

Shield or Sword? The Double-Edged Law of Atrocities

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Abstract

This article majorly deals with how the question that whether the objective for which the ‘The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989’ was enacted, are being fulfilled or has the act fallen short of its expectations. The intent behind enacting such legislation was to ensure social justice for the historically marginalized communities and provide them protection against the caste-based violence that such communities face. However, it would not be wrong to say that over the time, this legislation has become a topic of public debate and has been caught in the crossfire between protecting the basic human rights of the marginalized communities and the allegations of people using this as a means to threaten the fundamental rights of other people.

The concerns are so critical that the Supreme Court in the case of Subhash Kashinath Mahajan v State of Maharashtra (2018) had to acknowledge some flaws in the act and even diluted certain provisions. The apex court introduced safeguards such as – before registering the FIR, the police was required to conduct a preliminary inquiry into the matter and find out if the complaint holds any weight at all. Section 18 of this act is another controversial provision that has always been on the radar of critics; this provision prohibits anticipatory bail for any offense under this act. The SC acknowledged that such provision can very easily lead to increase in number of false accusations and undue harassment of the accused. However, the changes had to be restored following massive protests against the judgment.

While it is important to acknowledge the discrimination and harassment faced by the marginalized communities, one cannot turn a blind eye towards the gross misuse of this act, especially when the statistics evidently call for serious reforms. According to a very alarming data released by the

Rajasthan Police, around 40% of all the POA Act cases filed in the state were found to be false¹. It shows how this act is being wrongly invoked to settle personal scores or to extract money.

In this paper, I have also tried to challenge the overgeneralized perception that the provisions of this act are only used to register false complaints. Although the conviction rates are low, factors like poor investigation, procedural lapses, caste-based power dynamics, etc. cannot be overlooked. By weighing both the sides and following an approach of balanced exploration, this paper aims to come to an even-handed solution which could safeguard the human rights of the SC/ST individuals and at the same time not infringe upon the fundamental rights of others.

Key Words – SC/ST Act 1989, false complaints, caste-based atrocities, human rights v fundamental rights, social justice, judicial controversy.

SC/ST (Prevention of Atrocities) Act, 1989

The Scheduled Castes and Scheduled Tribes Act was enacted by the Government of India in 1989 with the view of prevention of atrocities and helping in the social inclusion of the Dalits into the society. The act aims at curbing and punishing the violence against the Dalits in three broad ways. Firstly, it identifies and points out what acts constitute atrocities. Secondly, the act calls for the conversion of existing session courts into special courts which will try the cases registered under this act. Thirdly, it talks about appointing qualified officers to monitor and maintain law and order in areas with a high level of caste violence.

The Act prescribes both minimum as well as maximum punishment. The minimum in most cases is six months imprisonment while the maximum is five years sentence and with fine. In some cases, the minimum is enhanced to one year while the maximum goes up to life imprisonment or even death sentence.

¹ Khan, H. (2021, January 13). *40% cases filed under SC/ST Act fake: Rajasthan Police. The Indian Express*. Retrieved July 13, 2025, from <https://indianexpress.com/article/cities/jaipur/40-cases-filed-under-sc-st-act-fake-rajasthan-police-7144746/>

Let's have a look at the offences listed under the POA Act:-

An offender is someone who, not being a member of Scheduled Caste or Scheduled Tribe, -

- a) Forces a member the SC or ST to drink or eat any inedible or obnoxious substance;
- b) Tries to insult, cause injury or annoy any member of the SC or ST by throwing excreta, waste material or any such substance into his neighbourhood or his premises;
- c) Forcibly removes clothes of a member of the SC or ST or parades him/her naked;
- d) Forcibly cultivates land owned by a member of the SC or ST;
- e) Interferes with the enjoyment of right over a land owned by a member of the SC or ST;
- f) Compels a member of the SC or ST to beg;
- g) Intimidates a member of the Scheduled Caste or a Scheduled Tribe to vote or not to vote for a particular candidate;
- h) Institutes false legal proceedings against a member of the SC or ST;
- i) Causes any public servant to use his power against a member of the SC or ST;
- j) Insults a member of the SC or ST within the public view;
- k) Tries to outrage the modesty of a woman belonging to the SC or ST;
- l) Being in a dominant position, attempts to sexually exploit a woman belonging to the SC or ST;
- m) Fouls or corrupts the water being used by the SC or ST;
- n) Denies a member of the Scheduled Caste or Scheduled Tribe any customary right of passage to a place of public resort;
- o) Forces the SC or ST to leave the place he/she is residing in.

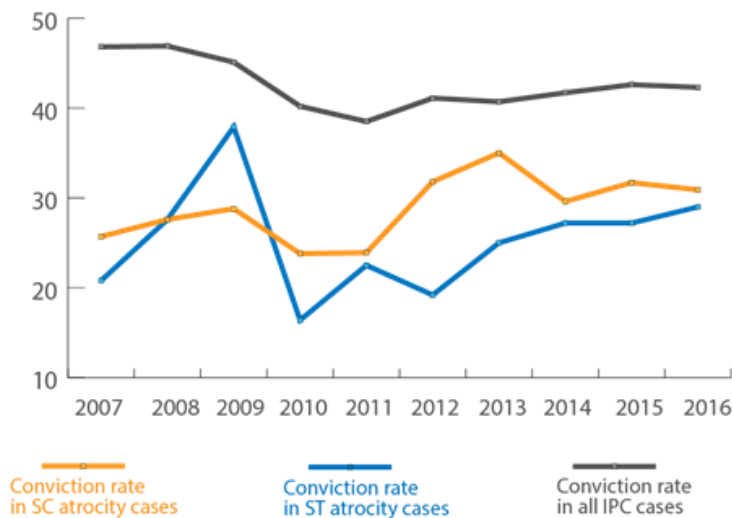
Where did the problem arise?

The provisions of this act were such that it became very easy to misuse the act. As a result of which more and more false cases were being reported every year. The situation became so worse that in the year 2014, the number of false cases under this act stood at 9,704. While in the following year i.e. in 2015, 8,900 false cases were registered.

Another big problem is the ‘Section 18’ of this act which prohibits the accused from applying for anticipatory bail. A very low percentage of the conviction rate and a very high pendency percentage is also an issue. According to a report in 2016, the conviction rate in these cases was a mere 15.4% whereas the pendency percentage stood at 90.5%. In states like West Bengal conviction rate under this act was 0% in 2016 while the same year it was a mere 2.8% for Karnataka.

Below is a comparison of conviction rates in all IPC cases with conviction rates in ST atrocities cases and SC atrocities cases.

All-India conviction rates in crimes against Scheduled castes and Scheduled tribes in the past 10 years



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The above figure depicts the disparity between the conviction rate in all IPC cases and the conviction rate in cases related to atrocities against the SC/ST. It can be observed that although

² Johari, A. (2018, March 24). *Supreme Court says SC/ST Atrocities Act is misused. So what explains the low conviction rates?* Scroll.in. <https://scroll.in/article/873072/supreme-court-says-sc-st-atrocities-act-is-misused-so-what-explains-the-low-conviction-rates>

the conviction rate in cases of SC/ST atrocities has improved as compared to the past decade, the conviction rate in all IPC cases is still way ahead.

It was not the case that genuine cases were not being reported or this act was only being used for fulfilling personal agenda but the number of false cases clearly overshadowed the genuine ones.

While disposing of a judgement in *Dr Subash Kashinath Mahajan vs. the State of Maharashtra*, a two-judge bench consisting of justices A.K. Goel and U.U. Lalit identified that approximately one-quarter of the cases filed under the SC/ST were false complaints and warned that the law was in danger of promoting increased casteism in society rather than eliminating it. As a result of which, the act got amended in 2018 and allowed anticipatory bail to those booked for committing atrocities against Scheduled Castes and Scheduled Tribes members. The original 1989 Act barred the anticipatory bail. Now the accused could be granted bail if his offence could not be proven prima facie.

Why were the fake cases being filed?

There were many distinct motivating factors behind the fake cases being registered against innocent people. Some of them are-

Financial Gains

There were instances where the SC/ST was being misused for making some monetary gains. One such incident was reported in Aligarh where a Dalit family allegedly wrongfully used the provisions of the SC/ST act to gain money. The Dalit family filed as many as 10 cases against the victim in a span of 6 years. Later the investigation revealed that the family does this quite often to claim compensations and had already earned Rs. 300000 this way.³

³ Navbharat Times. (2018, April 12). *Misuse of the SC/ST Act. The Times of India.*

<https://timesofindia.indiatimes.com/city/agra/sc/st-act-misuse-10-fake-cases-in-6-years-dalit-family-earns-rs-3-lakh/articleshow/63729251.cms>

Personal Grudges

In some cases, personal enmity or hatred was the cause behind the filing of a case under this act. The act got misused just to harass the other party. In one such incident that occurred in Bihar, 4 members of a Brahmin family were booked under SC/ST Act for attacking a Dalit man.⁴

After some time a video surfaced in which the Dalit man was seen hitting his head with a brick and then rushing to the police station to file a case against the Brahmin family. It was found the same man had filed a similar case three months prior too. Later it was revealed that both the families held personal grudges against each other.

Revenge

There have been cases where it was found that the SC/ST Act got misused just to settle the scores. After taking cognizance of such a situation, the Madras High Court in 2019 said “Crimes against members of oppressed sections of society are heinous and should not be tolerated. At the same time, those members cannot be allowed to misuse legislation such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 to blackmail or wreak vengeance”⁵

The flipside of the coin

⁴ Mohta, J. (2021, March 30). *6 cases in 5 weeks where SC/ST Act was falsely used to harass people*. OpIndia. <https://www.opindia.com/2021/03/six-cases-in-5-weeks-sc-st-act-was-falsely-used-to-implicate-people/>

⁵ The Hindu. (2019, January 31). *SC/ST Act can't be used to blackmail or wreak vengeance*. The Hindu. <https://www.thehindu.com/news/national/tamil-nadu/scst-act-cant-be-used-to-blackmail-or-wreak-vengeance/article26132745.ece>

While everyone including the Supreme Court was expressing the fear that provisions such as automatic arrests under the PoA act were very detrimental for human rights because it could lead to innocents being framed, the crime data displayed a picture that was very different from the popular belief. It indicated that police investigations find such cases to be false only 9% or 10% of the time and that the majority of the time, the atrocities cases investigated by the police result in charge sheet being filed.

The popular perception is that a low conviction rate means that the rest of the cases which ended in acquittals were false cases, but the factors like a procedural lapse in the process of investigation or in the process of prosecution may delegitimise many of the cases heard in courts. Many times it is seen that police often allow lower-ranked officials to investigate such cases whereas, under this law, the investigation has to be carried out by certain high-ranked officials. Many times it is also seen that it becomes difficult for the people of the SC/ST community to prove that the atrocities committed against them were motivated by caste-based discrimination. Another major reason behind the low conviction is that most of the time the accused is in a powerful position, as a result of which there is so much pressure on the complainant that he/she agrees to settle the case through compromise.⁶

According to the data provided by NCRB in 2016, 40,801 and 6,568 cases of atrocities were registered against the Scheduled Castes and the Scheduled Tribes respectively. The important figure here is that in 78% of cases of the atrocities against the Scheduled Caste, the charge sheet got filed whereas the figure increases even further to 81% when it comes to cases relating to Scheduled Tribes.

In 2016, the courts conducted trials in 1,44,979 cases on atrocities against Scheduled Castes out of which the majority of the cases were pending from previous years. Sadly, the trials of only 14,615

⁶Johari, A. (2018, March 24). *Supreme Court says SC/ST Atrocities Act is misused. So what explains the low conviction rates?* Scroll.in. <https://scroll.in/article/873072/supreme-court-says-sc-st-atrocities-act-is-misused-so-what-explains-the-low-conviction-rates>

cases could be completed, and in 3,753 the accused was convicted by the court, making the conviction rate 25.7% in that year.

Likewise, when it comes to the cases of atrocities against the Scheduled Tribes, the courtrooms heard 23,408 such cases, out of which 2,895 trials were completed, with a conviction rate of 20.8%. The National Crime Records Bureau's data for 10 years from 2007 to 2016 shows an average conviction rate of 28.8% in crimes against Scheduled castes and 25.2% in crimes against Scheduled tribes. Although it is much lower than the average conviction rate for all crimes under the Indian Penal Code i.e. 42.5%, the situation was not as bad as it was being portrayed.

In spite of all this data being available in the public domain, the March of 2018 saw a very controversial judgement coming from the Supreme Court of India. It toned down the effectiveness of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The judgement was said to be based on incorrect facts and faulty logic. The court not only made it immensely difficult to arrest the accused but also made the filing of First Information Reports nearly impossible. This judgement left the members of SCs/STs with no remedies against caste discrimination and violence.⁷

The controversial judgement of *Dr Subhash Kashinath Mahajan vs The State of Maharashtra, AIR 2018*

In March 2018, the Supreme Court in **Subhash Kashinath Mahajan vs The State of Maharashtra** held that PoA Act was being misused and introduces safeguards to prevent this.

⁷ Nawsagaray, N. (2018, June). *Misuse of the Prevention of Atrocities Act: Scrutinising the Mahajan judgment, 2018. Economic and Political Weekly*, 53(22). <https://www.epw.in/journal/2018/22/special-articles/misuse-prevention-atrocities-act.html>

These safeguards included provisions such as:-

1. A preliminary inquiry shall be required to register an FIR against any accused under the PoA Act.
2. The investigating officer will now require the approval of the appointing authority or the Superintendent of Police to arrest any person accused under the Act.
3. There will be no bar on granting anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 to any person accused under the act.

The aftermath of this judgement

As expected, this judgement was not very well received by the people. Several petitions were filed challenging the 2018 Amendment. Advocate Prithvi Raj Chauhan, who was the lead petitioner, even called the amendments a “blunder” and violation of the fundamental right to equality and personal liberty. Several lives were lost and property worth crores got destroyed in ensuring protests against the judgement. The government reacted by filing a review petition in the Supreme Court.

The Supreme Court, however, refused to stay the implementation of the amendments. To which the government responded that the number of atrocities against the members of SC/ST community had never seen a decline despite the laws meant to protect their civil rights. “The SC/ST (Prevention of Atrocities) Act of 1989 is the least which the country owes to this section of the society who have been denied several civil rights since generations and have been subjected to indignities, humiliations and harassment,” the government had argued.⁸

⁸ Rajagopal, K. (2020, February 10). *Supreme Court upholds amendments made to nullify own judgment diluting provisions of SC/ST Act. The Hindu.* <https://www.thehindu.com/news/national/supreme-court-upholds-constitutional-validity-of-scest-amendment-act-2018/article30780857.ece>

After being at the receiving end of the huge backlash, the Supreme Court itself recalled its March 20 judgement in a review petition filed by the government. The Supreme Court said that treating all the members of the SC/ST community as “liars or crooks” was very wrong on its part. The Supreme Court further went on to say that the amendments were against the “basic human dignity”. On October 1, the Supreme Court accepted the reasoning behind the 20th March judgement to be faulty and said that it was the ‘human failing’ that was behind the false complaints and not the caste. A bench of Justice Arun Mishra, Vineet Saran and S. Ravindra Bhat made it very clear that they would neither upset the October 1 judgement nor dilute the provisions of the statute. Justice Arun Mishra very clearly said that “we will not be touching anything”.⁹

As a result, now no preliminary inquiry shall be required to register an FIR against any accused under the PoA Act, the investigating officer will neither require the approval of the appointing authority nor the Superintendent of Police to arrest any person accused under the Act, and there will also be a bar on granting anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 to any person accused under the act.

Situation after the controversy of 2018

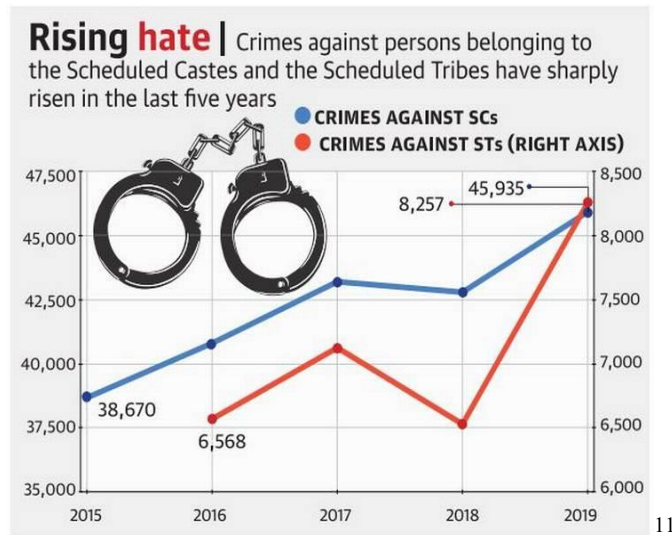
The situation after 2018 is not much different from what it was before, moreover, it only got worse. According to a report published by the National Crime Research Bureau (NCRB), the year 2019 saw a 7% rise in the cases of crime against the Scheduled Castes, while the crimes against the Scheduled Tribes saw a rise of 26% as compared to the figures in 2018.¹⁰ Uttar Pradesh recorded

⁹ Rajagopal, K. (2019, October 3). *SC reserves verdict on plea challenging 2018 SC/ST Amendment Act. The Hindu.* <https://www.thehindu.com/news/national/sc-reserves-verdict-on-plea-challenging-2018-scst-amendment-act/article29587418.ece>

¹⁰ Singh, V. (2020, October 1). *Crime against Scheduled Castes, Scheduled Tribes saw a rise of 7% and 26% in 2019: NCRB. The Hindu.* <https://www.thehindu.com/news/national/crime-against-scheduled-castes-scheduled-tribes-saw-a-rise-of-7-and-26-in-2019-ncrb/article32730990.ece>

the maximum number of crimes against the SCs with 45,935 cases being registered, it was followed by Rajasthan and Bihar with 6,794 and 6,544 cases each. While a total of 8,257 cases of crime against the Scheduled Tribe community were registered with Madhya Pradesh leading the list with 1922 cases.

Below is a graph showing the sharp rise of crimes against the members of the SC and ST.



The above figure depicts the sharp rise in crimes against the persons belonging to the Scheduled Castes and the Scheduled Tribes after 2018.

While the atrocities against the Scheduled Castes and Scheduled Tribes are on a rise, it is not the case that fake cases are on a decline. According to the data available with Rajasthan Police, 40% of the cases filed in the state under the PoA Act were found to be fake during the investigation.

Moreover, in 2021 renowned Bharatiya Janata Party leader Kapil Mishra filed a PIL in the Supreme Court of India for the formation of strict guidelines to ensure strict and timely action against the fake complainants. This came at the backdrop of a sensational case in which a man named Vishnu Tiwari was maliciously booked for rape and atrocities under the SC/ST (Prevention

¹¹ Drishti IAS. (2020, September 30). *Crime in India 2019 report: NCRB*. <https://www.drishtiiias.com/daily-news-analysis/crime-in-india-2019-report-ncrb>

of Atrocities) Act. Tiwari spent 20 years of his life in jail for a crime that he never committed because in January 2021 the Allahabad High Court declared him innocent, observing that the motive behind the FIR was related to a land dispute.

A similar case was seen in Saharanpur where a man named Sumit Tyagi who was facing serious charges under the SC/ST (Prevention of Atrocities) Act for 7 long years, was acquitted by the Court, observing that the victim registered a fake case and provided the Court with false evidence. According to the data, in Saharanpur alone, 92% of the cases turned out to be false and the accused was sentenced in just one case.

To sum up the situation, not a lot of difference can be observed after restoring the PoA Act into its original non-diluted form. The atrocities are still being committed against this vulnerable section of the society, that being said, the fact that fake cases are still a very harsh reality of this act is also undeniable.

Conclusion

It cannot be denied that fake cases are still being filed under the PoA Act and this act is still very easily being misused but this doesn't mean that the members of the SC/ST community be treated as liars or crooks. To presume that they will register false complaints against innocent people just for the sake of taking revenge or for obtaining some monetary benefits is not correct. Presuming this would be against basic human dignity. Moreover, it cannot be said that the caste of the person is the cause behind the filing of fake complaints, rather it is the human behaviour that should be held responsible. Due to the backwardness, most of the times members of these castes hardly gather the courage to lodge even a First Information Report and if the law presumes them to be liars in the first place, it would be immensely detrimental for the people of these communities. There will be certain cases in the future also which will turn out to be false and can be a ground for interference by the Court, but the law cannot be altered due to such misuse.

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