BLOGS

Important Supreme Court Cases & Decisions: October 2021 (Part 1/3)

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As a law school aspirant preparing for CLAT or any other law exam, you are required to stay on top all legal developments that take place in the country. At CLATalogue, we have compiled a list of all important Supreme Court cases and decisions delivered in October 2021. These are important from, both, an examination point of view and for your general knowledge.

Here we go:

1. UAPA-related cases:

a. Thwaha Fasal v. Union of India [i]

Bench: Ajay Rastogi and Abhay S. Oka, JJ.

In this case, the Court reiterated its observations of *K.A. Najeeb* v. *Union of India* in saying that Constitutional Courts retain the power to grant bail in UAPA cases. Admitting that, the order granting bail to the accused could not have been confirmed by the High Court without fulfilment of stipulated conditions under the provisions of the Act, the Court didn't find material against the accused and released him (one accused).

The Court also observed that "mere association with a terrorist organization as a member or otherwise will not be sufficient to attract the offence under Section 38 of the Act".

b. Naser Bin Abu Bakr Yafai State of Maharashtra [ii]

***Bench*:** DY Chandrachud, Vikram Nath and BV Nagarathna, JJ.

The Supreme Court, in this case, clarified that the State police is empowered to continue with the investigation of a scheduled offence under UAPA till the National Investigation Agency takes it over. Further, the Court said:

"…between the issuance of a direction under sub-Sections (4) or (5) of Section 6 and the actual taking up of the investigation by the NIA, there should be no hiatus in the investigation to the

detriment of the interests of national security involved in the enactment of the legislation."

1. Firecrackers Case: Arjun Gopal & Ors. Union of India & Ors. [iii]

Bench: MR Shah and AS Bopanna, JJ.

The Court heavily reemphasized its previous orders from 2016, 2017, 2018, etc. regarding the ban on the use of barium-based chemicals in firecrackers, especially in the NCR-region. The specific directions were produced and the Court ordered strict and efficient compliance of the same.

The Court further said, "...we again reiterate the directions issued by this Court earlier reproduced hereinabove including banning the use of Barium Salts in the firecrackers and manufacturing and selling joined firecrackers and other directions issued by this Court reproduced hereinabove.

We direct all the States/Union Territories to see that the directions issued earlier by this Court and issued by this Court today are strictly complied with in its true spirit and in toto. Any lapse on the part of the State Governments/State Agencies and Union Territories shall be viewed very seriously..."

1. In Re: Violence in Lakhimpur Kheri (U.P.) Leading to Loss of Life [iv]

***Bench*:** Ramana, CJI and Surya Kant & Hima Kohli, JJ.

In the *Lakhimpur Kheri* case, the Court received a sealed cover investigation report from the Government of Uttar Pradesh. Pursuant to the perusal of the report, the Court emphasized two issues, viz. (1) regarding delay in getting all the reports by the State Government from the forensic laboratories and (2) that of protection of witnesses.

The Court, hence, directed the State Government to request the labs to expedite the process of giving reports and also directed it to provide protection to all the witnesses as per the Witness Protection Scheme, 2018.

The Court also further directed the State Government to accelerate the recording of statements of some more witnesses who are relevant to the incident, under Section 164 of the Code of Criminal Procedure, 1973.

4. Nitaben Dinesh Patel Dinesh Dahyabhai Patel [v]

***Bench*:** M.R. Shah & A.S. Bopanna, JJ.

The Court held that in proceedings of the Hindu Marriage Act, 1955, a relief cannot be sought against a third party—i.e., one who isn't a party to the current proceedings. Reliefs could be granted between the two parties: husband and wife, only.

The High Court, in the case, had observed that the wife can file a separate suit seeking for a declaration that the second marriage of the husband is void.

Setting aside that order, the Court held that it was not open for the appellant to seek a declaration that the marriage between the respondent and a third party was void.

[*Relevant Provision*: Section 23A, the Hindu Marriage Act, 1955]

5. Nilam Gorwade Manoj Mukund Naravane & Ors. [vi]

***Bench*:** DY Chandrachud & B.V. Nagarathna, JJ.

In this order, Centre was directed by the apex Court to grant Permanent Commissions to "thirty-nine officers who have been found to be eligible for (its) grant in terms of the final judgment of this Court dated 25 March 2021…on or before 1 November 2021".

The Centre was also directed to submit a tabulated statement indicating reasons for the non-grant of PCs, "expressly stating that no reasons independent of the directions which have been issued by this Court have weighed in the grant or, as the case may be, refusal of PC to the seventy-two officers concerned."

6. Ashok Kumar Raj Gupta & Ors. [vii]

***Bench*:** R. Subhash Reddy and Hrishikesh Roy, JJ.

In this case, the Court held that when alternative means exist to prove a relationship, the Court mustn't ordinarily order blood tests. It further noted that these tests "impinge upon the right of privacy of an individual and could also have major societal repercussions".

7. Gauri Lankesh Murder Case: Kavitha Lankesh State of Karnataka [viii]

***Bench*:** A.M. Khanwilkar, Dinesh Maheshwari & C.T. Ravikumar, JJ.

The apex Court restored the charges against the accused-Mohan Nayak, under Karnataka Control of Organised Crimes Act in the murder case of the journalist Gauri Lankesh—setting aside the decision of the High Court. The Karnataka High Court had quashed the charges under the Act so

far as they applied to the accused.

The Court also quashed the petition of the accused, who is suspected to be a “part of the syndicate led by Amol Kale which has committed multiple organized crimes apart from the murder of Gauri Lankesh”.

[i] Criminal Appeal No. 1302 of 2021, decided on 28.10.2021

[ii] Criminal Appeal No 1165 of 2021, decided on 20.10.2021

[iii] I.A. No. 44727/2021 in Writ Petition(C) No. 728/2015, decided on 29.10.2021

[iv] Writ Petition(s)(Criminal) No(s).426/2021, order dated 26.10.2021

[v] Civil Appeal Nos. 5901-5902 of 2021, decided on 07.10.2021

[vi] Contempt Petition (Civil) Diary No(s).19670/2021 in W.P.(C) No. No. 1109/2020, order dated 22.10.2021

[vii] Civil Appeal No.6153 of 2021, decided on 01.10.2021

[viii] Criminal Appeal No. ___ of 2021, order dated 21.10.2021