The caste panchayat, commonly referred to as khap panchayat, frequently serves as a platform for the perpetuation of atrocities against Dalits by ostracizing them from society in these regions.²² In numerous villages, the state authority provides electricity, sewage amenities, and water pumps to the upper-caste sector, while neglecting the adjacent, segregated Dalit region.²³ Whereas **Clause (bc) of section 2** addresses circumstances in which SC/ST individuals are "occasionally deprived of employment or economic opportunities, refrain from professional engagements, or decline to undertake actions typically performed in the ordinary course of business. This may encompass the refusal to employ individuals, grant loans, or compensate them with inequitable wages.”²⁴ This is referred to as an **Economic Boycott**.
4. **Caste - based Humiliation:** Caste/ism is a significant stressor impacting health and well-being. Daily exposure to caste micro aggressions can result in several psychological, social, and physiological consequences. This is especially pertinent for Lower Caste students encountering micro aggressions in higher education institutions. The terrible instances of suicide and psychological distress among Lower Caste students, exemplified by Rohit Vemula's suicide in Hyderabad (2016), illustrate the consequences of the subtle yet pervasive forms of

²⁰ SCObserver Team, *Cow Vigilantism*, SUPREME COURT OBSERVER, (Nov. 4, 2018) <http://www.scobserver.in/journal/9-cow-vigilantism.html> .

²¹ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, 33, Acts of Parliament, 1989 (India).

²² Krishnan, *supra* note 8.

²³ Human Rights Watch, *Caste Discrimination: A Global Concern*, 13(3) United Nations World Conference against Racism 2, 6 (2001).

²⁴ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, 33, Acts of Parliament, 1989 (India).

caste-based humiliation.²⁵ Prominent Indian educational institutes, including AIIMS, IITs, and IIMs, constitute a significant proportion of suicides. From 2014 to 2021, 122 Dalit students were compelled to take their own lives.²⁶

5. **Sexual Exploitation of Dalit Women:** Dalit women are especially susceptible to sexual violence, frequently employed as a mechanism of oppression by dominating castes or upper-caste men. This may involve rape and sexual harassment. A study by Pandey and Mishra (2021) investigating physical brutality against S.C. women in India revealed that 83% of the 195 participants encountered danger of sexual aggravation; 40.2% had endured manifold occurrences of bodily sexual attack, including probing or outfits destruction; and 23.3% had been raped.²⁷

IV. CONSTITUTIONAL AND PROVISIONAL SAFEGUARD TO S.C.'S AND S.T.'S:

1. **Constitution of India:** Constitution affords specific protections to historically excluded and persecuted populations. This encompasses preferential access to educational institutions, employment opportunities, and various socio-economic advantages as stipulated in Article 15 and 16. "Article 17 of the Constitution of India seeks to eliminate untouchability. 'Untouchability' encompasses not just the avoidance or restriction of physical contact but also a more extensive array of social punishments." "Article 46 of the Constitution of India advocates for the educational and economic well of SCs, STs and other weaker sections of the society and aiming to safeguard them from social injustice and exploitation." "Article 338 of the Constitution of India mandates the formation of the National Commission for Scheduled Castes. Its tasks encompass: investigating and monitoring all issues pertaining to the constitutional and legal protections for Scheduled Castes (SCs) and assessing their implementation; addressing specific grievances regarding the infringement of rights and protections of the SCs." "Article 338-A of the Constitution of India mandates the formation of the National Commission for Scheduled Tribes, which

²⁵ Yashpal Jogdand, *Ground Down and Locked in a Paperweight: Toward a Critical Psychology of Caste-Based Humiliation*, 11(1) Penn State University Press 33, 48 (2023).

²⁶ Express News Service, 122 Students in IITs, IIMs, Central Universities Died by Suicide, *Indian Express* (Dec. 21, 2021), <http://www.indianexpress.com/article/india/govt-122-students-in-iits-iims-central-universities-died-by-suicide-in-2024-21-7682728/.html>.

²⁷ Sundeep Mangat & Aisha K. Gill, *Negotiating between Speech and Silence as a form of Agency: Understanding Dalit Women's Experiences of Sexual Violence in India*, *Women's Studies International Forum* 105 (2024), <http://www.sciencedirect.com/science/article/abs/pii/S0277539524000542#.html>.

operates in a manner analogous to the National Commission for Scheduled Castes.”²⁸

2. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

Act, 1989: It is a specialized law addressing offenses perpetrated against individuals belonging to the SC/ST people. It encompasses entirety of India. This legislation was enacted not just to avert atrocities and misdemeanors against S.C.’s & S.T.’s but also to eradicate them. Law is established to document and prosecute various discriminatory acts against caste and clannish personality, as well as to offer legal assistance to the sufferers. The legislation encompasses a broad range of offenses and prescribes severe penalties for offenders.²⁹

Prominent characteristics of the Act:

- a) **Establishment of Novel Offences and Enhanced Punishment:** The legislation stipulates criminal accountability for acts not classified as offences under the IPC, 1860, and the Protection of Civil Rights Act, 1955. It mandates stiff penalties for offenses against large amount defenseless segment of the social order, with the belief that harsh penalty will aid in eliminating and mitigating the tragedies they endure.³⁰ The maximum penalty in specific cases may reach up to seven years, while in other instances, up to 5 years.³¹
- b) **Protection from Atrocities:** It shields SCs and STs from a range of atrocities, such as exploitation, assault, malicious prosecution, and crimes pertaining to their social disabilities or political rights. It also defines these atrocities as crimes committed against members of these classes by someone who is not a member of them. This Act does not cover crimes committed between SCs and STs or between SCs and STs.³²
- c) **Compensation to Victims:** The legislation includes stipulations for relief, compensation, and rehabilitation for the victims. It offers financial compensation, rehabilitation, and more remedies to the victims.³³
- d) **Establishment of Special Courts and their authorities:** The legislation stipulates the formation of special courts to adjudicate cases of atrocities, along with the appointment of special public prosecutors to

²⁸ NATIONAL HUMAN RIGHTS COMMISSION, *supra* note 5 at 5.

²⁹ Chadda, *supra* note 3, at 5.

³⁰ Diksha Paliwal, *Punishment for Misuse of SC ST Act*, ipleaders (May 3, 2023) <http://www.blog.ipleaders.in/punishment-for-misuse-of-sc-st-act/.html>.

³¹ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, sec. 3.

³² Paliwal, *supra* note 30.

³³ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, sec. 15.

oversee the proceedings.³⁴ Additionally, the Act empowers the special court to mandate the confiscation of the property in specific offences.³⁵

- e) **Sanction for Dereliction of Duties by a Public Servant:** It mandates a heightened minimum penalty for a Public Servant who is accused of misconduct or who willfully or knowingly neglects the responsibilities mandated by this Act. The minimum duration of punishment is six months which may be extended to one year.³⁶
- f) **Authorities under the Legislation:** It establishes the formation of authorities at both state and national levels to oversee the enforcement of the legislation.³⁷
- g) **Denial of Anticipatory Bail:** A fundamental feature of this law is the refusal of anticipatory bail to the individual who perpetrated the conduct, thereby preventing them from evading arrest through preemptive bail applications. The clause seeks to safeguard victims from possible intimidation, harassment, or assault by the accused following the initiation of a case. This provision has been contentious, particularly regarding the potential abuse of the legislation. Critics contend that the refusal of anticipatory bail may lead to the wrongful imprisonment of innocent individuals, particularly in instances of false accusations.³⁸

3. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

Amendment Act, 2018: This was mainly enacted to counteract the implications of the 2018 Mahajan case judgement³⁹ ruling issued by the Supreme Court. The amending Act under section 18A nullifies all three safeguards established by the judgment. No preliminary inquiry is required prior to the registration of a FIR for offenses under the Act of 1989. It additionally specifies that previous authorization from the Superintendent of Police is not necessary before effectuating an arrest under this Act. The statute specifies that an individual charged under this Act shall not be eligible for anticipatory bail.⁴⁰

V. FALSE CASES UNDER THE SC ST ACT:

The Scheduled Castes and Tribes (Prevention of Atrocities) Act of 1989 was enacted to halt and prevent the atrocities suffered by marginalized elements of society due to the oppressive caste system still prevalent in our nation.

³⁴ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, sec. 14.

³⁵ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, sec. 7.

³⁶ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, sec. 4.

³⁷ Paliwal, *supra* note 30.

³⁸ Ibid.

³⁹ Subhash Kashinath Mahajan v State of Maharashtra, AIR 2018 SC 1498 (India).

⁴⁰ SCObserver, *Legality of SC/ST Act Amendment*, SUPREME COURT OBSERVER, (Aug. 11, 2022) <http://www.scobserver.in/cases/prithvi-raj-chauhan-union-of-india.html>.

Unfortunately, data collected in recent years suggests that this Act is being misused to intimidate individuals or pursue malevolent objectives. The nation's courts have expressed concern regarding the misuse of the Act in several cases. A 2016 analysis indicated that of the 11,060 cases examined under this Act, 5,347 were fraudulent. In several cases, the nation's courts have voiced concern regarding the abuse of this Act.⁴¹ The Karnataka High Court recently annulled proceedings under the act against two brothers in a civil dispute, stating that fraudulent charges under the Act are obstructing the criminal justice system and wasting valuable time in numerous courts.⁴² The Allahabad High Court annulled a FIR and all associated criminal proceedings against a couple, purportedly instigated by a government official. The court articulated its apprehensions about the potential misuse of the Act, stating, "This Court will be failing in its duty if such activities are permitted."⁴³ In a ruling on August 23, 2024, the Supreme Court determined that not every insult or intimidating remark directed at a SC/ST individual constitutes an offense under the Act. The bench asserts that the rule is applicable solely where the 'humiliation' imposed by the aggressor is closely linked to the caste identity of the victim."⁴⁴ Below are some case studies and Supreme Court rulings where the accused determined to have been wrongly implicated, yet was innocent:

1. **X v. State of Kerala and Anr. (2022):** "In the present case, An appeal was submitted to the Kerala High Court, contesting the special judge's denial of pre-arrest bail. The allegation against the defendant was that he referred to the plaintiff by her caste designation. The complainant, a member of the scheduled caste community, was referred to as such by the accused when he visited Valappad Service Co-operative Bank to pay the interest on his bank loan. The complainant alleged that the accused, a non-SC/ST individual and an employee of Valappad bank, verbally abused him by using his caste name in a public setting. The defendant was charged under Section 3(1)(s) of the Act of 1989. The Kerala High Court asserted the necessity of examining the facts to determine the potential for erroneous conclusions. It was additionally noted that if the complainant and the accused had a history of animosity or prior litigation, this could serve as a legitimate basis to prima facie question

⁴¹ Knowledge Bank, *How to Protect Yourself from False Accusations under the SC/ST Atrocity Act*, REST THE CASE, (Apr. 16, 2024), <http://www.restthecase.com/.html>.

⁴² Vasantha Kumar, False Cases under SC, ST Act abuse of the process of law, Clogging system: Karnataka HC, The Times of India (Aug. 7, 2023, 3:34 PM), <http://www.thetimesofindia.indiatimes.com.html>.

⁴³ Sparsh Upadhyay, 'SC/ST Act Misused for Personal Vendetta': Allahab High Court Quashes 'Counterblast' FIR lodged against a couple by Govt Servant, Live Law (May 20, 2024, 6:54 PM), <http://www.livelaw.in/high-court/.html>.

⁴⁴ Krishnadas Rajagopal, Not every 'insult' against SC/ST persons can be considered as offence under SC/ST protection law, says Supreme Court, The Hindu (Aug. 23, 2024, 9:39 PM), <http://www.thehindu.com/news/national/.html>.

the credibility of the complainant's case. The Court also examined the problem of fraudulent cases and the exploitation of anti-atrocity legislation, expressing that it is profoundly alarming and distressing to observe the current scenario, wherein innocent individuals are falling prey to such deceptive allegations. The Kerala High Court granted pre-arrest release to the accused, subject to specific restrictions, therefore nullifying the contested order.”⁴⁵

2. **Jawed Khan v. State of Chhattisgarh (2022):** “The accused faced charges under Sections 294, 323, and 506 of the Indian Penal Code, as well as Sections 3 (1) (r), 3 (1) (s), and 3 (2) (va) of the Act of 1989. The complainant in this case indicated that he serves as the panchayat secretary, while the accused holds the position of up-sarpanch. The complainant asserted that he was subjected to abusive language and threats by the accused. The appellant argued that he was wrongfully implicated by the complainant due to an unrelated embezzlement issue. The Chhattisgarh High Court, while giving bail to the accused, determined that courts possess the authority to give bail when the claimed acts are evident misapplications of the law.”⁴⁶

VI. WHAT ACTIONS CAN BE TAKEN IF THE ACT IS BEING MISUSED?

An individual wrongfully accused under the SC/ST Act may seek legal recourse from the judiciary. Despite the absence of a specific provision in the legislation for victims of its misuse, one can file a writ petition asserting that their right to life and liberty, as guaranteed by Article 21 of the Indian Constitution, has been infringed. Furthermore, the person who has been unjustly accused may contest the complaint to the SC/ST member who levied the false allegations. Despite the absence of anticipatory bail provisions in the SC-ST Act, the Supreme Court and High Courts have recently granted anticipatory bail to the accused in cases involving false allegations under the Act. An individual falsely accused may pursue remedies by invoking the Indian Penal Code's defamation provisions (Section 499).⁴⁷

VII. JUDICIAL APPROACH:

“In **Dr. Shubhash Kashinath Mahajan v. State of Maharashtra and ors. (2018)**⁴⁸ the Apex Court established specific conditions for granting bail to the accused to prevent the misuse of the anti-atrocities law. These conditions include: the absence of a prohibition on granting anticipatory bail if the court,

⁴⁵ CRL. MC NO. 6164 OF 2022.

⁴⁶ CRA No. 604 of 2022.

⁴⁷ Knowledge Bank, *supra* note 41.

⁴⁸ (2018) 6 SCC 454.

upon preliminary examination, determines that no case exists or identifies any malicious intent; the possibility of a preliminary inquiry by the DSP to ascertain the veracity of the allegations and prevent false claims; and in instances of evident misuse or abuse of the law, arrests should occur only with the approval of the appointing authority in cases involving public servants. In instances involving the arrest of a non-public servant, approval from the SSP is required; failure to adhere to these standards will be regarded as disrespect.”

“In **Prithvi Raj Chauhan v. Union of India (2020)**⁴⁹ the Supreme Court examined the constitutional validity of the amendments introduced to the Scheduled Castes and Tribes (Prevention of Atrocities) Act of 1989 through the Amendment Act of 2018. The Court upheld the validity of Section 18A, which nullified the directions issued in *Dr. Shubhash Kashinath Mahajan v. State of Maharashtra* and others regarding the requirement of a preliminary inquiry and prior approval before arrest. The Court observed that the object of the Act is to protect members of Scheduled Castes and Scheduled Tribes from historical discrimination, humiliation and other atrocities. At the same time the court clarified that anticipatory bail is not completely barred where no prima facie case under the Act is made out. Thus while reaffirming the stringent nature of the legislation, the Court sought to balance the protection of vulnerable communities with safeguards against arbitrary prosecution and abuse of the law.”

“In **Surendra Kumar Mishra v. State of Orissa & Anr. (2022)**⁵⁰ the Orissa High Court determined that Section 3(1)(x) of the Act of 1989 is not applicable solely due to the accused mentioning the victim's caste name; it is imperative that the statement was made with the intent to insult, intimidate, or humiliate the individual based on their belonging to the SC ST community. The petitioner's request was granted regarding the accusations under the Act of 1989. The Court additionally asserted that the petitioner assaulted the informant impulsively in a fit of rage, rather than because to the informant's affiliation with a specific community.”

“In an another case of **Suresh Ram Vishvakarma v. State of Chhattisgarh (2023)**⁵¹ the High Court of Chhattisgarh determined that the mere fact that the victim belongs to the SC ST community does not suffice to conclude that the accused compelled her against her will to engage in sexual exploitation, an act punishable under Section 3(1)(xii) of the Act of 1989. The Chhattisgarh High Court division bench, in annulling the lower court's ruling, remarked that the prosecution has inadequately articulated the charges against the defendants. The court affirmed that the lower court correctly convicted the accused under

⁴⁹ (2020) 4 SCC 727.

⁵⁰ CRLMC No. 2628 of 2013.

⁵¹ Criminal Appeal No. 395 of 2014.

Section 376(2)(i) of the IPC (unamended) and Section 6 in conjunction with Section 5 (i/k/m) of the POCSO Act. However, it noted that imposing a severe sentence is not the sole means of delivering justice, and subsequently dismissed the charges under the Act of 1989.”

VIII. CONCLUSION AND SUGGESTIONS:

False cases can lead to the wrongful persecution of innocent individuals, inflicting social, economic, and psychological damage. Furthermore, the improper use of the Act distracts from authentic victims, compromising the law's intent and diminishing public confidence in its equity. Resolving this issue necessitates a meticulous equilibrium between thwarting abuse and guaranteeing that the Act remains protective of individuals most susceptible to caste-based crimes.

The SC/ST Act was established to defend the interests of marginalized communities and to shield them from the atrocities resulting from the entrenched caste oppression in India; however, Indian courts have tackled the issue of the misuse of anti-atrocity statutes on multiple occasions. Individuals often employ it to fulfill their concealed objectives, such as resolving political or financial disputes or utilizing it as a kind of extortion. The Apex Court accurately highlighted in the Mahajan case that widespread misuse may occur with the indirect aim of satisfying entrenched interests. Nonetheless, the Parliament has unequivocally stated that it would not establish any safeguards or legislation to prevent this misuse. The parliament announces its intention to completely abolish the act for which it was enacted. However, the present misuse of the legislation cannot be disregarded.

At the same time, the subsequent decision of the Supreme Court in Prithvi Raj Chauhan case reaffirmed the constitutional validity of the stringent provisions introduced through Section 18 A of the Act and underlined that the primary objective of the Act is the protection of members of SC ST from caste-based discriminations. The Court while upholding the legislative intent clarified that judicial scrutiny remains available in cases where no prima facie offence under the Act is disclosed. Thus, the Judgment reflects a balanced approach by recognizing both the necessity of protecting vulnerable communities and the importance of safeguarding individuals from unwarranted prosecution. The judicial decisions discussed in this study, including Surendra Kumar Mishra and Suresh Ram Vishvakarma, further demonstrate that courts have consistently required the prosecution to establish a clear nexus between the alleged act and the victim's caste identity. Mere reference to caste is insufficient to attract the provisions of the Act.

So, in the light of the above decisions, the key to solving this dilemma lies in strengthening investigative processes, introducing judicial safeguards. A

clause mandating a formal preliminary investigation can be instituted to mitigate this issue. Furthermore, the necessity of anticipatory bail must be established, as indicated by the Mahajan ruling. Subsequently, this was reverted. It is essential to guarantee that the Act does not function as a tool for manipulating the perceptions of non-SC-ST individuals. Clear protocols for the apprehension of the culpable must be instituted to prevent the wrongful arrest of innocent individuals.

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