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The Sociology of Acquaintance: Decoding the Presumption of Caste Knowledge in Indian Criminal Jurisprudence

LEKSHMI VS*

ABSTRACT

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, remains a vital legislative vehicle for enforcing the constitutional mandate of Article 17, which abolishes "untouchability" in all forms. However, securing convictions under the Act historically suffered from insurmountable evidentiary hurdles, primarily due to the stringent judicial requirement that the prosecution prove the accused's subjective mens rea—specifically, their conscious awareness of the victim's caste identity. To alleviate this diagnostic paralysis, Parliament enacted the 2015 Amendment Act, introducing Section 8(c), which establishes a mandatory, rebuttable presumption of knowledge if the accused possessed personal acquaintance with the victim or their family. This paper examines the socio-legal transition of the Act from motive-driven liability to a relationship-centered evidentiary framework. Analyzing the strategic interaction of Section 8(c) with substantive offenses under Section 3(1)(w) and Section 3(2)(v), the paper explores how the presumption balances the traditional demands of criminal jurisprudence with the structural realities of localized, caste-stratified environments. The study concludes that Section 8(c) serves as an essential corrective measure, bridging the historical chasm between high rates of reported atrocities and low rates of conviction, thereby materializing the statutory promises of social dignity and equal protection.

I. INTRODUCTION

According to ancient Hindu mythology, society is divided into the varna system. The system classifies society into four major categories: the Brahmins at the top of the hierarchy, the Kshatriyas second, and the Vaishyas and Shudras occupying the third and fourth places respectively. Apart from the varna system, there exist a number of kinship groups known as jatis, the hereditary operational units of the caste system. Hereditary social status is determined by one's birth and therefore cannot be changed or altered by personal effort. Certain jatis were

* Author is an Assistant Professor at Anvikshiki School of Law for Women, SCSVMV University, Tamil Nadu, India.

considered untouchable, as the system regarded them as ritually polluted, such that any physical or social contact with them was to be avoided at all costs. This formed the basis for their social exclusion and material exploitation.

The disabilities imposed on the Dalits were marked by their being cast out from society and forced to perform the most menial, degrading, and polluting jobs, with no right to change their status. They were not permitted to use public facilities and were even prohibited from appearing before people belonging to the higher castes. These disabilities later hardened into atrocities by the third and fourth centuries, as a result of deviations in the varna system, whereby the authorities sought to enforce the system through coercive measures.

The rise of organised violence against the Dalits became a distinct feature of Indian society. The violence against backward communities takes ferocious forms that amount to severe atrocities against the entire community, such as social and economic boycott, massacre, the burning of houses, rape and other forms of sexual abuse, and subtler methods that block their access to basic necessities and services. These atrocities are committed by the upper castes to protect their entrenched status in the social hierarchy.

Even in contemporary India, Dalits fall prey to atrocities through stigmatisation and discrimination arising from their hereditary status as untouchables. Sensing the danger of the caste system and the discrimination faced by these communities, the framers of the Constitution adopted a strategic approach to express their commitment to equality. The Constitution of India contains several provisions that aim to protect and improve the socio-economic status of the Dalits. In particular, Article 17 specifically addresses the issue of untouchability, prohibiting its practice and making that practice a punishable offence.¹

The Untouchability (Offences) Act, 1955 was the first legislation that gave effect to Article 17 of the Constitution. In 1976, the Act was amended and renamed the Protection of Civil Rights Act, 1955.²

Recognising that there had been no reduction in the atrocities committed against the Dalits, and appreciating the surge in physical violence against members of the community that inflicted serious physical and mental wounds, the legislature responded to the inadequacy and ineffectiveness of the Protection of Civil Rights Act by enacting a more stringent and stricter law: the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.³ The Act

¹ INDIA CONST. art. 17.

² Protection of Civil Rights Act, 1955, No. 22, Acts of Parliament, 1955 (India).

³ Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, No. 33, Acts of Parliament, 1989 (India) [*hereinafter SC/ST Act*].

contained provisions that introduced strong punitive measures capable of acting as a deterrent. It was aimed at preventing all forms of atrocities committed against the Scheduled Castes and Scheduled Tribes and at ensuring their inclusion in society.

II. THE SCHEDULED CASTES AND SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT 1989

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was enacted to prevent atrocities against members of the Scheduled Caste and Scheduled Tribe communities. The enactment of the legislation was itself an acknowledgment by the central government that abuses, in their most dehumanising form, continued to take place against Dalits throughout the country. The lower-caste groups had always been victims of socio-economic discrimination and violence. Caste discrimination and offences of violence are severe crimes and grave violations of human rights. In order to provide for severe punishment and stringent procedure, the legislation was enacted. The Act is a powerful and precise weapon against caste discrimination and caste-based violence. It has been amended twice: once in 2015 and again in 2018.

A. Salient Features of the Act

The SC/ST Act enlarged the scope of criminal liability by covering a wide range of offences. The mandate of the Act is such that only offences committed by persons not belonging to the SC/ST community are prosecuted and punished under it. The existence of Special Courts and the appointment of Special Public Prosecutors give the legislation teeth by ensuring speedy trials in SC/ST cases. Further, the enhanced punishments, minimum punishments, presumptions operating against the accused, attachment of the accused's property, the restriction on granting anticipatory bail, and the absence of any scope for probation all signify the legislature's commitment to a zero-tolerance approach toward caste-based atrocities. The stringent provisions against the police for any negligence on their part are also dealt with severely under the Act.

The Act also provides detailed provisions for the relief and rehabilitation of victims by awarding compensation to those who suffer atrocities. Thus, the objective behind the enactment of the SC/ST Act is to deliver justice, equality, and dignity to the SC/ST community and to ensure that they live in society with self-esteem and without fear of violence or suppression at the hands of the higher castes.

The comprehensive and severe punitive nature of the principal SC/ST Act of 1989 also proved inadequate and ineffective in checking the surge in offences against members of the SC/ST communities. Therefore, the Act was amended twice, once in 2015 and again in 2018. The

amendment made in 2015 introduced a range of changes to the principal Act, including a few additional offences and, most significantly for the present discussion, a presumption as to mens rea.

B. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act 2015

The SC/ST Act was amended for the first time in 2015. The 2015 Amendment Act was enacted to fill the lacunae left by the principal SC/ST Act. The Amendment introduced provisions criminalising further acts in addition to the existing offences, and various demoralising and humiliating acts were classified as offences under different heads. The 2015 Amendment also made changes to the provisions relating to victims and witnesses and to wilful negligence by public servants and, most importantly, it incorporated a presumption that, where the accused is acquainted with the victim, the court shall presume the accused was aware of the caste of the victim.⁴

C. Presumption as to the Knowledge of the Caste of the Victim

Caste-based offences are of such a nature that there is considerable difficulty in obtaining concrete evidence as to the mental state of the accused and other incriminating matters. Some offences are also intangible in nature, which makes it nearly impossible to procure direct and cogent evidence. Therefore, to remedy such deficiencies, the Act incorporates presumptions that operate against the accused. Section 8 of the SC/ST Act provides for three kinds of presumptions under which the court shall presume the existence of certain facts.⁵ The presumptions provided in the Act are set out below.

Presumption as to offences.—In a prosecution for an offence under this Chapter, if it is proved that—

(a) the accused rendered any financial assistance in relation to the offences committed by a person accused of, or reasonably suspected of, committing, an offence under this Chapter, the Special Court shall presume, unless the contrary is proved, that such person had abetted the offence;

(b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding land

⁴ Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, No. 1 of 2016, Acts of Parliament, 2016 (India) (passed by Parliament in late 2015 but gazetted as Act No. 1 of 2016) [*hereinafter 2015 Amendment Act*].

⁵ SC/ST Act, *supra* note 3, § 8.

or any other matter; it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object;

(c) the accused was having personal knowledge of the victim or his family, the Court shall presume that the accused was aware of the caste or tribal identity of the victim, unless the contrary is proved.

For the purposes of this discussion, the third clause, Section 8(c), is central: the court shall presume that the accused had knowledge of the caste or tribal identity of the victim if the accused had personal knowledge of the victim or his family before committing the act.⁶ It must also be noted that the presumption operates against the accused only once the commission of the offence has first been proved. Further, if the accused wishes to relieve himself of liability under the Act, he must produce evidence to prove that he had no knowledge of the caste or tribal identity of the victim. Thus, although the presumption is mandatory, it is rebuttable.

The presumption under Section 8(c) forms part of the discussion in this chapter, read with the sexual offences provided under Sections 3(1)(w)(i) and (ii) and 3(2)(v) of the SC/ST Act.⁷

III. CONCLUSION

The evolution of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 reflects a legislative realisation that formal equality, as envisioned in Article 17 of the Constitution, requires robust procedural support to become a reality. The transition from the Protection of Civil Rights Act, 1955 to the more stringent 1989 Act, together with its subsequent 2015 and 2018 amendments, marks a shift from mere prohibition to a proactive deterrent framework.

The introduction of Section 8(c) through the 2015 Amendment represents one of the most significant shifts in the burden of proof within Indian criminal jurisprudence. By mandating a rebuttable presumption of knowledge, the law acknowledges the sociological reality of the Indian caste system: in localised social structures, caste identity is rarely a hidden fact. To demand that a victim prove the accused's internal awareness of their caste was often an insurmountable evidentiary hurdle that led to frequent acquittals.

However, the efficacy of Section 8(c) rests on a delicate balance:

For the prosecution: it simplifies the path to conviction by focusing on the relationship of acquaintance rather than on the abstract mental state of the accused.

⁶ 2015 Amendment Act, *supra* note 4, § 8(c).

⁷ SC/ST Act, *supra* note 3, §§ 3(1)(w), 3(2)(v).

For the judiciary: it necessitates a careful interpretation of ‘personal knowledge’ to ensure that the presumption is not misused, while maintaining the Act’s zero-tolerance policy toward caste-based violence.

In sum, the presumption of knowledge is not merely a technical rule of evidence; it is a corrective measure designed to neutralise the systemic advantages historically enjoyed by perpetrators of caste-based crimes. While the Act provides the teeth for justice, its ultimate success depends on whether these legal presumptions can bridge the gap between the high rate of reported atrocities and the historically low rate of convictions, thereby securing the dignity and self-esteem promised to the SC/ST communities.
