

AILET

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

Indrasish Majumder · 25 Nov 2024

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

Democracy's Governance Must Encourage Ideas and Verbal Discussions of Light, Not Darkness- Allahabad High Court

- Case: Yasar Shah v. State of UP
- A petition was filed to quash an FIR lodged against Samajwadi Party leader Yasar Shah, who was accused by the Uttar Pradesh police of forming multiple groups and spreading rumors on Twitter about a paper leak related to the 2024 Uttar Pradesh Constable Exam.
- The Allahabad High Court emphasized that democracy demands a competitive, transparent, and moral social fabric. It noted, "Nothing in society must pass through media that damages the coherence of the social fabric and should be tested on the touchstone of healthy competition driven by social and constitutional moralities." The Court delved deeper into the two aspects of democracy: the role of governance in promoting public welfare and the role of opposition in providing checks on governance to enhance outcomes. The Court regretted that public representatives often fail to observe this constructive atmosphere, leading to a breakdown in social harmony.
- The Court adjourned the matter, noting that Shah did not appear to have a significant role in the alleged cheating case, especially given that he deleted his tweet before the FIR filed. The Court highlighted the importance of balanced discourse in upholding democratic values and integrity in governance.

The Threat of Malicious Criminal Prosecution Prevents Any Spouse, Male or Female, From Continuing in a Matrimonial Relationship: Allahabad High Court

- Case: *Basant Kumar Dwivedi v. Kanchann Dwivedi*
- A husband filed two appeals challenging the family court's decisions, one of which rejected his divorce plea and the other of which ordered the restitution of conjugal rights in favor of his estranged wife. The couple married in 1992 but separated after two years of living together. In 1999, the husband initiated divorce proceedings, and subsequently, the wife filed criminal charges under Sections 498A and 406 of the IPC and the Dowry Prohibition Act.
- The Court noted that Hindus view marriage as a sacrament, not just a social contract. It emphasized that cruelty within a marriage should not be narrowly defined by physical or emotional absences but should consider the psychological harm caused by continuous conflict and malicious actions. The Court remarked, "Legally, no spouse, whether male or female, may be expected to continue in a matrimonial relationship at the risk of malicious criminal prosecution," noting that such prosecution causes irreparable harm to an individual's dignity and reputation.
- The Court granted the divorce, acknowledging the 29-year separation and the wife's behavior, which led to a reasonable fear of harm to the husband if forced to continue the marriage. The court reaffirmed that marriages, particularly those marked by prolonged separation and malice, lose their sacramental essence.

The Supreme Court Often Compares Indefinite Delays in the Execution of a Death Sentence to a Sword Hanging Over One's Head

- Case: *State of Maharashtra v. Pradeep Yashwant Kokade and Others*
- The Maharashtra government appealed against the Bombay High Court's decision to commute the death sentences of two convicts, awarded for the rape and murder of a Pune BPO employee in 2007, to life imprisonment with a minimum of 35 years each. The High Court commuted the death sentence, citing excessive delays, including significant waiting periods for processing mercy petitions sent to the Governor and President.
- The Supreme Court acknowledged the impact of prolonged fear of execution, equating it to a sword hanging over the convict's head. The Supreme Court posed the question, "What was the duration of his fear of hanging?" Can we now send him to the gallows?" The Court underscored that Article 21 of the Constitution protects all individuals, including convicts, from such prolonged psychological suffering due to systemic delays.

- Upholding the High Court's commutation of the death sentences, the Court highlighted the need for a streamlined procedure for handling mercy petitions and other death sentence-related appeals to ensure timely justice for both convicts and victims.

Before Granting a Censor Certificate for the Movie 'Emergency', the Central Board of Film Certification Should Consider the Objections Raised Against It: Madhya Pradesh High Court

- Case: Jabalpur Sikh Sangat and Others v. Union of India and Others
- Jabalpur Sikh Sangat and Guru Singh Sabha Indore, representing Sikh organisations, filed a public interest litigation to raise concerns over the portrayal of Amritdhari Sikhs in the movie Emergency. They argued that the trailer, which depicted Sikhs as killers and included inflammatory dialogues, could lead to negative stereotypes and harm Sikh sentiments.
- The Madhya Pradesh High Court recognized the cultural sensitivity of the issues raised by the petitioners and directed the Central Board of Film Certification (CBFC) to address these concerns. It remarked that community representation in sensitive film reviews is crucial to prevent unintended social harm.
- The Court instructed the CBFC to involve a representative from the Sikh community or the Shiromani Gurdwara Parbandhak Committee (SGPC) on the certification panel. The intention behind this measure was to ensure that the film's content aligns with societal harmony and respects cultural sensibilities before its public release.

Once an Accused is Found by a Court to be Entitled to Bail, the Release of Such an Accused on Bail Cannot be Deferred: Supreme Court

- Case: Jitendra Paswan v. State of Bihar
- A Patna High Court order, which granted bail to a murder accused but stipulated a deferred release after six months, faced an appeal. The court asked the accused, Jitendra Paswan, to wait six months after the bail grant before his actual release.
- The Supreme Court strongly criticized this trend of conditional bail, stating it effectively deprives the accused of their constitutional rights. The Court commented, "It is like granting you bail but releasing you after six months. This new trend affects the rights guaranteed to the

accused under Article 21.”

- The Court granted interim bail to Paswan, underscoring the importance of not deferring bail without compelling reasons once granted. The Court highlighted that delayed release undermines the purpose of bail and violates fundamental rights.

The Gujarat High Court Directs the State Government to Publicise the Recently Passed Law Against ‘Black Magic’

- Case: Akhil Bhartiya Andhashraddha Nirmool Samiti & Anr. v. State of Gujarat & Ors
- A public trust, Akhil Bhartiya Andhashraddha Nirmool Samiti, filed a plea urging the High Court to address unlawful superstitious practices in Gujarat. The petition emphasized the need to curb fraudulent practices by self-proclaimed “godmen” and highlighted various inhumane acts conducted under the guise of black magic.
- Following this petition, Gujarat enacted the Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil, Aghori Practices, and Black Magic Act, 2024. The act aims to safeguard the public against superstitions and deceitful practices propagated under the pretense of supernatural powers. The High Court stressed the need for the public to be aware of the new protections provided under this law.
- The Court ordered the Gujarat government to publicize the Act through various channels, including print, electronic, and social media to ensure public awareness. Under the new law, this measure aims to empower citizens to resist fraudulent practices and guarantee community protection.