

# Right to Speedy Trial and Compensation

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**Abstract** - The right to a speedy trial is a fundamental aspect of justice enshrined in many legal systems, emphasizing the necessity of prompt adjudication to prevent prolonged uncertainty, detention, or hardship for the accused. This right serves as a safeguard against undue delays that can erode the effectiveness of justice, protect the dignity of individuals, and uphold public confidence in the legal system. Equally, the provision for compensation in cases where this right is violated acts as a corrective mechanism, ensuring accountability and providing redress for the damages suffered due to delays. This paper explores the legal framework, judicial interpretations, and practical implications of the right to a speedy trial and the corresponding compensation for violations. It examines global standards, highlights challenges in implementation, and proposes reforms to strike a balance between efficiency and fairness in judicial processes.

**Keywords** - Right to Speedy Trial, Compensation, Access to Justice, Due Process.

**Introduction** - The timely delivery of justice is an essential constitutional mandate. It is both a constitutional and fundamental right of Indian citizens, as enshrined in Articles 14, 19, 21, 32, 226, and the Preamble of the Indian Constitution. The Indian State is obligated to ensure this right. Furthermore, the DPSP, outlined in Articles 38(1), 39, and 39A, reinforce the State's duty to facilitate timely justice. This obligation is also tied to India's international legal commitments to uphold the principle of timely justice. The Preamble underscores the State's responsibility to ensure social, economic, and political justice for all citizens. Additionally, Article 38(1) of the Directive Principles directs the State to promote a social order where justice pervades all national institutions. While providing interpretation to this provision in *Babu vs Raghunathji*<sup>1</sup>, the SC held that “social justice would include ‘legal justice’ which means that the system of administration of justice must provide a cheap, expeditious and effective instrument for realization of justice by all section of people irrespective of their social or economic position or their financial resources.” The Constitutional mandate for justice is strengthened by Art.39A which states that “the State shall secure that the operation of the legal system promotes justice..... to secure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.” The constitutional principles with respect to speedy justice is derived from the combined framework of Articles 14, 19, and 21 of the Indian Constitution. Unlike the United States, where provisions like the Sixth Amendment and the Speedy Trial Act of 1974 explicitly guarantee speedy

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<sup>1</sup> AIR 1976 SC 1734

trials, India lacks similar constitutional or statutory provisions. However, Justice P.N. Bhagwati noted that while the concept of a speedy trial is not explicitly recognized as a fundamental right under the Indian Constitution, it is inherently embedded within the broad scope and essence of Article 21. It was interpreted in *Maneka Gandhi vs. Union of India*<sup>2</sup> where it was held that such procedure which does not ensure a reasonable quick trial can't be regarded as a reasonable, just and fair procedure. The Court added that "there can be no doubt that speedy trial, and by speedy trial we mean a reasonably expeditious trial, is an integral and essential part of fundamental right to life and liberty enshrined in Article 21." The learned judge highlighted the inherent link between Articles 14 and 21, stating: "Article 14 targets arbitrariness in State actions, ensuring fairness and equal treatment. The principle of reasonableness—both legally and philosophically an essential component of equality and non-arbitrariness—pervades Article 14 as a pervasive presence. Consequently, the procedure envisioned by Article 21 must meet the standard of reasonableness to align with Article 14." It must be "right, just and fair and not arbitrary, fanciful or oppressive; otherwise, it would be no procedure at all and the requirement of Article 21 would be satisfied."

Hence, the decision in *Maneka Gandhi vs Union of India*<sup>3</sup> unequivocally established that the procedure under Article 21 must satisfy the test of reasonableness to align with Articles 14 and 19. It affirmed that the procedure prescribed by law under Article 21 must be just, fair, and reasonable, and not arbitrary, whimsical, or oppressive. This idea of fairness and reasonableness was interpreted to include the right to a speedy trial.<sup>4</sup> Furthermore, the openness of judicial proceedings acts as a safeguard against arbitrariness and fosters public confidence in the judicial system. Thus, the right to a speedy trial is inherently embedded within Articles 14, 19, and 21 of the Constitution.<sup>5</sup>

While the SC, approving the test of reasonableness in Article 19 in *matter of Sunil Batra No.2 vs. Delhi Administration*<sup>6</sup>, endorsed the test of reasonableness under Article 19, ruling that the practice of housing under-trials with convicted prisoners violated both the reasonableness standard of Article 19 and the fairness requirement of Article 21. Under-trials are presumed innocent until proven guilty, and placing them alongside convicted criminals undermines the fairness guaranteed by Article 21. Justice Krishna Iyer, delivering the majority opinion, emphasized that the integrity of a prisoner's physical and mental well-being is a fundamental right that must be safeguarded against all forms of abuse.

**Right to Speedy and expeditious criminal trial:** It is well known that in 1979, the SC evolved the proposition that right to speedy trial is FR, emanating from Art. 21, because of no procedure can be said to be 'fair' unless it ensures a fast adjudication of the guilt of the person accused.<sup>7</sup> The Supreme Court held that the phrase "procedure established by law" inherently requires a procedure that is expeditious. In this case, it is evident

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<sup>2</sup> AIR 1978 SC 597.

<sup>3</sup> AIR 1978 SC 597

<sup>4</sup> *Hussainara Khatoon v. State of Bihar* AIR 1979 SC 1360 Page 1365.

<sup>5</sup> L.M. Singhavi – Jagdish Swarup Constitution of India (2008)

<sup>6</sup> AIR 1980 SC 1579

<sup>7</sup> *Hussainara Khatoon v. State of Bihar* (1) AIR 1979 SC 1360

that the petitioner's fundamental right U/A 21 of the Constitution was violated. A trial process that remains unresolved for nearly nine years, through no fault of the petitioner, is the complete opposite of an expeditious procedure. Such a prolonged delay represents a grossly inefficient process, shocks the judicial conscience, and reflects poorly on the judicial system.<sup>8</sup> The Supreme Court emphasized that this right is not a mere illusion to be disregarded but is intended to be upheld and implemented effectively in practice. Constitutional courts, such as the Supreme Court and High Courts, are duty-bound to promptly and efficiently enforce fundamental rights whenever an aggrieved citizen convincingly demonstrates their violation or infringement before the court.<sup>9</sup> In the case of *Jayendra Vishnu Thakur vs. State of Maharashtra*<sup>10</sup>, Justice S.B. Sinha held that an accused is always entitled to fair trial. He is entitled to a speedy trial; however, he cannot obstruct the government's efforts to prioritize and conduct the trial, as such actions by the accused would hinder its progress. In such situations, courts have several options at their disposal. Nonetheless, it is essential to uphold judicial dignity and decorum.

**Responsibility of defense for delay:** Sometimes, it is found that the delay has been caused by the defense-accused, and in these circumstances, the court has also given certain observations and held responsible to the accused; because in the matter of *State of Maharashtra vs. Champalal Punjaji Shah*,<sup>11</sup> Chinnappa Reddy J. speaking for himself laid down in the case of *Hussainara Khatoon* and proceeded to observe:<sup>12</sup>

“In deciding the question whether there has been a denial of the right to a speedy trial, the court is entitled to take into consideration whether the defendant himself was responsible for a part of the delay and whether he was prejudiced in the preparation of his defense by reason of the delay. The Court is also entitled to take into consideration whether the delay was unintentional, caused by overcrowding of the court's docket or understaffing of prosecutors ..... The delay may be occasioned by the tactic or conduct of the accused himself. The delay may have caused no prejudice whatsoever to the accused. The question whether a conviction should be quashed on the ground of delayed trial depends upon the facts and circumstances of the case. If the accused is found to have been prejudiced in the conduct of his defence and it would be said that the accused had thus denied an adequate opportunity to defend him, the conviction would certainly have to go. But if nothing is shown and there are no circumstances entitling the court to raise a presumption that the accused had been prejudiced there will be no justification to quash the conviction on the ground of delayed trial only.” The court reviewed the case facts in light of the stated principles and concluded that the accused was largely responsible for the delay. Furthermore, the accused failed to demonstrate how the delay had prejudiced their defense. The court also considered the nature of the offense—an economic crime that threatens the country's economy—and determined that the case did not warrant interference. Consequently, it overturned the High Court's judgment. In his ruling, Justice Chinnappa Reddy observed that “delay is a known defense tactic” and

<sup>8</sup> *Sadashiv Manohar Parkar vs. State of Maharashtra* 1998 Cr.L.J. 3755 (Bom) see also *Sunita Ambalal vs. Asstt. Director, Enforcement Directorate* 1992 Cr.L.J. (Bomb)

<sup>9</sup> *Ibid.*

<sup>10</sup> AIR 2009 SCW 3898 at p.3908.

<sup>11</sup> AIR 1981 SC 1675

<sup>12</sup> AIR 1981 SC 1675 at p.1677-78)

noted that, in some cases, the prosecution might also employ such tactics to prolong proceedings, particularly when their case is weak. He observed:

“Denial of speedy trial may with or without proof of something more lead to an unavoidable inference of prejudice and denial of justice. It is prejudice to a man to be detained without trial. It is prejudice to man to be denied a fair trial”.

While in case of *Diwan Naubat Rai vs. State through Delhi Administration*,<sup>13</sup> The court declined to dismiss the proceedings, noting that the accused was primarily responsible for the delay about which he was complaining.. And in case of *Lallan Chaudhary vs. State of Bihar*<sup>14</sup> the court held that the accused cannot complain for the delay in the disposing the case against him where he himself responsible for the long delay.

**Direction of the Court for Securing Right to Speedy Trial:** It is important to emphasize certain other provisions and features of the CoI. The SC holds the authority and responsibility, U/A 141, 142, 144, and 145(1)(c), to issue directions that ensure justice and uphold fundamental rights. Additionally, the State is required to ensure the enforcement of these orders in accordance with Article 256 of the Constitution. It has been well settled that right to a speedy trial is a fundamental right, and if the court finds as to infraction of this right may give necessary direction for securing the right. In *Kadra Pahadiya vs. State of Bihar*,<sup>15</sup> the SC re-affirmed the principles of *Hussainara Khatoon’s* case and declared<sup>16</sup> that “..... any accused who is denied this right to speedy trial is entitled to approach this court for the purpose of enforcing such right and this court in discharge of its constitutional obligations, has power to give necessary directions to the State Governments and other appropriate authorities for securing this right to the accused.....”.

Sometimes, where the court finds that the accused is old and infirm, keeping the view, the allegations made against the accused, court may give a direction to release him on bail, because in case of *Akhtari Bi (Smt) vs. State of M.P.*<sup>17</sup> it was directed her release on trial by keeping the sentence awarded to her in suspension. And *R.P. Sethi, J.*, observed<sup>18</sup> that “To have speedy justice is a fundamental right which flows from Article 21 of the Constitution prolonged delay in disposal of the trials and thereafter appeals in criminal cases, for no fault of the accused, confers a right upon him to apply for bail.” While in case of *Naresh Kumar Yadav vs. Ravindra Kumar*<sup>19</sup> the court has given a direction for bail on the ground of lack of records so that the right of speedy trial of the accused could not be violated. *Dr. Arijit Pasayat J.*, taking into consideration that the accused is entitled to have the speedy trial and fundamental right, in regard to bail application, direction was given to dispose of the application on the day when it is filed and directed the state not to seek adjournment on the ground of lack of records.

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<sup>13</sup> AIR 1989 SC 542. See also – *Raghubir Singh vs. State of Bihar* AIR 1987 SC 149.

<sup>14</sup> AIR 2006 SC 3376

<sup>15</sup> AIR 1982 SC 1167

<sup>16</sup> AIR 1982 SC 1167 at para.2

<sup>17</sup> AIR 2001 SC 1528.

<sup>18</sup> Supra at Page 1530

<sup>19</sup> (2008) 1 SCC 632 at p.633, 638-639, see also *Rama Krishna vs. Rami Reddy* (2008)5 SCC 535.

In landmark judgment of Supreme Court in case of *Moses Wilson vs. Kasturiba*,<sup>20</sup> Dr. Arijit Pasayat expressed profound concern over the delay in the case and urged the relevant authorities to take immediate action before the situation spirals out of control. He noted that delays in case resolutions are causing a growing loss of faith in the judiciary among the public. He highlighted media reports of incidents such as the lynching of suspected thieves in Vaishali District, Bihar, the killing of an undertrial prisoner outside the Patna City Civil Court, and other instances where people have taken the law into their own hands. These events reflect the growing belief that justice will not be served in the courts due to prolonged legal proceedings. This is a deeply troubling situation, and he once again called on the authorities to act swiftly before matters deteriorate further.<sup>21</sup>

**Extension (Scope) of Right to Speedy Trial-** The various judgments analyzed show that it is well settled that the right to speedy trial is a fundamental right. From this it logically leads to the question that at which stages of criminal proceedings, this right is available? The Supreme Court started to consider as to this question from *State of Bihar vs. Ramdaras Ahir*<sup>22</sup>, it was also observed<sup>23</sup> by S.S. Sandhawalia, C.J., that “.... The word ‘trial’ in the context of the constitutional guarantee of speedy trial includes within the sweep a substantive appeal provided by the code to the High Court whether against conviction or against acquittal. Thus, it would follow that the constitutional right of speedy trial envisages on equally expeditious conclusion of a substantive appeal and not merely a technical completion of the proceedings in the original court above.”

Justice S.S. Sandhawalia reiterated its above views in case of *State of Bihar vs. Maksudan Singh*<sup>24</sup> and observed that “..... The right of speedy and public trial does not arise or depend on the conviction and sentence of the accused. Barring exceptions (where it may be invoked even after conviction), such right indeed arises normally before any conviction or sentence is recorded. An accused person on the ground of inordinate delay should claim the right long before the conclusion of the trial and before the stage of holding him guilty or otherwise arises. The assumption that he must be first convicted before he can invoke such a right, and only, thereafter, he can claim some leniency in the quantum of sentence at the stage of its imposition or later in the appellate forum therefore, cannot be accepted.”

In the case of *Madheshwardhari Singh vs. State of Bihar*<sup>25</sup> the same question was raised regarding whether the right to a speedy trial applies solely to court proceedings in the strict sense or also encompasses police investigations. S.S. Sandhawalia, C.J., ruled that the right to a speedy trial applies "NOT ONLY" to the actual court proceedings but also extends to the police investigation process in a criminal prosecution. Although in case of *A.R. Antulay vs. R.S. Nayak*,<sup>26</sup> The Supreme Court, in its guidelines, held that “the right to a speedy trial, derived from Article 21, covers all stages, including investigation, inquiry, trial, appeal, revision, and

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<sup>20</sup> AIR 2008 SC 379.

<sup>21</sup> See also *Hussainara Khatoon vs. State of Bihar* AIR 1979 SC 1369.

<sup>22</sup> 1985 Cri. L.J. 584

<sup>23</sup> Ibid at p.590.

<sup>24</sup> AIR 1985 Patna 38= 1985 Cri.L.J. 1782. (F.B.)

<sup>25</sup> AIR 1986 Pat. 324.

<sup>26</sup> AIR 1992 SC 1701

retrial. This is how the court has interpreted the right, and there is no justification for adopting a more limited perspective.”

Further, the SC followed its earlier judgment in case of Pankaj Jain vs. State of Maharashtra.<sup>27</sup> D.K. Jain, J., observed that “this right to speedy trial is applicable not only to the actual proceedings in court but also includes within its sweep the proceeding police investigations as well. This right extends equally to all criminal prosecutions and is not confined to any particular category of cases. In every case, where the right to speedy trial is alleged to have been infringed, the court has to perform the balancing act upon taking into consideration all the attendant circumstances, enumerated above, and determine in each case whether the right to speedy trial has been denied in a given case. Where the Court come to the conclusion that the right to speedy trial of an accused has been infringed, the charges or conviction, as the case, may be quashed unless the court feels that having regard to the nature of offence and other relevant circumstances, quashing of proceedings may not be in the interest of justice.”

**The Time limit for Speedy Trial: Guidelines of Supreme Court-** A very important question arises whether any time limit can be fixed for securing right to speedy trial? Answering this question in State of Andhra Pradesh vs. P.V. Pavithran,<sup>28</sup> the Supreme Court observed that “.... It is not possible to formulate any inflexible guidelines or rigid principles of uniform application for speedy investigation nor it is possible to stipulate any arbitrary period of limitation for completing the investigation.”

While in case of A.R. Antulay v. R.S. Nayak<sup>29</sup> A question was raised before the Supreme Court: how speedy is "speedy"? How long a delay is considered excessive? B.P. Jeevan Reddy, J., stated that it is not possible to establish a specific time frame for the conclusion of criminal proceedings. Various factors must be considered. He noted that even in the U.S., the Supreme Court has declined to set such a time limit. When a complaint of violation of the right to a speedy trial is raised, the court must examine all relevant factors, including those mentioned, and decide whether the delay is unjustifiable. In many cases, the accused may be responsible for the delay and cannot benefit from it. In other instances, delays may occur due to systemic issues, which cannot be attributed to either the prosecution or the accused, and such delays should not be considered unjustifiable. The right to a speedy trial does not require such a time frame to be effective, and the court was not convinced that the right would become illusory without it. Therefore, the Supreme Court refused to set a time limit for determining the right to a speedy trial.

Although in case of Common Cause : Registered Society vs. Union of India<sup>30</sup> the Supreme Court issued appropriate direction. For, release of accused on bail or discharge or acquittal of prisoner at the request of direction of the society with certain conditions, and observed “It is also necessary to ensure that these criminal prosecutions do not operate as engines of oppression.” And the court clarified<sup>31</sup> that this direction of

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<sup>27</sup> AIR 2008 SC 3077, see also Supreme Court Legal Aid Committee vs. Union of India (1995)4 SCC 695.

<sup>28</sup> AIR 1990 SC 1266=(1990)2 SCC 340.

<sup>29</sup> AIR 1992 SC 1701 at p.1729.

<sup>30</sup> (1996)4 SCC 33

<sup>31</sup> (1996)6 SCC 775

the court for discharge or acquittal of undertrials languishing in jail for long periods that not apply to cases wherein the accused themselves are responsible for protraction of trials. Hence, in this case the court has directed to discharge or acquit the accused or release on bail that are languishing in jail since two or more years.

The petitioner filed a writ petition in the Patna HC seeking to quash the entire prosecution, arguing that over 13 years had passed since the filing of the FIR, thereby violating their right to a speedy trial. The High Court dismissed the petition, citing the delay was due to the presence of only one functioning CBI special court, which was burdened with a large backlog of cases. The petitioner then challenged this decision in the Supreme Court, which accepted the appeal based on the aforementioned principles.

Hence, in *Raj Deo Sharma I* case, the court had not fixed an outer time-limit for conclusion of all criminal proceedings in a case. Nor did it go counter to the decisions of *A.R. Antulay*<sup>32</sup> and *Kartar Singh*.<sup>33</sup> In the judgment of *Raj Deo Sharma I*, the Court considered the principles established in the aforementioned decisions and, aligning with their observations, sought to uphold the ideal of a 'speedy trial,' recognized by the Supreme Court as an essential aspect of Article 21 of the Constitution. The primary objective was to expedite criminal trials, ensuring that prosecution does not devolve into persecution of the accused. Trials must not be allowed to drag on indefinitely due to the inefficiency of the prosecuting agency or state machinery, which is why a time frame was prescribed for concluding the presentation of prosecution evidence.<sup>34</sup>

In the case of *Raj Deo Sharma II v. State of Bihar*, the CBI filed a petition seeking clarification and partial modification of the directions issued in the *Raj Deo Sharma I* case. The CBI requested (1) that the directions be applied prospectively, and (2) that time lost due to the court's inability to conduct day-to-day trials because of workload pressures be excluded. Addressing these requests, Justice Thomas clarified that the Court had not set a fixed deadline for concluding all criminal proceedings. Instead, the goal was to strive towards achieving the ideal of a 'speedy trial.' The judgment explicitly stated that if delays in completing prosecution evidence were caused by the conduct of the accused, the court was not required to close the prosecution's evidence prematurely. The court held that the following period can be excluded from the prescribed period of 2/3 years for completion of prosecution evidence:

- (1) The period during which appeals or revisions against interim orders are pending, if initiated by the suspected person to delay the trial.
- (2) The duration of the judge's absence in the trial court.
- (3) A period of up to 3 months if the office of the P.P becomes vacant (for reasons other than the expiration of tenure), allowing the government time to appoint a successor. If the tenure of the Public Prosecutor expires, they will continue in the role until a successor assumes office.

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<sup>32</sup> (1992) 1 SCC 225

<sup>33</sup> (1994) 3 SCC 569

<sup>34</sup> By Thomas, J., in *Raj Deo Sharma II vs. State of Bihar* (1999) 7 SCC 604 at p.606.

- (4) Courts have the discretion to grant additional time for the prosecution to present evidence, regardless of whether the offences are punishable by imprisonment of up to seven years or more than seven years..<sup>35</sup>

Following the above directions of the Supreme Court, the Special Court acquitted the entire accused person in the case of *P. Ramchandra Rao v. State of Karnataka*<sup>36</sup> state filed an appeal in High Court where the same was allowed without giving notice to the accused, then accused filed a petition in the Supreme Court, where R.C. Lahohi, J., on behalf of majority of (seven judges) Constitution Bench 'OVERRULED' the decision of Raj Deo Sharma case and it was held that the Supreme Court cannot impose a fixed time limit as a cutoff for the continuation of criminal proceedings or trials, which would automatically entitle the accused to an acquittal solely on the grounds of delay. Directions prescribing such time-limit by 2 or 3 years in the above cases<sup>37</sup> run counter to the (five judges) Constitution Bench decision in *A.R. Antulay vs. R.S. Nayak*<sup>38</sup> and hence deleted and it cannot be said to be good law to the extent they are in breach of the doctrine of precedents, because these cases were decided by two or three judge bench.

**Constitution of India & International Convention** "The right to a speedy trial and timely justice is recognized in various international charters and conventions applicable to India, particularly the International Covenant on Civil and Political Rights (ICCPR) of 1966, which India ratified on April 10, 1979." Indian constitutional jurisprudence has extensively addressed the role of international law and treaty obligations in enhancing and enforcing fundamental rights.<sup>39</sup> "The obligation under Article 51(c) of the Indian Constitution, which calls for fostering respect for international law and treaty obligations, combined with the authority granted to the Indian State under Article 73(1)(b), reinforces the nation's constitutional commitment to ensuring timely justice."

**Remedy :** It is well established that the right to a speedy trial is essential right flows from article 21 of the CoI. But, it is well known that right without remedy is good for nothing.

It is remarkable that in case of violation of fundamental right, victim has right to move to the SC under Art.32 and, to the HC under Article 226, 227, and under Section 482 of Criminal Procedure Code. The Supreme Court entertained the petition in the case of *Hussainara Khatoon vs. State of Bihar*<sup>40</sup> and directed to release the prisoner from jail under Art.32. While in case of *P. Ram Chandra Rao vs. State of Karnataka*<sup>41</sup> the SC held that HC has also power to quash the proceedings in proper cases in exercise of power under Section 482 of Cr.P.C., and Arts 226 & 227 of the Indian Constitution. Quashing of criminal proceeding is one of the remedy for protection of right to speedy trial.

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<sup>35</sup> Ibid.

<sup>36</sup> (2002)4 SCC 578.

<sup>37</sup> Ibid

<sup>38</sup> (1992)1 SCC 225

<sup>39</sup> *People's for Civil Liberties Vs Union of India* (1997)3 SCC 433, *Vishakha Vs State of Rajasthan* (1997) 6 SCC 241, *Nilabati Behera Vs State of Orissa* (1993) 2 SCC 746

<sup>40</sup> AIR 1979 SC 1360

<sup>41</sup> (2002)7 SCC 604



**Quashing of certain long criminal Proceedings:** It is found that the Supreme Court has quashed following criminal proceedings due to inordinate delay protecting right to speedy trial:

In the case of *S. Guin vs. Grindlays Bank Ltd.*<sup>42</sup>, The Supreme Court overturned the Calcutta High Court's judgment, which had set aside the lower court's acquittal and ordered a retrial after six years. The High Court had reasoned that the trial court had overlooked the core aspects of the offences charged against the appellant, resulting in a failure of justice. Venkataramiah, J., observed "After going through judgment of the Magistrate and of the High Court, we feel that whatever might have been the error committed by the Magistrate, in the circumstances of the case, it was not just and proper for the High Court to have remanded the case for fresh trial, when the order of acquittal had been passed nearly six years before the judgment of the High Court. The pendency of the Criminal Appeal for six years before the High Court itself a regrettable feature of this case. In addition to it, the order directing re-trial has resulted in serious prejudice to the appellants. We are of the view that having regard to the nature of the acts alleged to have been committed by the appellants and other attendant circumstances, this was a case in which the High Court should have directed the dropping of the proceedings in exercise of its inherent powers under section 482 of Cr.P.C. even if for some reason it came the conclusion that the acquittal was wrong. A fresh trial nearly seven years after the alleged incident is bound to result in harassment and abuse of judicial process."

Hence the court quashed the order of re-trial of High Court after six years restoring the acquittal order of the trial court.

**Public Interest Litigation (PIL)-** Since the early 1980s, India has cultivated a unique culture of Public Interest Litigation (PIL), characterized by: (a) relaxing the rules of legal standing, (b) appointing investigative commissions, (c) allowing lawyers to represent groups of affected individuals, and (d) judges exercising "epistolary jurisdiction," proactively addressing grievances highlighted by third parties through letters or media reports.

PIL has undoubtedly driven significant social change, increased public awareness on various issues, energized civic engagement, improved government accountability, and bolstered the judiciary's legitimacy. However, it has faced criticism for consuming a considerable portion of the Supreme Court's limited time, exacerbating delays. Despite this, PILs are accepted for regular hearings less frequently than most other types of cases and account for only about 1% of the Court's regular hearing decisions.<sup>43</sup> While these cases may take longer to be heard, managed, and decided by the court, they do not constitute the majority or even a significant portion of the court's overall workload.

**Compensation:** Generally, the Supreme Court quashed the criminal proceeding in case of infraction of right to speedy trial, but in no such case it awarded compensation. Even in case of unlawful detention,<sup>44</sup> custodial

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<sup>42</sup> AIR 1986 SC 289, also *State of Maharashtra Vs Champalal Punjali Shah* AIR 1981 SC 1675.

<sup>43</sup> Robinson, Nick, (2009): "Too Many Cases", 26 *Frontline*, Jan. 3-16. Available at <http://www.frontline.in/fl2601/stories/20090116260108100.htm>

<sup>44</sup> *Rudal Shah vs. State of Bihar* (1983) 4 SCC 141, also, *Bhim Singh v. State of J&K.* (1985) 4 SCC 677;

death,<sup>45</sup> handcuffed,<sup>46</sup> fake encounter<sup>47</sup> Rape victims,<sup>48</sup> sexual harassment,<sup>49</sup> the court has directed to give monetary compensation in case of violation of fundamental right under Art.21 of the Constitution. Therefore, the court must evolve such principle prescribing award of monetary compensation in infringement of right to speedy trial which is also an integral part of Art.21 of the Constitution.

“It is undisputed that the right to a speedy and expeditious trial is one of the most valuable and cherished rights guaranteed by the Constitution. Fundamental rights are not mere illusions to be ignored; they are meant to be enforced and realized. The fair, just, and reasonable procedure implied by Article 21 of the Constitution grants the accused the right to a speedy trial. This right, stemming from Article 21, applies to all stages of the legal process, including investigation, inquiry, trial, appeal, revision, and retrial. Courts have recognized this right and, in some instances, have even quashed prosecutions after unreasonable delays in concluding trials, based on the specific facts and circumstances of the case. Holding a person in limbo for 10 years or more without just cause contradicts the spirit of the procedure established by law.”

While the statute may prescribe a minimum sentence for a convict, courts, in light of Article 21 and its interpretation regarding the right to a speedy trial, have recognized that judicial compassion may play a role. A convict can be ‘compensated’ for the mental anguish caused by prolonged trials due to prosecutorial delays, through the court's exercise of its extraordinary jurisdiction.

Thus, the right to a speedy trial is a fundamental right under Article 21 of the Indian Constitution. Following the principles established by U.S. courts, the Supreme Court of India has quashed several criminal proceedings to safeguard this right. The Apex Court has held that courts may issue such orders as deemed just and equitable in the circumstances of a case. However, the Court has clarified that it cannot include ‘compensatory jurisprudence’ under the term “such other appropriate order.” Meanwhile, other courts have acknowledged that a convict may be compensated for the mental distress caused by protracted trials.

## References

1. "Constitutional Law of India" by H.M. Seervai
2. "Judicial Review of Fundamental Rights" by V.N. Shukla
3. International Covenant on Civil and Political Rights (ICCPR), Article 14(3)(c)
4. Universal Declaration of Human Rights (UDHR), Article 10
5. State of Maharashtra vs. Ravi Kant S. Patil (1991)2 SCC 373.
6. People's Union for civil Liberties vs. Union of India AIR 1997 SC 1203.
7. Jilbati Behera vs. State of Orissa (1993)2 SCC 746.

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<sup>45</sup> PUDR vs. Police Commissioner, Delhi (1989)4 SCC 730, Saheli Vs. Commr. Of Police AIR 1990 SC 513.

<sup>46</sup> State of Maharashtra vs. Ravi Kant S. Patil (1991)2 SCC 373.

<sup>47</sup> People's Union for civil Liberties vs. Union of India AIR 1997 SC 1203. Jilbati Behera vs. State of Orissa (1993)2 SCC 746.

<sup>48</sup> Delhi Domestic working Women's Forum vs. Union of India (1995)1 SCC 14, Chairman, Railway Board vs. Chandrima Das AIR 2000 SC 988.

<sup>49</sup> Bodhisathwa Gautam vs. Subhra Chakraborty (1996)1 SCC 490.

8. Delhi Domestic working Women's Forum vs. Union of India (1995)1 SCC 14
9. Chairman, Railway Board vs. Chandrima Das AIR 2000 SC 988.
10. Hussainara Khatoon vs. State of Bihar AIR 1979 SC 1369.
11. National Judicial Data Grid (NJDG)
12. 77<sup>th</sup> Law Commission Report on "Delay and Arrears in Trial Courts"
13. 221<sup>st</sup> Law Commission Report on "Speedy Justice - Some Suggestions."