
Systemic Problems in District Courts Resulting in Overcrowding of Petitions u/s 482, Cr.P.C. in the High Court

Analysis of Judgment of the High Court of Bombay ¹

M/s. Pricewaterhouse Coopers Pvt. Ltd. v. Mr.C. Anthony Louis²

In the High Court of Judicature at Bombay
Criminal Appellate Jurisdiction

Coram: R.C. Chavan, J.

The **Bombay High Court** in this judgment while enquiring into the causes of flooding of High Court with petitions under section 482 CrPC explored some systemic problems at subordinate court level.³ The High Court observed that affluent petitioners are directly filing writ petitions in High Courts for stay or quashing of the filing of FIR/trial processes without going in revision before the concerned Sessions Court. This is creating huge backlog of such petitions in High Courts and consume the precious judicial time of High Court without any compelling reason as such remedy are also available at the Sessions Court level under section 482 CrPC. The High Court concluded that immediate rush to High Court by the petitioners without first taking recourse to the revision before concerned Sessions court is a practice which should be discouraged and such petitions should be allowed in exceptional circumstances only:

“To sum up, inherent powers of the court are not ousted as a rule when an alternate remedy exists and existence of alternate remedy is more a matter of self restraint. But they can be invoked only when there is a glaring abuse of process of Court or instance of failure of justice staring in the face of the Court which cannot be effectively dealt with by having recourse to the available remedy. It is doubtful, if they could be invoked simply because the accused is not ready to wait for the stage to put forth his defence, or when, abuse of process does not stare in the face of the Court, or an illegality is not apparent on the face of record. These cases would require a careful scrutiny of rival positions, which must, in my humble view, await exhaustion of remedies available, particularly, in the present flooding of the Court with applications under Section 482 of the Code.”⁴

¹ By Rajesh Suman, Research Fellow, National Judicial Academy.

² 1. Criminal Application No.584 of 2010- Pronounced On: 22 March, 2012

³ Total 10 criminal applications under Sections 482, CrPC were clubbed together and disposed of accordingly: The citation of one of the petition is - **M/s. Pricewaterhouse Coopers Pvt. Ltd. v. Mr.C. Anthony Louis and others**: [Criminal Application No. 584 of 2010-Pronounced on: 22nd March, 2012]

⁴ Ibid, para 61

The High Court scrutinized the reasons for such a rush towards high courts for revision instead of going to Sessions Courts which is an immediate appellate forum for revision of trial process and said that indiscipline and deviations from procedures at the subordinate court level are major cause for such practices by litigants:

“65. Before this Court could restrict easy recourse to inherent powers, it may be necessary to address the causes which propel litigants to rush to this court, and treat the deviations from prescribed procedures in order to speed up trial processes & make them less painful. Once steps to ensure that a criminal trial is held with minimum invasion on his pursuits, a litigant, who is served with a process of Criminal Court may prefer to go through a quick trial, and come clean, rather than spend time on questioning if indeed the process issued is an abuse or is legally untenable.”

“66. The causes of delay in criminal trials have been examined by various committees and academicians and have also been discussed in various judgments. A few which hurt the system are:

- 1. Trial magistrates list a large number of cases every day when they cannot physically pay attention to all those cases personally. This requires them to waste time on calling work or roll calls only to adjourn the cases to next dates.*
- 2. Cases being required to be adjourned because prisoners are not produced from prisons.*
- 3. Witnesses not being present though served or not being served well in advance.*
- 4. Dilatory tactics of prosecution or defence.*
- 5. Inept handling of Court administration by inefficient or inexperienced judicial officers.”*

“67. Trial Courts allow trials to merrily proceed at such pace as parties or lawyers would desire, leading, at times, to dozens of adjournments even in cases triable summarily. This clutters their cause lists and increases the time required for reaching a decision, since not just Judicial Officers, but lawyers would have to read the entire evidence again months after recording began. Same holds good for warrant trials and sessions trials which drag on merrily for years together. This is against express provisions of the Code as also administrative instructions issued from time to time. This adversely affects the legal profession too as it allows concentration of work in a few hands.”

“68. All these ills could be checked by taking small but firm steps to reinforce discipline in matters of trials. It could be easily seen that none of these causes need any

legislative treatment, or amendment to rules of business. If all the stake holders simply comply with the requirements of procedural law and instructions already issued, the causes will vanish. The problem is not one of not having a law but of black coats deviating from the law. Since this involves taking a responsibility to undertake unpleasant steps at the ground level, everybody is content at doing nothing, expecting committees to be appointed for reform & suggesting legislation, forgetting as to what happened to the legislative mandate that lawyer being busy cannot be a ground for adjournment. While there can be no doubt that a ruthless implementation of strict schedules may result in injustice in an exceptional case, the zeal of superior courts in giving full latitude & opportunity to parties discourages enforcement of discipline and the larger cause of justice is the casualty.”

The High Court also highlighted several procedures of CrPC which are generally overlooked by the trial court resulting in delay and denial of justice. The High Court here emphasized the need of seriousness in adhering to the following sections of CrPC and making proper planning for trial process.

- 200. Examination of complainant
- 202. Postponement of issue of process
- 205. Magistrate may dispense with personal attendance of accused
- 242. Evidence for prosecution
- 292. Evidence of officers of the Mint
- 293. Reports of certain Government scientific experts
- 294. No formal proof of certain documents
- 295. Affidavit in proof of conduct of public servant
- 296. Evidence of formal character on affidavit
- 309. Power to postpone or adjourn proceedings
- 317. Provision for inquiries and trial being held in the absence of accused in certain cases.
- 350. Summary procedure for punishment for non-attendance by a witness in obedience to summons.

The High Court has further deliberated on many practices prevalent in the trial courts which encourage pendency and suggested measures to remove those anomalies. For instance in some very notorious practices, the High Court suggested the following:

“82. Dilatory tactics by stake holders could be sternly dealt with imposing heavy costs. Apart from costs to be paid to person, who suffers on account of an adjournment, every adjournment in a magistrate's Court ought to attract costs of Rs.500/- which is less than the amount actually spent in listing a case before a magistrate and cost of time of the Court in deciding to adjourn it.”

“83. Inept handling of cases by some judicial officers could be dealt with by adequately training them. In any case, since process of appointing professional managers in trial Courts is already undertaken, problems on account of mismanagement will be reduced in course of time.”

“84. The key to disposal of cases with minimum number of adjournments lies in drawing up programs for trials. Courts would have to commit themselves to some schedule for hearing each case so that stakeholders know as to when they may expect which stage to be over. The difficulties expressed in formulating such schedules are illusory. The administration could ask the authors of computerized Court information system to auto generate a likely schedule of the case, the moment a case is filed, which could be refined after consulting all stake holders and adjusted from time to time according to the developments/events that may take place.”

Finally while disposing of the petitions, the High Court observed that such remedy is also available in the Sessions Court and criticized such practice of unnecessary consumption of the judicial time by affluent people which corners the poor convicted prisoners and denies them the timely availability of judicial process for whom High Courts are the only available appellate forum. In para 95 of the judgment, it was observed:

“Just as rich eat up & encroach upon all natural & other resources available at the cost of poor & needy, the applicants in these three cases have encroached upon the scarce judicial time to which those languishing in jails for years, or those bearing a hanging sword of conviction over their heads for decades were entitled.”

Another thing which can be gathered from this case is that a victim or a complainant in the trial court are denied justice when the accused have sufficient resources to approach the High Court by filing stay petitions against filing of FIR or other trial processes. Such stay petitions remained pending for years and it ultimately result in denial of justice to victims or complainants who generally are at lower level of power equation between the parties. Such practices result in delaying the regular appeal case and this result in benefit to convicted prisoners who manages to get bail and detrimental

to convicted prisoners who languish in prisons for many years. For instance the above discussed Bombay High Court judgment observes the following in this regard:

“In this roster, cases of many convicts who are in jail and who have suffered nine out of ten years of their imprisonment, many of whom have suffered more than half of their sentences, and some who have already suffered the whole sentence are being heard. As if this is not enough, cases of convicts, who are on bail right from the year 1994 are pending. A person, who ought to have been in jail is roaming freely for all these years and when the turn to dismiss his appeal comes, the argument of his having lived in the shadow of conviction for all these years comes up. Appeals against acquittals are pending since nineties & God alone knows when they could be heard. Many matters are rendered infructuous due to death of parties. Revisions or criminal applications in which proceedings in trial Courts have been stayed cannot at all receive attention of the Judge.”⁵

The above case exposes some of the very deep malaise in our justice delivery system which jeopardizes the objective of the Constitution to provide justice to all as mentioned in Preamble of the Indian Constitution. Such serious introspection on the part of judiciary shows its greatness which frankly acknowledges the wrong practices prevalent in our courts. This situation requires urgent actions on the part of all the stakeholders of courts.

.....

⁵ Ibid, para 14