



THE LAW LEDGER

The Fortnightly e-journal from Delhi Police Academy



Supreme Court Of India

THE STATE OF GNCT OF DELHI AND OTHERS **VS**
PRAVEEN KUMAR @ PRASHANT

Supreme Court Of India

SC-ST Act | Cognizance Against Public Servant For Offence Of Neglect Of Duty Cannot Be Taken Without Administrative Enquiry Report: Supreme Court

BRIEF OF THE JUDGEMENT



Criminal Appeal No. 349 of 2021
Judgement Date: 17 May, 2024



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Facts of the Case

The case revolves around a complaint filed by the respondent on 29.04.2018 with the Station House Officer (SHO), P.S. Fatehpur Beri, New Delhi alleging offenses under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against six individuals. On 09.05.2018, the respondent filed an application under section 156(3), read with section 200 of the Code of Criminal Procedure, 1973, before the Chief Metropolitan Magistrate, South Saket Court, to direct registration of an FIR based on his complaint dated 29.04.2018. The Metropolitan Magistrate dismissed the application dated 09.05.2018 filed under section 156(3) of the CrPC on 02.08.2018.

Following this, the respondent filed multiple applications and complaints with various authorities, including the police and the courts, seeking registration of an FIR and appropriate action under the SC/ST Act. The respondent also filed a Criminal Miscellaneous Application under sections 4(2) and 4(3) of the SC/ST Act, alleging that certain public servants, including the Station House Officer-Fatehpur Beri, and Metropolitan Magistrate, had neglected their duties under the Act.

The case went through several legal proceedings, including applications before the Metropolitan Magistrate, appeals to the Additional Sessions Judge (Special Judge), and further appeals to the High Court of Delhi. The crux of the matter lies in the High Court's judgment, which allowed the respondent's criminal appeal and directed the initiation of proceedings against the then Station House Officer under Section 4(2)(b) of the SC/ST Act. The present appeal is against the order of the Hon'ble High court.

Issues Advanced

- a. Whether initiating proceedings against the then Station House Officer (SHO) of Police Station Fatehpur Beri by the impugned High Court judgment conforms to the requirements of section 4 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989?
 - b. Whether on merits and in the circumstances of the case, the impugned direction by the High Court to initiate proceedings against the then SHO is justified and tenable?
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Judgement

The Supreme Court's reasoned judgment can be summarized as follows:

- a. The Court analyzed the structure and language of Section 4, particularly focusing on the proviso to Section 4(2).

Section 4 of the SC-ST (PoA) ACT-1989:

Sec. 4. Punishment for neglect of duties.—(1) Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, wilfully neglects his duties required to be performed by him under this Act and the rules made thereunder, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

- (2) The duties of public servant referred to in sub-section (1) shall include –
- (a) to read out to an informant the information given orally, and reduced to writing by the officer in charge of the police station, before taking the signature of the informant;
 - (b) **to register a complaint or a First Information Report under this Act and other relevant provisions and to register it under appropriate sections of this Act;**
 - (c) to furnish a copy of the information so recorded forthwith to the informant;
 - (d) to record the statement of the victims or witnesses;

- (e) to conduct the investigation and file charge sheet in the Special Court or the Exclusive Special Court within a period of sixty days, and to explain the delay if any, in writing;
- (f) to correctly prepare, frame and translate any document or electronic record;
- (g) to perform any other duty specified in this Act or the rules made thereunder:

Provided that the charges in this regard against the public servant shall be booked on the recommendation of an administrative enquiry.

(3) The cognizance in respect of any dereliction of duty referred to in sub-section (2) by a public servant shall be taken by the Special Court or the Exclusive Special Court and shall give direction for penal proceedings against such public servant.

- b. The Hon'ble Apex Court held that the **proviso acts as a condition precedent, requiring a recommendation from an administrative enquiry before charges can be filed against a public servant.**
- c. The Court emphasized that this requirement is a safeguard for public servants against arbitrary prosecutions.
- d. The Court clarified that **cognizance of an offence under Section 4(3) of the SC/ST Act can only be taken after receiving a recommendation from an administrative enquiry.**
- e. It stated that this procedure allows the court to have both the accusation of a party and the view of the Department while deciding whether to take cognizance.
- f. The Supreme Court observed that the High Court had directly adjudicated the alleged dereliction of duty by the public servants and directed penal action without the required administrative enquiry recommendation. This approach was deemed not in conformity with the mandate of law under Section 4 of the SC/ST Act.
- g. The Court held that the Metropolitan Magistrate's decision to dismiss the complaint was correct and unassailable in the circumstances of the case. It noted that the Magistrate had applied his discretion in light of binding precedents under Section 156(3) of the CrPC.
- h. The Supreme Court concluded that the High Court's judgment was unsustainable and contrary to the proviso to Section 4(2) of the SC/ST Act. It set aside the High Court's judgment and allowed the appeal filed by the State and public servants.