



## Supreme Court Ruling on the SC and ST Act 1989

**For Prelims:** [Supreme Court, Scheduled Castes, Scheduled Tribes, Anticipatory bail, Member of the Legislative Assembly, Special courts](#)

**For Mains:** Issues Arising Out of Design & Implementation of Policies, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

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### Why in News?

Recently, the [Supreme Court \(SC\) of India](#) made a significant ruling regarding the [Scheduled Castes and Scheduled Tribes \(Prevention of Atrocities\) Act, 1989](#). The Court addressed a key issue, **whether insults or intimidations** directed at individuals from [Scheduled Castes \(SC\)](#) or [Scheduled Tribes \(ST\)](#) automatically constitute an offense under the Act.

- This ruling came in the context of granting [anticipatory bail](#) to an editor of a YouTube channel, who faced accusations under the Act.

### What is the Supreme Court Ruling on Insults Under the SC/ST Act, 1989?

- **Case Background:** The case was based on allegations that the editor (YouTuber) had made derogatory remarks about a [Member of the Legislative Assembly \(MLA\)](#) who belongs to the **SC community**.
- **SC Ruling:**
  - **Scope of the Act:** The SC ruled that insults or intimidations aimed at members of SCs or STs **do not automatically constitute an offense under the SC/ST (Prevention of Atrocities) Act, 1989**.
    - For the Act to apply, the **insult or intimidation must be specifically linked to the caste identity of the victim**.
      - Under Section 3(1)(r) of the Act, the Court interpreted 'intent to humiliate' as **needing to be closely associated with the caste identity of the victim**.
    - Simply knowing the victim's SC/ST status is not sufficient; the insult must be intended to humiliate based on caste.
  - **Clarification on Section 18:** The Court clarified that Section 18 of the Act, which **traditionally bars anticipatory bail**, does not completely prevent the granting of such bail.
    - Courts must conduct a **preliminary inquiry to determine whether the allegations meet the criteria** for an offense under the Act before applying Section 18.
  - The Court granted anticipatory bail to the editor, finding no prima facie evidence that his remarks were made with the intent to humiliate the MLA due to his caste identity.
    - The Court concluded that the editor's comments did not demonstrate an intent to

insult based on the MLA's Scheduled Caste status.

## What is the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989?

- **About:** The SCs and the STs (Prevention of Atrocities) Act, 1989, also known as the **SC/ST Act 1989**, was enacted to safeguard the members of SCs and STs from caste-based discrimination and violence.
  - Rooted in [Articles 15 and 17 of the Indian Constitution](#), the Act aims to ensure the protection of these marginalised communities and to address the inadequacies of previous laws.
- **Historical Context:** The Act builds on the [Untouchability \(Offences\) Act, 1955](#), and the **Protection of Civil Rights Act, 1955**, which were established to abolish untouchability and discrimination based on caste.
- **Rules and Implementation:** The **Central Government is authorised to frame rules** for the Act's implementation, while **State Governments and Union Territories administer** it with central assistance.
- **Key Provisions:** The Act defines specific offenses against SC/ST members, including **physical violence, harassment, and social discrimination**. It recognizes these acts as "atrocities" and prescribes stringent penalties for perpetrators.
  - The Act prescribes stringent punishments for those found guilty of committing atrocities against SCs/STs. These include **higher penalties than those provided under the Indian Penal Code 1860** (now replaced as [Bharatiya Nyaya Sanhita, 2023](#)).
  - **Anticipatory Bail Provisions**, Section 18 of the SC and ST Act, 1989 excludes the application of **Section 438 of the Code of Criminal Procedure 1973** (now replaced as [Bharatiya Nagrik Suraksha Sanhita, 2023](#)), which provides for anticipatory bail.
  - The Act mandates the **establishment of special courts** for speedy trial and SC/ST Protection Cells at the state level, led by senior police officers, to oversee the implementation of the Act.
  - Investigations into offenses under the Act must be conducted by officers not **below the rank of Deputy Superintendent of Police (DSP)** and must be completed within a stipulated time frame.
  - The Act provides for **relief and rehabilitation of victims**, including financial compensation, legal aid, and support services.
- **Exclusions:** The Act does **not cover offenses between SCs and STs neither can invoke the Act against another**
- **Recent Amendments:**
  - **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015:** The 2015 Amendment aimed to strengthen the protection offered to SCs and STs by **introducing more stringent provisions and expanding the scope of the Act**.
    - New categories of offenses, such as **garlanding with footwear, forcing manual scavenging, and imposing social or economic boycotts** and any form of social ostracism are now considered offenses.
    - Sexual exploitation and intentional touching of SC/ST women without consent are defined as offenses. Practices like **dedicating SC/ST women as devadasis** are explicitly outlawed.
    - Public servants **who neglect duties related to SCs and STs face imprisonment**.
  - **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018:** The requirement for Senior Superintendent of Police approval before arresting an accused is removed. Immediate arrests are permitted without prior approval.

## What are the Drawbacks of SC and ST Act, 1989?

- **Inadequate Resources for Special Courts:** Special Courts designated to handle atrocity cases often lack adequate resources and infrastructure.
  - Many of these courts handle cases beyond the scope of the SC/ST Act, resulting in a **backlog and slow resolution of atrocity cases**.

- **Insufficient Rehabilitation Provisions:** The Act provides limited details on the rehabilitation of victims, focusing only on **social and economic support** in a vague manner.
  - Victims face significant challenges, including **physical, psychological, and social difficulties**. There is a need for more comprehensive rehabilitation measures to support victims in becoming economically self-sufficient.
- **Lack of Awareness:** Beneficiaries, including victims and law enforcement officials, often lack awareness about the Act's provisions.
  - The Act's stringent provisions, including warrantless arrests and non-bailable offenses, have led to **allegations of misuse**. Critics argue that the broad scope of the law **can result in false accusations and harassment of individuals from non-SC/ST backgrounds**.
- **Limited Scope of Covered Crimes:** Certain crimes, such as **blackmailing** that leads to atrocities among SC/STs, are not explicitly covered under the Act.
  - The Act's definition of atrocities may not encompass all forms of abuse faced by SCs and STs, necessitating amendments to include such crimes.

## Judicial Insights Regarding the SC and ST Act, 1989

- **Kanubhai M. Parmar v. State of Gujarat, 2000:** Gujarat High Court ruled that the Act does not apply to crimes committed between members of SCs or STs.
  - The rationale is that the Act is intended to protect SCs/STs from atrocities committed by individuals outside their communities.
- **Raj Mal v. Ratan Singh, 1988:** The Punjab & Haryana High Court clarified that **Special Courts, established under SC and ST Act**, are exclusively designated to try offences related to the Act.
  - The ruling emphasised that these courts should not be confused with regular magistrate or session courts.
- **Arumugam Servai v. State of Tamil Nadu, 2011:** The Supreme Court emphasised that insulting a member of an SC/ST community is an offence under SC and ST Act.
- **Subhash Kashinath Mahajan v. State of Maharashtra and Others, 2018:** The SC clarified that the exclusion of anticipatory bail provisions under Section 18 of the Act **does not constitute an absolute bar**.
  - This means that even if Section 18 bars anticipatory bail, the court can still grant it in cases where the allegations of atrocities or violations appear to be untrue.

### ***Drishti Mains Question:***

**Q.** Discuss the key provisions of the SC/ST Act, 1989. How do recent amendments and judicial rulings shape the enforcement and interpretation of this legislation?

## **UPSC Civil Services Examination Previous Year Question (PYQ)**

### ***Mains***

**Q.** What are the two major legal initiatives by the State since Independence addressing discrimination against Scheduled Tribes (STs)? **(2017)**