BLOGS

Important Judgements for CLAT 2023: Aparna Bhat v. State of Madhya Pradesh

Indrasish Majumder · 15 Jul 2022

On Thursday, March 18th 2021, Ravindra Bhat J, writing for a division bench, in *Aparna Bhat v State of Madhya Pradesh* addressed the 'entrenched paternalistic and misogynistic attitudes' in judgments and orders around gendered sexual violence cases. And laid down dos and don'ts for progressive judgment writing.This judgement can be an important study from the perspective of the CLAT PG examination.

Case: Aparna Bhat v. State of Madhya Pradesh

Citation: 2021 SCC OnLine SC 230

Court: Supreme Court of India

Bench: Justice AM Khanwilkar and Justice S. Ravindra Bhat

Date of Judgement: 18.03.2021

Facts of the Case

Advocate Aparna Bhat and eight other lawyers filed the appeal against the impugned decision issued by the Madhya Pradesh High Court on July 30, in which the accused of sexual assault was ordered to visit the victim's home on Raksha Bandhan with Rakhi and be tied by her as a condition of release.

On 20.04.2020, the accused, who is a neighbour of the complainant Sarda Bai, entered her house and attempted to sexually harass her, prompting the police to file a FIR for offences punishable under sections 452, 354A, 323 AND 506 of the Indian Penal Code (hereafter referred to as IPC). A charge sheet was submitted once the case was investigated. Under section 438 of the Code of Criminal Procedure, the accused filed an application for anticipatory bail (hereafter referred to as Cr. P.C.).

The accused was granted bail with the condition that he and his wife visit Sarda Bai's house on the 3rd of August, 2020, on the festival of Raksha Bandhan, with a box of sweets, and ask her to tie the Rakhi to him with the promise that he will protect her in the future to the best of his ability. The accused was also required to hand over Rs. 11,000 as a gesture of a present given by brothers to their sisters as part of the customary Raksha Bandhan rites, which the petitioner has challenged in the Hon'ble Supreme Court.

Issues

Whether such bail conditions imposed by the courts are acceptable or not and how they can impact society?

Laws Applied

Section 438 of Criminal Procedure Code

Judgement of the Court

The Supreme Court thanked the petitioner for the valuable suggestions and quashed the bail conditions imposed by the Madhya Pradesh High Court. The court also laid certain guidelines for the same. It also accepted the suggestions regarding the inclusion of a gender sensitisation curriculum in law schools, for the bar exam and also for induction training of newly appointed judges.

Guidelines for judges granting bail in sexual assault cases

Even though the law states that there must be a nexus between the object and purpose of the bail order and that the order should not harass the individual or infringe any of their constitutional rights, judges have often crossed this limit while exercising their judicial discretion.In this case, again, the Supreme court has issued a slew of directions to be followed by judges while granting bail in cases of sexual assault.

They are as follows :

• The bail conditions should not either mandate or require contact between the accused and the complainant or her family members.

• If the court suspects that there might be a threat to the victim, then necessary protection may be provided.

• Whenever bail is granted to the accused, the same should be intimated to the complainant immediately. A copy of the bail order should also be provided.

• The verdict granting bail should limit itself to the CrPc and should not reflect any stereotype or biasness of the judge and no comments on the conduct, dressing choice, morals or behaviour of the complainant should be made.

• The court should not encourage any kind of relationship between the accused and the complainant such as granting bail because they are getting married. It should also not mandate or suggest mediation in cases of rape and sexual assault as this goes beyond the court's jurisdiction.

• The judge should be sensitive to the prosecutrix and should save her from trauma during the proceedings.

• Such words that threaten to shake the confidence of the victim in the fairness of the justice system should not be uttered by the judge.

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