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① In Benami property cases, the Supreme court has wisely placed restrictions on retrospective penal action in civil law. Explain.

'Supreme court asserted constitutional interpretation, to correct the Legislative framework in the recently contented Benami property case.

What is the Issue?

→ Poor Legislative framework, handled for the recent using the Amended, 2016 Act for retrospective prosecution.

⇒ 3-judge bench chaired by former CJI Ramana has struck at the route, where it found that the criminal prosecution has been disguised as civil to prosecute retrospectively

[Art 20] → Doesn't allow for retrospective prosecution for criminal cases, but it is not the case with civil cases.

UPSC

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Legislative Reasons :

⇒ Benami prohibition, 1988 Act, already contains the provision for criminal prosecution. But it remained merely unimplemented between 1988-2016.

Amendment in 2016 was brought to correct this, and to make the criminal prosecution retrospective.

Since the Act, 1988 is already in the Statute book, it was not substantive, but, procedural one. Hence Art-20 which bars retrospective criminal prosecution, does not apply to this.

Court's verdict

Supreme Court → used "Constitutional as the flag post". It interpreted it in positive sense, that "what can't be done directly cannot be done indirectly". It struck down the

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Retrospective provision Section 5 & 3 of the
amended act:

Impact of verdict

1000's of property holders have been
relieved, who already have been
prosecuted for transfer ~~pro~~ as 'benami' prior to
2016.

Significance of verdict:

Court has stood out as final
interpreter of constitution. It reminded Legislature
to not to breach the constitutional
boundaries.

Calcutta [HC] in 2019, gave similar
verdict against retrospective provision.