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 seen 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.

Speedy trial is not a new concept, it is quiet old both at International and national level. At the international level, the traces of speedy trial are found in the modern democratic world and more particularly in the developed democracies. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the European Convention on Human Rights. The legislature of India through
Section 309, 258, 468 and other provisions of the criminal procedure Code, 1973 and also the Supreme Court of India by way of interpretation of Article 21 of the Constitution of India have recognized speedy trial as the essence of criminal justice system.

As far as speedy trial at national level is concerned, we get some evidence of speedy trial in Ancient, Medieval and Mughal period, which grew gradually and now hold the place of fundamental rights.

Although justice is meant to be “simple, speedy, cheap, effective and substantial”, yet it remains elusive to Indians, and one of the major reasons are delay in the dispensation of justice. Many cases in India take up to 10 years for disposal and usually take for longer than stipulated 6 month or 2 years for trials, resulting in enormous pendency. The pendency of criminal cases in lower courts, for instance, as per figure available was 2.5 crore in 2008.

Those who suffered physically, mentally or economically, approach the courts, with great hope, for redressal of their grievances. They refrain from taking law into their own hands, as they believe that one-day or the other they would get justice from the courts. Justice delivery system, therefore, is under an obligation to deliver prompt and inexpensive justice to its consumers, without in any manner compromising on the quality of justice or the elements of fairness, equality and impartiality.
It is not only important there should be proper machinery of justice but the machinery must be capable of providing speedy justice to the needy people. There is an old adage that "Justice delayed is justice denied". The adage makes ample clear that justice should not only be given but it must be given before unreasonable delay is caused and its value is lost.

Therefore, one of the most crucial aspects of the dispensation of justice is that of time and quality of justice. If a case is not decided within the right time, or if too much time is taken in deciding it, Justice cannot be said to have been done. In fact the most fundamental thing in speedy trial is that a person accused must be able to get results in the court of law without unreasonable delay. Prevention of unreasonable delay is therefore the pivotal of speedy trial and effective criminal justice system. Prolonged litigation causes financial burden and mental torture to the litigants besides eroding their faith in judiciary. It is important to mention that the causes leading to delays, in disposal of cases are not related only to the judiciary as is generally believed but they owe their origin to, the legislative, the executive, the judiciary, the legal profession, the court procedure and the litigants. In the present criminal justice system, the poor and indigent persons are suffering and being harassed by the police and prison authorities whereas the persons who have sufficient means and influence make full use of the legal loopholes. The judiciary, the legal profession and the Government have to
share the blame for the unfortunate development in the otherwise proved judicial record of the World’s largest democracy. Delay in the disposal of cases is the greatest drawback of the administration of justice in India.

**Statement of the Problem**

Justice that comes too late has no meaning to the person it is meant for. During a prolonged and unending trial, the priorities of an accused person towards life change along with the circumstances. The person can also lose everything on account of the pending proceedings.

Administration of criminal justice is facing serious problems now a day. Although, access to justice should normally mean taking recourse to an affordable, fair, speedy and satisfactory settlement of dispute through a court of law, yet the agony associated with it is so unending and prolonged that the number of people who resort to litigation is much less, than those who prefer to forgo their claim, howsoever genuine their claims might be, for the sake of maintaining peace in their life. After all, no person would like a major part of his life to be consumed in unending litigation. In cases, where the accused is the head of a family and is the only bread earner, his responsibility is also towards the large family left behind him. It is not only the accused but also his other members of the family who suffer because of delays in trial. As estimated 66 percent of all prison inmates are under-trials, but in some States the proportion goes up to as high as 80 percent.
The total prison population as on December 2006 for all categories of inmates was 3,73,271 of these 2,43,244 were under-trials. An overwhelming 96 percent of these are men. Uttar Pradesh reports the highest number of under-trials followed by Bihar. The lack of a speedy dispute settlement mechanism has a direct impact on the level or lawlessness in our society.

Significance of the Topic of Research

The significance of criminal justice system in public administration is that it has the aim of establishing such condition in society in which there is law and order, and there is protection to the rights of the individuals. This system gives sustenance to Rule of law and the meaning and significance to the idea of speedy justice. The administration of justice does not deal with the punishment of the guilty alone, almost means acquittal of the innocent. Fairness and speed are equally important in the administration of justice. Speedy justice serves the best interests of the accused, the survivors and the society at large. An efficient system acts as a deterrent to any potential violator of law.

However, in our country criminal justice has come in for serious criticism. Almost every component of this system is finding it difficult to get along. The problem of delay and backlog is rather acute in criminal cases, as compared to civil cases. The Indian criminal justice process appears to be on the verge of collapse due to diverse reasons for delayed
dispensation of justice. Therefore, speedy trial in criminal justice system is an urgent need of the present judicial system in order to decide the fate of lakh of litigants.

Rationale for the Study

What has influenced the researcher to select this topic is the criticism very often heard that the criminal justice system of our country has failed in its purpose of dealing with the dispensation of speedy justice.

On the other hand, it was inspiration of my able supervisor that I decided to select the topic of my research work on such essential an issue that of ‘speedy trial in criminal justice system’. I also share the idea to carry on my work on this topic with my teachers having vast practical experiences whereby it had been inferred that there was an urgent need to look into the current position of speedy dispensation of criminal justice in India and in other countries.

Hypothesis

1. Criminal justice system is suffering from several pernicious defects such as delayed disposal of cases and huge pendency.
2. Seedy trial is the essence of criminal justice system and there can be no doubt the delay in trial by itself constitutes denial of justice.
3. The worry, anxiety, expense and disturbance to prisoner’s vocation and peace resulting from an unduly prolonged investigation, inquiry and trial should be minimal.
4. A new jurisprudence is evolving the world over particularly with the help of judicial decisions, whereby
prisoners are treated as human beings and speedy trial as their human right.

5. The state is under a Constitutional mandate to ensure speedy trial and whatever is necessary for this purpose has to be done by the state.

6. Most of the provisions of the Procedural Laws are vague and highly technical making it difficult to enforce them towards the end of speedy justice.

7. The state cannot avoid its Constitutional obligation to provide speedy trial to the accused persons by pleading financial and administrative inability.

8. Effective case management system needs to be put in place for growing number of new cases and the courts should reach to the people through local venue hearing.

9. There appears an urgent need to bring punishment for absconding witnesses and strict enforcement of deadline for duration of trial and length of argument.

10. Concrete steps to implement the recommendations of various committees on reforms in criminal justice system needs to be taken, if we are to achieve the precious right to speedy trial.

Aims and Objectives of Research

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

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.

Methodology

Keeping in view the nature of research problem and the hypotheses formulated in this regard, research has been carried out on the subject by following the Doctrinal and Analytical Methods of Research.

Scheme of Presentation

The study has been presented in the following chapters:

Introduction: Contains the research design. It describes the area of research, the reasons for conducting research on the topic, the hypothesis formulated for the purpose, the methodology followed and the aims and objectives pursued in this regard.
Chapter-I - “Speedy Trial - Explained” discusses the conceptual basis of speedy trial. After giving a brief overview of speedy trial, explains the concept and meaning of speedy trial. And the defects and errors in procedural law has also attempted in detail, on the other hand the need for simplification of the procedural law to attain speedy justice has discussed.

Chapter-II - “Speedy Trial - Historical Perspective” explains historical background of speedy trial. For this purpose chapter IIInd has been divided into three parts and examine the evolution of the concept of speedy trial from ancient Indian criminal justice system to Medieval and Mughal period and its position in modern time has discussed in a historical manner. Moreover, gives a comparative view of ancient, to modern position of administration of criminal justice, to examine the position of speedy justice.

Chapter-III - “Speedy Trial in International Perspective” deals with international aspect of speedy trial. It first deals with the fortification of speedy trial in several International Covenants and Conventions. Then examines the Sixth Amendment of the U.S. Constitution and the Speedy Trial Act of 1974 has exclusively outlined. Researcher further deals with international comparisons regarding problem of backlog and delay reduction, in dispensation of criminal justice in India.

Chapter- IV - “Speedy Trial: A Constitutional Mandate” deals with Constitutional ramification of speedy trial. For this purpose, the researcher first examines the Constitutional provisions for
speedy trial. Then the emergence of speedy trial, as a Fundamental Rights in India, last part of this chapter deals with the articulation of right to speedy trial in judicial pronouncement/dynamism.

**Chapter- V - “Speedy Trial in Statutory Provisions”** it discuses the several statutory provisions, which are designed to speed up the trial of criminal cases, in the last part of this chapter, it also discusses the utility of free legal aid as a tool to secure speedy trial.

**Chapter VI - “Role of various Agencies in Furtherance of Speedy Trial”**. This chapter examines the role of various agencies. For this purpose, it provides an insight into the report of Mallimath Committee. Then the role of lawyers, litigants, Lok Adalat and use of technology in speedy justice are examined.

**Conclusion and Suggestions** contains a summary of the findings and offers suggestions as to how an effective system can be established to achieve the idea of speedy trial in criminal justice system.

The present study although limited in scope, also endeavours to ascertain the material facts that has paralised the criminal justice system. For instance, the study reveals that justice today is shut out to most in India. Most citizens, especially the disadvantaged sections, have limited access to justice, due to unclear laws and high costs that act as effective barriers. Unfortunately, those who do venture forth are also, often denied of their right to justice. One of the major causes for this is known to be ‘delays in the dispensation of justice.’

That “justice delayed is justice denied” as repeatedly held by Apex Court, yet ‘delays continue in matters before the judiciary
resulting in huge arrears/backlogs/pendency' and repeated violation of fundamental rights of citizens of India.

It is, therefore evident that the old adage "justice delayed is justice denied" is found present in about all part of our country, causing frustration and anxiety not only amongst the under trial prisoners but also amongst their family members, neighbours, scholars dealing with criminal justice system, jurists, judges and a number of other people. The urgent need, therefore, is to find out solutions for delays in disposal of cases in general and criminal cases in particular. Hence the researcher offers the following suggestions.

1. The first and foremost step is to increase the strength of judges at all levels. The present strength is inadequate in the sense that there are only 10.5 judges per 10 lack of population which is highly dissatisfactory as compared to the strength of judges in advanced western countries like United States of America and United Kingdom. The present strength of judges should be raised to 50 per 10 lack of population at the earliest otherwise the huge pendency of cases will go on increasing in future.

2. The existing infrastructure of the courts in most part of the country is grossly dissatisfactory in the height of technological advanced atmosphere. It is not only necessary that the posts of judges and other court staff are to be created but the old and ineffective infrastructure such as court rooms, building, manner of keeping court records should all be changed be replaced with the modern techniques and latest gadgets.
3. There is urgent need to have in place judicial machinery, which is easily accessible and dispenses affordable, incorruptible, and speedy justice to the people.

4. There is urgent need to improve the present legal aid support system and legal aid lawyers given better and prompt remuneration.

5. It is need of the hour to have our legal procedures simple, rational, easily understandable and the amendments of procedure have to be made carefully so as to ensure quick justice while safeguarding that fair play, equity and good conscience does not become a casualty. Speedy but faulty justice is no justice at all.

6. Steps need to be taken to make use of alternative disputes resolution mechanism to decide the cases pending in different court involving petty offences. Such minor cases may easily resolve through mediation and compromise.

7. The role of advocates in speedy trial is also very crucial because they are equal partners with the judges in the administration of justice. Separate steps need delivery system. The Bar should also refrain from boycotting the courts and approach concerned authority for redressal of their grievances. Members of the Bar should avoid unnecessary adjournments. Members of the Bar should also stat following strictly the principles of professional ethics and abandon their narrow parochial interest.

8. There must be an effective computer training programme for not only the judges of subordinate courts in different parts of the country but also for the entire staff of the subordinate courts so as to make justice delivery system at the base level speedier and timely.
9. There is an urgent need on the part of the Union Government and as well as state governments to change their mindset and stop politicising fundamental issues such as judicial reforms, rather the government should take effective steps at all levels that no inaction on the part of any government agency becomes an obstacles in the speedy dispensation of justice.

10. There is a need for effective case management system so as to control the rising number of new cases for this purpose Fast Track Courts should be extended to the level of Magistrates and all existing vacancies in courts across the country should be filled up on top priority.

11. Gram Nyayalay system dealing with petty disputes at the village level should resolve the cases amicably and such courts should not be allowed to reach the complicated legal stages and procedural delays are avoided.

12. The concept of pre-trial meeting to restrict issues and admissible evidence should also be taken to meet out the long and complicated procedural hurdles of the evidentiary law.

13. There is an urgent need to create deterrent effect on the witnesses who do not turn up in the courts of law for evidence. Punishment for absconding witnesses should be imposed and there should be strict enforcement deadlines and restrictions on the length of arguments so as to ensue speedy trial in criminal justice system.

The criminal justice system machinery must also meet the challenge of effectively dealing with the emerging forms of crime and behaviour of criminals. On many occasions, delay in the process of trial is caused by the accused themselves.
The accused know that only delay in trial would help him as the memory of witnesses is likely to be blurred by the passage of time. In most of cases, the blame for delay in administration of criminal justice system is put at the doors of the courts. Courts are over congested with petty cases and many legislations are being enacted which result in filing of large number of cases before the courts.

Last but not the lest the need of the hour is to maintain an equilibrium between the two most popular doctrines - "justice delayed is justice denied" and "Justice hurried is justice buried" dispensation of justice should result with best possible speed but the quality of the trials and judgements is not compromised and that would be the only way to achieve the noble ideas of justice - social, economic and political as conferred in the Preamble of our Constitution.