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"Criminal Justice - Sin of Delay & Arrests"

By

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The Indian Constitution is a unique document. In Part III of the Constitution are embodied certain human values, principles and norms which go to make up the dignity of man. Freedom and dignity of the individual finds place on the highest pedestal under our Constitution. Provision for safeguarding them has been made in categorical and unequivocal terms. The individual has been afforded even the fundamental right to approach the Supreme Court under Article 32 of the Constitution for the vindication of his fundamental rights enshrined in Part III of the Constitution.

Three of the fundamental rights enshrined in Articles 14, 19 and 21 of the Constitution have given vigour and life to the concept of human dignity, liberty and the rule of law under our Constitution. During the last five years or so, the Supreme Court has expounded and expanded the meaning inherent in these Articles. Fortunately, for all those who exhibit jealous concern for human dignity, liberty and values, the pronouncements of the Supreme Court have breathed more life and vigour in these sacred provisions.

Notwithstanding the aforesaid, the situation obtaining in reality is both gloomy and alarming. Human dignity and liberty has become a casualty in innumerable cases, all avoidable, on account of draconian and callous procedural laws and wrangles. In this article, for want of time and space, I venture to restrict myself to the provisions of the Code of Criminal Procedure, 1973.

In spite of all the sacred provisions that adorn the Part III of our Constitution, we are yet to have a time-bound investigation, trial and disposal of appeals and revisions. This gloomy situation assumes fearful proportions when the human soul knocking the door of the courts for seeking justice in the meanwhile languishes in the stony walls of a jail.

I may, however, here point out that salutary provisions of section 167 Cr.P.C. have indeed shown concern for human liberty in the sense that under this section an accused person is entitled to be released on

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Based upon the aforesaid golden touchstones, we are irresistibly led to infer that the procedure provided under the Code of Criminal Procedure for investigation, trial and appeal is clearly unconstitutional being in patent violation of Articles 14 and 21 of the Constitution. The procedure is unreasonably arbitrary and unreasonable. To say the least, it is inhuman and barbaric. It is the very antithesis of a civilised culture.

There is yet another dark side of this gloomy picture. A person acquitted by a court has in many cases remained in jail for a considerable period. Apart from the great mental torture and humiliation undergone by him during this period, his family members also go through untold hardships and suffer miseries. Such a person is not compensated by the State in any manner. The State must be put under a legal obligation to reward such a person or the labour he put in while he was detained in jail. This salutary provision would certainly contribute considerably in facilitating the rehabilitation of such persons in society. Also there is no reason as to why the State should usurp the fruits of the labour of such a person. A reformative attitude in this direction is the crying need of the hour. Once a person has been adjudged as 'not guilty' or innocent by a court of law, the State and society should do utmost to undo the wrongs perpetrated upon such a person.

Another striking and derogatory feature of the Code of Criminal Procedure is that it has afforded only a restricted right of appeal to a convict. Not in all cases a person can avail of a right to appeal as is apparent from the provisions of section 376 Cr.P.C. Reason and logic are unable to render such a procedure sustainable. The classification made by section 376 Cr.P.C. is patently violative of Article 14 for even a day's loss of liberty is to be accorded greatest significance.

In view of the aforesaid, it is now imperative that the following reforms be brought about urgently:

- (a) For expeditious investigation, trial and disposal of other legal remedies like appeal and revision the law should, consistent with the provisions of Articles 14 and 21 of the Constitution, provide for a limited time bound programme for these.
- (b) In the event of acquittal, a person acquitted should be adequately rewarded for the labour he has put in during his detention in jail.
- (c) A right to appeal should accrue to a convict notwithstanding the period of sentence imposed upon him. Section 376 Cr.P.C. should be deleted.