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**(1993) 01 RAJ CK 0024**  
**In the Rajasthan High Court**  
**Case No : .C.W.P. No. 4156 of 1991**

Jai Singh and Another

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision :** 28-01-1993

**Acts Referred:**

Constitution of India, 1950 — Article 17, 21, 245, 246, 35  
Criminal Procedure Code, 1973 (CrPC) — Section 438  
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —  
Section 18, 3, 4

**Citation :** AIR 1993 Raj 177 : (1993) CriLJ 2705 : (1997) 3 RCR(Criminal)  
383 : (1993) 1 RLW 157 : (1993) 2 WLC 1

**Hon'ble Judges :** K.C. Agrawal, C.J.;N.L. Tibrewal, J;M.B. Sharma, J

**Bench :** Full Bench

**Advocate :** S.R. Bajwa, B.P. Vishnoi, Dalip Singh, Lokesh Sharma, S.K. Gupta  
and M.K. Sharma, for the Appellant; M. Rafiq, for the Respondent

**Final Decision :** Dismissed

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## Judgement

K.C. Agrawal, C.J.—This Full Bench has been constituted to decide whether the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (No. 33 of 1989) (hereinafter to be referred to as "the Act") is ultra vires the Constitution of India.

2. For dealing with the arguments raised before us, it will be useful to refer the legislative history as well as the various sections of the Act.

3. Before the present Act was passed, the Parliament had passed an Act known as The Protection of Civil Rights Act, 1955" to prescribe punishment for the (preaching and practice of "Untouchability") for the enforcement of any disability arising there from and for matters connected therewith.

4. The Statement of Objects and Reasons appended to the Bill of the aforesaid Act was that the Bill before the Act was passed had been prepared in pursuance of Article 17 of the Constitution, by which untouchability was abolished and its

practice in any form was forbidden.

5. The Hindus, who inform the majority, in our country, are divided into four Varnas --namely, Brahmins, Kshatriyas, Vaishyas and lastly Shudras.

6. The untouchability is a product of the Hindu Caste System. In *Hadibandhu Behera Vs. Banamali Sahu*, it was observed by his Lordship R.L. Narasimham C.J. on this aspect (at page 297 of Cri LJ) :

"In view of this finding it is perhaps unnecessary to discuss the question of law as to whether ex-communication under the aforesaid circumstances would be protected by any of the Exceptions to Section 499, I.P.C. But I may notice an interesting point that was discussed during the hearing of this revision petition, viz., how far after the coming into force of the Constitution it will be constitutional for any group of persons, whether they be headmen of certain castes or other persons, to outcast a person for transgression of the caste-rules. Article 17 of the Constitution prohibits "untouchability" in any form."

7. Subsequently, the Parliament passed an Act known as "The Untouchability (Offences) Act, 1955" and the expressions "untouchable" and "untouchability" had not been defined. But, Section 4(x) of the Act makes it penal if any person on the ground of untouchability is subjected to any disability with regard to the observance of any social or religious custom, usage or ceremony, or taking part in any religious procession.

8. Before these Acts were passed, the States of Bombay and Orissa passed Acts having regard to the spirit underlying Article 17 of the Constitution.

9. It was felt that "atrocities" committed on Scheduled Castes and Scheduled Tribes had not diminished, therefore, the Parliament passed the impugned Act known as The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989".

10. The preamble of the Act is quoted below:--

"An Act to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto."

11. The Statement of Objects and Reasons appended to the Bill while moving the same in the Parliament, read as under :--

"Despite various measures to improve the socio-economic conditions of the Scheduled Castes and Scheduled Tribes, they remain vulnerable. They are denied number of civil rights. They are subjected to various offences, indignities, humiliations and harassment. They have, in several brutal incidents, been deprived of their life and property. Serious crimes are committed against them for various historical, social and economic reasons....."

12. The preamble of a statute is a part of I the Act and is an admissible aid to construction. Although not an enacting part, the preamble is expected to express the scope, object and purpose of the Act more comprehensively than the long title. It may recite the ground and cause of making the statute, the evils sought to be remedied or the doubts which may be intended to be settled.

13. As enunciated by Tindal, C.J. in delivering the opinion of the Judges who advised the House of Lords in *Sussex Peerage case* (1844) II CI & F 85, p. 143.

"If any doubt arise from the terms employed by the Legislature, it has always been held a safe means of collecting the intention to call in aid the ground and cause of making the statute, and to have recourse of the preamble, which according to CHIEF JUSTICE DYER is a key to open the minds of the makers of the Act, and the mischiefs which they intended to redress."

14. This subject has been dealt with by the Supreme Court in a number of cases, one of which is reported in *R. Venkataswami Naidu and Another Vs. Narasram Naraindas*, It says:--

"No resort to the preamble would be justified in interpreting the provision in the Act when the words used in it are clear and unambiguous.

A preamble is a key to the interpretation of a statute but is not ordinarily an independent enactment conferring rights or taking them away and cannot restrict or widen the enacting part which is clear and unambiguous. The motive for legislation is often recited in the preamble but the remedy may extend beyond the cure of the evil intended to be removed."

15. In sum and substance, the preamble throws light on the intent and design of the legislature.

16. Reading the preamble of the present Act, it would be found that it had been enacted to prevent the commission of atrocities against the members of the Scheduled Castes and Scheduled Tribes. It is thus intention which has to be kept into account while interpreting the various sections of the Act.

17. Before we deal with Sections 3 and 18 of the Act which were the subject-matter of main attack in the case, we wish to note that Mahatma Gandhi, Pandit Jawaharlal Nehru and other leaders of the Congress had in their fight of independence taken the cause of Harijans to the fore-front. They felt that injustices had been done to the Scheduled Castes and Scheduled Tribes whereas every body was equal. They were being given the treatment which made them other than human beings.

18. Pandit Nehru in one of the speeches made a reference to social revolution which was necessary to be brought about in order that every Indian thought himself equal to another. What he said was:--

"The service of India means the service of the millions who suffer. It means the ending of poverty and ignorance and disease and inequality of opportunity. The

ambition of the greatest man of our generation has been to wipe every tear from every eye. That may be beyond us, but as long as there are tears and suffering, so long our work will not be over."

19. K. Santhanam, a prominent southern member of the Assembly and editor of a major newspaper, described the situation in terms of three revolutions. One of them was:--

"The social revolution meant to get (India) out of the mediaevalism based on birth, religion, custom, and community and reconstruct her social structure on modern foundations of law, individual merit, and secular education."

20. Such views were expressed by many in the Assembly. Dr. Rajendra Prasad assured the nation that the Assembly's and the Government's aim was "to end poverty and squalor.....to abolish distinction and exploitation and to ensure decent conditions of living".

21. At this place, we wish to extract the speeches of Swami Vivekananda also to find out the historical background which led to the passing of the Act.

22. Swami Vivekananda in his book "Modern India" has said:--

"forget not that the lower classes, the ignorant, the poor, the illiterate, the cobbler, the sweeper, are thy flesh and blood, thy brothers. Thou brave, one, be bold, take courage, be proud that thou art an Indian, and proudly proclaim. "I am an Indian, every Indian is my brother". Say, "The ignorant Indian, the poor and destitute Indian, the Brahmin Indian the Pariah Indian is my brother". Thou, too, clad with but a rag round thy loins, proudly proclaim at the top of thy voice : "The Indian is my brother, the Indian is my life, Indian's gods and goddesses are my God."

23. Swami Vivekananda in one of his letters addressed to his disciples in Madras dated 24-1-1894 has stated thus :--

"Caste or no caste, creed or no creed, .....or class, or caste, or nation or institution which bars the power of free thought and action of an individual -- even so long as that power does not injure others -- is devilish and must go down.

(Vide The Complete Works of Swami Vivekananda, Vol. V page 29)."

24. Dealing with the use of history leading to an Act as an indication of parliament's intention, Francis Bennion in the second edition of his book "Statutory Interpretation" said that enacting history is an important element and the court will look with caution at any outside statement which purports to lay down the legal meaning of a remedial provision in an Act.

25. Before we shift to the next point, we may deal with the permissibility of using the Statement of Objects and Reasons for understanding the background, the antecedent state of affairs, the surrounding circumstances in relation to the

statute, and the evil which the statute was sought to remedy.

26. In *The State of West Bengal Vs. Subodh Gopal Bose and Others*, S. R. Das, J. was in fact using the Objects and Reasons for judging the reasonableness of the Act in the context of fundamental right guaranteed under Article 19(1)(f) of the Constitution, Similar use of the Statement of Objects and Reasons had been made for judging the reasonableness of a classification under Article 14 of the Constitution in *Shashikant Laxman Kale v. Union of India*, : AIR 1990 SC 2114 : (1990 Tax LR 877).

27. In the instant case, the Parliament found that "atrocities" had instead of diminishing against the members of the Scheduled Castes and Scheduled Tribes were on increase. In order to check them and for the civil rights guaranteed, the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act was passed.

28. This Act had been enacted under Article 17 of Constitution which reads as under:

"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."

29. Article 17 places the word "Untouchability" in inverted commas; accordingly, the subject matter of the Article is not untouchability in its literal or grammatical sense but the practice as it has developed historically in India. (See *Devarajiah v. Padmanna* AIR 1958 Mys 84).

30. To prevent certain classes of Hindus who were once known as the "Depressed Classes" from entering a public temple was to practice Untouchability. (See *P. S. Charya v. State of Madras* AIR 1956 Mad 541).

31. The Madras Temple Entry Authorising Act, 1947, as amended by the Madras Act (XIII of 1949) was held by the Madras High Court in AIR 1956 Mad 541 (supra) as not violative of any prohibition of the Constitution and it prohibited "Untouchability" in pursuance of a policy which was expressed in Article 17. The Act was covered by Article 35(a)(ii) and continued in force till repealed.

32. Article 17 is a very significant provision from the point of view of equality before the law. It guarantees social justice and dignity of man, the twin privileges which were denied to a vast section of the Indian Society for centuries together. This Article does not define "untouchability". Parliament has passed a statute called *The Untouchability Offences Act* (22 of 1955). The title of the Act was changed by Parliament by an Amendment Act in 1976. The Act was now called *"The Protection of Civil Rights Act"*. The expression "civil right" is defined as "any right accruing to a person by reason of the abolition of untouchability by Article 17 of the Constitution". This Act also does not attempt any definition of the word "untouchability". The absence of a definition of untouchability may give

rise to some legal quibbling. The Oxford English Dictionary defines an "untouchable" as a non caste Hindu whom caste men may not touch. As the word "untouchable" is put in inverted commas, it is held that, the word is to be understood in its historical sense and not in literal and grammatical sense. (Devarajiah v. B. Pad-manna, AIR 1958 Mys 84). This Article fulfils at least "in law" though not in fact, the dream of Gandhiji and other great social reformers who worked hard for the eradication of the social evil of untouchability. This Article is similar to the 13th Amendment of the Constitution of the United States of America which abolished slavery and empowered the congress to enforce the abolition by appropriate means.

33. The Thirteenth Amendment confers upon Congress power to secure its complete enforcement by appropriate legislation. Pursuant to this authority, Congress has enacted statutes which prohibit and penalize peonage, the fitting out of vessels to engage in the slave trade, kidnapping or enticing persons into slavery, the seizure, detention, transportation, or sale of slaves.

34. The Thirteenth Amendment was that neither "slavery" nor "involuntary servitude" except as punishment for a crime whereby the party shall have been duly convicted shall exist within the United States. This provision was self-executing.

35. Article 17 of the Constitution was self-operating and if read with Article 35(a) (ii) irresistible conclusion follows that untouchability has been abolished and its practice in any form is forbidden.

36. The present Act is a legislation falling within the field of the aforesaid provisions of the Constitution. It is self operating for anybody indulging in any of the activities committing offence which could be considered as untouchability would be liable to be punished.

37. Counsel appearing for the petitioners submitted that as Section 18 of the Act excludes the application of Section 438 Cr.P.C. in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act, it hits Article 21 of the Constitution which guarantees the procedure to be followed in a trial of a criminal case to be fair, just and equal.

38. Section 18 of the Act is quoted below:

"18. Section 438 of the Code not to apply to persons committing an offence under the Act --

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."

39. There was at one time conflict of decisions amongst different High Courts in India about the power of a Court to grant "anticipatory bail". The majority view was that there was no such power in the Court under the old Criminal Procedure

Code. The Law Commission, in its Forty-first Report recommended introduction of a provision for grant of "anticipatory bail". The recommendation was accepted by the Central Government and Clause (447) was introduced in the draft Bill of the new Code of Criminal Procedure conferring expressed power on a Court of Session or a High Court to grant "anticipatory bail".

40. The Law Commission observed in paragraph 31 of its Forty eighth Report:

"The Bill introduces a provision for the grant of anticipatory bail. This is substantially in accordance with the recommendations made by the previous Commission (41st Report). We agree that this would be a useful addition, though we must add that it is in very exceptional cases that such a power should be exercised.

We are further of the view that in order to ensure that the provision is not put to abuse at the instance of unscrupulous petitioners, the final order should be made only after notice to the public prosecutor. The initial order should only be an interim one. Further the relevant section should make it clear that the direction can be issued only for reasons to be recorded, and if the court is satisfied that such a direction is necessary in the interest of justice."

41. Clause (447) became Section 438 when the Bill was enacted into the New Code of Criminal Procedure. This Section was in the following terms:

"(1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this Section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

(2) \*\*\* \*\*

42. This power being rather of an unusual nature, it is entrusted only to the higher echelons of judicial service, namely, a Court of Session and the High Court. It is a power exercisable in case of an anticipated accusation of non-bailable offence and there is no limitation as to the category of non-bailable offence in respect of which the power can be exercised by the appropriate court.

43. Section 438 was not applied to the cases arising under the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act. The enactment was a special measure which in-corporate the various forms of indignities, humiliations, harassments and exploitation to form the basis of atrocities when committed against the members of the Scheduled Castes and Scheduled Tribes.

44. Article 21 of the Constitution guarantees to every man, be he a citizen or a foreigner, that he shall not be deprived of his life and personal liberty except in accordance with the procedure established by law.

45. The founding father of the Constitution never thought that the State shall exercise its powers in arbitrary manner to take away the right to carry on

business or endanger the life of citizens. The State must see that individual life of the citizen is not imperiled nor the citizen is deprived of his constitutional protection of safety and security. The right conferred by Article 21 requires a procedure established by law to be fair and just.

46. The contention of the petitioners was that as the person has right to apply for grant of bail, hence, any impediment caused in obtaining the same would contravene Article 21 of the Constitution.

47. The submission has no substance. We may here point out the provision of Sub-section (7) of Section 20 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 which says:

"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 punishable under this Act or any rule made thereunder."

48. The aforesaid Act was also a special Act passed by the Parliament to provide for the speedy trial of certain offences in terrorist affected areas and for matters connected therewith.

49. The present Act with which we are concerned aims at to prevent the commission of offences of atrocities against the members of the Scheduled Castes and Scheduled Tribes. The two Acts may be different in their amplitude, but indignity tolerated up to the year 1988 by the Scheduled Castes and Scheduled Tribes had been felt not to be tolerable any more, consequently, the present Act was enacted.

50. The right to anticipatory bail did not flow from Article 21 of the Constitution either expressly or impliedly. This right has been conferred by the statute enacted by the Parliament. The Parliament by enacting another law or by amending the Code of Criminal Procedure could take it away also.

51. Article 21 is not intended to be a constitutional limitation upon the powers of the legislature. The Parliament had the power to lay down that Section 438, Cr.P.C. would not apply to the cases arising out or covered by a special Act. What the Constitution has guaranteed under Article 21 is that no person shall be deprived of his life and liberty except in accordance with the procedure established by law.

52. In *Usmanbhai Dawoodbhai Memon and Others Vs. State of Gujarat*, the Supreme Court upheld the deletion of Section 438 Cr.P.C. and said :

"It all depends on the scheme of the particular Act as to whether the power of the High Court and the Court of Session to grant bail under Sections 438 and 439 exists....."

53. Dealing with the problem of granting bail under the N.D.P.S. Act, 1985, the Supreme Court in *Narcotics Control Bureau Vs. Kishan Lal and others*, observed:

"The NDPS Act was enacted with the object to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances. It is a special enactment, Section 37 whereof starts with a non obstante clause and is in negative terms limiting the scope of the applicability of the provisions of Cr.P.C. regarding bail. The non obstante clause with which the section starts should be given its due meaning and clearly it is intended to restrict the powers to grant bail. In view of Section 4, Cr.P.C. when there is a special investigation, enquiry or otherwise dealing with such offences, the other powers under Cr.P.C. should be subject to such special enactment. In interpreting the scope of such a statute the dominant purpose underlying the statute has to be borne in mind. Consequently, the power to grant bail under any of the provisions of Cr.P.C. should necessarily be subject to the conditions mentioned in Section 37 of the NDPS Act. It must, therefore, be held that the powers of the High Court to grant bail u/s 439, Cr.P.C. are subject to the limitations contained in the amended Section 37 of the NDPS Act and the restrictions placed on the powers of the court under the said Section are applicable to the High Court also in the matter of granting bail."

54. The settled principles of interpretation is that the special enactment will prevail over the general. The special Act must prevail in respect of the power of the High Court to entertain an application for bail u/s 438 or 439, Cr.P.C.

55. What we find, therefore, is that the Act is not hit by Article 21 of the Constitution on the grounds submitted by the petitioners.

56. Section 2 of the Act defines the expression "atrocities" which is as follows:

"atrocities" means an offence punishable u/s 3."

57. The expression "atrocities" finds place in the title of the Act itself. It is capable of indicating at the nature of the legislation intended to be undertaken by the Act.

58. In Webster's Third International Dictionary (at page 139), one of the meanings ascribed to word "atrocities" is "the quality of state of being atrocious" while the word "atrocious" has been ascribed, inter alia, the following meaning:

"(1) marked by or given to extreme wickedness;

(2) marked by or given to extreme brutality or cruelty;

(3) outrageous; violating the bounds of common decency; uncivilized, barbaric;

(4) extremely painful; marked by intense

distress;

(5) of such a kind as to fill with fright or dismay."

59. If we were to have the meanings of these words in mind while interpreting Section 3 of the Act, we would find that each one of the acts contemplated by Section 3 is atrocious and the aim at punishing the persons who are found guilty

of the same.

60. Counsel for the petitioners urged that while it is possible to punish a caste Hindu for the offences u/s 3 of the Act, it cannot be applied to Shudras or Scheduled Tribes. Consequently, the contention was that there is a hostile discrimination in between the persons belonging to caste. Hindu and those who did not.

61 The submission of the petitioners counsel is not correct. The accused belonging to one caste or other, they represent one class and they are treated alike or similarly and no discrimination is to be found in the matters of punishment.

62. The Act was enacted to prevent the commission of offences of atrocities against the members of the Scheduled Castes and Scheduled Tribes. It is in the light of this preamble, Section 3 has to be interpreted. The legislature thought that enough time had already been wasted, but the socio-economic equality had not been brought by the legislature. The persons of superior class Hindu behaved in the same manner as before the independence.

63. If the history is kept into account while interpreting Section 3 of the Act, the interpretation made by the petitioners would have no merit. What has been prescribed is that caste Hindus should not indulge in activities which may be considered as having not treated the Shudras or persons of Scheduled Tribes on unequal level.

64. Under the doctrine of unlimited parliamentary supremacy subject to the provisions of the Constitution prevailing in our country, an Act can lay down any proposition of law which does not infringe Part III of the Constitution.

65. The English law on this point is different than Indian as in England there is no written Constitution. But, what has been said with regard to that law by Francis Bennion in his Book "Statutory Interpretation" at page 94 is helpful in deciding the controversy before us:

"The judges fully accept the supremacy of Parliament as a keystone of the British Constitution. In itself this is enough to settle the matter. As Lord Devlin said: The law is what the judges say it is". (Samples of Lawmaking p. 2). If the judges say unanimously, as they do, that the laws made by Parliament have sovereign overriding effect, that establishes the proposition. It remains established unless and until the judges start saying something different."

66. The law made by the Parliament which is otherwise valid and does not cross over the limits imposed by Part III of the Constitution or any other provisions cannot be declared ultra vires.

67. Counsel for the petitioners urged that Act No. 33 of 1989 did not solve the purpose for which it had been enacted, inasmuch as, it would not prevent atrocities being committed.

68. The submission of the petitioners is not correct. Articles 245(1) and 246 confer power on the Parliament to make laws with regard to matters enumerated in the List I of Seventh Schedule of the Constitution. Under the field conferred, the Parliament has supremacy and its powers are limited by:

- (1) The fundamental rights guaranteed by Part III of the Constitution.
- (2) The distribution of powers i.e. the limitation imposed by the Entries in the Union List on which the Union may legislate.
- (3) Mandatory provisions of the Constitution which imposed limitations upon the powers by Articles 286, 301 and 303.

69. Federal government is a system of government which embodies a division of powers between a central and a number of States which it has within it. This involves a division of plenary powers and such a division is a negation of sovereignty. As a legal doctrine it is too late to question the supremacy of Parliament.

"The question, who is legal sovereign stands quite apart from the questions, why is he sovereign and who made him sovereign. The historical facts which have vested power in any given sovereign, as well as the moral grounds on which he is entitled to obedience, lie outside the questions with which the law is concerned, and belong to historical or to political philosophy or to ethics; and nothing but confusion is caused by introducing them into purely legal questions of the determination of the sovereign and the definition of his powers."

70. With this citation in mind and with due regard to grand literature which relates to the political philosophy of the doctrine of sovereignty of Parliament, it is necessary to emphasize that no one any longer could ask to challenge an Act of Parliament on his own ipse dixit.

71. Court may have its own views on a particular matter but it cannot question the wisdom of Parliament. If a legislation is within the competence of Parliament, and does not infringe Part III of the Constitution, it is to be accepted. The judicial process does not lay where the Parliament has exclusive jurisdiction.

72. The next argument of the petitioners counsel was that theory of deterrent in awarding punishment has been condemned, hence the Parliament could not provide severe punishment for the offences mentioned in Section 3. The submission is that the punishment should have been made in accordance with the degree of moral blame-worthiness.

73. The Judges task after all has to do justice and how is punishment to be related to justice, except by asking whether it is deserved or not ? If punishment were to be based purely on theories of deterrence and reformation and the question of what the accused deserved were to be eliminated would not the concept of justice be eliminated too ? Certainly, as a matter of fact, the courts constantly act on the assumption that the punishment must be proportionate to

guilt; and the Court of Appeal will interfere, if satisfied, that the sentence imposed is illegal.

74. The question then arises, by what standards is the Judge to estimate what punishment is deserved ? The judicial answer seems to be, by the degree of revulsion felt by the law abiding members of the community for the particular criminal act in question. Thus Denning L.J. said :

"The punishment inflicted for grave crimes should adequately reflect the revulsion felt by the great majority of citizens for them. It is a mistake to consider the objects of punishment as being deterrent or reformatory or preventive and nothing else.....The ultimate jurisdiction of any punishment is not that it is a deterrent, but that it is the emphatic denunciation by the community of a crime....."

75. The reality is that different Judges impose punishment for different purposes. Even the same Judge is not always consistent in his sentencing. There is no agreement among Judges as to what criteria ought to be taken into account in the sentencing decision and what weight ought to be given to factors such as prior record, age, good family, perceived future dangerousness, whether the accused pleaded guilty and other such matters.

76. These are however matters left to be judged and decided by a Judicial Officer who decides impartially. On that ground, Sections 3 and 4 of the Act cannot be held to be ultra vires.

77. Emphasis was laid by some of the counsel that even the most trivial offences are likely to be severely dealt with.

78. Courts of justice generally do not take trifling and immaterial matters into account, hence, the apprehensions of some of the counsel that even in cases of most trivial nature, severe punishments would be awarded has no substance.

79. In "Broom's Legal Maxims" Tenth Edition, the maxim de minimis applied to a crime as well. It was said at page 88:

"In further illustration of the maxim de minimis non curat lex, we may observe that there are some injuries of so little consideration in the law that no action will lie for them; for instance, in respect to tithe, the principle which may be extracted from the cases appears to be, that for small quantities of corn, involuntarily left in the process of raking, tithe would not be payable, in the absence of any particular fraud or intention to deprive the person of his full right."

80. The maxim de minimis non curat lex is of frequent practical application. The Courts would not forget to take into account the said maxim while passing sentence for the offences committed. If the deviation were a mere trifle, which would weigh little or nothing on the public interest, it might properly be overlooked.

81. We have already held that as the Act was passed in order to give effect to

Article 17 of the Constitution and thus, we do not consider it necessary to deal with the submission of the petitioners that the Act does not since achieve the object of Article 15 of the Constitution, it is liable to be declared ultra vires.

82. For the reasons given above, we dismiss the writ petition.