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Critical Analysis on Right to a Fair Trial under Indian Laws

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ABSTRACT: The Indian Criminal Justice System's major goal is to provide a fair and impartial trial for each accused who has been imprisoned on Indian soil. For the trial of an accused person in our nation, we employ the adversarial system. Under this system, the prosecution is responsible for proving the accused's guilt beyond a reasonable doubt. India's criminal justice system adheres to some standards to ensure a fair trial, yet the country still ranks poorly on the Rule of Law Index. India is placed 68th out of 128 nations in the 2019 World Justice Project (WJP) Rule of Law Index.

A fair trial is one in which the defendant is tried in front of an unbiased judge and jury. Every person has a right to a fair trial, which the law recognises as a fundamental right, and every person has a right to defend himself (Sub-section (2) of Section 243 of the Cr.P.C., 1973 recognises the right to defend oneself and to adduce evidence), and denial of that right means denial of a fair trial.

Natural justice principles underpin a fair trial. Every person and society has the right to a fair trial. Several clauses in the Criminal Procedure Code address this. Fair trials are the only way to avoid judicial failures, and they are an essential component of a just society. A fair trial not only safeguards the rights of the accused, but also strengthens and defends society. Without a fair trial, public confidence in the government and the rule of law would erode. Although the right to a fair trial is acknowledged by the world community, it is being violated on a daily basis. Laws should be strengthened to guarantee that those in positions of authority do not violate this right.

In a trial, a judge is supposed to render an unbiased decision against both parties while also ensuring that the parties' rights are protected. A court is expected to make a decision based on the facts and the lawyer's case. A judge is not expected to rule in favor of the defendant just because he has committed a crime for which he should be punished.

A judge should be impartial and patient enough to listen to both sides of an argument. He has a responsibility to ensure that the accused's rights were not infringed before and after the trial, as required by the Criminal Procedure Code.

I. INTRODUCTION

Characteristics of a fair trial

1. Adversary system
2. Independent, impartial, and competent judge
3. Venue of the trial
4. Presumption of innocence
5. Right of an accused person
6. Expeditious trial[1,2]

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1. Adversary system

Under our nation, criminal trials are conducted in an adversarial system. According to this, any dispute about a person's criminal culpability must be addressed by a criminal court once the individual has been given a fair and appropriate chance to present their case before the court. It allows an impartial and competent judge to see the case from a different viewpoint, and it is a more effective tool for discovering the truth in a fair manner. As a result, the state represents the victim and begins a trial against the accused. Independent, impartial, and competent judge.

2. Separation of judiciary and executive:

To ensure the autonomous working of the legal executive in criminal matters, the Code has achieved detachment of the legal executive from the judiciary by requiring the appointment of Judicial Magistrates and bringing them all under the control of the High Court in each State, as stipulated in Sections 6 to 19 of the Cr.P.C. Because of the division, no court officer would have any contact with anyone involved in the prosecution. When the State is arranging a party in a criminal prosecution, it is critical that the legal executive is free of all doubts about the leader's influence or control.[3,4]

Court to be open: Section 327 states that the court shall be held in an open court to which the entire public has access.

3. Venue of the trial

A public trial in open court is an incredible tool for assuring the public of the logic, impartiality, and fairness of the criminal justice system. Sections 177-189 contain provisions relating to the location of an investigation or trial. If the accused person's trial location is excessively inconvenient for him and presents different obstructions to his defense preparation, the trial cannot be termed trial.

4. Presumption of innocence

Every criminal trial begins with the presumption of innocence in favor of the accused, and the provisions of the code are written in such a way that a criminal trial should begin with

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that assumption and be regulated by it throughout. However, it has been noted that the prosecution bears the burden of demonstrating the accused's guilt, and the court cannot record a guilty verdict of accused 6 until the prosecution relieves itself of that duty.

5. Right of accused person

A fair trial means that both the prosecution and the accused individual should be treated equally. As a result, the following rights in favor of the accused have been recognised by the law in order to provide a fair trial for the accused.[5,6]

6. Expeditious trial

The term "expedited trial" refers to a fast trial of the accused. This criterion was based on the concept of a reasonable preliminary in order to avoid unnecessary provocation of the accused. Every inquiry or trial shall be conducted as quickly as possible, and when witness examination has begun, it shall be continued from day to day until all witnesses in attendance have been examined, unless the court finds it necessary to adjourn the proceeding beyond the following days for reasons to be recorded.

When it appears to the High Court that a fair and impartial inquiry or trial cannot be held in any criminal court subordinate to it, it may order that any offense be investigated or tried by any other competent court, or that any specific case or class of cases be transferred from a criminal court subordinate to its authority to any other criminal court, subject to the conditions set out in section 407. Sections 406 and 408 confer on the Supreme Court and the session court the authority of transfer of cause.

In the case of K. Anbazhagan vs The Superintendent Of Police & Ors.:

Supreme Court of India

CaseContempt Petition (crl.) 11439-40 of 2003[7,8]

Transfer case (crl.) 77-78 of 2003

Author: J. Sema

Bench: S.N. Variava AND H.K. Sema

Date of the judgment: 17 February 2004

The Supreme Court ruled that parties interested in section 406(2) include political opponents of the accused, claiming that they are the government's watchdogs. The petitioner requested that the criminal proceedings against the state's Chief Minister be moved out of the state. That was stated in a Supreme Court order. The petitioner has submitted several justified and reasonable concerns that a miscarriage of justice has occurred, necessitating our intervention in the exercise of authority under section 406 of the Criminal Procedure Code.

According to section 479 of the code:

(a)No judge or magistrate may expect to try or commit any matter to or in which he is a party or personally involved without the consent of the higher court.

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(b)A judge or magistrate may not hear an appeal against a judgment or order that he or she has passed or made.

(C)Transfer of the case to ensure an impartial trial- Under section 190 (1) c, a magistrate has the authority to take cognizance of an offense based on his personal knowledge of the conduct of the offense. However, before any evidence is gathered, the accused must be informed that he has the right to have the matter heard by another magistrate (section 191).[9,10]

The theory of a fair trial is not only a right protected in our nation, but also by a number of other laws throughout the world. The Right to a Fair Trial is addressed in Article 6 of the European Convention on Human Rights. Everyone has the right to a fair and public hearing within a reasonable time frame, according to this article. The trial must be handled by a legally established independent and impartial panel. Article 5 of the African Charter of Human Rights preserves human dignity and prohibits exploitation. Individual liberty and security are guaranteed by Article 6 of the African Charter of Human Rights. Article 7 guarantees the right to a fair trial, as well as a number of other rights.

- Right to appeal to the competent jurisdiction.
- Right to defense.
- Right to be tried.
- Right to be presumed innocent until proven otherwise.

II. DISCUSSION

Critical Analysis

We can see from the explanation above how a fair trial is a vital right for everyone and for society. Several clauses in the Criminal Procedure Code address this issue. Fair trials are both a vital component of a just society and the only way to avoid judicial miscarriages. True, a fair trial preserves the rights of the accused, but it also strengthens and defends society. Without a fair trial, public confidence in the government and the rule of law would erode. The right to a fair trial is acknowledged by the world community, but it is being violated on a daily basis. Laws should be made more severe to guarantee that those in positions of authority do not violate this right.

A judge is supposed to render an unbiased decision against both parties in a trial, and it is his responsibility to ensure that the parties' rights are protected. A court will be required to make a judgment based on the facts and the lawyer's case. A judge is not expected to rule in favor of the defendant just because he has committed a crime that requires punishment.

A judge should be impartial and patient enough to listen to both sides of an argument. He has a responsibility to ensure that the accused's rights were not infringed before and after the trial, as required by the Criminal Procedure Code. Every day, we hear in the news that there are over 30 million cases outstanding in the courts and that as a result, the accused's fundamental right to a speedy trial, guaranteed by Section 309 of the Criminal Procedure Code, is being infringed and as a result, some innocent people are forced to languish in prison for years before their day arrives. As a result, a more rapid and transparent approach should be developed in order to protect rights.[11,12]

Criminal Justice System

The judiciary is seen as an equal branch of the government, alongside the legislative and the executive, and the proper functioning of the criminal justice system is critical for any powerful democracy. The criminal justice system is a collection of legal and social organizations designed to keep track of and manage human affairs.[25]

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It was established by the government to manage and execute criminal laws found in numerous sources such as the Indian Penal Code, Criminal Procedure Code, Protection of Civil Rights Act, Dowry Prohibition Act, and so on. India, like the United States, has separate state, military, and juvenile justice systems. The police, trial and appellate courts, prosecution and public defense offices, prisons, and reformatories are all part of this system.

Indian law is consistent with international legal norms on the right to have one's case heard by a competent, free, and fair court. Under the law, everyone should be treated equally. Each of them will be eligible for a fair trial by a court established by law. A striking requirement of a reasonable and fair trial is one that comes to mind right away.

Article 21 of the Constitution guarantees the right to a speedy trial, which encompasses all stages such as examination, inquiry, correction, trial, and retrial. In a criminal case, a conviction cannot be based on the testimony of witnesses whose principal assessment is contradicted by their interrogation. The evaluation of proof should be objective and unbiased. In each criminal preliminary, the degree of probability of guilt must be far greater, almost to the point of certainty; and if the accused has the tiniest reasonable or plausible chance of being blameless, he should be given the benefit.[13,14]

III. RESULTS

RIGHT TO FREE LEGAL AID

The requirement of fair trial involves an opportunity to the accused to have a counsel of his own choice, and the duty of the state to provide a counsel to the accused in certain cases. The Law Commission of India in its 14th Report has mentioned that free legal aid to persons of limited means is a service which a Welfare State owes to it citizens. The right to be defended by a legal practitioner, flowing from Article 22(1) of the Constitution has further been stated in the Directive Principles of State Policy embodied in Article 39 A of the Constitution . The 42nd Amendment Act of 1976 and enactment of sub-section 1 of Section 304 of the Code of Criminal Procedure. Legal assistance to a poor person facing trial whose life and personal liberty is voilated is provided not only by the Constitution and the Code of Criminal Procedure but also by International Covenants and Human Rights Declarations. Every person, therefore, has a right to a fair trial by a competent court The object and purpose of providing competent legal aid to undefended and unrepresented accused persons are to see that the accused gets free and fair, just and reasonable trial of charge in a criminal case.[23,24]

SPEEDY TRIAL

Speedy trial is a right of every accused. Delayed justice leads to unnecessary harassment. Sec.309(1) provides "in every inquiry or trial, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.[15,16]
Sada Shiv Manohar Parkar Vs. State of Maharashtra, 1998 Crl. LJ 3755). The right to speedy criminal trial is one of the most valuable fundamental rights guaranteed to a citizen under the Constitution, which right is integral part of right to life and liberty guaranteed under Article 21.

SOME LATEST CASES

- Krishan kumar v. State of delhi

Fair trial is the hallmark of criminal procedure , it entails not only rights of victims but also interest of accused. It is the duty of the court to ensure fair and proper opportunities are granted to the accused for just decision of the case. Adducing of evidence by the accused in support of his defence is also a valuable right and allowing the same in the interest of justice.

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- Bhagwani v. State of Madhya Pradesh

Conviction and death sentence on the same day for kidnapping , rape and murder of an 11 year old. Adequate opportunity to produce relevant material on the question of death sentence should be provided to the accused by the trial . In court opinion death sentence required to be commuted to life imprisonment .[17,18]

- Vikas Chawla v State of NCT Delhi

Pre trial detention are grave in nature and keeping an under trial in custody would impact right to defend himself during trial and his right to fair trail gets violated[19,20]

IV. CONCLUSION

Equality , liberty ,justice are the basic highlights of our preamble and it is the right of every single citizen of our nation . Criminal justice system and the constitution provides for equality of access to justice and fundamental principles of fair trial . Fair Trial is the hallmark of criminal procedure and the court shall ensure fair and proper opportunities to the accused for just decision [21,22]

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