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Supreme Court: Casteist Abuse Inside a Private House Not an SC/ST Act Offence

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Supreme Court: Casteist Abuse Inside a Private House Not an SC/ST Act Offence

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WHY IN NEWS

On **May 11, 2026**, a Supreme Court bench in **Gunjan @ Girija Kumari v. State (NCT of Delhi)** [2026 INSC 468; 2026 LiveLaw (SC) 484] held that **insulting or intimidating a member of a Scheduled Caste or Scheduled Tribe inside a private dwelling – away from public access and the public gaze – does NOT constitute an offence** under Sections 3(1)(a) and 3(1)(b) of the **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989**. The Court quashed FIR charges arising from a 2021 family property dispute.

THE CASE IN BRIEF

ELEMENT	DETAIL
Title	Gunjan @ Girija Kumari v. State (NCT of Delhi)
Citation	2026 INSC 468; 2026 LiveLaw (SC) 484
Bench	Three-judge bench, Supreme Court
Origin	2021 FIR in Delhi – family property dispute, alleged caste-based insults inside a private dwelling
Sections Invoked	Sections 3(1)(a) and 3(1)(b) of SC/ST (PoA) Act, 1989
Outcome	Charges under the Atrocities Act quashed ; ordinary criminal law (IPC/BNS) provisions allowed to proceed

WHAT THE ACT SAYS – AND WHAT “PUBLIC VIEW” MEANS

Section 3(1)®, SC/ST (PoA) Act, 1989

“Intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in .”

Section 3(1)(s), SC/ST (PoA) Act, 1989

*“Abuses any member of a Scheduled Caste or a Scheduled Tribe by in **any place within public view.**”*

Both provisions hinge on the **statutory phrase “place within public view.”**

The Court’s Reading

- A **private house, with no public access** during the incident, does NOT qualify as a “place within public view”
- The phrase requires that the act be witnessable by **the public or independent passers-by**
- The Court reaffirmed the principle from **Hitesh Verma v. State of Uttarakhand (2020)**, where the SC had said insults inside the four walls of a house, where no member of the public was present, falls outside the Act

The Logic

The Atrocities Act protects against **publicly visible humiliation** – which carries a special social stigma. Private-quarrel insults, while morally wrong and possibly punishable under ordinary criminal law, do not produce the public-humiliation harm the statute targets.

THE STATUTORY ARCHITECTURE

FEATURE	DETAIL
Constitutional anchor	Article 17 – abolishes untouchability
Statutory base	SC/ST (PoA) Act, 1989
Major amendment	2015 – added new offences (tonsure, dispossession, garlanding with chappals); 60-day investigation deadline; exclusive special courts
Enforcement	State police; special public prosecutors in special courts
Penalty	Six months to five years; enhanced for repeat or aggravated offences
Anticipatory bail	Section 18 – generally barred (per <i>Prathvi Raj Chauhan v. UoI</i> , 2020)
Burden of proof	Section 8 – presumption of common intention in group cases

EARLIER JUDICIAL TRAIL

- ❶ **Swaran Singh v. State (2008)** – SC held that an insult on a public road, in front of others, attracts the Act.
- ❷ **Hitesh Verma v. State of Uttarakhand (2020)** – the foundational precedent on the “public view” test; SC held private-quarrel insults inside a house don’t attract the Act.
- ❸ **Subhash Kashinath Mahajan v. State of Maharashtra (2018)** – imposed safeguards against arrest; later overruled by Parliament via the 2018 amendment to Section 18A, which barred preliminary inquiry and protected against the dilution.
- ❹ **Prathvi Raj Chauhan v. UoI (2020)** – upheld Section 18 (anticipatory bail bar) and Section 18A; confirmed strict reading of the Act’s protective scope.
- ❺ **Gunjan @ Girija Kumari (2026)** – consolidates the *Hitesh Verma* principle in a property-dispute fact pattern.

CRITICAL REFLECTION

Why this reading is defensible

- The text of Sections 3(1)® and (s) **expressly** uses the limit “in any place within public view”

- A purposive reading of “humiliation” requires public visibility – private insult is not the harm the statute targets
- Other offences – IPC/BNS provisions on criminal intimidation, hurt to religious feelings, harassment – remain available for non-public insults

Why critics will raise concerns

- Domestic helpers and tenants, who often face caste insults inside the houses of their employers, may find the Act unavailable
- The distinction between “public access” and “private access” can mask the systemic dimension of caste humiliation
- The 2015 amendment had widened the Act precisely because of under-protection – this judicial reading may narrow it again

What Parliament could do

- Amend the Act to clarify whether the “public view” qualifier should apply uniformly or be relaxed in employer-employee / tenant-landlord settings

UPSC RELEVANCE

GS Paper 2 – Polity and Governance

- Fundamental rights: Article 14, Article 15, Article 17
- Welfare legislation for SC/ST
- Statutory interpretation by the Supreme Court
- Vulnerable sections of society

GS Paper 4 – Ethics

- Ethics of public-versus-private wrongs
- Equality and dignity (Article 21 – right to live with dignity, *Francis Coralie Mullin*, 1981)

Mains Angles

- 1 The Supreme Court has narrowed the protective scope of the SC/ST (Prevention of Atrocities) Act, 1989 through the “public view” test. Critically evaluate.
- 2 Is the abolition of untouchability under Article 17 fully realised through statutory law alone? Discuss with reference to recent jurisprudence.

- 3 Distinguish between criminal humiliation in public versus private space. Should the law treat them identically?

Enacted under Article 17; provides for special courts (Section 14), special public prosecutors (Section 15), enhanced penalties.

2015 (new categories of atrocities, 60-day investigation timeline, exclusive special courts); 2018 (Section 18A inserted – bars preliminary inquiry; restores absolute bar on anticipatory bail, reversing Subhash Kashinath Mahajan, 2018).

*Abolishes untouchability; one of the rare fundamental rights enforceable **horizontally** (against private persons).*

Bars discrimination in access to public places.

Foundational SC ruling on “place within public view” – the principle the May 11, 2026 judgment restates. insulting/intimidating in any place within public view.

abuse by caste name in any place within public view.

2026 INSC 468 = Supreme Court’s neutral citation system (year + INSC + serial number).

monitor implementation of the Act.

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