BLOGS

Right to Speedy Trial in India- Part II

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Edit TABLE OF CONTENTS Introduction Provisions for Speedy trial under Indian laws Case laws on Right to Speedy Trial Remedies granted to an accused facing a delayed trial

Introduction

In the ***last post***, we discussed the concept and history of right to speedy trial in India. This post will discuss the laws and judgements on Right to Speedy Trial.

Provisions for Speedy trial under Indian laws

Several provisions exist in the Criminal Procedure Code (CrPC) to address the issue of delay and ensure a speedy trial. Here are some of the key provisions:

Section 157(1) of CrPC: It mandates that upon receiving information about the commission of an offense, the police officer must promptly send a report to the magistrate and proceed to the scene to investigate.

Section 173(1) of CrPC: This provision requires the completion of all investigations under Chapter XII of the CrPC without unnecessary delay.

Section 207 of CrPC: It grants the accused the right to obtain free copies of various documents, including the police report, FIR, statements recorded under Section 161(3), confessions, and other documents submitted to the magistrate under Section 173(5).

Chapter XXI of CrPC (Section 260 to Section 265): This chapter provides for summary trials in certain petty offenses, allowing for a more expeditious resolution.

Section 468 of CrPC: It sets a limitation period for taking cognizance of offenses, specifying different timeframes based on the punishment prescribed for the offense.

In addition to these existing provisions, certain amendments have been made to address delay and expedite the trial process:

Section 167(2)(a) of CrPC: This provision deals with police custody, judicial custody, and default bail. It limits the initial police custody to 15 days and provides for the release of the accused on bail if the investigation is not completed within specified timeframes.

Section 173(1A) of CrPC: It specifically mandates the completion of investigations into offenses of rape within two months.

Chapter XXIA of CrPC (Section 265-A to Section 265-L): This chapter introduces the concept of Plea Bargaining, which aims to expedite the resolution of criminal charges for offenses with punishments less than seven years.

Section 309(1) of CrPC: It was inserted to prevent delays in trials and requires proceedings to be conducted on a day-to-day basis until the examination of all witnesses is completed. In cases of certain offenses related to sexual assault, the inquiry or trial should ideally be completed within two months from the filing of the charge sheet.

These provisions and amendments reflect the legislature's intent to address delays, protect the rights of the accused, and ensure a more efficient and expeditious trial process.

Case laws on Right to Speedy Trial

In the case of ***Hussainara Khatoon v. State of Bihar***, which established the concept of the Speedy Trial, it was ruled that if undertrial prisoners are imprisoned for a longer period than prescribed and are eventually convicted, their continued detention in jail is completely unjustified and violates their fundamental rights under Article 21 of the Constitution.

Delays in trials that are excessive and unjustified are a breach of Article 21. The trial in the specific matter stated has been ongoing for over 11 years with no progress, and the accused-petitioner is not to blame for this delay. The right to a quick trial is a basic right that should not be ignored unless one of the parties is to blame for the delay.

Unnecessary delays in trials provide the accused the ability to seek bail. **Section 482 of the Criminal Procedure Code**, combined with **Section 483**, specifies that every effort shall be taken to resolve the matter within six months of the current date.

Adjournments should only be given when circumstances are beyond the judiciary's control. It is the judiciary's job to supervise undertrial detainees and guarantee that their cases are brought to trial. Overcrowding in the courts, insufficient resources, or budgetary restraints cannot be used to

deny a person's rights.

In the case of ***Sheela Barsa vs. Union of India*** in 1986, the Supreme Court made a significant ruling regarding the right to speedy trial. The court held that if an accused person's case remains pending before the Magistrate or the Sessions Court for an unreasonable amount of time without a valid reason or deliberate delay on the part of the accused, it would amount to a violation of their fundamental right to speedy trial.

Unless there is an interim order from a superior court or intentional delay caused by the accused, the delay in trial would have consequences, and the prosecution could be subject to being quashed. This ruling emphasizes the importance of timely and efficient trial proceedings to safeguard the accused person's rights and ensure the effective administration of justice.

Remedies granted to an accused facing a delayed trial

In cases of delay in legal proceedings, there are several remedies available to address the violation of the right to a speedy trial:

Constitutional Remedies: The right to a speedy trial is considered a fundamental right under Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty. If there is a violation of this right, individuals can approach the Supreme Court under Article 32 or the respective High Court under Article 226 of the Constitution for appropriate relief and directions.

Guidelines by the Supreme Court: In the case of ***P. Ramachandra Rao v. State of Karnataka***, the Supreme Court laid down guidelines stating that the powers conferred under **Sections 309**, **311**, and **258 of the Code of Criminal Procedure** should be exercised by the criminal courts to ensure the right to a speedy trial. Additionally, the jurisdiction of the High Court under Section **482** of CrPC and **Articles 226** and **227** of the Constitution can be invoked to seek appropriate relief and directions.

Judicial Pronouncements: The Supreme Court has consistently emphasized the importance of the right to a speedy trial as an integral part of **Article 21 of the Constitution**. In cases like ***Kartar Singh v. State of Punjab***, the court held that the concept of a speedy trial is essential and covers all stages of the legal process, starting from arrest to incarceration, investigation, inquiry, trial, appeal, and revision. The aim is to prevent prejudice caused by avoidable and unjustifiable delays.

These remedies provide individuals with the opportunity to seek redressal and ensure that their right to a speedy trial is protected. The judiciary plays a crucial role in interpreting and implementing these provisions to safeguard the interests of justice, fairness, and the fundamental rights of the accused.