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SC Upholds Changes to SC/ST Atrocities Law

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Why in News

The **Supreme Court** has upheld the constitutional validity of the **Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018**.

- The Amendment Act nullified the Court's 20th March, 2018 judgment which had diluted the stringent provisions of the original Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
- Petitions were filed challenging the 2018 Amendment Act on the grounds of violation of the **fundamental right to equality (Article 14)** and **personal liberty (Article 21)**.

Strengthening the law

■ The SC, in *Dr. Subhash Kashinath Mahajan vs State of Maharashtra*, held on March 20, 2018: No absolute bar against grant of anticipatory bail under the anti-atrocities law if no prima facie case is made out or if judicial scrutiny reveals the complaint to be prima facie *mala fide*

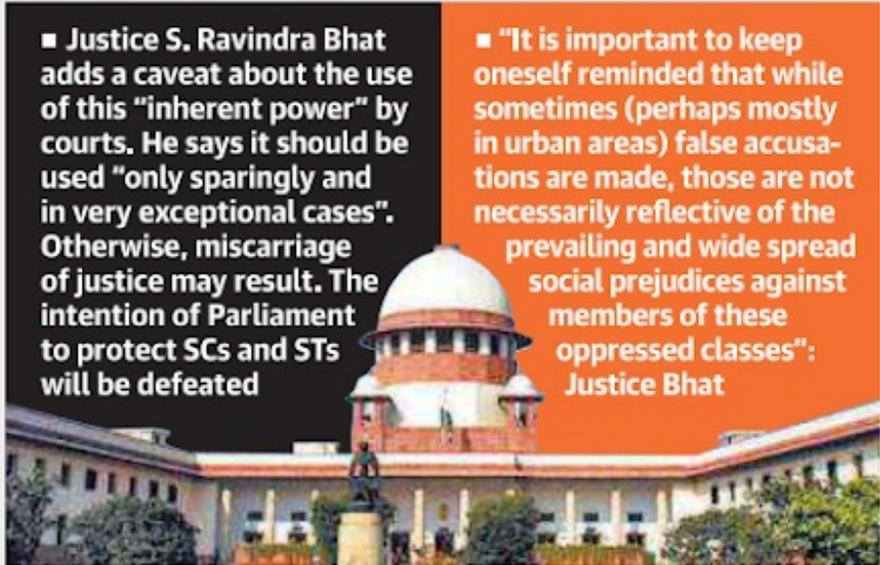
■ Parliament introduces an amendment in 2018. Inserts Section 18A in the original Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989. Section 18A re-affirms the original legislative intention that Section 438 CrPC (pre-arrest bail) is not applicable to accused booked under the atrocities law

■ Prathvi Raj Chouhan and other petitioners challenge the amendments as arbitrary

■ February 10, 2020 judgment in Prathvi Raj Chouhan case: Justices Arun Mishra and Vineet Saran uphold Section 18A. However, the judges add that the High Courts will have an "inherent power" to grant anticipatory bail in cases in which *prima facie* an offence under the 1989 law is not made out

■ Justice S. Ravindra Bhat adds a caveat about the use of this "inherent power" by courts. He says it should be used "only sparingly and in very exceptional cases". Otherwise, miscarriage of justice may result. The intention of Parliament to protect SCs and STs will be defeated

■ "It is important to keep oneself reminded that while sometimes (perhaps mostly in urban areas) false accusations are made, those are not necessarily reflective of the prevailing and wide spread social prejudices against members of these oppressed classes": Justice Bhat



Salient Features of the Amendment Act, 2018

- It added **Section 18A** to the original Act.
- It delineates **specific crimes** against Scheduled Castes and Scheduled Tribes as atrocities and **describes strategies and prescribes punishments** to counter these acts.
- It identifies what acts constitute "**atrocities**" and all offences listed in the Act are **cognizable**. The police can arrest the offender without a warrant and start an investigation into the case without taking any orders from the court.
- The Act calls upon all the states to convert an existing sessions court in each district into a **Special Court** to try cases registered under it and provides for the **appointment of Public Prosecutors/Special Public Prosecutors** for conducting cases in special courts.
- It creates provisions for states to declare areas with high levels of caste violence to be "**atrocities-prone**" and to appoint qualified officers to monitor and maintain law and order.
- It provides for the **punishment for wilful neglect of duties by non-SC/ST public servants**.
- It is **implemented by the State Governments and Union Territory Administrations**, which are **provided due central assistance**.

Section 18A states that

- For the Prevention of Atrocities Act, the preliminary enquiry shall not be required for registration of a First Information Report against any person.
- The provision of section 438 (pre-arrest bail) of the Code of Criminal Procedure (CrPC) shall not apply to a case under the Act, notwithstanding any judgment or order or direction of any Court.

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