

Right of Speedy and Fair Trial of the Accused

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Abstract – “Justice delayed is justice denied” the aim of our justice delivery system is to provide justice to each and every individual of the society and if there is a delay in the delivery of justice that is considered as the denial of Justice. Delay in the delivery of Justice is much discussed issue. The recent incident in which the four persons who were facing the acquisition of the rape and murder of one veterinary doctor from shamshabad in Hyderabad were encountered by the police officers and the people were happy and celebrated the encounter, this happiness of the general public and their celebration is dangerous for the society as it indicates the anger against delay in the delivery of Justice. The makers of the constitution intends to secure the justice of the people as the Preamble of the Constitution shows the intention of the makers.-“we the people of India having solemnly resolved to constitute India into sovereign, socialist, secular, democratic, republic and to secure all its citizens justice, social, economic and political.” It is sad to say that after endless amendments in the constitution, people of our nation are still not able to get justice on time.

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INTRODUCTION

Human being is the social animal and the existence of human being is not possible without the state and existence of the state is not possible without efficient justice delivery system. The justice delivery system of the state cannot be called efficient, if it suffers from the problem called delay in justice. The right of speedy trial is ensured in article 21 of the constitution but the delay tactics adopted by the lawyers, delay in the investigation by the investigating agencies and lack of will of the judicial officers are the main reasons for the delay of trials. The Honorable Supreme Court held in Machender vs State of Hydrabad[1] “we are not prepared to keep person who are on trial for their lives under indefinite suspense because trial judges omit to do their duty. Justice is not one sided, it has many facets and we have to draw a nice balance between conflicting rights and duties. While it is incumbent on us to see that cruelty do not escape. It is even more necessary to see that the persons accused of crime are not indefinite harassed.” The trial which is not completed in 6 months or a year depending on the nature of the offence, it cannot be called fair trial. To be trustworthy Judiciary has to provide speedy justice to the members our society. Some rights helps the members of the society to live dignified life and these rights are called human rights and this is the reason that the right of the speedy trial is not only the fundamental right but it is also human right.

Fundamental rights must be enforced efficiently and to protect the Social Justice. The court should take necessary steps such as quash the proceeding if there is unreasonable and unjustified delay in criminal cases.

"Speedy trial is a part of fundamental right of an accused". It is sad to say that 3 crore cases are pending across India. In the lower courts one in every 10 cases are pending for over 10 years and 40 lakh cases are pending in 24 high courts. The huge backlog of the cases is the problem which must be solved as soon as possible. In Modern era now a days courts are also technologically advanced but steps such as digitalization of the case records etc. is not helpful to remove the problem called "delay in trial". The direction was given by the Apex Court that if there is a case which is lodged against the children then it is obligatory for the investigating agencies to complete the investigation within 3 months. Certain conditions are imposed by the Supreme Court in number of cases that if the investigation is not completed by the investigating agencies within the prescribed time period and the accused is in jail then the trial court must release him on bail. The right of speedy trial is most essential and also well recognised right by the Judiciary as well as by the legislature. For the efficiency of justice delivery

system the problem of delay in trial must be resolved.

CONCEPT OF FAIR TRIAL

The main function of our justice delivery system is to provide secure and peaceful environment to the society and if any wrong is done to any member of society the justice must be delivered on time. In the case of *Madheswari Singh and others vs State of Bihar*[2] it was held by the Supreme Court “a callous and inordinate prolonged delay of 7 years or more in investigation and original trial for offences other than the capital once would primary violate the constitutional guarantee of the speedy trial under article 21. Both on principle and Precedent the fundamental rights to speedy trial extends to all criminal prosecutions for all offences generally, irrespective of their nature. It is not confined or restricted to either serious or capital offences only.” The right of speedy trial which is also provided to the accused is not only provided to him on the stage of trial but also it is provided to him in all the stages of the preceding such as investigation, inquiry, during the trial, appeal, revision and retrial and because of this reason the accused may demand for the closer of his case if there is unreasonable delay at any stage.[3]

In the case of the *State of Bihar vs Ramdas Ahir*[4] it was held by the honorable High Court of Patna that the accused must be released if there is an inordinate delay in the trial and court also held “once the constitution guarantee to a speedy trial to fair and reasonable procedure has been violated then accused is entitled to an unconditional release and the charge levelled against him would fall on the ground.”

If a criminal trial dragged for unreasonable long time then it is against the interest of the society, aggrieved person and accused person. Due to delay in justice the society lose their confidence in the justice delivery system as well as our justice delivery system loses its deterrent effect over offenders and resulted in the increase in the crime in society. The prime object of our criminal justice delivery system is the speedy trial of the offences as the unreasonable long trial and the inordinate delay may defeat the ends of Justice. The accused has the right of speedy trial as if he is not guilty he will not suffer for a longer period.

REASONS FOR DELAY

The present criminal justice delivery system is not working properly to achieve its common objective of speedy trial. The unreasonable delay in the criminal cases is one of the most serious problems in our system which is made to provide justice to the society. Following are the main causes of delay-

1. Low population ratio of judges.

2. Large numbers of vacancies of the judicial officers are vacant.
3. Same court for civil and criminal cases.
4. Delay in the investigation by the police.
5. The forensic and the logical backup support are not adequate.
6. Adjournment on flimsy grounds.
7. Strikes by the advocates.

It is sad to say that the highly defective methodology is used by the police to solve the criminal cases. The accused has to be harassed for years waiting for his trial in court of law due to the faulty procedure. If we observe the rate of acquittals we can find out the sad truth that many innocent suffers because of the faulty procedure of our justice delivery system. The prosecution has the responsibility to help the court to dispose the case speedily. The Malimath Committee was appointed in the year of 2003 by the government of India to make the recommendations for the improvement of our justice delivery system and for the delivery of justice on time. The committee recommended that some steps must be taken by the government to provide speedy justice to the society such as-

1. Proper training must be provided to the judges for speedy disposal of the cases.
2. If we improve ratio of judges to population that will also be very helpful to make our justice delivery system more efficient.
3. Some powers must be given to the Nyaya Panchayats so that they can dissolve the cases related to petty offences.
4. The cases must be assigned to the judges on the basis of their experience such as criminal cases must be tried by the judges who are an expert of criminal law and matrimonial matters must be tried by the judges who are an expert of matrimonial law and civil matters must be tried by the judges who are an expert of civil law.

CONSEQUENCES OF THE DELAY OF TRIAL

In the case of unreasonable delay the case is liable to be closed and if the accused is detained he got the right to be released unconditionally. If the opportunities are given to the prosecution to produce the witnesses but the prosecution is

unable to produce them then the magistrate has the power to protect the accused from this harassment and magistrate can close the criminal proceeding.[5] If there is unreasonable delay in the investigation and the trial and the prosecution has no reasonable explanation for the same then the criminal proceeding is liable to be quashed not only to save the accused from the harassment but also to save the time and money of public.[6] In the case of Madheswardhari Singh vs State of Bihar[7] if there is unexplained delay of 7 years or more and the delay is not because of the accused or an unavoidable circumstances then it would consider as the violation of article 21 of the constitution. It is held further that it does not mean that if there is a delay which is less than 7 years would not amount to prejudice. If the delay in the trial for any stage of the criminal proceeding is because of the delay tactics adopted by the accused then accused will lose his right of speedy trial provided under article 21 of the constitution.[8] One of the objects of our criminal justice delivery system is to make ensure that even the accused person must get a speedy and fair trial. The existence of criminal justice delivery system would be almost worthless in the absence of speedy and fair trial. The criminal trial must be fair for both the accused as well as the prosecution and must be judged from this dual point of view. The object to be achieved by the criminal justice delivery system is to convict the guilty person when the guilt is proved by the prosecution beyond the reasonable doubt but it can be achieved only by giving assurance of speedy and fair trial. The Assurance of the fair trial which is free from prejudice to the accused is provided by the article 21 of the constitution and the denial of such assurance amounts to be the violation of the right to personal liberty within the meaning of article 21 of the constitution. It is obligation on the state that accused must not be denied the right of personal liberty and right to life but except the procedure which is established by the law.

CONCLUSION:

It is well said that "justice delayed is justice denied". It is therefore essential for the criminal justice delivery system to adopt some measures to ensure speedy and fair trial. The amendment is required in the code of criminal procedure in which the timeframe must be fixed for the trial of criminal cases as well as the number of adjournments in the criminal proceeding by the prosecution for the production of witnesses must be limited. Because of the delay in the disposal of the criminal cases the members of the society generally loses their faith in the judiciary and to secure the dignity of our criminal justice delivery system it is essential that unreasonable delay must be avoided by the judiciary and the concerned authorities must do the needful to secure the faith of people on the criminal justice delivery system.

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