

# Speedy Trial In Criminal Justice System: An Appraisal

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## **Abstract:**

Justice in one sense means grant of expeditious and inexpensive relief to persons who approach the court with legal problems. Delay in providing justice has been interpreted as denial of justice. The Constitution of India reflects the quest and aspiration of the humankind for justice when its preamble speaks of justice in all its forms - social/ economic and political. The principle of natural justice is that 'justice should not only be done but it should seem to have been done' which means that those who receive justice must feel it has been done with them. Delay defeats not only equity but justice also and if the delay in relation to

criminal justice system it defeats justice more pervasively. It is not only important that the machinery of justice works effectively and efficiently but it should also work timely in the sense that the trial should be as speedy as is possible. There is an old adage that 'justice delayed is justice denied; which means that justice should be dispensed with within a reasonable period of time.

However, another doctrine associated with the disposal of cases is that 'justice hurried is justice buried', meaning thereby that the hasty trials entail injustice and consequently affect the quality of justice. The Supreme Court of India as the guardian of fundamental rights of the people, has obligations as well as powers of wide amplitude to ensure a speedy trial for the accused, and as such while adopting an activist approach in *Hussainara Khatoon vs. State of Bihar*. It followed the dynamic interpretation placed on Article 21 of the Constitution of India in *Maneka Gandhi vs. Union of India*, it observed: There can be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21 of the Constitution of India. The entire human rights jurisprudence has been the result of a most startling and reasonable development of the law follows the landmark judgment in *Maneka Gandhi's* case. This new jurisprudence, which has been evolved by the judiciary, is the result of a case-to-case development. Speedy trial is the most important basic human right in the field of criminal jurisprudence. The judiciary, through a process of creative interpretation, has evolved it. Speedy trial though not a specifically enumerated fundamental right in the Constitution as in the United States of America (U.S.A.) The principle of speedy trial propounded in *Maneka Gandhi's* case, nurtured in *Hoskot's* case, and came of the age in *Hussainara's* case with a judicial bang.

**Keywords:** Speedy trial, Fair trial, Criminal justice, Delay in justice,

## **A. Introduction:**

Quick trial isn't another idea, it is calm old both at Universal and national level. At the worldwide level, the hints of quick trial are found in the advanced majority rule world and all the more especially in the created vote based systems. The All inclusive Affirmation of Human Rights, the Global Agreement on Common and Political Rights, the European Tradition on Human Rights. The lawmaking body of India through Section 309, 258, 468 and different arrangements of the criminal system Code, 1973 and furthermore the Preminent Court of India by method for translation of Article 21 of the Constitution of India have perceived rapid trial as the pith of criminal equity framework. To the extent quick trial at national level is concerned, we get some confirmation of quick trial in Old, Medieval and Mughal period, which developed step by step and now hold the place of key rights. In spite of the fact that equity is intended to be "straightforward, expedient, shoddy, viable and generous", yet it stays slippery to Indians, also, one of the significant reasons are delay in the agreement of equity. Numerous cases in India take up to 10 years for transfer what's more, more often than not take for longer than stipulated half year or 2 years for trials, bringing about huge pendency. The pendency of criminal cases in bring down courts, for example, according to figure accessible was 2.5 crore in 2008. The individuals who endured physically, rationally or monetarily, approach the courts, with awesome expectation, for redressal of their grievances. They shun acting as a vigilante, as they trust that one-day or the other they would get equity from the courts. Equity conveyance framework, along these lines, is under an commitment to convey instant and reasonable equity to its purchasers, without in any way trading off on the nature of equity or the components of reasonableness, fairness and unbiasedness. It isn't just critical there ought to be appropriate apparatus of equity however the hardware must be prepared to do giving expedient equity to the poor individuals. There is an old proverb that "Equity postponed is equity denied". The maxim makes plentiful clear that equity ought to be given as well as it must be given before outlandish deferral is caused and its esteem is lost. Consequently, a standout amongst the most vital parts of the agreement of equity is that of time and nature of equity. In the event that a case isn't chosen inside the correct time, or if excessively time is taken in choosing it. Equity can't be said to have been done. Truth be told the most essential thing in quick trial is that a man denounced must have the capacity to get brings about

the courtroom immediately. Aversion of preposterous deferral is subsequently the essential of fast trial and successful criminal equity framework. Delayed prosecution causes monetary weight furthermore, mental torment to the prosecutors other than disintegrating their confidence in legal. Mention that the causes driving to delays, in transfer of cases are not related just to the legal as is by and large accepted however they owe their root to, the authoritative, the official, the legal, the legitimate calling, the court methodology and the prosecutors. In the show criminal equity framework, poor people and needy people are enduring and being badgering by the police and jail experts while the people who have adequate means and impact make full utilization of the legitimate provisos. The legal, the legitimate calling and the Administration need to share the fault for the lamentable advancement in the generally demonstrated legal record of the World's biggest majority rule government. Postponement in the transfer of cases is the best downside of the organization of equity in India.

### ***B. Concept of 'Fair Trial':***

The fair, just and reasonable procedure implicit is Article 21 of Constitution and creates a right in favour of the accused to be tried speedily. The right to speedy trial, flowing from Article 21 of Constitution, includes within its ambit all the stages namely the stage of investigation, inquiry, trial, appeal, revision and even retrial and hence an accused may demand closure of his case in case there is inordinate delay at any stage. Full bench of Hon'ble Patna High Court has rightly held in 'The State of Bihar -V- Ramdas Ahir',<sup>1</sup> than an accused is entitled to be released unconditionally in case of inordinate trial and held, "once the Constitutional guarantee to a speedy trial to a fair, and reasonable procedure has been violated then accused is entitled to an unconditional release and the charge levelled against him would fall to the ground." Apex Court was also of the same view in 'Hussainara Khatoon'<sup>2</sup> and hence ruled that "now obviously procedure prescribed by law for depriving a person of his liberty cannot be reasonable, fair or just unless that procedure ensure a speedy trial for determination of the guilt of such person. No procedure which does not ensure a reasonable quick trial can be regarded as 'reasonable, fair or just' unless that procedure ensure a speedy trial for determination of the guilt of such a person. No procedure which does not ensure a reasonably a quick trial can be regarded as 'reasonable, fair or just' and it would fall foul of Article 21. There can, therefore be no doubt that speedy trial and by speedy trial, we mean reasonable expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21." Every accused, unable to engage a competent lawyer due to poverty, has right to get free legal service and deprivation or denial shall result into unfairness of trial. The detention of accused in jail for period longer than the maximum prescribed punishable sentence also violates Articles 21.

### ***C. Consequences of Delay of Trial :***

In case of inordinate delay in completion of trial, if delay is not occasioned to the fault of the accused, the case against the accused is liable to be closed and the accused, if he is in the jail, is entitled to be released unconditionally. If prosecution is unable to produce witness inspite of repeated opportunity, the magistrate has power to close the criminal proceeding against the accused . In case there was delay of seven years in investigation and trial and there was no reasonable explanation a for delay in the part of prosecution, then such criminal prosecution is liable to be quashed to save public time and money besiding saving accused from harassment . Another Full Bench of Hon'ble Patna High Court in 'Madheshwardhari Singh -V- State of Bihar'<sup>3</sup>, has ruled that a collous and inordinately prolonged delay of 7 years or more, which does not arise from the default of the accused or occasioned by extraordinary reasons, in investigation and original trial for offences other than capital ones would violate the constitutional guarantee of a speedy public trial under Article 21. But this, held further, does not mean that every a delay of less than 7 years would not amount to prejudice. If the delay and default in conclusion of investigation and trial is occasioned by conduct of the accused himself then he must be deemed to have lost his right to a speedy public trial in that case . When trial was delayed due to non-production of records by the trail court, the direction was issued to conclude the trial within four weeks from the appearance of the accused. The Hon'ble Apex Court in "Common Cause -V- Union of India".<sup>4</sup> has laid down a time-frame for competition of trial but this judgement was overruled by the larger bench in 'Ram Chandra Rao -V- State of Karnataka'<sup>5</sup> on the technical ground that this pronouncement is in conflict with the judgement of larger bench in 'A.R. Antulay Case' and the bar of limitation regarding trial as ruled in 'Rajdeo Sharma Case' and 'Common Cause Case' diluted on the point of trial but not on the point of bail. The court should dispose of the criminal prosecution as early as possible, in any case within 5 years, under the mandate of speedy trial failing which held Apex Court, the benefit of bail should be given to the accused by the High Court. In another case, the Hon'ble Apex Court in 'Abdul Baskar Laskar -V- State of West Bengal. has ruled that bail may be granted on the ground of delay of trial and the accused was in jail for 'three years'. An accused has indefeasible right to be released on bail if charge sheet is not filled within 90 days as per mandate of section 197, Cr.P.C.

### ***D. Aims and Objectives of Research:***

**This research work has been carried out with the following objectives:**

<sup>1</sup> 1984 BBJ 749

<sup>2</sup> AIR 1979 SC1369

<sup>3</sup> 1986 BBJ 624(Full Bench)

<sup>4</sup> 1996(2)PLJR (sc) 122

<sup>5</sup> 2002(3)PLJR (SC)299

1. To expound the concept of speedy trial in criminal justice system and underline the basic feature of the systems obtaining in India;
2. To examine the legal framework of components of criminal justice system keeping in view the normative and social perspective of the system of criminal justice;
3. To examine the fundamental principles embodied in the Constitution, regarding speedy trial, as fundamental right, and institutions involved in the administration of criminal justice, namely, the police, the courts, the prosecution and the prisons.
4. To enquire how principles of procedural law are adhered to in conducting criminal trial and in managing the operational aspects of the system;
5. To study the legal and Constitutional position of the new institutions established by the state to attend as alternative dispute resolution in furtherance of speedy justice.
6. To examine the position of various committees. Commissions reports and its recommendations on speedy trial.
7. To analyze the safeguard guaranteed to under trial prisoners in relation to various phases of the criminal process and how the system takes care of the victims and
8. To point out the error and defects in procedural law which hamper the criminal justice system in regard to speedy disposal of cases.
9. To suggest some possible measures to speedy dispensation of criminal cases.

#### ***E. Conclusions And Suggestions:***

Decision and Recommendations contains a rundown of the discoveries what's more, offers recommendations with reference to how a viable framework can be set up to accomplish the possibility of quick trial in criminal equity framework. The present examination albeit restricted in scope, likewise tries to determine the material actualities that has paralysed the criminal equity framework. For example, the investigation uncovers that equity today is closed out to most in India. Most natives, particularly the impeded areas, have restricted access to equity, because of hazy laws and high costs that go about as viable obstructions. Lamentably, the individuals who do wander forward are too, frequently prevented from securing their entitlement to equity. One of the real reasons for this is known to be 'delays in the agreement of equity.' That "equity postponed is equity denied" as more than once held by Peak Court, yet 'defers proceed in issues before the legal 12 bringing about gigantic overdue debts/accumulations/pendency' and rehashed infringement of central privileges of natives of India. It is, thusly apparent that the familiar aphorism "equity postponed is equity denied" is discovered present in about all piece of our nation, causing disappointment and uneasiness not just among the under trial detainees yet additionally among their relatives, neighbors, researchers managing criminal equity framework, law specialists, judges and a number of other individuals. The earnest need, in this manner, is to discover answers for delays in transfer of cases all in all and criminal cases specifically. Henceforth the analyst offers the accompanying proposals.

1. The as a matter of first importance step is to expand the quality of judges at all levels. The present quality is deficient as in there are just 10.5 judges for every 10 absence of populace which is exceedingly dissatisfactory when contrasted with the quality of judges in propelled western nations like Joined Conditions of America and Joined Kingdom. The present quality of judges ought to be raised to 50 for each 10 absence of populace at the soonest generally the enormous pendency of cases will continue expanding in future.
2. The current framework of the courts in most piece of the nation is terribly dissatisfactory in the stature of innovative propelled environment. It isn't just vital that the posts of judges and other court staff are to be made however the old and insufficient foundation, for example, courts, building, way of keeping court records should all be changed be supplanted with the advanced systems and most recent contraptions.
3. There is earnest need set up legal apparatus, which is effortlessly available and administers reasonable, morally sound, and fast equity to the general population.
4. There is earnest need to enhance the present legitimate guide bolster framework and legitimate guide legal counselors given better and provoke compensation.
5. It is need of great importance to have our legitimate strategies straightforward, sane, effortlessly justifiable and the changes of technique must be made painstakingly in order to guarantee snappy equity while defending that reasonable play, value and great heart does not turn into a loss. Fast however flawed equity is no equity by any means.
6. Steps should be taken to make utilization of elective debate determination component to choose the cases pending in various court including trivial offenses. Such minor cases may effectively resolve through intervention and bargain.
7. The part of supporters in expedient trial is likewise exceptionally vital on the grounds that they are equivalent accomplices with the judges in the organization of equity. Isolate steps require conveyance framework. The Bar ought to likewise shun boycotting the courts and approach concerned expert for redressal of their grievances. Individuals from the Bar ought to maintain a strategic distance from pointless dismissals. Individuals from the Bar ought to likewise detail following entirely the standards of expert morals and forsake their tight parochial intrigue.
8. There must be a compelling PC preparing program for not just the judges of subordinate courts in various parts of the nation yet in addition for the whole staff of the subordinate courts so as to make equity conveyance framework at the base level speedier and opportune.
9. There is a dire need with respect to the Association Government and in addition state governments to change their attitude and stop politicizing major issues, for example, legal changes, rather the administration should make compelling

strides at all levels that no inaction with respect to any administration office turns into an hindrances in the expedient agreement of equity.

10. There is a requirement for viable case administration framework in order to control the rising number of new cases for this reason Quick Track Courts ought to be stretched out to the level of Justices and every current opening in courts the nation over ought to be filled up on top need.
11. Gram Nyayalay framework managing insignificant debate at the town level should resolve the cases agreeably and such courts ought to not be permitted to achieve the confounded legitimate stages and procedural postponements are kept away from.

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