

**An overview of**

**The Scheduled Castes and  
Scheduled Tribes  
(Prevention of Atrocities) Act. 1989**

**Justice K Chandru**

**Retd. Judge, High Court: Madras**



# THE CONSTITUTION OF INDIA

## Preamble

**LIBERTY** of thought, expression, belief, faith and worship;  
**EQUALITY** of status and of opportunity;  
and to promote among them all  
**FRATERNITY** assuring the dignity of the individual  
and the unity and integrity of the Nation

# Constitution of India

## AIR speech 3.10.1954



நான் யாருக்கும் அடிமை இல்லை!  
எனக்கு அடிமை யாரும் இல்லை!

**'Positively, my social philosophy may be said to be enshrined in three words: liberty, equality and fraternity.**

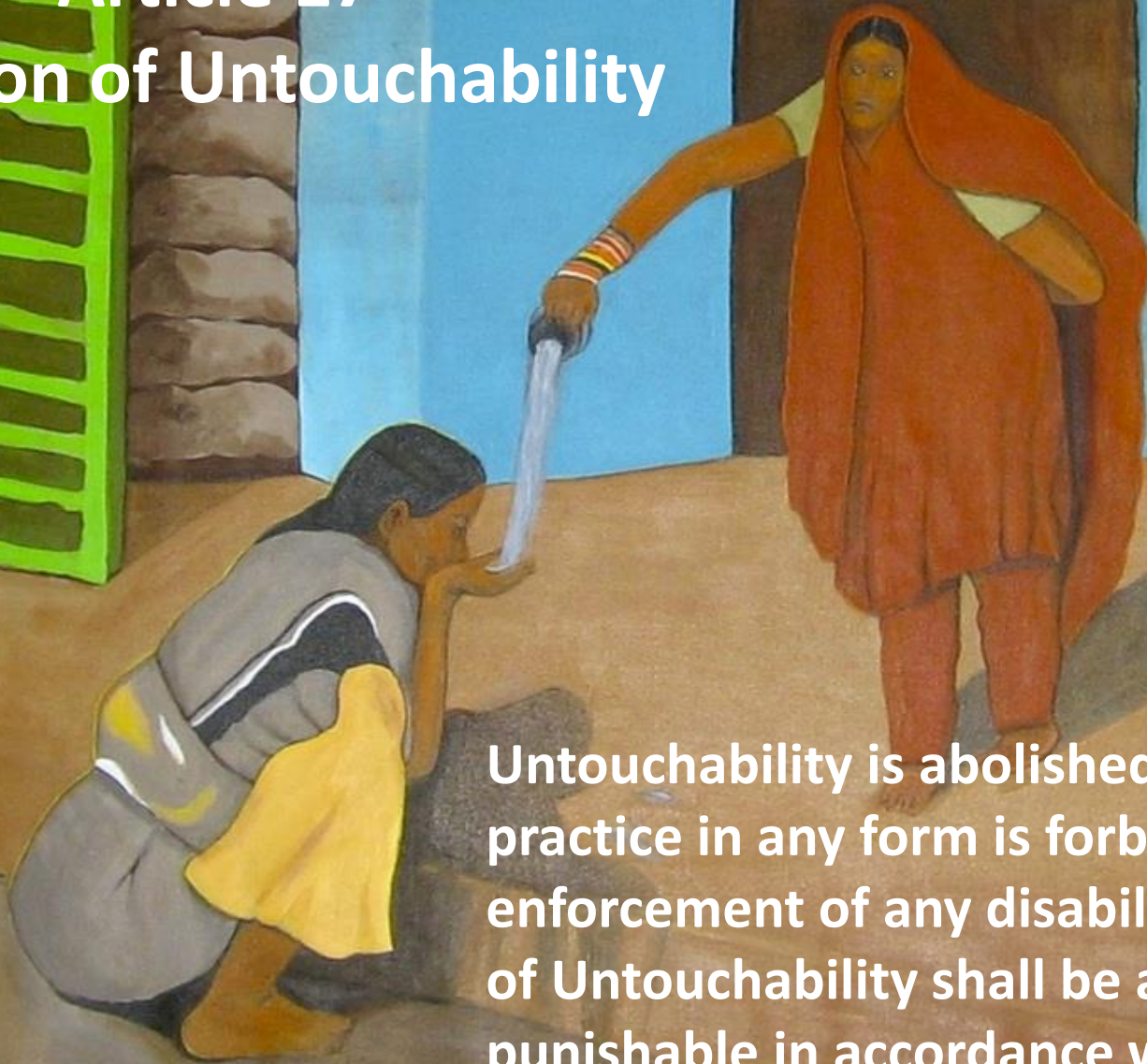
**Let no one however say that I borrowed my philosophy from the French Revolution. I have not.**

**My philosophy has roots in religion and not in political science.**

**I have derived them from the teachings of my master, the Buddha. My philosophy has a mission. I have to do the work of conversion to Buddhism.**

# Article 17

## Abolition of Untouchability



Untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of Untouchability shall be an offence punishable in accordance with law.





**Ambedkar in High Court**

# Caged Ambedkar





**Death  
sentence?**

**Perungudi,  
Madurai  
2012**

## For garlanding the statue arrested ...?

They came to garland Dr.Ambedkar's statue without permission on the Memorial Day of Keezhavenmani when 40 dalits were set on fire in a hut.

They were arrested at 1.45 P.M. as a preventive measure. There is no other allegation in that FIR i.e., garlanding.

Surely what is attributed cannot be considered to be creating any disharmony or law and order problem.



## High Court laments...

We fail to see as to how garlanding of the statue on the birth-day of Dr.Ambedkar by 18 persons could be considered by the officer as creating a law and order problem... certainly, that cannot be considered to be objectionable.

**T.Amirthalingam vs The State**

**2010 (2) MLJ 1022 (DB)**

## **Ambedkar Picture removed from Court Hall**

The Additional Sub Judge, xxxxxxxx called his O.A and ordered him to remove the portrait of Ambedkar alone.

When the O.A refused to do so, the Sub Judge threatened him with dire consequences and scolded him to remove him from service.

The O.A.was thus compelled to remove the portrait On coming to know, serious protest was raised for such degrading and humiliating act of the Sub Judge

## **The Judge let off...!**

“such respect shown to our great leader is in no way degraded by the act of removal of his portrait regarding the reason for which two different versions available. Both the Associations of Tindivanam got divided. The act of removal is likely to hurt the feelings of his followers, the same would not amount to constituting any illegal act, attracting the provisions either under SC & ST Act or IPC. The same does not warrant initiation of any criminal action against the Judge concerned. No prima facie case against the Judge for any offence under any of the provisions”

**Tindivanam Advocates Association Vs The Director General Of Police Crl.O.P.No.13548 of 2014 dt 27.4.2015**

# SC/ST (POA) Act ,1989

**Section 3(1)** Punishment for offences of atrocities :-

Whoever not being a member of a SC/ST

**(v) by words either written or spoken or by any other means disrespects any late person held in high esteem by members of the SC/ST**

shall be punishable with imprisonment for a term which shall **not be less than six months** but which may **extend to five years** and with fine.

# Justice J.B.Pardiwala (Gujarat HC)

“If I am asked by any one to name two things, which has destroyed this country or rather, has not allowed the country, to progress in the right direction, then the same is, (i) Reservation and (ii) Corruption. It is very shameful for any citizen of this country to ask for reservation after 65 years of independence. When our Constitution was framed, it was understood that the reservation would remain for a period of 10 years, but unfortunately, it has continued even after 65 years of independence.”



Hours after 58 lawmakers in the Rajya Sabha submitted a petition to the Chair Hamid Ansari seeking to move an impeachment motion against Gujarat High Court judge J.B. Pardiwala. The judge deleted the remarks from his judgment saying those were not “relevant and necessary” while deciding the petition.

**Anticipatory bail not available**  
**Section 18 SC /ST (POA) Act, 1989**

“Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.”

## **Supreme Court upholds**

**looking to the historical background relating to the practice of "Untouchability" and the social attitudes which lead to the Commission of such offences against Scheduled Castes and Scheduled Tribes, there is justification for an apprehension that if the benefit of anticipatory bail is made available to the persons who are alleged to Have committed such offences, there is every likelihood of their Misusing their liberty while on anticipatory bail to terrorise their victims and to prevent a proper investigation. It is in this context that Section 18 has been incorporated in the said Act. It cannot be considered as in any manner violative of Article 21**

**State Of M.P. & Anr vs Ram Krishna Balothia & Anr,  
1995 (3) SCC 221**



## **How courts got over it...?**

“it is apparent that the bar created by Section 18 of the Act would not apply merely because An FIR has been registered under the Act....the jurisdiction of the Court to judicially consider whether the allegations in the FIR prima facie make out an offence under the Act”

**Dr.R.K.Sangwan & Anr. vs State  
2009 (112) DRJ 473 (DB)**

## **Chapter IVA**

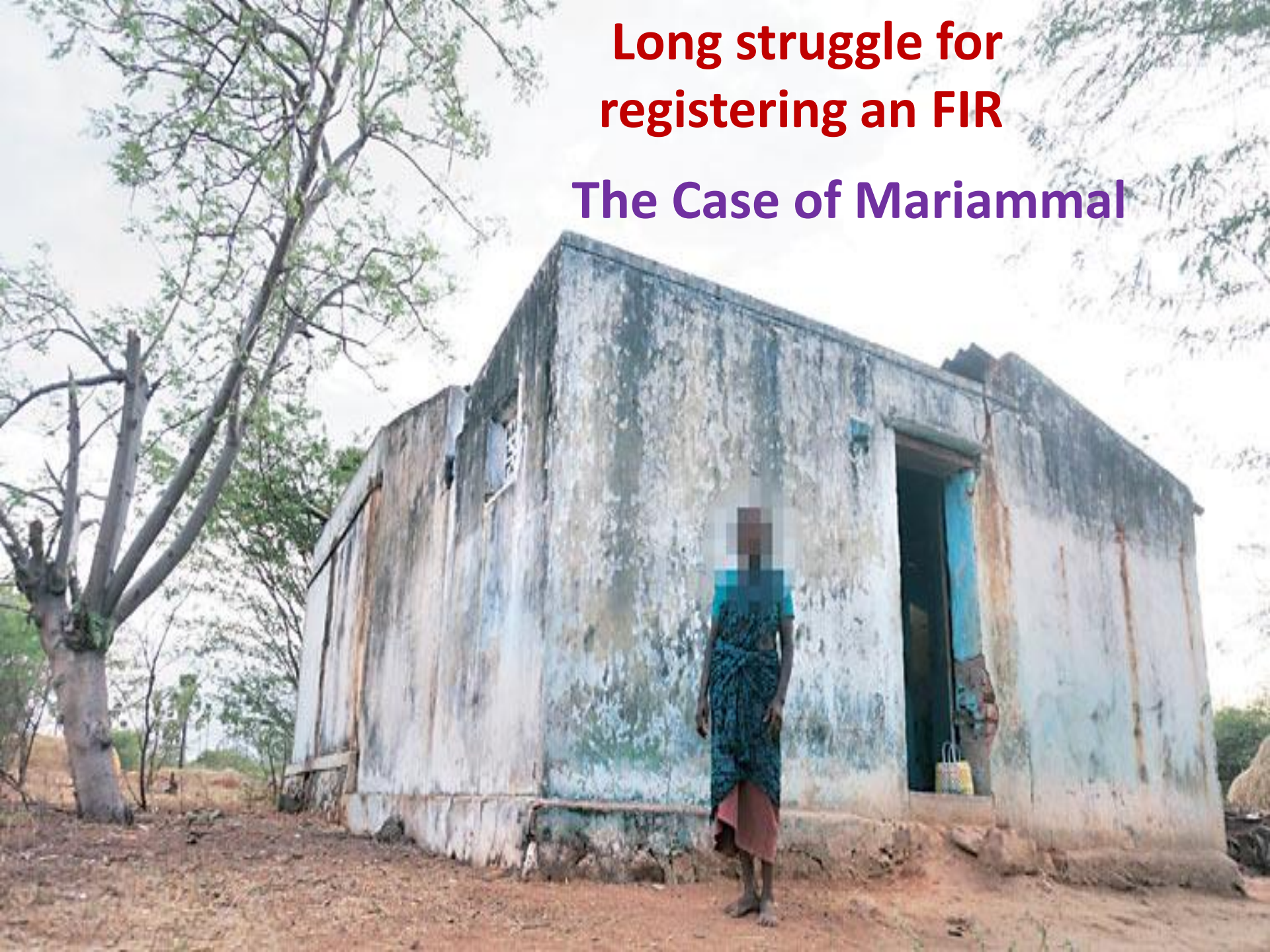
### **Rights of Victims and Witnesses**

**15(A)(5) : A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and File written submission on conviction, acquittal Or sentencing.**

**Amendment by AA1 of 2016 w.e.f. 31.12.2015**

**Long struggle for  
registering an FIR**

**The Case of Mariammal**



- ◎ The 60-year-old lives alone in her single-room thatched house, which is located a little distance from the others.
- ◎ Her husband died long ago, while her son lives in Tirunelveli town with his family. Only a few homes have power in the village, and hers is not one of them.

**“it was the day after I had voted in the elections that brought (Narendra) Modi to power (April 25, 2014)”**

**The 27-year-old, an alleged local sand mafia leader entered her house in the Dalit hamlet of Alangulam, about 20 km from Tirunelveli town, dragged her out, and raped and beat her up.**

## 24.4.2014

- On that day night, Durai entered through the backdoor. “The door is nothing but a tin sheet propped up against the opening,” she says.
- “For the first few minutes, I was too dazed to know what was happening.
- When he began beating me, I tried to resist. I remember grabbing his cellphone and throwing it away. I also bit his hand hard,” she says. “Then he threw me outside the house and stripped me.”

Durai raped her over the next half an hour, before throwing her on some thorny bushes nearby and shouting, “Why are you not dead yet?”

As he walked away to a bike parked nearby, the 60-year-old claims, Durai declared he was from Singikulam, a village dominated by upper castes. -

She somehow dragged herself to a house in the neighbourhood and lay there in a pool of blood till morning.

Her son, a 30-year-old coolie worker rushed home as soon as the neighbours called. It was he who found Durai's phone inside their home. "There were only three numbers saved in it. I dialled the first one," he says. According to him, the person who received the call identified himself as "the inspector" and asked: "Where are the sand lorries? Where are they? Not coming today?"



**They believe the person at the other end was Mohammad Iqbal, the Special Sub-Inspector at the Muneerpallam police station, whom they would approach soon after to get their rape complaint registered.**

The son says when they went to the police station, Iqbal registered the case under the Tamil Nadu Protection of Women Harassment Act instead of the SC/ST Prevention of Atrocities Act, 1989. The SC/ST Act provides for enhanced punishment for atrocities committed on SCs, STs.



## FIR 1

- FIR No.150/2014 dated 25.4.2014
- Case registered under Sections 448, 323 IPC r/w Section 4 of T. N Prohibition of Harassment of Women Act, 1998
- (complaint was allegedly received from Maryammal (a Christian name) and not Mariammal ( a Hindu name)



**FIR Altered (first time)**

**Section 377 IPC was  
added (28.4.2014)**

**FIR Altered (second time)**

**Section 376(1) was added  
instead of 377 IPC  
(as amended w.e.f. 7.5.2014)**



She gives a complaint to District Collector who in turn orders the Sub Collector to enquire. On enquiry, it was found Mariammal belong to Hindu Pallar community which is a Scheduled Caste under the presidential order.



**FIR Altered (third time)**

**Section 3(2)(v) of the  
SC/ST POA Act was added**





# What about the role of Govt. Officials who gave false Community Certificate?

1. Village Administrative Officer
2. Firka Revenue Inspector
3. Zonal Deputy Tahsildar



## Section 4 of POA Act :

**Punishment for neglect of duties :** Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, willfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

## **A case of Honour Killing...?**

Sushma was the younger sister of this accused. It is a common experience that when the younger sister commits something unusual and in this case it was an intercaste, intercommunity marriage out of the secret love affair, then in the society it is the elder brother who justifiably or otherwise is held responsible for not stopping such affair. It is held as the family defeat. At times, he has to suffer taunts and snide remarks even from the persons who really have no business to poke their nose into the affairs of the family.

.....If he became the victim of his wrong but genuine caste considerations, it would not justify the death sentence. The murders were the outcome of social issue like a marriage with a person of so-called lower caste. However, a time has come when we have to consider these social issues as relevant, while considering the death sentence in the circumstances as these.

The caste is a concept which grips a person before his birth and does not leave him even after his death. The vicious grip of the caste, community, religion, though totally unjustified, is a stark reality. The psyche of the offender in the background of a social issue like an inter-caste-community marriage, though wholly unjustified would have to be considered in the peculiar circumstances of this case

**Dilip Premnarayan Tiwari & Anr vs State Of Maharashtra, 2010 (1) SCC 775**

**Other atrocities in respect of personal lives of people committed by brutal, feudal minded persons deserve harsh punishment. Only in this way can we stamp out such acts of barbarism and feudal mentality.”**





- “we direct the administrative and police officials to take strong measures to prevent such atrocious acts. If any such incidents happen, apart from instituting criminal proceedings against those responsible for such atrocities, the State Government is directed to immediately suspend the District Magistrate/Collector and SSP/SPs of the district as well as other officials concerned and

- chargesheet them and proceed against them departmentally if they do not (1) prevent the incident if it has not already occurred but they have knowledge of it in advance, or (2) if it has occurred, they do not promptly apprehend the culprits and others involved and institute criminal proceedings against them, as in our opinion they will be deemed to be directly or indirectly accountable in this connection.”

**Arumugam Servai Vs.State of Tamil Nadu**

**2011 (6) SCC 405**





“We, therefore, direct the administration/police authorities throughout the country will see to -----  
----- any one who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law.”

**Lata Singh Vs. State of U.P. 2006 (5) SCC 475**

Dr. Ambedkar..



“How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which we have so laboriously built up.”

**(quoted in State Of Karnataka vs Appa Balu Ingale And Others, 1995 Supp (4) SCC 469)**