## **Trial Management: Best Practices**

Dr. Sunnam Srinivas Reddy, Principal District & Sessions Judge, Vikarabad District Telangana State

#### What is Trial Management?



## Every trial is voyage of discovery in which truth is the quest...

#### **Hon'ble Supreme Court in**

#### MARIA MARGARIDA SEQUERIA FERNANDES Vs. ERASMO JACK DE SEQUERIA (DEAD) thru. L.Rs.

(AIR 2012 SC 1727)

#### **SOUTH ASIA REGIONAL TOOLKIT FOR JUDGES of SAARC COUNTRIES,** explains **CASE MANAGEMENT** in Chapter-2 as

'the entire set of actions that a court takes to monitor and control the progress of cases, from initiation through trial or other initial disposition to the completion of all postdisposition court work, to make sure that justice is done properly.'



#### Good Practices for the Judiciary in Adjudicating Terrorism Offences

#### **GOOD PRACTICE NO.1:**

## Identify and assign specially trained Judges

#### **GOOD PRACTICE NO.2:**

## **Continuous trials** in terrorism and other related cases

#### **GOOD PRACTICE NO.3**

## Develop effective trial management standards

### GOOD PRACTICE NO.4:

**Special Measures to** Protect victims and witnesses in the trial process

### **GOOD PRACTICE NO.5** Support right of accused to a fair trial with adequate legal representation

### **The Four essential Characteristics** to be a good Judge as exhorted centuries ago by Socrates

## • To hear courteously; • To proceed wisely; To consider soberly; • To decide impartially.

The entire essence of the trial management is i) To safeguard the rights of the accused, ii) To protect the rights of the victims; and

### iii) at the same time expeditiously dispose of the case within a time bound manner by adopting best and good practices.

### **DURING THIS SESSION** ... We will identify, discuss, and **debate** effective and good trial management practices.

### What are the primary sources of delay in trial of criminal cases?

# **1**. Witness testimony

## 2. Securing documents after commencement of trial

## **3. Requests for** adjournments at different stages

# 4. Competing cases on judge's docket

**Some Case laws:** How to combat Causes for Delay IMTIYAZ AHMED Vs. STATE OF UP UP (2012): Delay in disposal of cases destroys the confidence of the common man. Courts should endeavour to avoid delays.

**Deferring cross-examination causes delay:** KARTAR SINGH Vs. STATE OF **PUNJAB** (1994 SCC (3) 569): Crossexamination normally shall not be deferred, if deferred for any reason, witness protection must be ensured to avoid undue influence, harassment and intimidation.

# FAIR TRIAL VS. SPEEDY TRIAL

### RANJAN DWIVEDI Vs. CBI {(2012) 8 SCC 495}

**Delay of 37 years in completion of** trial, the petitioner approached the Supreme Court to quash the trial. Can it be the sole ground to quash the trial?

### Courts cannot legislate:

High Court Bar Association, Allahabad V. State of UP {2024 SCC OnLine SC 207}

## Witness Testimony What can a judge do to facilitate efficient scheduling of witness testimony?

## Securing Evidence

Establish the admissibility of the formal evidence with consent of defence (sections 291, 293,294, 296 of Cr.PC = 326, 329, 330, 332 of BNSS, 2023)

Develop an efficient schedule for the presentation of this evidence

**Best Practices Continuous Trials: Does our Cr.P.C/BNSS** allow continuous trial?



## Is there any outer limit for conclusion of a criminal trial in Cr.P.C./BNSS?

### Section 309 (1) proviso of Cr.P.C. = section 346 (1) proviso of BNSS

#### No adjournments for cross-examination:-

#### VINOD KUMAR Vs. STATE OF PUNJAB (AIR 2015 SC 1206):

Seeking adjournments "at the drop of a hat has become the habit and what was a malady at one time, with the efflux of time, has metamorphosed into malignancy..."

#### **Delay in examination of witnesses** often results in violation of Section 309 of Cr.P.C. (Section 346 of **BNSS)** The Court has a duty to protect the rights of the accused as well as those of society.

#### <u>Continuous Trial:</u>

**Criminal Trials Guidelines Regarding Inadequacies and** Deficiencies, In Re. Vs. State of Andhra Pradesh {(2021) 10 SCC 598}

How should a judge respond when an adjournment is requested?

1. Assess reasonableness of the request

2. Discuss limit on number of adjournments

3. Craft a compromise

**Requests for Adjournments** 

### Managing a Heavy Docket

How does the judge set priorities? 1, 2, 3,....



# Other Causes of Delay

# \* Other Causes of Delay in pre-trial and post-trial

\*Providing legal aid to the accused when he has no means to engage a counsel

\*Supply of documents, classified information or supply of some statements are not in public interest or not in the interest of justice, electronic devices, CDs, Pen drives, etc. {Section 173(6) of Cr.PC = 193 (7) of BNSS} \*Discharge petitions filed by each accused separately (by different counsel) (Section 250 (1) of BNSS, 60 days from the date of commitment).

- \*Prosecution files petitions to receive documents or summon to witnesses not in charge-sheet
- \*Defence files petitions to summon experts or to send documents for experts opinion

## **Case Management Strategies**

- Set a comprehensive schedule
- For each stage of the proceeding
- In *consultation* with counsel
- With *deadlines*

• Communicate schedule to all stakeholders

#### Vijay Kumar Vs. State NCT of Delhi {2017 Crl.L.J. 3875}

- Detailed schedule of dates for recording of evidence to be drawn after charges.
- Consult the prosecution and defence
- Defence shall inform in advance about deferment of cross-examination
- Deferred cross-examination to be held in the on-going schedule

**Adhering to Schedule** If a deadline must be moved: **1.Determine why 2.**Request new and reasonable deadline

**3.Inquire whether new deadline can be met** 

#### Application under Section 231(2) of Cr.PC Section 254(3) of BNSS

- Exercise of discretion shall be on case-to-case basis
- •Question of prejudice to the accused be considered if the application is to be dismissed
- A balance has to be struck between the rights of the accused and the prosecution and the inconvenience to the witness

# Communication

Explain the court is prioritizing this case and communicate the expectation that counsel will similarly prioritize the case



Seek input from counsel on anticipated sources of delay

Develop a plan together to address these potential delays

# Practice guidelines for the trial Courts in criminal trials

# (State of Kerala Vs. Rasheed {(2019) 13 SCC 297})

# 1. Preparation of case calendar with dates

# 2. Production of witnesses

3. Witnesses testifying on same facts must be fixed on same day

# 4. Deferral before the case calendar

# 5. Witness protection be ensured in case of deferral

# **Additional Legal Strategies:**

#### 1. USE THE PROVISIONS UNDER SECTION 313 (5) OF CR.P.C (SEC.351(5) OF BNSS) TO FILE WRITTEN STATEMENT BY ACCUSED

2. OBTAIN WRITTEN ARGUMENTS UNDER SECTION 314 OF CR.PC = 352 OF BNSS

### THANK YOU FOR YOUR ATTENTION