



Experience law effortlessly

JUDGEMENTOPEDIA

(Learning Judgements For A Living)

- 1 Do lawyers doing non-litigious matters come under the purview of the Advocates Act, 1961?
- 2 How can the court exercise its powers while granting bail to persons involved in illegal mining operations?
- 3 What are the limitations on Lok Adalats' jurisdiction to entertain property disputes?
- 4 A Woman Who Commits 'Penetrative Sexual Assault' On A Child Can Be Prosecuted Under POCSO Act
- 5 High Court Enhances Compensation for Total Loss of Earning Capacity in Motor Accident Case



Aug, 2024
Vol 7



JUDGEMENTOPEDIA

(Learning Judgements For A Living)

- 1 Lawyers Collective Vs. Bar Council Of India And Others
- 2 Bhagwan Bhagat Vs. The State of Jharkhand and Anr
- 3 Rina Devi vs Sudhir Chaubey
- 4 Sundari Gautam v. State (NCT of Delhi)
- 5 Akshay v. Kailas Vitthalrao Shinde



Do lawyers doing non-litigious matters come under the purview of the Advocates Act, 1961?

CONTEXT: : The Petitioner filed the writ petition in public interest as according to them, the permission granted by RBI to foreign law firms to open liaison offices in India is illegal and violative of the Advocates Act, 1961.

1 The Bombay High Court held that persons practicing the profession of law whether in litigious matters or non-litigious matters would be governed by the Advocates Act, 1961 and the Bar Councils framed thereunder, apart from powers of the Court, to take appropriate action against advocates who are found guilty of professional misconduct.

LAWYERS
COLLECTIVE VS.
BAR COUNCIL OF
INDIA AND OTHERS
[WRIT PETITION
NO.1526 OF 1995]

THE ADVOCATES
ACT, 1961

How can the court exercise its powers while granting bail to persons involved in illegal mining operations?

CONTEXT: The petitioner was accused of allegedly controlled illegal mining operation and , collected levies from trucks transporting stones. The acquired proceeds of crime ran into crore. Investigation was initiated by Enforcement Directorate and the petitioner applied for bail and it was rejected by Special Judge, PMLA. Hence the petitioner filed an appeal under Jharkhand HC.

It was mentioned that, "the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever."

①

It was also mentioned that "Court cannot exercise its powers in a capricious manner and has to consider the totality of circumstances before granting bail and

② by only simple saying that another accused has been granted bail is not sufficient to determine whether a case for the grant of bail on the basis of parity has been established."

③ The bail application was rejected.

BHAGWAN BHAGAT
VS. THE STATE OF
JHARKHAND AND
ANR [(2013) 7 SCC
466]

PREVENTION OF
MONEY LAUNDERING
ACT, 2002

THE INDIAN PENAL
CODE, 1860

What are the limitations on Lok Adalats' jurisdiction to entertain property disputes?

CONTEXT: This case concerns a petition filed to set aside an award passed by a Permanent Lok Adalat in a property dispute between family members regarding division of ancestral property. The petitioners alleged the award was obtained fraudulently and that the Lok Adalat lacked jurisdiction to decide property matters.

The court held that Lok Adalats constituted under

- 1 Section 19 of the Legal Services Authorities Act have jurisdiction to entertain matters based on compromise between parties.

The court cited a previous ruling in Nawal Kishore Prasad Singh and Ors. Vs. The State of Bihar and Ors. (LPA No.1923 of 2011) that directed Lok Adalats not to entertain property disputes or matters involving contentious issues, especially at pre-litigation stage.

- 2

The court found prima facie evidence that the award did not reflect proper consent of all parties, as it showed unequal distribution of property without adequate explanation.

- 3

The High Court set aside the award passed by the Permanent Lok Adalat, Gopalganj in Title Suit No.377 of 2013, holding it was not sustainable in light of the legal position on Lok Adalats entertaining property disputes.

- 4

RINA DEVI VS
SUDHIR CHAUBEY
[C.MISC. NO.538 OF
2022]

LEGAL SERVICES
AUTHORITIES ACT,
1987

A Woman Who Commits 'Penetrative Sexual Assault' On A Child Can Be Prosecuted Under POCSO Act

CONTEXT: The FIR registered against the petitioner alleged sexual assault upon a 6-year-old minor boy (petitioner's son). The petitioner submitted that the FIR was registered four years after the alleged incident and that the pronoun "he" in the POCSO Act indicates that the law was intended to apply only to male offenders.

1 The Court held that "Though the acts that form the gravamen of the offence in section 375 of the IPC are the same as those in sections 3 and 5 of the POCSO Act, the opening line of section 375 specifically refers to a "man" whereas the opening line of section 3 refers to a "person". It is accordingly held that the acts mentioned sections 3 and 5 of the POCSO Act are an offence regardless of the gender of the offender provided the acts are committed upon a child.

2 On a conjoint reading of the foregoing provisions of the POCSO Act, it is accordingly held that the word "he" appearing in section 3 of the POCSO Act cannot be given a restrictive meaning, to say that it refers only to a "male"; but must be given its intended meaning namely that it includes within its ambit any offender irrespective of their gender."

SUNDARI GAUTAM
V. STATE (NCT OF
DELHI)
[CRL.REV. P. 852
OF 2024]

**PROTECTION OF
CHILDREN FROM
SEXUAL OFFENCES
ACT, 2012**

High Court Enhances Compensation for Total Loss of Earning Capacity in Motor Accident Case

CONTEXT: The claimant lost his right leg and severely damaged his left leg in a motor accident. The Tribunal initially assessed his disability at 45%, but the claimant argued this was inaccurate, as the injuries caused a 100% loss of earning capacity.

1 The High Court found that the Tribunal's disability assessment was incorrect. The Court emphasized that compensation under the Motor Vehicles Act should fully restore the injured party to their pre-accident status.

2 It ruled that the claimant's injuries resulted in total loss of earning capacity and ordered the respondents to pay enhanced compensation with 7% interest, jointly and severally.

3 The Court highlighted the importance of considering both physical and non-pecuniary losses in such cases.

AKSHAY V. KAILAS
VITTHALRAO
SHINDE
[2022 SCC ONLINE
BOM 830]

MOTOR VEHICLES
ACT, 1988