BLOGS

Important Judgement for CLAT 2024 : Mohamad Iliyas Mohamad Bilal Kapadiya v. State of Gujarat

Indrasish Majumder · 11 Mar 2023

Date – 2nd June, 2022 Court: The Supreme Court of India Bench: Justice B.R. Gavai and Justice Hima Kohli

Facts and Issue of the Case

In this case, the Gujarat Control of Terrorism and Organised Crime Act, 2015 **(GCTOC Act)** was used to charge the appellant. The appellant said that in order to use the provisions of the said act, which is similar to the Maharashtra Control of Organised Crime Act, 1999 **(MCOCA)**, two conditions must be met: the activity must have been done alone or with others as part of an organised crime group or on behalf of such a group, and more than one charge sheet must have been filed in the last 10 years in respect of such an offense.

Decision of the court

In light of the provisions of the GCTOC Act, the Supreme Court held that the following conditions would have to be satisfied for invoking the provisions of the GCTOC Act:

1. Such activity should be prohibited by law for the time being.
2. Such an activity is a cognizable offense punishable with imprisonment for three years or more;
3. This kind of activity is done alone or with others, as a member of an organized crime group or on behalf of such a group;
4. In respect of such activity, more than one charge sheet must have been filed before a competent court, and
5. The charge sheet must have been filed within the preceding period of ten years, and
6. The courts have taken cognizance of such offenses.

Judgement

The Supreme Court reversed the order of the Gujarat High Court, by which the applicant was denied the benefit of bail under the Gujarat Control of Terrorism and Organized Crime Act, 2015 **(GCTOC Act)**. The Court ruled that the **GCTOC Act** can only be used if there are more than one charge sheet against the person being charged. Since this is only the first time that the appellant has been changed under the provisions of the act, the relief of bail cannot be denied to him.

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