AILET

Last Minute Revision for CLAT PG: Important Judgements for the Month of February- Part I

Indrasish Majumder · 10 Nov 2024

Preparing for CLAT 2025 and looking for comprehensive resources? Read this post to go through Part I of the important judgements of February.

Preventive Detention Cannot Be Ordered Merely on Apprehension of Bail: J&K and Ladakh High Court

Case: Muyeeb Shafi Ganie v. Union Territory of J&K & Anr

Background: Muyeeb Shafi Ganie was arrested for his alleged involvement in unlawful activities. After being granted bail in a related criminal case, the authorities placed him under preventive detention under the Jammu and Kashmir Public Safety Act, 1978, citing national security concerns. He challenged the detention order, arguing that preventive detention was invoked simply because he was granted bail, violating his right to personal liberty.

Court's Observation: The Court emphasised that preventive detention is an exceptional measure meant to prevent anticipated offences, not to circumvent a lawful bail order. The proper course for the state would have been to challenge the bail order in a higher court rather than bypass judicial scrutiny. The Court also noted that failing to provide the detained person with relevant supporting documents invalidated the detention order.

Decision: The Court declared the detention order illegal, holding that using preventive detention as a substitute for challenging bail undermines constitutional guarantees under Article 22(5) of the Indian Constitution. It also directed the State to respect judicial processes when dealing with bail orders.

Prolonged Property Seizure Without Charges Violates PMLA Rules: Delhi High Court

Case: Mahender Kumar Khandelwal v. Directorate of Enforcement & Anr

Background: Mahender Kumar Khandelwal's properties, including valuable assets such as jewellery and real estate, were seized by the Enforcement Directorate (ED) under the Prevention of Money Laundering Act (PMLA) in connection with a money-laundering investigation. However, the ED failed to file a chargesheet within the mandatory 365-day period specified under Section 8(3) of the PMLA. Khandelwal petitioned the court, arguing that the asset seizure became illegal due to the missed statutory deadline.

Court's Observation: The High Court clarified that asset seizures under PMLA are time-bound and cannot continue indefinitely without a prosecution complaint. It ruled that writ petitions or delays in investigations cannot extend the 365-day limit unless explicitly permitted by a competent court.

Decision: The Court ordered the immediate release of all seized assets, holding that non-compliance with the statutory period rendered the seizure unlawful. It directed the ED to return the seized property and warned against procedural lapses in future investigations.

Teachers Must Not Exploit Their Position of Power: Delhi High Court

Case: Dr. Amit Kumar v. Bharati College (Delhi University)

Background: Dr. Amit Kumar, a senior professor at Delhi University, faced multiple allegations of sexual harassment from his female students. Following an internal inquiry, the university suspended him and imposed financial penalties, including a recovery order of ₹6.42 lakh. Kumar contested the decision, arguing that the university bypassed due process by failing to obtain prior approval from the vice-chancellor as required by law.

Court's Observation: The Court observed that while institutions have a duty to ensure a harassment-free environment, administrative actions must follow established legal procedures. It acknowledged the seriousness of the sexual harassment allegations but criticised the university for violating service rules by bypassing the vice-chancellor's approval before suspending the professor and issuing the recovery order.

Decision: The Court set aside the financial recovery order, directing the University to refund the deducted amount. However, it emphasised that the allegations of misconduct remained serious and required further investigation in line with due process and sexual harassment laws.

Misrepresentation of Religious Icons Cannot Obstruct Property Rights: Madras High Court

Background: E. Shakthi Murugan sought police protection to remove a large stone placed at the entrance of his private property, which blocked access. Local residents claimed that the stone was a religious idol, arguing that removing it would offend religious sentiments and cause social unrest.

Court's Observation: The Madras High Court ruled that simply draping a stone in cloth and claiming religious significance does not transform it into a legally protected religious structure. It emphasised that recognising such claims would encourage unlawful encroachments and create a dangerous precedent for abusing religious sentiments to infringe on property rights. The Court stated that genuine religious symbols must have historical, cultural, and community acknowledgement.

Decision: The court directed the district administration to remove the obstruction and ensure Murugan's property access. It cautioned against encouraging superstitious beliefs that hinder legal property ownership and waste judicial resources.

Surrogacy Limited to Married Women to Preserve Social Norms: Supreme Court

Case: Jaswinder Kaur v. Union of India

Background: Jaswinder Kaur, a 44-year-old unmarried woman, filed a petition challenging the Surrogacy (Regulation) Act, 2021, which permits surrogacy only for legally married women, widows, and divorcees aged 35-45. She argued that the law discriminated against unmarried women, violating their constitutional rights under Articles 14 (Right to Equality) and 21 (Right to Personal Liberty).

Court's Observation: The Supreme Court observed that the Surrogacy Act reflects India's prevailing social norms, where motherhood is culturally tied to the institution of marriage. It

stated that although the legislative policy might seem conservative, the Court's role is limited to ensuring constitutional compliance, not rewriting policy decisions. The Court also noted that evolving social attitudes could warrant future legal amendments.

Decision: The Court admitted the petition and issued a notice to the Central Government to respond, directing it to justify the exclusion of unmarried women from surrogacy eligibility. It highlighted the importance of balancing legal restrictions with evolving societal and medical advancements while ensuring that the Surrogacy Act aligns with constitutional rights.