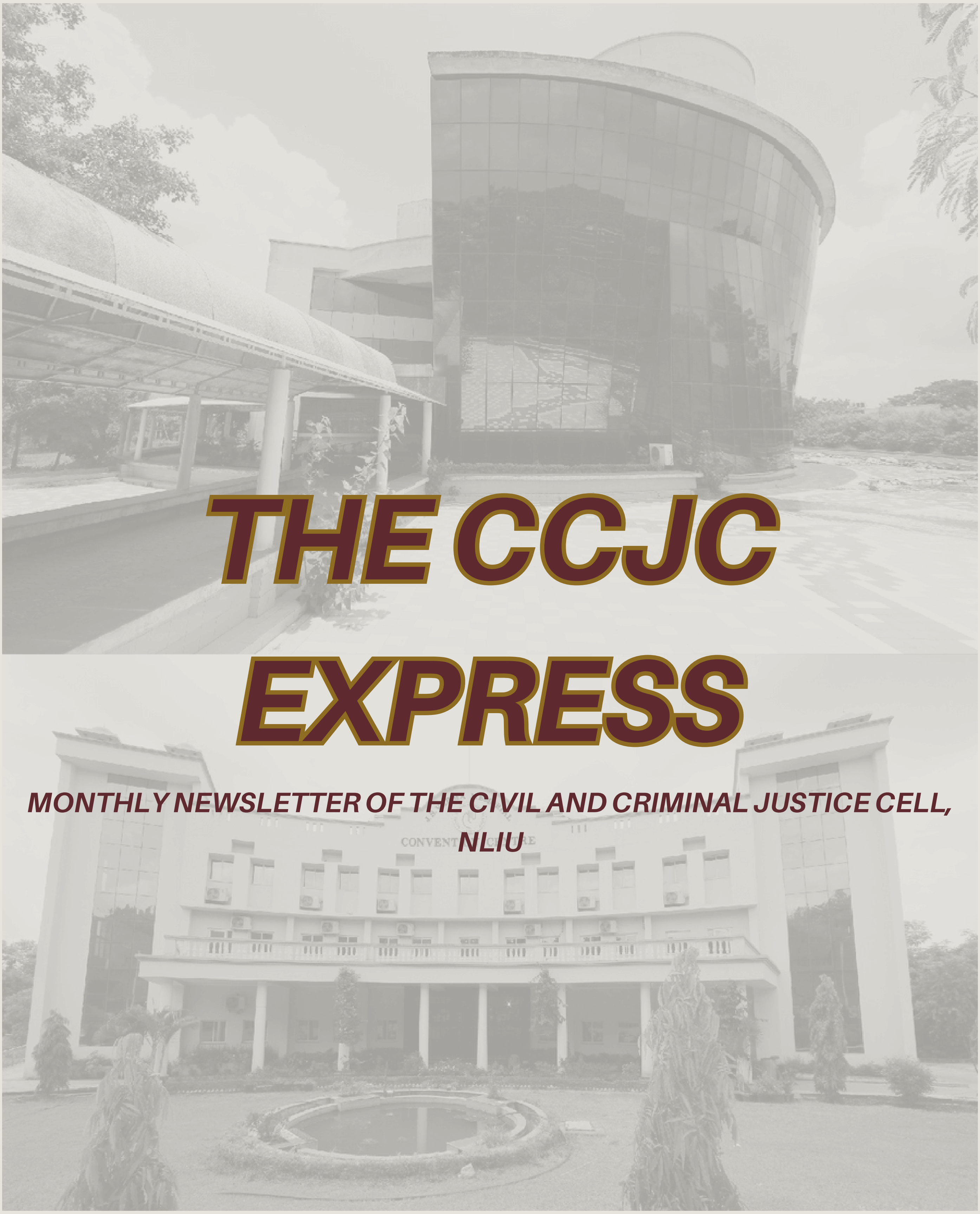
THE CIVIL AND CRIMINAL JUSTICE CELL,
NATIONAL LAW INSTITUTE UNIVERSITY BHOPAL



THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

VOL - 01 || ISSUE - 08

FEBRUARY 2025

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

CHIEF PATRON

PROF.(DR.) S. SURYA PRAKASH
Vice Chancellor, National Law Institute University, Bhopal

PATRON

ASSISTANT PROFESSOR MS. DIVYA SALIM
Faculty Advisor, Civil and Criminal Justice Cell

EDITOR-IN-CHIEF

MR. HUSSAIN
Joint-Convenor, Civil and Criminal Justice Cell

DEPUTY EDITOR

MR. PRIYANSHU DANU

AUTHORS

AANYA
SAMANVAY SINGH
AARYAMAN
ANANYA BHARADWAJ
ARCHIT YADAV
AVIKA SHARMA
CHETAN
PRIYAVARDHAN BALOT

TECHNICAL BOARD

KRITI SHARMA

VOL-01 || ISSUE- 0 8||FEBRUARY 2025

THE CIVIL AND CRIMINAL JUSTICE CELL

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

HIGHLIGHTS

ccjc.nliu

ccjc@nliu.ac.in

HUSSAIN (JOINT CONVENOR)
9981222168

ANIKET NIGHOJKAR (JOINT CONVENOR)
6261407841

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

SUPREME COURT DIRECTS HIGH COURTS TO HEAR UAPA PLEA

The Supreme Court has directed high courts first to hear pleas challenging the 2019 amendments to the Unlawful Activities (Prevention) Act (UAPA), which empowers the government to designate individuals as terrorists. A bench led by Chief Justice of India Sanjiv Khanna emphasized that the Supreme Court should not be the initial forum for such challenges, except in exceptional circumstances.

In a significant ruling, the Supreme Court on Tuesday declined to entertain multiple pleas challenging the 2019 amendments to the Unlawful Activities (Prevention) Act, directing the high courts to adjudicate on these matters first. The order was issued during the resumed hearing of petitions questioning the constitutional validity of the amendments.

The 2019 amendments, particularly Sections 35 and 36 of the UAPA, empower the central government to unilaterally designate an individual as a "terrorist" without requiring a judicial determination. The petitioners argued that such classification infringes on fundamental rights, including the right to equality under Article 14 and the right to reputation and personal liberty.

The bench clarified that high courts could proceed with pending petitions on the issue and noted that direct intervention by the Supreme Court should be limited to rare instances where a substantial question of constitutional interpretation arises. The matter has been a subject of debate since the amendments came into force, with critics arguing that the provisions expand executive powers without sufficient safeguards.

The Supreme Court's ruling underscores the principle of judicial hierarchy and emphasizes the need for thorough examination of constitutional challenges at the high court level before escalation to the apex court.

Read More:

- https://www.barandbench.com/news/litigation/supreme-court-says-high-courts-can-proceed-hearing-challenge-uapa
- https://m.economictimes.com/news/india/supreme-court-directs-high-courts-to-hear-uapa-pleas/articleshow/117925016.cmS
- https://www.livelaw.in/top-stories/supreme-court-refuses-to-hear-petitions-challenging-2019-uapa-amendments-says-high-courts-must-decide-first-282925

SECTION 498A CASES: SUPREME COURT SAYS RELATIVES OF ACCUSED CANNOT BE IMPLICATED FOR NOT HELPING VICTIM

The Supreme Court has ruled that family members of a person accused of domestic violence cannot be criminally implicated solely for failing to assist the complainant. The bench, comprising Justices BV Nagarathna and N Kotiswar Singh, emphasized that specific allegations must be made against each accused, and mere inaction does not constitute an offense under Section 498A of the Indian Penal Code.

In a significant ruling, the Supreme Court on Friday observed that relatives of an accused in a domestic violence case cannot be implicated merely for being mute spectators unless a specific act of instigation or involvement is attributed to them.

The bench underscored the necessity of precise allegations in complaints under Section 498A, stating that criminal liability cannot be imposed simply because a relative did not intervene to assist the victim. The Court acknowledged that in some instances, family members may turn a blind eye to domestic abuse, but that alone does not make them perpetrators.

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

While stressing the need for sensitivity in handling genuine domestic violence cases, the Court noted that such offenses often occur in private settings, making direct evidence difficult to obtain. However, it cautioned against the misuse of criminal law and emphasized that courts must determine whether allegations against family members are legitimate or merely a result of emotional distress.

The ruling came in response to a petition challenging a Telangana High Court order that had refused to quash criminal proceedings against the maternal aunt and cousin of the main accused. The Supreme Court reiterated that vague or generalized allegations cannot be the basis for prosecution under Section 498A and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

Read More:

- https://indialegallive.com/constitutional-law-news/courts-news/section-498a-supreme-court-refuses-to-implicate-family-members-of-accused-for-not-extending-support-to-victim/
- https://www.barandbench.com/news/section-498a-supreme-court-says-relatives-accused-cant-roped-in-not-helping-victim
- https://www.tribuneindia.com/news/india/cant-drag-family-members-in-domestic-violence-cases-for-not-extending-support-to-victim-sc/

SUPREME COURT PULLS UP ASSAM GOVERNMENT FOR FAILURE TO DEPORT FOREIGN NATIONALS

PThe Supreme Court has criticized the Assam Government for its failure to deport individuals declared as foreigners, citing the excuse of not knowing their foreign addresses. The bench, comprising Justices Abhay S. Oka and Ujjal Bhuyan, directed the State to initiate immediate steps for their deportation, noting that many detainees have been held in transit camps for over a decade.

The Supreme Court on Tuesday expressed strong disapproval of the Assam Government's inaction in deporting foreign nationals detained in the State's transit camps. The Court noted that the government failed to comply with its earlier order dated 09-12-2024, which directed Assam to provide a detailed affidavit listing the names of detainees, justifications for their continued detention, and measures taken for their repatriation.

During the hearing, the Assam Government argued that the process of deportation was hindered due to the absence of known foreign addresses of the detainees. However, the Court rejected this justification and held that indefinite detention without progress toward deportation was a violation of fundamental rights. The bench further noted that some detainees have been languishing in camps for over ten years without any legal resolution.

On 22-01-2025, the Supreme Court reiterated its directive, requiring the State to account for the continued detention of 270 foreign nationals in transit camps. The Court found Assam's affidavit unsatisfactory, as it failed to outline concrete steps taken to ensure deportation. The failure to comply with the Court's directive was deemed a serious lapse, warranting immediate corrective action.

The ruling highlights the judiciary's concern over prolonged detentions without due process and underscores the necessity of a structured mechanism for handling foreign nationals identified for deportation. The Assam Government has now been tasked with taking urgent measures to rectify the situation.

Read More:

- https://www.scconline.com/blog/post/2025/02/04/sc-pulls-up-assam-govt-for-not-deporting-foreign-nationals/
- https://www.barandbench.com/news/litigation/supreme-court-pulls-up-assam-for-failing-to-deport-declared-foreigners

Citation: 2025 SCC OnLine SC 316.

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

SUPREME COURT REJECTS KARNATAKA'S PLEA TO CLASSIFY NECROPHILIA AS RAPE

The Supreme Court has dismissed the Karnataka government's plea to classify necrophilia as rape under Section 375 of the Indian Penal Code (IPC). The bench, comprising Justices Sudhanshu Dhulia and Ahsanuddin Amanullah, held that such a legal amendment falls under the domain of Parliament and cannot be judicially imposed.

The Supreme Court on Tuesday declined to entertain the Karnataka government's appeal challenging a 2023 High Court ruling that held necrophilia—sexual acts performed on a deceased woman—does not constitute rape under the IPC. The bench reaffirmed that legal changes to criminal law must be enacted through Parliament, not judicial interpretation.

The case involved a man accused of murdering a 21-year-old woman and then engaging in sexual acts with her body. The trial court convicted him of both murder under Section 302 IPC and rape under Section 375 IPC. However, in May 2023, the Karnataka High Court overturned the rape conviction, ruling that the legal definitions of rape and unnatural offenses (under Section 377 IPC) apply only to living persons.

The High Court emphasized that "a dead body cannot be called a human or person" under Sections 375 and 377 IPC, thereby exempting the accused from charges of rape. While acquitting him on the rape charge, the court urged the Central Government to amend the IPC to explicitly criminalize necrophilia, suggesting modifications to Section 377 or the introduction of a new penal provision.

bAppearing for the State, Additional Advocate General Aman Panwar contended that Section 375 should be interpreted to include acts involving a deceased woman, as a dead body cannot provide consent. He argued that the provision covering situations where a woman is unable to communicate consent should extend to cases of necrophilia. However, the Supreme Court rejected this interpretation, emphasizing that courts cannot expand statutory definitions beyond their express wording.

The bench observed that while necrophilia is widely condemned as a moral and legal transgression, the absence of an explicit penal provision makes it a matter for legislative review. The Court suggested that the Karnataka government present its concerns before Parliament to advocate for legal reforms.

This ruling underscores the judiciary's role in adhering to statutory boundaries and reinforces the principle that legislative action, not judicial intervention, is required to criminalize new offenses.

Read More:

- https://www.livelaw.in/top-stories/supreme-court-rejects-karnataka-govts-argument-that-sexual-act-on-dead-body-amounts-to-rape-offence-282993?fromIpLogin=94734.00345546048
- https://lawchakra.in/supreme-court/karnatakas-plea-necrophilia-as-rape/

Case Reference: State of Karnataka v. Rangaraju @ Vajapeyi, SLP(Crl) No. 005403 / 2024.

KERALA HIGH COURT: POLICE CAN INVESTIGATE SECTION 23 POCSO ACT CASES WITHOUT MAGISTRATE APPROVAL

The Kerala High Court has ruled that police can investigate cases under Section 23 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), which criminalizes revealing a minor victim's identity, without requiring prior approval from a magistrate. The Court aligned with a 2022 Supreme Court ruling that found Section 155 of the Code of Criminal Procedure (CrPC) inapplicable to POCSO cases, treating them as cognizable offenses.

In

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

IIn a significant judgment, the Kerala High Court has held that offenses under Section 23 of the POCSO Act, which deals with the unlawful disclosure of a minor victim's identity, are cognizable and can be investigated by police without magistrate approval. Justice A. Badharudeen ruled that the POCSO Act does not categorize its offenses as cognizable or non-cognizable, and therefore, investigations under Section 23 do not require prior judicial authorization.

The ruling came in response to a plea seeking to quash charges against two individuals accused of revealing the identity of a child actor in a Malayalam film, allegedly subjected to sexual exploitation. The accused had uploaded a video on YouTube identifying the child, leading to a complaint from the child's father. They were charged under Section 23 of the POCSO Act and Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act), which prohibits disclosing a child's identity in legal proceedings.

The accused argued that Section 23 is a non-cognizable offense and thus requires magistrate approval for investigation under Section 155 of the CrPC. However, the Court rejected this argument, citing Sections 33 and 42A of the POCSO Act, which do not restrict police investigations. It ruled that the offense should be treated as cognizable, allowing the case to proceed.
Notably, the Supreme Court delivered a split verdict on the issue in Gangadhar Narayan Nayak v. State of Karnataka (2022). While Justice Indira Banerjee ruled that Section 155 CrPC does not apply to Section 23 POCSO Act cases, Justice JK Maheshwari held the opposite view. The issue is currently pending before a larger bench of the Supreme Court.

Although the Kerala High Court upheld the Section 23 charge against the accused, it quashed the charge under Section 74 of the JJ Act, reasoning that the disclosure did not occur during a legal proceeding, making the provision inapplicable.

This ruling clarifies the scope of police authority in handling cases of child identity disclosure under the POCSO Act and reinforces the judiciary's commitment to protecting minors from public exposure in sexual offense cases.

Read More:

- https://sahodar.in/kerala-high-court-police-can-probe-section-23-pocso-act-case-without-magistrates-approval/
- https://www.barandbench.com/news/police-can-investigate-section-23-pocso-act-case-without-magistrate-approval-kerala-high-court

LAW DOES NOT FAVOUR EDUCATED WIFE NOT WORKING ONLY TO CLAIM MAINTENANCE: ORISSA HIGH COURT

A well-educated wife cannot decide to stay unemployed in order to demand maintenance from her husband, the Orissa High Court recently said in a landmark decision. The ruling highlights that maintenance under Section 125 of the Criminal Procedure Code (CrPC) is meant for those who are truly unable to sustain themselves, not for people who willfully choose financial dependency even though they are capable of earning a living.

In the matter at hand, a husband contested a Family Court judgment requiring him to provide his divorced wife with ₹8,000 monthly in maintenance. The husband contended that he had the additional duty of providing for his dependent mother on top of his net monthly wage of ₹32,541. Although she was unemployed at the time of the proceedings, the wife, who had a science degree and a Post-Graduate Diploma in Journalism and Mass Communication, had previous employment experience in media organizations.

In rendering the decision, Justice Gourishankar Satapathy said that the law does not support wives who, in spite of their qualifications, continue to be unemployed in order to collect maintenance from their husbands. The Court explained that although if a husband is legally required to provide for his wife, the amount of maintenance must be determined by the wife's earning capacity. According to the Court, maintenance provisions are not intended to give a spouse who freely decides not to work an unfair benefit; rather, they are intended to avoid destitution and guarantee financial security.The ruling is consistent with earlier rulings from the Supreme Court and several High Courts, which have reaffirmed that an educated and physically fit husband cannot refuse to work and demand lifetime maintenance. Courts have frequently promoted self-sufficiency among spouses who are able to support themselves by striking a balance between the husband's legal duty and the wife's ability to support herself. Given the husband's financial responsibilities and the wife's qualifications, the Orissa High Court in this instance lowered the maintenance amount from ₹8,000 to ₹5,000 per month. The decision demonstrates the judiciary's commitment to fostering economic independence while making sure maintenance is provided to those who actually require it.

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

Read More:

- https://www.verdictum.in/court-updates/high-courts/orissa-high-court/educated-wife-maintenance-madan-kumar-satpathy-v-priyadarshini-pati-1568060,
- https://www.google.com/url?q=https://www.barandbench.com/news/law-not-favor-women-staying-unemployed-maintenance-orissa-high-court%23:~:text%3DThe%2520Court%2520emphasised%2520that%2520maintenance,who%2520genuinely%2520cannot%2520sustain%2520themselves.%26text%3DThe%2520Orissa%2520High%2520Court%2520recently,her%2520ex%252Dhusband%2520for%2520sustenance.&sa=U&ved=2ahUKEwj0nfWnl4uMAxWrTGwGHcb2K4IQFnoECDUQBQ&usg=AOvVaw2fZ1my38Ovzoem-keW-cXI

SPOUSE OF VOID MARRIAGE UNDER HINDU MARRIAGE ACT ENTITLED TO PERMANENT ALIMONY/MAINTENANCE: SUPREME COURT

A spouse in a marriage deemed null and unlawful under Section 11 of the Hindu Marriage Act, 1955, is entitled to lifelong alimony or maintenance under Section 25 of the Act, the Supreme Court of India concluded in a landmark decision. This ruling makes clear the legal status of parties in void marriages, guaranteeing the economically disadvantaged spouse's financial security even in cases where the marriage is declared legally void.

The lawsuit started because of a disagreement in which one side requested maintenance even though the marriage had been ruled null and invalid. The opposing party argued that the spouse had no entitlement to financial support because the marriage was legally void. But in interpreting the meaning of Section 25, the Supreme Court ruled that the clause covers "any decree" made under the Hindu Marriage Act, including nullity judgments. The Court underlined that the goal of maintenance legislation is to avoid destitution and that financial dependency does not disappear just because a marriage is null and unlawful.

The decision is consistent with the idea that maintenance is based on a spouse's socioeconomic dependency rather than the legality of a marriage.

cThe Court explained that although a marriage may be null and void because of legal flaws, this does not change the fact that there may be a dependent spouse who has put money, time, and effort into the union. As a result, Section 25 of the Hindu Marriage Act establishes equitable and reasonable permanent maintenance and alimony.

In accordance with Section 24 of the Act, the Supreme Court also considered the question of interim maintenance.It said that if the requirements outlined in Section 24 are fulfilled, a spouse may request maintenance during continuing legal processes, even if the marriage is deemed to be unlawful on its face.This guarantees that throughout protracted legal proceedings, dependent spouses won't be left without financial support.

Read More:

- https://www.scconline.com/blog/post/2025/02/19/spouse-of-void-marriage-under-s-11-of-hma-entitled-to-permanent-alimony-maintenance-under-s-25-sc/

COURTS CANNOT CASUALLY GRANT BAIL THROUGH CRYPTIC ORDERS IN MONEY LAUNDERING CASES: SUPREME COURT

The Supreme Court of India recently stressed in a decision that courts should not issue ambiguous or short judgments granting bail in money laundering cases. The Court emphasized how serious money laundering charges are and how important it is to strictly follow the guidelines set forth in Section 45 of the Prevention of Money Laundering Act (PMLA), 2002.

The Enforcement Directorate (ED) challenged a lower court's bail order in the matter before the Supreme Court because it lacked specific justification. The ED said that bail should not be issued before a full assessment of the case's merits because money laundering is a severe financial crime with substantial economic ramifications.

The Supreme Court ruled that these requirements are mandatory and cannot be circumvented through ambiguous or ceremonial bail orders. A bench led by Supreme Court Justices reaffirmed that Section 45 of the PMLA imposes two essential conditions for granting bail:

1. The prosecution must be given the chance to contest the bail application

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

The Supreme Court ruled that these requirements are mandatory and cannot be circumvented through ambiguous or ceremonial bail orders. A bench led by Supreme Court Justices reaffirmed that Section 45 of the PMLA imposes two essential conditions for granting bail:
The prosecution must be given the chance to contest the bail application
The court must be convinced that there are reasonable grounds to believe the accused is not guilty of the offense and is unlikely to commit any crime while on bail.
The court also noted that lower courts must give clear justification when granting bail, especially in cases involving economic offenses. The ruling also noted that money laundering has serious repercussions, as it facilitates corruption, terrorism financing, and other illegal activities, making a strict judicial approach necessary.

The Court also explained that because of the double requirements outlined in Section 45, the evidentiary standard for bail in PMLA proceedings is higher than in ordinary criminal trials. It cautioned against issuing bail arbitrarily since this could erode public trust in financial controls and make anti-money laundering laws less effective.

This decision is consistent with earlier Supreme Court rulings that emphasized the necessity of a thorough investigation of the facts prior to granting bail in cases involving serious financial offenses. It reaffirms the idea that, because economic misdeeds affect both domestic and global financial stability, they should be subject to more stringent examination.

Read More:
- https://www.google.com/url?q=https://timesofindia.indiatimes.com/india/money-laundering-serious-offence-bail-cant-be-given-in-casual-manner-supreme-court/articleshow/118230121.cms&sa=U&sqi=2&ved=2ahUKEwipz4yRtIuMAxUVSmwGHWbIE6kQFnoECCoQAQ&usg=AOvVaw37WdutPT_ZD366E8Ijdc4i

WRIT PETITIONS MUST BE CLASSIFIED AS CRIMINAL OR CIVIL BASED ON SUBSTANCE, NOT NOMENCLATURE: KERALA HIGH COURT 13TH FEB

The Kerala High Court declared in a landmark decision on February 13, 2025, that the nature of the proceedings and the relief sought should determine whether writ petitions are classified as criminal or civil, not the label given to them. The ruling emphasizes how crucial judicial clarity and efficiency are when choosing the bench to hear a certain case.

A writ petition that was initially classified as civil but included features that suggested a criminal nature was at the center of the matter before the court. When classifying writ petitions, a division bench made up of Chief Justice Nitin Jamdar and Justice S. Manu decided that courts must consider the underlying legal concerns in addition to nomenclature.

The High Court made it clear that writ petitions originating from proceedings that can lead to punitive outcomes—like incarceration, fines, or property forfeiture—should be handled as criminal writ petitions (WP Crl). This covers topics pertaining to law and order, criminal investigations, inquiries, trials, and preventive detention. The bench stressed that the petition should be categorized appropriately if the primary relief sought relates to a criminal process.

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

However, writ petitions pertaining to property rights, administrative proceedings, contractual issues, and service matters ought to be classified as civil writ petitions (WP Civil). The court reaffirmed that unless the relief sought is inextricably related to criminal proceedings, the mere existence of a criminal element does not automatically turn a writ petition into a criminal one.

The decision is consistent with other court decisions that prioritized substance above form in legal classification. By ensuring that cases are allocated to the right judicial bench, it avoids delays and confusion in the process. Furthermore, by guaranteeing that cases are decided within the appropriate legal framework, this method preserves the integrity of the legal system.

Read More:

- **https://www.google.com/url?q=https://www.verdictum.in/court-updates/high-courts/kerala-high-court/n-prakash-v-manoj-kumar-ors-civil-criminal-writ-petitions-distinction-1568183&sa=U&ved=2ahUKEwjF3eiZ7YuMAxXgcWwGHa0sLIQQFnoECDQQAQ&usg=AOvVaw1Eh-_tuylqe-Us27wai6H7**

SUPREME COURT SLAMS 2003 BOMBAY HC VERDICT FOR CALLING WOMAN "ILLEGITIMATE WIFE"

The Supreme Court of India harshly criticized a 2003 Bombay High Court ruling that called a lady a "faithful mistress" and a "illegitimate wife" on February 12, 2025. Under Article 21 of the Constitution, which protects the right to dignity and a life free from discrimination, the Supreme Court ruled that such language was sexist, illegal, and a violation of fundamental rights.

This case concerned a woman who had dated a man whose first marriage was still enforceable. Concerns over gender bias and the insensitive use of language in court rulings were raised when the Bombay High Court used disparaging words to characterize her position when determining her legal standing and rights.After considering the matter, the Supreme Court declared that the language was out of date, inappropriate, and incompatible with the values of gender equality and constitutional morality.

Regardless of the legality of the relationship, a bench made up of Justices Abhay S. Oka, Ahsanuddin Amanullah, and Augustine George Masih noted that no woman should be branded in a way that diminishes her dignity and self-respect. The Court highlighted blatant gender-based prejudice in judicial reasoning by pointing out that the High Court had not used comparable disparaging language against men in comparable situations.

The decision underlined that contemporary law does not accept terminology like "illegitimate wife," particularly when discussing situations pertaining to women's rights.The Supreme Court stressed that although the Hindu Marriage Act can be utilized to evaluate a relationship's legal status, the wording of court rulings must respect constitutional principles and safeguard human dignity.

The Court further explained that although a second marriage without the first spouse's divorce is null and unlawful under the Hindu Marriage Act, women in such partnerships are still entitled to certain legal protections, such as maintenance under Section 25 of the Act.The Supreme Court's ruling is consistent with its larger position to guarantee gender-sensitive legal interpretations and to forbid disparaging judicial language that can strengthen societal biases.

In order to guarantee that constitutional protections—particularly those pertaining to gender equality and dignity—are maintained at all levels of the legal system, this historic decision sends a clear message that the judiciary must be sensitive and cautious in its wording when rendering decisions.

Read More:

- https://www.google.com/url?q=https://lawchakra.in/supreme-court/woman-illegitimate-wife-is-misogynistic/&sa=U&ved=2ahUKEwj4zNiE7ouMAxVYR2wGHdDLGrEQFnoECCYQAQ&usg=AOvVaw3dnEbyfTGVgUDQbhsnDlqc

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

SUPREME COURT ACQUITS MAN ACCUSED OF KIDNAPPING MINOR GIRL

The Supreme Court of India recently acquitted a man accused of kidnapping a minor girl, ruling that she had voluntarily accompanied him. In the case heard by a bench comprising Justices B.R. Gavai and K. Vinod Chandran, the Court found that the essential elements of "taking" or "enticing" a minor away from her lawful guardian were not established, leading to the acquittal.

The case originated from an FIR filed in February 1994, alleging that the appellant, along with his father and other relatives, had kidnapped the minor girl from her village. Subsequent investigations revealed that the girl was residing with the appellant in Dehradun as his wife. The trial court convicted the appellant under Sections 363 (kidnapping), 366 (kidnapping, abducting, or inducing a woman to compel her marriage), and 376 (rape) of the Indian Penal Code (IPC). On appeal, the High Court acquitted him of the rape charge but upheld the convictions under Sections 363 and 366, sentencing him to two years of imprisonment.

Upon further appeal, the Supreme Court observed that the girl had willingly left her home and was living with the appellant as his wife. The Court noted that the prosecution failed to prove that the appellant had "taken" or "enticed" the minor away from her lawful guardian, which are essential components to establish the offenses under Sections 363 and 366 IPC. Consequently, the Court acquitted the appellant of all charges.

This judgment underscores the importance of establishing coercion or enticement in kidnapping cases involving minors and clarifies that a minor's voluntary departure without external influence does not constitute kidnapping under the IPC.

Read More:

- https://www.livelaw.in/supreme-court/she-went-with-him-voluntarily-supreme-court-acquits-man-accused-of-kidnapping-girl-aged-between-16-18-yrs-for-marriage-284342
- https://www.verdictum.in/court-updates/supreme-court/tilku-alias-tilak-singh-v-the-state-of-uttarakhand-2025-insc-226-sections-363-366-ipc-prosecutrix-16-to-18-years-age-1568613

SUPREME COURT CLARIFIES SCOPE OF SECTION 34 IPC ON COMMON INTENTION

The Supreme Court of India has clarified that mere presence at a crime scene does not establish common intention under Section 34 of the Indian Penal Code (IPC) unless active participation is proven. In a recent judgment, a bench comprising Justices J.B. Pardiwala and R. Mahadevan acquitted a husband accused of participating with his mother in setting his wife ablaze, citing insufficient evidence of his active involvement.

The case arose from an incident where the appellant's wife was set on fire, leading to her death. The prosecution alleged that the husband had actively participated in the crime alongside his mother. However, the evidence presented only confirmed his presence at the scene, without demonstrating any overt act or active participation in the offense.

The Supreme Court emphasized that for Section 34 IPC to apply, there must be a pre-arranged plan, and the accused must actively participate in the crime to further the common intention. The Court stated, "A person present on the scene might or might not be guilty by the application of Section 34, IPC. If he is present on the scene for the purpose of participating in the offense, he would certainly be guilty as a participator in the offense. On the other hand, if he is present there merely as a spectator, he would not be guilty."

This ruling underscores the necessity for the prosecution to provide concrete evidence of active involvement and shared intent among co-accused individuals. It serves as a reminder that courts must carefully assess each individual's role and participation in the alleged crime before attributing collective liability under Section 34 IPC.

Read More:

- ·https://www.livelaw.in/supreme-court/s-34-ipc-mere-presence-at-crime-scene-as-spectator-doesnt-establish-common-intention-unless-active-participation-proven-supreme-court-284275#:~:text=Observing%20that%20mere%20presence%20at,not%20be%20guilty%20by%20the
- ·https://www.lawpreptutorial.com/legal-update/19-february-2025

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

SUPREME COURT REFERS COMPENSATION DECISION UNDER MOTOR VEHICLES ACT TO LARGER BENCH

In a recent development, the Supreme Court has referred its decision in Deepal Girishbhai Soni and Ors. vs United India Insurance Co. Ltd., Baroda (2004) 5 SCC 385, regarding compensation under the Motor Vehicles Act, to a larger bench for reconsideration. A three-judge bench in the Deepal Girishbhai Soni case had held that if no case was made out under Section 166 of the Act, claimants could not subsequently file a claim under Section 163A.

The Bench of Justices Sudhanshu Dhulia and K. Vinod Chandran expressed reservations about this precedent, reasoning that Section 163A, being a beneficial provision, should not be restricted in such a manner. Section 166 requires proving fault or negligence of the driver, whereas Section 163A allows compensation without establishing fault. The present case involved an accident where Chacko George, his minor child, and the driver were killed. Surviving family members initially filed claims under Section 166, which were dismissed due to a finding of negligence on the driver's part. The High Court upheld the rejection and refused to permit conversion of the claim to Section 163A, citing Deepal Girishbhai Soni.

The Supreme Court, however, noted the social security objectives behind Section 163A and found it difficult to accept a strict interpretation that barred conversion of claims. The Court emphasized that tribunals should allow claimants to modify their claims under Section 163A even if not requested. Furthermore, it suggested that in cases involving no-fault liability, insurers of other vehicles involved could be held accountable as third-party claims.

Accordingly, the Court referred the matter to the Chief Justice of India for consideration by a larger bench, recognizing the need for a more flexible and equitable approach in motor accident compensation cases.

Read More:

- ·https://www.livelaw.in/supreme-court/motor-accident-compensation-supreme-court-to-reconsider-judgment-barring-claim-under-s163a-mv-act-after-dismissal-s166-clai,-284302#:~:text=The%20Supreme%20Court%20recently%20(on,a%20larger%20bench%20for%20reconsideration.
- ·https://lawtrend.in/supreme-court-refers-motor-accident-claims-issue-under-sections-163a-and-166-to-larger-bench-for-reevaluation/

SUPREME COURT UPHOLDS NEET REQUIREMENT FOR FOREIGN MEDICAL ASPIRANTS

In a significant ruling, the Supreme Court has upheld the regulations issued by the erstwhile Medical Council of India (now the National Medical Commission) mandating that students aspiring to study in foreign medical institutions must qualify the National Eligibility-cum-Entrance Test (NEET) to obtain an Eligibility Certificate. The bench comprising Justices B.R. Gavai and K. Vinod Chandran held that the requirement, introduced under Section 13(4B) of the Indian Medical Council Act, 1956, and further reinforced in Clause 8(iv) of the Foreign Medical Institution Regulation, 2002, ensures a fair and transparent process.

The petitioners challenged the regulation on the grounds that it was introduced via notification rather than an amendment to the Act. However, the Court held that the regulations were issued under the Council's powers under Section 33 of the Act and did not conflict with any statutory provisions. The bench categorically stated that the regulations are not ultra vires the Constitution nor arbitrary in any manner.

The petitioners further sought a one-time exemption from the NEET requirement, arguing that they had secured foreign admissions after the regulation's enactment. The Court, however, denied relief, holding that students who chose to pursue foreign medical education after the amended regulations came into force could not claim exemption.

Reaffirming the necessity of ensuring minimum competency for medical practitioners in India, the Supreme Court concluded that the NEET mandate for foreign medical aspirants was legally sound and essential for maintaining standards in the medical profession.

THE CCJC EXPRESS
MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

Read More:

- ·https://indianexpress.com/article/education/study-abroad/neet-ug-2025-supreme-court-upholds-validity-of-neet-qualification-medical-courses-abroad-9845853/#:~:text=The%20Supreme%20Court%20on%20Wednesday,medical%20courses%20in%20foreign%20institutions.
- ·https://www.livelaw.in/top-stories/supreme-court-upholds-mci-regulation-mandating-neet-for-eligibility-certificate-to-medical-students-studying-abroad-284363

SUPREME COURT GRANTS BAIL CITING PROLONGED INCARCERATION IN MONEY LAUNDERING CASE

In a significant ruling, the Supreme Court recently granted bail to an accused in a money laundering case, emphasizing the importance of the right to a speedy trial under Article 21 of the Constitution. The bench, comprising Justices Abhay S. Oka and Ujjal Bhuyan, considered the prolonged incarceration of the accused, Udhaw Singh, who had been in custody for 14 months, alongside the likelihood of a delayed trial. Notably, out of 225 witnesses listed by the Enforcement Directorate (ED), only one had been examined.

The judgment, authored by Justice Oka, relied on precedents set in Union of India v. K.A. Najeeb and V. Senthil Balaji v. Deputy Director, Directorate of Enforcement. In these cases, the Court held that stringent laws such as the Unlawful Activities (Prevention) Act (UAPA) and the Prevention of Money Laundering Act (PMLA) must not lead to indefinite pre-trial detention when trials are unlikely to conclude within a reasonable timeframe.

An important facet of this case was the clarification provided regarding the decision in Assistant Director v. Kanhaiya Prasad, where a bench led by Justice Bela M. Trivedi had canceled bail citing non-fulfillment of twin conditions under Section 45 of PMLA. The Court distinguished the present case by noting that in Kanhaiya Prasad, the accused had been in custody for less than seven months, and there was no finding of unreasonable delay in the trial.

The Solicitor General acknowledged that the precedent set in V. Senthil Balaji could be followed, paving the way for the appellant's release. The Court, thus, underscored the necessity of balancing statutory bail restrictions with the fundamental right to a speedy trial.
Accordingly, the appeal was allowed.

Read More:
- https://www.livelaw.in/supreme-court/supreme-court-grants-bail-in-pmla-case-citing-trial-delay-long-custody-distinguishes-recent-precedent-284456
- https://www.taxscan.in/delayed-trial-prolonged-custody-of-accused-of-pmla-offence-supreme-court-grants-bail/491540/

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

SUPREME COURT DECLINES TO DISMISS 2011 GUJARAT POLICE FIR AGAINST EX-IAS OFFICER PRADEEP SHARMA, APPROVES ANTICIPATORY BAIL

The Supreme Court declined to quash the FIR against former Gujarat IAS officer Pradeep Sharma, accused of abusing his official position to pass biased orders in a land dispute. However, the court granted him anticipatory bail.

A bench comprising Justices Vikram Nath and PB Varale reviewed Sharma's challenge against the Gujarat High Court's rulings from December 2018 and February 2019, which had rejected both his plea to quash the 2011 FIR and his request for anticipatory bail. The FIR, filed in Rajkot, alleged that while serving as Collector, Sharma unlawfully overturned a land forfeiture order, favoring allottees who were living abroad and not cultivating the land. As a result, he was charged under Sections 409, 219, and 114 of the IPC for criminal breach of trust and misuse of authority.

Despite granting anticipatory bail, the court-imposed conditions: Sharma must furnish a ₹1,00,000 personal bond and fully cooperate with the investigation. If custodial interrogation is deemed necessary, the investigating agency may seek approval from the magistrate, whose decision will be independent of the Supreme Court's observations.

The court refused to dismiss the FIR, emphasizing the severity of the allegations, which included unauthorized jurisdiction, collusion, and potential misrepresentation. It noted that the accusations required thorough investigation, as they involved misuse of power rather than a clear case of procedural error. The judgment clarified that FIRs should not be quashed unless they evidently lack legal basis, which was not the case here.

However, the court found no evidence suggesting Sharma might tamper with records or obstruct the inquiry. Since the case primarily involves documentary examination rather than physical wrongdoing, custodial interrogation was deemed unnecessary. Acknowledging that similar allegations had been filed against him, the court ruled that he should remain free while ensuring his participation in the investigation.

.

Thus, while rejecting Sharma's plea to nullify the FIR, the court permitted anticipatory bail, provided he complies with the set conditions.
Supreme Court Refuses to Quash 2011 Gujarat Police FIR Against Ex-IAS Officer Pradeep Sharma, Grants Anticipatory Bail

Citation: 2025 LiveLaw (SC) 263.

SUPREME COURT RULES THAT SIMPLY USING THE TERM 'IRREVOCABLE' DOESN'T MAKE A POWER OF ATTORNEY IRREVOCABLE; ITS NATURE DEPENDS ON THE SUBJECT MATTER

On February 27, the Supreme Court ruled that the nature of a power of attorney (POA) is determined by its subject matter rather than its title. Whether labeled as general or special, the designation does not define its legal effect. Instead, what matters is the scope of authority granted within the document. A "general" POA may contain specific powers, while a "special" POA may grant broad authority, observed Justices J.B. Pardiwala and R. Mahadevan.

The Court emphasized that a document's title should not dictate its interpretation. Instead, its content, language, and the circumstances of its execution must be analyzed to determine intent. Additionally, the use of the term "irrevocable" in a POA does not automatically make it so unless it is coupled with an interest in the subject matter. Even without such explicit wording, a POA may still be irrevocable if its provisions establish a vested interest.

This ruling came in response to a dispute where an original property owner had executed an "irrevocable" general POA and an unregistered sale agreement in favor of an attorney holder, who later transferred the property to his son. Meanwhile, the owner's heirs sold the property to another party, who eventually transferred it to respondent no. 1. The respondent then filed a suit for a permanent injunction, which was upheld by both the trial court and the High Court, prompting the current appeal.

THE CCJC EXPRESS
MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

The Supreme Court reiterated that a POA establishes a principal-agent relationship and cited legal precedents, including State of Rajasthan v. Basant Nahata (2005), to reinforce that an agent's right to remuneration does not equate to an interest in the subject matter.

Upon reviewing the POA, the Court concluded that it was not irrevocable, as it was not created to protect the agent's interests. Furthermore, a sale agreement alone does not confer ownership rights. Consequently, the Court upheld the High Court's decision and dismissed the appeal.

Mere Use of Word 'Irrevocable' Doesn't Make Power Of Attorney Irrevocable; PoA's Nature Determined By Its Subject Matter: Supreme Court

Citation: 2025 LiveLaw (SC) 257.

ARTICLE 226, PRESENCE OF DISPUTED FACTS ALONE DOESN'T BAR WRIT COURT FROM GRANTING RELIEF: SUPREME COURT

On February 27, the Supreme Court clarified that while High Courts typically do not decide disputed questions of fact in writ jurisdiction, the mere existence of such disputes does not automatically bar them from granting relief. A writ court must intervene when it finds that factual disputes are raised solely to reject a petition, observed Justices J.B. Pardiwala and R. Mahadevan.

The case involved a company manufacturing power transformer, which had purchased land for its unit. Following the Urban Land (Ceiling and Regulation) Act, the company filed a declaration regarding excess land, leading to government exemptions that were later withdrawn. After an inquiry, authorities determined that 46,538.43 sq. meters of land was surplus and required surrender. The company argued that possession remained with it, challenging the official panchnama as mere symbolic possession. A single-judge bench ruled in favor of the company, but a division bench overturned the decision, stating that writ proceedings under Article 226 were not the proper forum to resolve such disputes.

The Supreme Court, however, disagreed, emphasizing that making Article 226 inflexible would render it ineffective. Citing State of U.P. v. Ehsan (2023), the Court held that possession disputes can be determined based on available evidence, and adverse inferences may be drawn against the state if statutory procedures are not followed.

The Court clarified that the issue of possession was a "mixed question of law and fact" rather than a purely factual matter. Mixed questions require courts to analyze both factual evidence and legal principles simultaneously. Additionally, it cited Kolkata Municipal Corporation v. Bimal Kumar Shah, reinforcing the protection of property rights under Article 300A of the Constitution.

Finding the division bench's decision erroneous, the Supreme Court reinstated the single-judge ruling and allowed the appeal, holding that there was no justification for interference.

Article 226| Mere Existence Of Disputed Questions Of Fact Won't Affect Writ Court's Jurisdiction To Grant Relief: Supreme Court

Citation: 2025 LiveLaw (SC) 260.

NO''DEEMED SANCTION', SANCTION FOR PROSECUTION OF PUBLIC SERVANTS MUST UNDER SECTION 197 CRPC: SC

In a landmark judgement , while quashing a case against a public servant for lack of prior sanction, the Supreme Court on Tuesday (February 25) held that the failure of the sanctioning authority to grant sanction within the stipulated time does not amount to a 'deemed sanction,' as no such concept exists under Section 197 of the Code of Criminal Procedure, 1973. A bench comprising of Justices B V Nagarathna and Satish Chandra Sharma made the observation while quashing the criminal proceedings against Suneti Toteja, an officer of the Bureau of Indian Standards (BIS) in a sexual harassment case in the Food Safety and Standards Authority of India (FSSAI).

The case involved Suneeti Toteja, a public servant, who was accused of misconduct related to an affidavit filed in her official capacity as the Presiding Officer of the Internal Complaints Committee at the Food Safety and Standards Authority of India (FSSAI).

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

The complaint arose from a sexual harassment case against another official, where the complainant alleged that Toteja had filed a counter affidavit on her behalf without her consent and later pressured her to withdraw her case.

The Uttar Pradesh government cited the Supreme Court's judgment in Vineet Narain vs. Union of India (1998) to argue that the three-month time limit for granting sanction for prosecution must be strictly followed. They contended that since no sanction was granted within this timeframe, they were justified in proceeding as if the sanction had been granted by default, effectively invoking a "deemed sanction.

Advocate Prashant Bhushan, appearing for complainant, cited Subramanian Swamy Vs Manmohan Singh (2012), to contend that if no decision is taken by the sanctioning authority, then at the end of the extended time limit, sanction will be deemed to have been granted to the proposal for prosecution.

The Supreme Court allowed the appeal filed by Suneeti Toteja and quashed the criminal proceedings initiated against her, including the chargesheet, the summoning order, and any consequent legal actions taken by the trial court. The Court emphasized that the petitioner, being a public servant, was entitled to protection under Section 197 of the CrPC, which mandates prior sanction for prosecution before any court can take cognizance of an offence committed in the discharge of official duties. It found that the petitioner was acting in her official capacity as the Presiding Officer of the Internal Complaints Committee (ICC) and that her actions were reasonably connected to her official functions.

The Court also rejected the argument of 'deemed sanction' put forth by the prosecution, clarifying that no such concept exists under Section 197 of the CrPC. It ruled that the Magistrate had erred in proceeding with the case without obtaining valid sanction from the competent authority, which in this case was the Bureau of Indian Standards (BIS). The BIS, upon reviewing the relevant records, explicitly denied sanction for prosecution, reinforcing the illegality of the proceedings against the petitioner.

Furthermore, the Supreme Court criticized the High Court’s decision for failing to recognize the necessity of prior sanction and for not considering the BIS’s refusal to grant sanction. It reaffirmed that the lack of valid sanction vitiated the very initiation of the criminal case against the petitioner.

The Court also noted that the counter affidavit filed by the petitioner before the Central Administrative Tribunal (CAT) did not show any malafide intent or attempt to misrepresent the complainant, as alleged. Instead, it was a part of her official duties as the Presiding Officer of the ICC.

Based on these findings, the Supreme Court concluded that the proceedings against the petitioner were unsustainable in law. It quashed all charges against her and reaffirmed the importance of procedural safeguards under Section 197 of the CrPC to protect public servants from vexatious or unjustified criminal prosecution.

Read more :-

- https://www.deccanherald.com/india/no-deemed-sanction-sanction-for-prosecution-of-public-servants-must-sc-3422867#:~:text=%22Section%20197%20of%20CrPC%20does,due%20to%20refusal%20of%20sanction.
- https://www.verdictum.in/court-updates/supreme-court/suneeti-toteja-v-state-of-up-2025-insc-267-deemed-sanction-section-197-crpc-1569462

BNSS/CRPC PROTECTIONS FOR ARRESTED PERSONS APPLY TO GST & CUSTOMS ACTS: SUPREME COURT

BIn a landmark Judgement, Supreme court in its judgement on February 27 stated that safeguards against arbitrary arrest contained in Section 19 of the PMLA would “equally apply” to arrests under the Customs and GST Acts too. The bench comprising A bench of CJI Sanjiv Khanna and Justices M Sundresh and Bela M Trivedi — clarified that the powers of arrest under the Goods and Services Tax (GST) Act and the Customs Act. The Court ruled that the rights of accused persons, as outlined in the Code of Criminal Procedure (now Bharatiya Nagarik Suraksha Sanhita), are equally applicable to arrests made under both the Customs Act and the GST Act.

The bench, which was hearing a batch 279 petitions challenging the validity of the arrest provisions under the Customs Act, 1962 and the Central Goods and Services Tax Act, 2017 — said: “Parliament, under Article 246-A of the Constitution, has the power to make laws regarding GST and, as a necessary corollary, enact provisions against tax evasion. Thus, penalty or prosecution mechanism for the levy and collection of GST, and for checking its evasion, is a permissible exercise of legislative power.”

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

Petitioner’s argues that arrests under PMLA must be based on well-documented "reasons to believe" and that these reasons should be disclosed for judicial review to prevent arbitrary detention. Respondent’s argues that The Union of India maintains that enforcement authorities have discretion to arrest based on collected material and that full disclosure of investigative records is not mandatory, with judicial review limited to procedural compliance.

The court held that the power of arrest under these laws must be exercised in accordance with legal safeguards to ensure fairness and transparency. It emphasized that before arresting an individual, enforcement officers must record "reasons to believe" in writing that the person has committed an offense. This written justification serves as an essential safeguard to prevent arbitrary detention and ensures that courts can review the legitimacy of the arrest.

Additionally, the court ruled that individuals must be informed of the grounds of their arrest at the earliest opportunity. This provision allows arrested persons to challenge their detention, reinforcing their constitutional rights under Article 21(Right to Life and Personal Liberty) and Article 22 (Protection against Arbitrary Detention). The judgment also clarified that while enforcement agencies have investigative discretion, they cannot withhold all case materials from courts if required for judicial review.

Finally, the court reaffirmed that judicial review of arrests is permissible, meaning courts can examine whether the authorities exercised their arrest powers legally, reasonably, and in good faith. While upholding the validity of these provisions, the court directed that such powers be exercised with strict procedural safeguards to prevent any potential misuse. The case was referred to an appropriate Bench for further proceedings on individual matters

Read more :-

- https://www.jurishour.in/gst/bnss-crpc-arrested-persons-gst-customs-acts/
- https://indianexpress.com/article/india/crpc-provisions-accused-rights-arrests-gst-customs-acts-sc-9858989/#