

OFFENCES OF ATROCITIES AS PER PoA ACT 1989

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Abstract: Atrocities against these socially weaker sections like Scheduled Castes and Scheduled Tribes is as old as the history of mankind. They have given utmost a lower status in society. The image of Scheduled Caste and Scheduled Tribe people in Indian society has been considered always as slave. The gravity and nature of crime is generally related to the value system of social systems and its sub-systems. The nature and extent of these atrocities is primarily dependent on the quality of life and basic cultural values. The people of Scheduled Caste and Scheduled Tribes have been socially, morally, economically, physically and sexually exploited in India since long. The social status of these people has been fixed in a box type structure of society by the upper castes of Hindu society, sometimes in the name of tradition and sometimes on the strength of social sanctions. Being handicapped socially, psychologically and culturally, they need protection at all stages of life. Theoretically, in legal sense they have given equal status, however, in reality the subordination of Scheduled Caste and Scheduled Tribe people is seen in every walks social life.

Introduction

It is unfortunate that even after 70 years of Independence the Scheduled Castes and Scheduled Tribes are becoming victims of different type of atrocities. They are forced to eat obnoxious substances, dumping waste matter on land, denudation, wrongful occupation of land, dispossession, bonded labour, intimidation during the voting, public humiliation, outrage of modesty, sexual exploitation, fouling of water sources, obstruction of entry to a place of public resort, eviction form habitation, mischief with explosives, destruction of building and suppression of evidence by dominant castes. Atrocities are to be viewed as social and physical violence committed collectively or individually by the members of groups, castes and try to communities who have more access to the existing resources and monopolise superiority of their

status over others. Atrocities are not products of intervention of external forces but of interplay of both the social structure which is anomalous with presence of both the caste system and class structure.

What is Atrocity?

The term atrocity with, relation to weaker sections has not been clearly defined to date. An attempt has been made to define it in the Scheduled Castes/ Scheduled Tribes (Prevention of Atrocities) Act 1989. In order to prevent and combat the menace of atrocity, particularly born of untouchability, various attempts have been made at enactments of laws since Independence. The first of such efforts was articulated with the enactment of Untouchability Offence Act - 1955. The provisions were recast and made more stringent with a new act in 1976. There were too many loopholes and loose ends in the provisions of two acts, and because of the ineffective prevention and overall police role in mitigating atrocity on the weaker sections, the desired results could not be achieved. Consequently a more effective legislation was brought in as Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act 1989, Section 3 of this act provides punishment of the offences of atrocity.

A large number of crimes against these people, which have social psychological dimensions, were not considered atrocities till recently. Only in 1989 the Government adopted an Act known as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act which widely covers the social psychological dimensions, besides the physical or physiological one. To uphold the Constitutional mandate and to safeguard the interests of this section of the society, Special social enactments have come into force time to time including privileges by way of reservations for them. The major legal enactments sponsored by Centre are:

- i) Protection of Civil Rights Act, 1955; and
- ii) SC/ST (Prevention of Atrocities) Act, 1989

The Protection of Civil Rights Act, 1955 was enacted in furtherance of Article 17 of the Constitution through which untouchability was abolished and its practice in any form is forbidden. Further, in order to check and deter crimes against them by persons belonging to other Communities, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was brought into force from 30th January, 1990. These enactments have extended the positive

discrimination in favour of Scheduled Castes and Scheduled Tribes to the field of criminal law in as much as they prescribe penalties that are more stringent than for corresponding offences under Indian Penal Code (IPC) and other laws. Special centers have been established in the major States for speedy trial of cases registered exclusively under these Acts.

THE SCHEDULED CASTE AND THE SCHEDULED TRIBE (PREVENTION OF ATROCITIES) ACT, 1989

Apart from various measures to improve the socio-economic conditions of the Scheduled Castes and Scheduled Tribes, they remain vulnerable. They are denied number of civil rights. They are subjected to different offences, indignities, humiliations and harassment. They have, in various brutal incidents, been deprived of their life, and property. Serious crimes are committed against Scheduled Castes and Scheduled Tribes for various historical, social and economic reasons. Under the circumstances, the existing laws like the Protection of Civil Rights Act, 1955 and the normal provisions of the Indian Penal Code have been found inadequate to prevent these crimes. A special legislation to check and deter crime against Scheduled Castes and Scheduled Tribes committed by non- Scheduled Castes and non - Scheduled Tribes has, therefore, become necessary. Hence this Act was passed on 11th September, 1989 and came for implementation.

OFFENCES OF ATROCITIES

Section 3. Punishments for offences of atrocities –

- (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, -
 - a. forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance;
 - b. acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood;
 - c. forcibly removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him or makes with painted face or body or commits any similar act which is derogatory to human dignity;

- d. wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;
- e. wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water;
- f. compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do 'begar' or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government;
- g. forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote a particular candidate or to vote in a manner other than that provided by law ;
- h. institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;
- i. gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;
- j. intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;
- k. assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonour or outrage her modesty;
- l. being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would have otherwise agreed;
- m. corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Caste or a Scheduled Tribe so as to render it less fit for the use to which it is ordinarily used;
- n. denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member as to prevent him from using or having access to an area of public resort to which other members of public or any section thereof have a right to use or access to;

- o. forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place or residence. shall be punishable with imprisonment for a term which shall not be but six months but which can reach five years and with fine..

(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, -

1. gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the nonce effective shall be punished with imprisonment for all times and with fine ; and if an innocent member of a Scheduled Caste or a Scheduled Tribe be convicted or executed in consequence of such false or fabricated evidence, the one that gives or fabricates such false evidence, shall be punished with death;
2. gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which isn't capital but punishable with imprisonment for a term of seven years or. upwards, shall be punishable with imprisonment for a term which shall not be but six months but which can reach seven years or upwards and with fine;
3. commits mischief by fire or any explosive substance meaning to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe shall be punishable with imprisonment for a term which shall not be but six months but which can reach seven years and with fine;
4. commits mischief by fire or any explosive substance meaning to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place for worship or as a place for human dwelling or as a place from custody of the property by a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for all times and with fine;
5. commits any offence under the Indian Penal Code (45 of. 1860) punishable with imprisonment for a term of ten years or more against an individual or property on the

bottom that such person may be a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for all times and with fine;

6. knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment or thereupon intention gives any information respecting the offence which he knows or believes to be false, shall be punishable with the punishment provided for that offence; or

7. being an employee, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which can extend to the punishment provided for that offence.

Conclusion

A number of cases of misuse of this Act have been reported from different parts of the country as mentioned in the Supreme Court verdict of 20 March 2018. In this verdict, the Supreme Court of India banned immediate arrest of an individual accused of insulting or injuring a Scheduled Caste/Scheduled Tribe member to guard innocents from arbitrary arrest. In August, 2018, the parliament of India passed the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2018, to bypass the ruling of the Supreme Court of India laying down procedures for arrests under the Act. The bill inserts section 18A (1) (a) within the 1989 Act, that says a “preliminary enquiry shall not be required for registration of an FIR against a person.” The Bill also inserts Section 18A (1) (b), which says “the investigating officer shall not require approval for the arrest, if necessary, of a person against whom an accusation of getting committed an offence under this Act has been made and no procedure, aside from that provided under this Act or the Code, shall apply.” The act violates “basic principles of liberty and accountability” after the amendments. According to a plea filed in the Supreme Court, “the Supreme Court cannot remain a mute spectator to the abuse of law as we are living in a civilised society and there have been many growing instances of misuse of this act. The new law might be wont to harass citizens by arresting them on the idea of mere allegations. The amendment

excludes Section 438 of CrPC, violates constitutional mandate under Articles 14 and 21.” The amendments rule out any provision for anticipatory bail for an individual accused of atrocities against SC/STs, notwithstanding any court order. It is upheld by Supreme Court in Oct.2019.

References

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