IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&

HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH

ON THE 7th OF APRIL, 2026

CRIMINAL APPEAL No. 3208 of 2016

RAJKUMAR @ DAU

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Shivam Chhalotre - Advocate for the appellant.

Shri Ajay Tamrakar - Government Advocate for the respondent/State.

JUDGMENT

Per. Justice Vivek Agarwal

This appeal is filed being aggrieved of the judgment dated 05/10/2016 passed by the learned Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) District Hoshangabad (MP) in S.T. No.374/2015, whereby learned trial Court has convicted and sentenced the appellant as under :-

Conviction u/s	Imprisonment RI	Fine amount	In lieu of
342 of IPC	RI for 6 months	-	-
376(2)(i) of IPC	RI for 10 years	Rs.5000/-	RI for 1 year
376(2)(n) of IPC	RI for 10 years	Rs.5000/-	RI for 1 year
506(Part-II) of IPC	RI for 3 years	Rs.500/-	RI for 1 month
3/4 of POCSO Act	RI for 10 years	Rs.5000/-	RI for 1 year
3(1)(12) of SC/ST Act	RI for 3 years	Rs.1000/-	RI for 2 months
3(2)(v) of SC/ST Act	Life imprisonment	Rs.5000/	RI for 1 year

All sentences to be run concurrently.

2. Learned counsel for the appellant submits that he is confining his arguments only in regard to conviction under the provisions of Sections 3(2)(v) and 3(1)(12) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It is submitted that provisions of Sections 3(2)(v) and 3(1)(12) of SC/ST Act will not be attracted, especially Section 3(2)(v) of SC/ST Act in the light of the judgment of Supreme Court in the case of ***Patan Jamal Vali vs. The State of Andhra Pradesh, AIR 2021 SC 2190.*** Reading from paragraphs 58 onwards, it is submitted that prior to amendment to the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, which came into force w.e.f. 18/01/2016 requirements to prove the allegation that offence was committed not for any other reason but only for the reason that the victim was a member of SC/ST falls on the prosecution and, therefore, it is submitted that offence under Section 3(2)(v) of SC/ST Act, is not made out.

3. Shri Ajay Tamrakar, learned Government Advocate for the State in his terms submits that appellant being closely associated with the family of the victim was always having knowledge of the fact that victim belongs to Scheduled Tribes community and, therefore, no leniency is called for.

4. After hearing learned counsel for the parties and going through the record, the case of the prosecution in short is that on 12/08/2015 victim was at her home. When in the morning she came out of her house to attend school, her neighbourer appellant-Rajkumar, who was residing with his wife Shakunbai, asked victim to come to his house. He stated that she should bring a packet of milk which she brought and gave to Rajkumar. Thereafter,

Rajkumar called the victim inside his home, bolted the house from inside and requested her not to go to school. Thereafter, asked her to undress and then violated her privacy on 2-3 occasions. Thereafter, he had threatened the victim to not to reveal her story to anybody and threatened her with dire consequences. Thereafter, when she could gather courage, she narrated her story then FIR was lodged. Investigation was carried out, charge-sheet was filed, appellant had abjured his guilt and trial was conducted. The appellant has been convicted and sentenced as above.

5 . Learned counsel for the appellant submits that under similar facts and circumstances, the Supreme Court in case of ***Patan Jamal Vali (supra)***, in Paras 58 to 61 has held thus :-

> "**58.** The issue as to whether the offence was committed against a person on the ground that such person is a member of a SC or ST or such property belongs to such member is to be established by the prosecution on the basis of the evidence at the trial. We agree with the Sessions Judge that the prosecution's case would not fail merely because PW1 did not mention in her statement to the police that the offence was committed against her daughter because she was a Scheduled Caste woman. However, there is no separate evidence led by the prosecution to show that the accused committed the offence on the basis of the caste identity of PW2. While it would be reasonable to presume that the accused knew the caste of PW2 since village communities are tightly knit and the accused was also an acquaintance of PW2's family, the knowledge by itself cannot be said to be the basis of the commission of offence, having regard to the language of Section 3(2)(v) as it stood at the time when the offence in the present case was committed. As we have discussed above, due to the intersectional nature of oppression PW2 faces, it becomes difficult to establish what led to the commission of offence – whether it was her caste, gender or disability. This highlights the limitation of a provision where causation of a wrongful act arises from a single ground or what we refer to as the single axis model.
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> **59.** It is pertinent to mention that Section 3(2)(v) was amended by

the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, which came into effect on 26 January 2016. The words *"on the ground of"* under Section 3(2)(v) have been substituted with "knowing that such person is a member of a Scheduled Caste or Scheduled Tribe". This has decreased the threshold of proving that a crime was committed on the basis of the caste identity to a threshold where mere knowledge is sufficient to sustain a conviction. Section 8 which deals with presumptions as to offences was also amended to include clause (c) to provide that if the accused was acquainted with the victim or his family, the court shall presume that the accused was aware of the caste or tribal identity of the victim unless proved otherwise. The amended Section 8 reads as follows:

*"8. **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 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."

60. The Parliament Standing Committee Report on Atrocities Against Women and Children has observed that, "high acquittal rate motivates and boosts the confidence of dominant and powerful communities for continued perpetration" and recommends inclusion of provisions of SC & ST Act while registering cases of gendered violence against women from SC & ST communities. However, as we have noted, one of the ways in which offences against SC & ST women fall through the cracks is due to the evidentiary burden that becomes almost impossible to meet in cases of intersectional oppression. This is especially the case when courts tend to read the requirement of *"on the ground"* under Section 3(2)(v) as "only on the ground of". The current regime under the SC & ST Act, post the amendment, has

facilitated the conduct of an intersectional analysis under the Act by replacing the causation requirement under Section 3(2)(v) of the Act with a knowledge requirement making the regime sensitive to the kind of evidence that is likely to be generated in cases such as these.

61. However, since Section 3(2) (v) was amended and Clause (c) of Section 8 was inserted by Act 1 of 2016 with effect from 26 January 2016 these amendments would not be applicable to the case at hand. The offence in the present case has taken place before the amendment, on 31 March 2011. Therefore, we hold that the evidence in the present case does not establish that the offence in the present case was committed on the ground that such person is a member of a SC or ST. The conviction under Section 3(2)(v) would

consequently have to be set aside. "

6. Similarly, the Supreme Court in ***Khuman Singh vs. State of Madhya Pradesh in Criminal Appeal No.1283 of 2019*** arising out of SLP (Crl)No.6647 of 2018 dated 27/08/2019, in Paras 12, 13 & 14 has held thus :-

"**12.** From the evidence and other materials on record, there is nothing to suggest that the offence was committed by the appellant only because the deceased belonged to a Scheduled Caste. Both the trial court and the High Court recorded the finding that the appellant-accused scolded the deceased Veer Singh that he belongs to “Khangar” Caste and how he could drive away the cattle of the person belonging to “Thakur” Caste and therefore, the appellant-accused has committed the offence under Section 3(2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Section 3 of the said Act deals with the punishments for offences of atrocities 9 committed under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Section 3(2)(v) of the Act reads as under:-

“Section 3 – Punishments for offences of atrocities –

(1) ………

(2) Whoever, not being a member of a Scheduled Caste or a Schedule Tribe, -

…….

(v) commits any offence under the Indian Penal Code punishable with imprisonment for a term of ten years or more against a

person or property knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine".

The object of Section 3(2)(v) of the Act is to provide for enhanced punishment with regard to the offences under the Indian Penal Code punishable with imprisonment for a term of ten years or more against a person or property knowing that the victim is a member of a Scheduled Caste or a Scheduled Tribe.

13. In ***Dinesh alias Buddha v. State of Rajasthan (2006) 3 SCC 771,*** the Supreme Court held as under:-
"15. Sine qua non for application of Section 3(2)(v) is that an offence must have been committed against a person on the ground that such person is a member of Scheduled Castes and Scheduled Tribes. In the instant case no evidence has been led to establish this requirement. It is not case of the prosecution 10 that the rape was committed on the victim since she was a member of Scheduled Caste. In the absence of evidence to that effect, Section 3(2)(v) of the Atrocities Act been applicable then by operation of law, the sentence would have been imprisonment for life and fine."

7. Thus, it is held by the Supreme Court that offence must be such so as to attract the offence under Section 3(2)(v) of the SC/ST Act, the offenec must have been committed against the person on the ground that such person is a member of Scheduled Castes & Scheduled Tribes.

8. In the present case, we find that no such evidence being adduced to show that offence was committed against the victim only because she belongs to Scheduled Tribes community.

9. Same is the ratio of law laid down by the Supreme Court in ***Patan Jamal Vali (supra),*** wherein it is held that post amendment, the provisions contained in the Atrocities Act has facilitated the conduct of an intersectional analysis under the act by replacing the causation requirement under Section

3(2)(v) of the Act with a knowledge requirement making the regime sensitive to the kind of evidence that is likely to be generated in cases such as these. But prior to amendment, such knowledge requirement was much broader and the prosecution was required to prove that particular offence was committed "only on the ground of" a person belonging to Scheduled Castes & Scheduled Tribes category.

10. Since this "only on the ground of" requirement is not fulfilled in the present case which is tacitly admitted by the learned Public Prosecutor, we are of the opinion that conviction of the appellant with the aid of Section 3(2)(v) of SC/ST Act in the light of the judgment of Supreme Court in ***Patan Jamal Vali (Supra)*** so also in ***Khuman Singh (Supra)*** being not made out. Conviction of the appellant under Section 3(2)(v) of SC/ST Act is set aside and the appeal to that extent is allowed.

1 1 . With the aforesaid observation, this appeal is **partly allowed and disposed of.**

(VIVEK AGARWAL)
JUDGE

(AVANINDRA KUMAR SINGH)
JUDGE

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