

Scope of section.—Article 17 of the Constitution abolishes untouchability and forbids its practice in any form. It declares the enforcement of any disability arising out of untouchability as an offence punishable in accordance with law. The Protection of Civil Rights Act has been enacted to prescribe punishment for the preaching and practice of untouchability for the enforcement of any disability arising therefrom and for matter connected therewith. Having regard to the mandate of our Constitution in Art. 17 of the Constitution, the object and purpose of the Protection of Civil Rights Act, the nature and the gravity of the allegations made against accused, the seriousness of the charge, which totally escaped the attention of the Magistrate when he proceeded to consider the question as to whether the delay should or should not be condoned.¹

Nature of power of the Court.—Prior to its amendment Sec. 4 of the Act did leave a discretion in the Court either to impose a substantive sentence or only to impose a fine or both. Significant changes were however, brought about by the amendment. After the 1976 Amendment, the section prescribes a statutory minimum period of sentence and also a statutory minimum quantum of fine, that is to say, the sentence of imprisonment shall not be less than one month and the fine shall not be less than Rs. 100/-.²

5. Punishment for refusing to admit persons to hospitals, etc.—Whoever on the ground of “untouchability”—

(a) refuses admission to any person to any hospital, dispensary, educational institution or any hostel³ [* * *], if such hospital, dispensary, educational institution or hostel is established or maintained for the benefit of the general public or any section thereof; or

(b) does any act which discriminates against any such person after admission to any of the aforesaid institutions;

⁴[shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees].

COMMENT

This section prescribes the punishment for enforcing social disabilities on the ground of untouchability under the circumstances enumerated therein.

6. Punishment for refusing to sell goods or render services.—Whoever on the ground of “untouchability” refuses to sell any goods or refuses to render any service to any person at the same time and place and on the same terms and conditions at or on which such goods are sold or services are rendered to other persons in the ordinary course of business⁵ [shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.]

1. *State of Karnataka v. Laxminarayana Bhat*, 1991 (2) Crimes 251 at p. 260 (Knt.) : 1991 Cr. L. J. 2126 at p. 2136.
2. *State of Karnataka v. Annappa* 1992 Cr. L.J. 158 (Knt).
3. Omitted by Act 106 of 1976, Sec. 7, for the words “attached thereto” (w.e.f. 19th November, 1976).
4. Subs. by *ibid.*, for certain words (w.e.f. 19th November, 1976).
5. Subs. by Sec. 8, *ibid.*, for certain words (w.e.f. 19th November, 1976).

COMMENT

This section prescribes punishment for the refusal of admission of persons to any hospital, dispensary, educational institution or hostel on the ground of untouchability.

7. Punishment for other offences arising out of “untouchability”.—(1) Whoever,—

(a) prevents any person from exercising any right accruing to him by reason of the abolition of “untouchability” under Art. 17 of the Constitution; or

(b) molests, injures, annoys, obstructs or causes or attempts to cause obstruction to any person in the exercise of any such right or molests, injures, annoys or boycotts any person by reason of his having exercised any such right; or

(c) by words, either spoken or written, or by signs or by visible representations or otherwise, incites or encourages any person or class of persons or the public generally to practice “untouchability” in any form whatsoever,¹ [or]

²[(d) insults or attempts to insult, on the ground of “untouchability” a member of a scheduled caste,]

³[shall be punishable with imprisonment for a term of not less than one month and not more than six months, and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.]

⁴[Explanation I].—A person shall be deemed to boycott another person who,—

(a) refuses to let to such other person or refuses to permit such other person, to use or occupy any house or land or refuses to deal with, work for hire for, or do business with, such other person or to render to him or receive from him any customary service, or refuses to do any of the said things on the terms which such things would be commonly done in the ordinary course of business; or

(b) abstains from such social, professional or business relations as he would ordinarily maintain with such other person.

¹[Explanation II]. For the purposes of Cl. (c) a person shall be deemed to incite or encourage the practice of “untouchability”—

(i) if he, directly or indirectly, preaches “untouchability” or its practice in any form; or

(ii) if he justifies, whether on historical, philosophical or religious grounds or on the ground of any tradition of the caste system or on any other ground, the practice of “untouchability” in any form.]

³[(1-A) Whoever commits any offence against the person or property of any individual as a reprisal or revenge for his having exercised any right accruing to

1. Ins. by Act 106 of 1976, Sec. 9 (w.e.f. 19th November, 1976).
2. Subs. by *ibid.*, Sec. 7, for certain words (w.e.f. 19th November, 1976).
3. Subs. by Sec. 9, *ibid.*, for certain words (w.e.f. 19th November, 1976).
4. Re-numbered by Sec. 9, *ibid.* (w.e.f. 19th November, 1976).