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A CRITICAL ANALYSIS ON THE RIGHT TO A FAIR TRIAL UNDER INDIAN LAWS

AUTHORED BY - RISHI RAJ

when we talk about the analysis on right to a fair trial under indian laws, a defendant has the complete right for a free trial. There is a provision in our indian constitution as well as in international treaties in regarding for the purpose of a free trial. As a whole, it is regarded as a fundamental human right without a free trial, the individuals who are innocent are convicted leading the violation off the basics of the rule of law leading to a lead public Justice. The right to a fair trial is assured or implied by using article 6 of the human rights act. According to the article 6, everyone is entitled to fair and public hearing within a responsible time, the trial must be conducted by an independent and imperial established by law.

"Generally, in Indian laws, fair trials are guaranteed article 21 of our Indian Constitution and mainly, it is based on the presumption of innocence. The basic point related to right to a fair trial is that it is the Critical element of every procedure. These are those trials which are the core part of the legislation that generally Guarantees equality.

The trials are an inevitable aspect to bring out justice. Trials have to be conducted properly following all the procedures and steps so that it could be fair and free from influences. There is no proper definition of the term trial in the Code of Criminal procedure, 1973. Trials are an examination of offence by the judicial bodies which have jurisdiction over it. Section 2015 of the code of Criminal 1973 mandate state in every trial before the courts of session the public procedure will conduct the prosecution on the other hand sections 304 of the code of criminal procedure 1973 deals provides that it is the duty of the state to provide it legal assistance to an accused if the court fees that the accused has no sufficient and means to appoint a pleader for his defense. Court itself will appoint a pleader in that case at the expense of the state from here we get the basic ideas behind the fair trials that these trials are not biased in nature as it involves the equal representation from both the sides.

- **Presumption of innocence:** - It is an important factor to Conduct a free trial as it prevents wrongful convictions. This presumption of innocence is based on the Blackstone's ratio, which is the idea that "It is better that ten guilty persons escape than that one innocent Suffer". At last, It is the duty of the prosecution to prove that the accused is guilty with proper evidence beyond any reasonable doubts.

This principle is followed in various cases decided by the Indian courts, in the case of *Dataram single vs. state of Uttar Pradesh*; it was held that the individual freedom Cannot be Cut off for an infinite period as long as the person is proved guilty. This freedom waw only be affected when the guilty is proved. But, in contrast, there are certain provisions in the Indian evidence act like section 111A which acts as an exception for this Presumption of innocence.

- **The independence of the judiciary:-** is an important benchmark for. The separation of powers protect the independence of the judiciary the competency of judges is important factor that will decide the fate of the judiciary. If the judges appointed are incompetent the whole process of trial is damage.
- **The venue of the trial:-** also plays an important role in ensuring the fairness of the trial. The Court has to be competent to deal with the cases. Section 177 of the Code of Criminal Procedure, 1973 provides that the ordinary place of enquiry or trial would be the Court within whose local jurisdiction it was committed. Section 178 of the code of criminal procedure 1973 days with the place of trial.
- **Right of the Accused to know the Accusation:-**This idea has a widely Scope in Section 50 of the Code of Criminal procedure also provides that it is the right of every accused to be informed about the various grounds of arrest. The police officer has to inform the person of the various reasons for arrest if the arrest is done without a warrant.
- **Accused person to be tried in his presence:-**It is necessary for the accused to be tried in his presence; however, there are certain situations where the magistrate Can dispense the attendance after considering relevant factors. Section 317 of the Colle of Criminal procedure, 1973 grants the magistrate this power.
- **evidence to be taken in the presence of accused:-**Section 273 of the Code of Criminal procedure, 1973 provides that the Evidence should be taken in the presence of the acused. The above mentioned procedures are the necessary principles and ideas that generally deals with the right to fair trials dealing within the respective jurisdiction.

- Expeditious trial:-According to article 21, of the Constitution, the applicant has an unalienable fundamental right to a speedy trial.

The main goals of a speedy trial are to

- a) Guarantee the accused right a speedy trial
- b) Resolving criminal cases following the public interest

Right To Free Legal Aid: -

Legal aid is rooted in human rights, Article 39A of the Indian constitution, and section 304 of the criminal procedure code. The court concluded in Khatri v/s State of Bihar, that the accused is entitled to free legal representation not only during the trial but also when first presented before the magistrate and while remanded.

Post Trial Rights Available To An A Accused

- i. Lawful Punishment: - Article 20(I) of the constitution of india explains that a person can be convicted of an offence if the act is made punishable by law In force. It prohibits the enhancement of punishment for an offence retrospectively.
- ii. Right To Human Treatment: - Every prisoner has the right to clear and sanitized environment in the jail, proper medical facilities, right visit and accessby family member etc.
- iii. Right To File Appeal: - Section 374 of the crpc provides right to appeal against conviction to supreme court, high court and session court.

Conclusion: -

From the above mentioned facts and Critical principles, it is clear that the fair trial is an important right for every person and for the Society, The Criminal procedure Code has laid Several provisions in relation to that. Fair trials are the only way to prevent miscarriages of justice and are as essential part of a just society. In a trial, a judge should be unbiased and patient enough to listen to both the parties as what they have to say.