



“SPEEDY TRIAL: A CORNERSTONE OF JUSTICE”

¹Name of 1st Author is Aashik G M Gowda, ²Name of 2nd Author is Dr. Kalicharan M L

¹Designation of 1st Author is Student, ²Designation of 2nd Author is Professor

¹Name of Department of 1st Author is School of Legal Studies,

¹Name of organization of 1st Author is Reva University, Bangalore, India

Abstract:

Article 21 of the Article, Indian Constitution, protects life and personal liberty and, is a very important part of the criminal justice system and the right to a speedy trial is protected under the article 21. In light of the above, this article explores the crucial role that speedy trials play to ensure that the public continues to have faith in the judicial system by avoiding any breaches in their faith due to unnecessary delays. It is explored on the basis of the legal and constitutional frames work by means of which such right can be maintained such as sections like 309, 436A, 167, 173 of Criminal Procedure Code (CrPC) and this can be seen in great judgement's like Hussainara khatoon v. State of Bihar, A.R. Antulay v. R.S. Nayak. Further, it discusses the reformative measures taken for improving judicial efficiency including Fast Track Courts, e-Courts, and alternative methods of conflict resolution. The conclusion of the article states that the judiciary has an obligation to play their moral, constitutional and legal fight to eliminate the saying 'justice delayed is justice denied' and do investment and accountability to ensure prompt justice to everybody now and in the future.

Keywords- Speedy trial, Article 21 (Indian Constitution), Criminal justice system, Right to life and personal liberty, Judicial delay, Under-trial prisoners, Code of Criminal Procedure (CrPC), Legal aid, Fast Track Courts (FTCs), e-Courts, Plea bargaining, Lok Adalats, Supreme Court rulings, Judicial reforms, Forensic delay, Case backlog, Justice delivery system.

Introduction:

It is rightfully said "Justice delayed is justice denied." Anyone charged with a crime has the right to a timely trial and that a person charged with a crime will be tried within a reasonable amount of time. This right protects the accused's interests and ensures justice and efficiency of the legal system. Trial delays can have a decrease in the public confidence in the legal system, loss of evidence, as well as psychological stress on the accused. Although the legal frameworks acknowledging this right, but there are various hurdles to its successful application. The court system also takes longer to get to trial by struggling with a large backlog of cases, failing to follow correct procedures, and being guilty of funding. However, courts had given right to speedy trial in many important cases and have granted to those accused justice.

Legal Framework

1. Constitutional Basis:

A speedy trial has a right of protection granted under the Indian constitution. Article 21 Part three of the Constitution states, No person shall be deprived of his life or particular liberty except in accordance with procedure established by law.¹ In fact, even the Supreme Court of India has held that it was not expressly stated but the right to a prompt trial has been a part of the guarantee under Article 21.

¹ Constitution of India, 1949

It was in the landmark case of **Hussainara Khatoon v. State of Bihar(1979)**, the renowned Supreme Court headed by Justice P.N. Bhagwati upheld the speedy trial as a fundamental right.² Article 21 of the Indian Constitution protects this right as it is also the right to life and personal liberty. It caught the eye of many under-trial inmates in Bihar, including inmates who had been jailed for long periods of time—sometimes for even longer than the maximum term prescribed for the charges they were being tried for merely because they neither had the money nor the means to provide legal representation.

The court commented that delays in trial were violating the accused's fundamental rights and the state was responsible for speedy justice; this decision brought plight of under trial inmates to notice of many and was the catalyst in bringing in reforms in prisons and legal aid, especially for those who are disenfranchised, the idea of justice postponed as justice denied was revived and the notion that the legal system should not deny the basic human rights.

In the landmark case of **Kadra Pahadiya v. State of Bihar(AIR 1983 SC 1164)**, Hon'ble Supreme Court of India reiterated that the right to a speedy trial is an axiomatic and substantive part of the constitutional right to life and personal liberty guaranteed under Article 21.³ Here was the case that arose when some under-trial prisoners approached the Court and told that they have been jailed for over eight years without trial. Though acknowledging the gravity of the delay, the Court made a relevant point that delay, by itself, does not necessarily imply an unfair trial, or a trial that can be quashed on account of it. However, as regards the Court, the fact remains that the State has a constitutional obligation to accord to the accused the right to a legal process in his trial to which it does not abrogate the fundamental rights of the defendant. It held that an accused is entitled to move the Courts to secure his right to a speedy trial and that the Courts can afford the appropriate directions to the State to safeguard this right. Since it was this particular case, the Court did ask the Sessions Judge to hurry with the trial and take heed of the Court's direction and its role in ensuring procedural fairness and protect the individual liberty which may be lost to systemic delays.

2. Code of Criminal procedure

Although the term 'speedy trial' is not explicitly mentioned in the Criminal Procedure Code (CrPC)⁴, it incorporates procedural safeguards and timelines aimed at expeditious and free from unbridled delay performance of criminal proceedings. These provisions are crucial to ensure that when the impositions of life in prison are made, these are not a bracket of Article 21 of the Constitution, the right to life and personal liberty.

- **Section 309 – Day-to-Day Trial**

Under Section 309 of CrPC, as soon as the examination of witnesses starts, the trial is compulsorily to be taken day to day till all the witnesses present are examined unless the court has sufficient reasons to adjourn.⁵ This provision discourages the unnatural and frequent postponement of trials, a main cause of the trial delays in India. The section provides the court with power to reject adjournments, unless satisfied that there is a reason to adjourn. This is needed to keep the trial's momentum going and to get to justice without delay.

- **Section 436A – Release of Under-trial Prisoners**

The section of the code (436A) which deals with permission for prolonged detention of under-trial prisoners, is those endlessly languishing in jails for years without conviction. That establishes that a person who has spent more than half of the maximum sentence prescribed for the alleged offense while being detained before trial shall be entitled to bail conditionally or unconditionally.⁶ And this section is crucial to reduce overcrowding in prisons and to avert the violation of right to personal liberty because of undue procedural lags. Nevertheless, it has no bearing on offenses punishable with death.

²Hussainara Khatoon v. State of Bihar, AIR 1979 SC 1369.

³Kadra Pahadiya v. State of Bihar, AIR 1983 SC 1164.

⁴The Code of Criminal Procedure, 1973.

⁵ The Code of Criminal Procedure, 1973, Section 309.

⁶ The Code of Criminal Procedure, 1973, Section 436A.

- **Sections 167 and 173 – Time Limits for Investigation**

Section 167:

This provision fixes the period of police custody in law. The accused must on his willingness and ability for furnishing bail be released if the investigation is not completed within 60 (for an offense punishable with imprisonment for less than 10 years) or 90 (for an offense punishable with imprisonment of 10 years or more, or life imprisonment or death) days.⁷ This also serves as a check on the ability of the investigating agencies to indefinitely detain a person without charge and to keep them in detention without being tried for their crime.

Section 173:

It is this section that demands that the police should proceed with the investigation without unnecessary delay and submit a police report (charge sheet) to the magistrate.⁸ It makes certain that when a case is filed, the police will have to do their job properly and give results on time to kick start proceedings of trial.

In the landmark case of **A.R. Antulay v. R.S. Nayak (1992) 11 SCC 225**, Hon'ble Supreme court of India has announced the principles to decide if the right to speedy trial under Article 21 of the constitution has been violated or not.⁹ The case has come about in inordinate delay prosecuting former Maharashtra Chief Minister Abdul Rehman Antulay on corruption charges. The Court concluded that the right to a speedy trial included not only the trial stage but all stages of criminal proceedings such as investigation and the proceedings of inquiry, appeal, and retrial. Further, the Court did not state as to what time would be and what time would not be for taking into consideration the length of delay, reasons thereof, any known right or purported right of the accused and the prejudice caused due to such delay. In the case too these are in consonance with several provisions of the Criminal Procedure Code (CrPC) such as Section 309 and 167 and Section 173, which makes provision for adjournments of trials to be avoided by ensuring day to day trial proceeding, that a person cannot be kept in pretrial detention for more than 90 days during investigation and the police ought to investigate properly and should hence not be delayed.

In the case of **Common Cause v. Union of India (1996) 4 SCC 33**, Hon'ble Supreme Court of India, which proactively entertained the acute worry of the pendency of criminal cases in Indian Courts, particularly those related to petty offences. Provides for the release or discharge of accused persons, in the course of the trial, where there has been unduly delayed, the Court, by paying regard to the fundamental right to a speedy trial under Article 21 of the Constitution, issued general directions. According to this, if a person under-trial was in custody for more than a half of the maximum punishment that could be given to him for the offence (covered under Section 436A of the CrPC), he should be set on bail.¹⁰ Moreover, the Court declared that proceedings of case against offences punishable up to two years' imprisonment should be quashed if there is delay of more than two years from the date of institution of the case, unless such delay had been caused by the accused. Naturally, this case was an unfading proof of the judiciary's unabated determination to protect individual liberty while safeguarding procedural fairness, in conformity to Section 309 of the CrPC regarding day to day trials, and Sections 167 and 173 for time limits for investigation and filing of charge sheet. It acted as a wakeup call to the legal system that the burden of systemic delay cannot unfairly be placed on the accused and that the state has to be taken to account for ensuring adequate recourse to timely justice.

⁷ The Code of Criminal Procedure, 1973, Section 167.

⁸ The Code of Criminal Procedure, 1973, Section 173.

⁹ A.R. Antulay v. R.S. Nayak, (1992) 1 SCC 225.

¹⁰ Common Cause v. Union of India, (1996) 4 SCC 33.

Issues influencing the speedy trial

In India, the right to speedy trial is straightly affected by several matters that determine swift execution of justice.

- **A huge case backlog:**

This problem is one of the most important problems. Being at all levels of the courts in India, there is a huge backlog of cases since the increased number of lawsuits together with shortage of judges to manage them have forced the courts not to be able to cope up.

- **Lack of judges and support staff:**

India has a very small number of judicial officers, and the number of cases that are brought before the court is growing daily. As a result, the court is burdened with looking into the cases that have been brought before it, which causes the judicial process to be delayed and directly impacts the right to a speedy trial.

- **Many adjournments without valid explanation :**

This could also lead to prolonged pre-trial detention due to many adjournments that have not been backed with a valid excuse. That is, it is extended pre -trial confinement of under-trial inmates. Typically such inmates awaiting trial would come from below poverty line, whose financial resources are not sufficient to retain legal representation. This is a serious problem in itself: these people have to be in prison for years and they will only be imprisoned for years until they are proven guilty.

- **Lack of coordination:**

Delay by lack of coordination between judiciary, forensic labs and investigating authorities. Expedited trials are required but they must be fair, transparent, and respectful of the principle of justice in as much as all the parties to such trials are given consideration by it.

Reforms and measures for speedy trial

In India, to address the problem of delays in criminal justice system, a number of reforms and actions have been taken to ensure that such criminal cases are promptly tried. One of the crucial measures has been the creation of Fast Track Courts (FTCs)¹¹ first suggested by the 11th Finance Commission in 2000 and further extended subsequently including the 2012 **Nirbhayacase** for the hearing of the cases of crimes involving sexual offences and crimes against women and children. These courts have a goal of time bound adjudication. Procedural modifications by the Code of Criminal process are also vital. Section 309 mandates that there shall be daily trials once the trial starts in order to forestall waste of time in proceedings. Section 167 and Section 173 of the statute impose statutory bars on the length of pretrial custody and likewise, Section 436A of the statute allows the release of under-trial inmates on bail if they have served more than one half of the maximum punishment of the offense they are accused. Technology has been introduced into the legal system through the e-Courts Mission Mode Project¹² such as through digital case management, virtual hearings and e-filing technologies to solve delays further. The National Judicial Data Grid (NJDG) provides real time data on pending and resolved cases so as to support monitoring, performance evaluation. Another significant move which helps trial courts in reducing their workload is plea bargaining, that was introduced in 2005 under Chapter XXIA of the CrPC whereby the criminal cases are settled through mutual understanding between defense and prosecution. Attempt has also been made to settle compoundable criminal cases quickly and peacefully through Lok Adalats and other kinds of Alternative Dispute Resolution (ADR). In **Bhim Singh v. Union of India (2005)**, supreme court's direction have led to setting up of under-trial assess Committees (UTRCs) at district level to assist cases on regular basis and that of qualified under-trial inmates in the case.¹³ Several bodies and the judiciary itself have also highlighted the need for more judges and prosecutors, as well as better infrastructure and training, in judicial strengthening. Moreover, the Bharatiya Nagarik Suraksha Sanhita, 2023¹⁴ is also to be amended to make the deadlines for investigation and trials to be more stringent and technology, digital procedures and forensic evidence to be used in more

¹¹Eleventh Finance Commission, *Report on Fast Track Courts of Sessions and Additional Courts*, Government of India, 2000.

¹² Ministry of Law and Justice, Government of India, "e-Courts Mission Mode Project," 2020.

¹³ **Bhim Singh v. Union of India**, W.P. (Crl.) No. 310 of 2005, Supreme Court of India.

¹⁴ Bharatiya Nagarik Suraksha Sanhita, 2023

instances. Among the institutions, the judiciary also played a great role through its proactive rulings in cases like **Hussainara Khatoon, A.R. Antulay, Common Cause and Shaheen Welfare Association** which led to the establishment of rules and instructions by the Supreme Court for preserving the right to a speedy trial as a fundamental ingredient of Article 21 of the Constitution. These reforms, when seen in totality, are intended to ensure that justice is never withheld for reasons of structural inefficiency, in addition to expediting the finalization of criminal cases.

Conclusion

The fundamental right to a speedy trial is an important facet of a fair and just criminal justice system, and has its genesis in the Article 21 of Indian Constitution concerning the do thereof. Although in Code of Criminal Procedure specifically, some clauses such as Section 309, 436A, 167, 273, 173 are made to support this fundamental right by ensuring a time for investigation, prosecution and trial. Starting from **Hussainara Khatoon to A.R. Antulay and Common Cause**, judges have keenly reminded that a delay in delivery of justice not only fractures people's faith in the giant of a system, that just arouses public temper but also, in case of its negligence, results in heinous unfairness in the case of an accused as well as in that of the victim. This shows increasing commitment towards the reforms such as introduction of fast track courts, use of technology through e Courts, the practice of plea bargaining and review mechanism for under-trial prisoners. However in order to really make these steps work in a successful manner, it goes hand in hand with ongoing funding for the court system, filling the vacancies, and more accountability across the justice delivery process. At the end of the day our courts ought to function in a way that conveys that adage 'Justice delayed is Justice denied' and not just an adage. It is both morally and constitutionally required to guarantee a right to a timely trial for everyone, apart from a requirement of its being a requirement of the law.

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