

REFORMS WITH RESPECT TO SPEEDY DISPOSAL OF CASES RELATED TO WOMEN IN FAST TRACK COURTS

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ABSTRACT

Incidents of rape and gang rape of young girls under the age of twelve and heinous crimes against women have shaken the ethics of the whole nation. Therefore, these crimes against women and children require effective action through fast and time-bound completion of the trial relating to sexual offences and other crimes. To provide speedy trial and dismissal of such cases, the Central Government has already ratified the “Criminal Amendment Act, 2018”. This led to the establishment of FTSCs (FAST TRACK SPECIAL COURTS) for rape and POCSO ACT cases. Currently 609 FTSCs are functional including 331 exclusive POCSO Courts. Their improved focus on law enforcement and speedy processes can take steps to prevent potential offenders. Through their broad training and mutual approaches, they are also placed in a unique position to bring about a communal change by redefining the status quo and other socio-economic beliefs that persuade violence against women. Fast-track courts can prevent upcoming crimes by undermining the culture of impunity that fuels sexual brutality in India.

Keywords: Fast Track Courts, Speedy Trial, Legal Reforms, Sexual Offences.

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INTRODUCTION

According to the data compiled by the National Crime Records Bureau and World Health organization, an overall of 405861 cases of crime against women were recorded during the year. The reports also stated that probes in 67% of the 15654 crimes against women were pending. We are a civilized society and talking about equality, development, and growth but somewhere deep down in our roots mankind needs a correct approach in the form of reforms towards cases related to women. In any Society, conflicts are bound to arise between individuals, between groups, as well as between individuals or groups and government. All such conflicts must be settled by an autonomous body following the principle of rule of law. The principal role of the Judiciary is to guard rule of law and ensure the primacy of law. Judicial

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reforms are very much in need due to increased pendency of cases, delay in justice delivery, complex legal procedures, inaccessibility, high cost, corruption, lack of transparency particularly in the appointment of judges, and many more. Judicial reforms develop alternative conflicts resolution methods like Arbitration, Mediation, and Conciliation. It enhances the quality of judges assigned, employs experienced staff, adequate resources and equipment which promotes the value of equality, speed, and quality which should be executed by judges and lawyers prescribes the target time for all court cases to deal with the situation of pendency.

EVOLUTION OF FAST-TRACK COURTS

Fast-track courts, a foil of the District Courts, were introduced in India in the year 2000. Fast Track Courts are launched by the State Governments in discussion with the concerned High Courts. By the order of former Law Minister, Arun Jaitley, 11th Finance Commission of India funds for the establishment of 1,734 "fast-track" courts to lessen the steep burden of pending cases caused as a result of low judge-population percentage. The central government provided these funds to each state to set up the fast-track court system. In the judgement of Brij Mohan Lal Vs Union of India & Others case¹, dated 19.04.2012, the Supreme Court ordered the States that it's their call to choose whether to bring the FTCs system to an end or to carry on the same as an eternal feature in the State.

Over the next five years, these fast-track courts worked smoothly and solved almost 10 million cases and so the period kept on renewing till 2012 when the heinous rape case tottered the country and this was when the government ordered to establish six fast track courts in Delhi that will entirely deal with the sexual assault cases only. The government established 73 alike courts throughout the country, besides the District Courts as well as Sessions courts, to endeavor cases of sexual violence following the death of Jyoti Pandey². Six of these courts are in Delhi, where Pandey was killed, and further in Mumbai. The nature of "speeding up" or increasing the competence of these courts is provided by the Criminal Law Amendment Act, 2013 or "Anti-Rape Act" as it is generally recognized, which was passed following Pandey's rape and death. The Act commenced numerous other new offenses in the Indian Penal Code

¹Department of Justice, Ministry of Law and Justice <https://doj.gov.in/other-programmes/fast-track-courts/about>

² "After the gruesome Delhi gang rape, the government set up 73 fast-track courts across the country to the [sic] try cases of sexual violence against women as per provisions mentioned in the [Criminal Law (Amendment) Act, 2013]. These were among 1,800 fast-track courts the authorities plan to set up and run for three years, focusing on violent crimes and other serious offenses against women, children and the elderly, as part of broader judicial reforms."

such as causing grievous hurt through acid attacks, use of criminal force on a woman with intent to disrobe, stalking, voyeurism and amends legal proviso to guard the privacy of individuals, for example ceasing the practice of inspection of the sexual history of the victim of a sexual assault for evidence and made punishments more rigorous including death for repeat rape offenders.

The alarming occurrences of rape and gang rape of young girls under the age of twelve and women under the age of sixteen are shaking the ethics of the whole nation. To provide strong provisions and speedy trial and dismissal of such cases, the Central Government has already ratified the “Criminal Amendment Act, 2018”. This led to the establishment of FTSCs (FAST TRACK SPECIAL COURTS) for rape and POCSO ACT cases. Currently 609 FTSCs are functional including 331 exclusive POCSO Courts³

THE MAGNITUDE OF PENDENCY IN FAST TRACK COURTS

The Fourteenth Finance Commission has embraced the proposition of the Union Government for fortifying the legal area at an expense of Rs 9749 Crore which comprised the foundation of 1800 FTCs for a time of five years for instances of dreadful crimes, including senior residents, women, and youngster at an expense of Rs 4144 Crore and encouraged the State governments to utilize the extra financial given by the commission in tax delegation to meet such prerequisites. Many states have eelied the system of FTC. In such states, cases are being attempted at regular courts. As of now, 921 FTCs are operational in 23 States/UT in which 908580 cases are forthcoming (June 2021). The whole of 33.36 lakhs (approx.) forthcoming cases have been disposed of by FTCs throughout the period 2014 to 2020.⁴ At first for a time of five years up to 2004-05 was stretched out for a time of five additional years and from that point an additional 1 year till 2010-11 and afterward it was suspended. 33 lakhs (Approx.) forthcoming cases got disposed of by FTCs during the period. An award of Rs.870 crore was given to the States for FTCs during the long span of eleven years from 2000-2001 to 2010-2011.⁵

Around five crore cases are recorded each year and judges discard just two crores. The Right to Litigation has been given in our Constitution for actually getting justice on time stays an

³ <https://www.lawyered.in/legal-disrupt/articles/what-are-fast-track-courts/>

⁴ Department of Justice, Ministry of Law and Justice, <https://doj.gov.in/other-programmes/fast-track-courts/about>

⁵ Department of Justice, Ministry of Law and Justice, <https://doj.gov.in/other-programmes/fast-track-courts/about>

outlying dream for the layman because the Indian legal framework is conflicting, erratic, or more all, it is very lethargic. Between Feb. 1 and Aug. 31, 2020, the Supreme Court has seen a 3.6% increment in forthcoming cases to 62,054. Between Jan.19 and Sept.20, the forthcoming cases in high courts have risen 12.4% to 51.5 lakh. Locale and subordinate courts, as well, saw a 6.6% increment to 3.4 crore cases in a similar period. Due to the pandemic and current COVID19 situation, courtroom hearings have seen a transformation in dealing with cases towards an online mode.⁶

THE TABLE BELOW SHOWS THE POSITION OF STATE-WISE FAST TRACK COURTS AS OF (30.06.2021)

S.NO.	NAME OF THE STATES/UTS	No. Of Court Functional as on June-2021	Number of Cases at the beginning of June- 2021	Number of Cases registered as on June-2021	NO. OF CASES disposed as on June- 2021	No. Of Cases pending as on June-2021
1	*Andhra Pradesh, Amravati	21	6074	105	26	6153
2	Assam	15	8744	384	279	8849
3	Arunachal Pradesh	0	0	0	0	0
4	Mizoram	2	201	22	24	199
5	*Nagaland	1	28	3	1	30

⁶ <https://legalthirst.com/why-is-the-indian-judicial-system-so-sluggish/>

15	Himachal Pradesh	0	0	0	0	0
16	Jammu & Kashmir	8	2293	53	36	2310
17	Jharkhand	40	5723	123	20	5826
18	Karnataka	16	3346	149	24	3471
19	Kerala	28	6481	224	49	6656
20	Lakshadweep	0	0	0	0	0
21	Madhya Pradesh	0	0	0	0	0
22	Manipur	6	435	0	0	435

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23	Meghalaya	0	0	0	0	0
24	Odisha	0	0	0	0	0
25	Rajasthan	0	0	0	0	0
26	Sikkim	2	20	1	0	21
27	Tamil Nadu	74	94389	213	53	94549
28	Puducherry	0	0	0	0	0
29	Tripura	11	1560	25	3	1582
30	Uttar Pradesh	374	509547	20955	3512	526990
31	Uttarakhand	4	664	5	12	657

32	West Bengal	88	58955	767	291	59431
33	Andaman Nicobar	0	0	0	0	0
34	Teleangana	34	12200	416	334	12282
35	Diu & Daman	0	0	0	0	0
36	Dadra & Nagar Haveli	0	0	0	0	0
37	Ladakh	0	0	0	0	0
	Total	921	891267	85801	68488	908580
Andhra Pradesh and Nagaland data updated up to 30.09.2020						
Data of Ladakh and Andman Nicobar is still awaited.						

FAST TRACK SPECIAL COURTS FOR RAPE AND POCSO ACT CASES:

Each court contains 1 Judicial Officer as well as 7 Staff Members who will be employed based on a contract. Out of a sum of 31 States and UTs, 28 have adhered to this plan (Arunachal Pradesh, West Bengal and A&N Island yet to join) for setting up of 842 recognized FTSCs including 363 selective POCSO courts. As of 31.05.2021, 640 FTSCs including 338 selective POCSO Courts are operational in 28 States/UT (Goa and J&K are yet to operationalize FTSCs) which disposed of 50,000 forthcoming cases till May 2021. In FY 2019-20, Rs.140 Cr and in FY 2020-21, Rs.160.00 Cr was delivered to States as Central Share from Nirbhaya Fund. Rs.39.83 Cr has been delivered to 5 States in FY 2021-22 till June 2021.⁷

THE TABLE BELOW SHOWS THE STATUS OF FAST TRACK COURTS AS OF JUNE 2021:

⁷Department of Justice, Ministry of Law and Justice, <https://doj.gov.in/other-programmes/fast-track-courts/about>

Status of FTSCs

As on June-2021

S.No.	States/UTs	FTSCs Earmarked	Functional FTSCs	Cumulative Disposal of FTSCs	Pending Cases as on June-2021
1	Chhattisgarh	15	15	830	2631
2	Gujarat	35	35	1292	5689
3	Mizoram	3	3	7	136
4	Nagaland	1	1	35	47
5	Jharkhand	22	22	837	9061
6	Madhya Pradesh	67	67	5005	913962

7	Manipur	2	2	1	188
8	Haryana	16	16	586	3811
9	Chandigarh	1	1	6	212
10	Rajasthan	45	45	2911	8503
11	Tamil Nadu	14	14	851	4522
12	Tripura	3	3	58	284
13	Uttar Pradesh	218	218	28834	69796
14	Uttarakhand	4	4	251	1320
15	Delhi	16	16	27	4115

16	Andhra Pradesh	18	18	319	21373
17	Bihar*	54	45	973	12938
18	Assam	27	13	245	2266
19	Maharashtra	138	32	2729	7366
20	Himachal Pradesh	6	3	111	931
21	Karnataka	31	16	910	3471
22	Kerala	56	28	1375	6656
23	Meghalaya	5	4	30	843

24	Odisha	45	15	607	6580
25	Punjab	12	3	702	662
26	Telangana	36	21	2145	3649
27	Goa	2			
28	J&K	4			
29	West Bengal	123			
30	Andaman & Nicobar Islands	1			
31	Arunachal Pradesh	3			
Activat					
	Total	1023	660	51677	1091012

STATUS QUO OF CASES IN FAST TRACK COURTS IN UTTAR PRADESH

With the increase in the rate of crimes related to women such as rape and murder, the government led by Yogi Adityanath in UP agreed to the establishment of 218 fast track courts in November of 2019. As per the government data of 30th June 2019, there were 29,479 cases of rape and sexual crimes pending in UP courts against women and 42,379 matters of sexual crimes against kids that were pending. For speedy disposal of cases relating to trials of rape, a total of 1023 fast track courts were agreed to be established under the POCSO Act. 74 of the courts were proposed to handle matters relating to those under the POCSO Act, 144 of the courts were to look into matters relating to crimes against women. The total expense for setting up these fast-track courts was anticipated to be Rs 1,635 Crores, with 75 lakhs of Rupees to be the expense of each court. 60 percent of the expenses were to be paid by the Centre with the remaining percentage of the cost being paid by the states.⁸

As of November of 2021, even after an order from the Supreme Court, the Uttar Pradesh government has not yet established fast-track courts to try cases involving politicians and legislators. Mr. Kapil Sibal who is a senior advocate has asked for the Supreme Court's

⁸The Economic Times. 2021. Uttar Pradesh is likely to set up 218 fast track courts. [online] Available at: <<https://economictimes.indiatimes.com/news/politics-and-nation/up-cabinet-gives-nod-to-setting-up-218-fast-track-courts-for-rapes-crimes-against-children/articleshow/72437622.cms>>

intervention in this issue. The matter was brought to attention before the three-judge bench of the Supreme Court by Mr. Sibal, where the court stated that it was necessary to set up fast-track courts for the correct and fair disposal of cases involving politicians. Since the majority of the politicians have a serious criminal history, courts have stated that they must mention their criminal records in their affidavits. There has been a consistent effort by the court to make the political system devoid of people with criminal backgrounds.⁹

REFORMS THAT CAN BE MADE TO THE EXISTING PROBLEMS IN FAST TRACK COURTS:

1-Setting up more fast track courts

- For the speedy trial of cases, there must be more fast-track courts to consider the cases. As per the report, there are only 921 FTCs in India and 908580 cases are pending.

2-Increasing the no of judges and courtroom staff

- The ratio of judges to the population of India is one to one million, which must be decreased to one to 5 lacs.
- There must be the recruitment of more female judges, attorneys (prosecuting officers), and also courtroom staff so that the females feel convenient and safe in courtrooms. It would create a women-friendly ambiance.



3-Improving the infrastructure

- Enhancing the use of Information and Communication Technology i.e., moving ahead for the digitalization of the judiciary. As per the records, only 27 percent of the Indian courtrooms have a desktop on the judge's dais. The development of customized software applications is the need of the hour.
- The monitoring system should be there which keeps checking on all the equipment like computers, CCTV cameras, microphones, internet connectivity and so on. Regular basis like before every judicial hearing.

⁹ Rautray, S., 2021. Uttar Pradesh govt yet to set up fast-track courts to try tainted legislators. [online] The Economic Times. Available at: <<https://economictimes.indiatimes.com/news/politics-and-nation/uttar-pradesh-govt-yet-to-set-up-fast-track-courts-to-try-tainted-legislators/articleshow/87595731.cms>>

- Setting up of digital archive, library, and also basic medical facilities.
- Ramps should also be made for the disabled.
- The lavatory system in the court complex needs also to be improved as per reports 26 percent of Indian court complexes do not have separate toilets for males and females. Without infrastructure, there cannot be a possible way of providing justice.

4-Providing financial autonomy to the judiciary

- As revealed from reports that of the amount of 981.98 cr sanctioned in 2019-20 under CSS for the development of the infrastructure of courts of which only 7.64% i.e., 84.9cr was utilized and the remaining 91.36% was unused. This type of situation is continued right from 1993-94 when CSS was introduced. So, there is a need for greater financial autonomy for the judiciary.
- Creation of the National Judicial Infrastructure Authority of India (NJIAI) as Justice CV Ramana suggested in his speech which would work on the NAI SA model.

5-Adoption of positive work culture in courtrooms

- Unnecessary adjournment should be avoided.
- Litigants should be considered as consumers at least in fast track courts, they should be compensated if justice is unnecessarily delayed to them. As it is well said Justice delayed Justice denied. If there would be such a system there would be pressure on FSTs to speedy justice delivery. And the compensation should be considered as per the gravity of the case.

CONCLUSION

Fast track courts in India have become a good way to deal with cases of sexual abuse and children's cases as they receive the full concentration of the judiciary which lacked in high courts and district courts due to plenty of pending cases. Their improved focus on law enforcement and speedy processes can take steps to prevent potential offenders. Through their broad training and mutual approaches, they are also placed in a unique position to bring about a common change by redefining the status quo and other socio-economic beliefs that persuade

violence against women. Fast-track courts can prevent upcoming crimes by undermining the culture of impunity that fuels sexual brutality in India. In a time like this, India needs fast-track courts regulation to control sexual and gender-based violence.

