

Sexual Crime Under Fast-track Courts

Recently, the Union Government of India approved the continuation of Fast-track Special Courts to ensure faster delivery of justice to victims of sexual offences, as a Centrally Sponsored Scheme for another two years. Continuation of Fast-Track Special Courts: The proposal has been accepted for the continuation of 1023 fast-track special courts. These include 389 exclusive POCSO (Protection of Children from Sexual Offences) Courts to expedite trials and provide immediate relief to minor girls who are victims of sexual crimes. Total Outlay: The continuation of the scheme, which was started on October 2, 2019, involves a total outlay of more than Rs 1,572 crore. Rs 971 crore is provided by the Centre from the Nirbhaya Fund, the remaining amount is expected to be provided by states. The initiative is regarded as a major step towards de-clogging the justice system. Aim of the Initiative: Besides providing quick justice to the hapless victims, the Fast Track Court mechanism strengthens the deterrence framework for sexual offenders. FTSCs are dedicated courts expected to ensure swift dispensation of justice. They have a better clearance rate as compared to the regular courts and hold speedy trials.

Fast track courts (FTCs) were first recommended by the Eleventh Finance Commission in 2000. The Government of India, following the recommendation, granted Rs. 502.90 to create 1,734 additional courts in different states for a period of five years. In 2011, the central government stopped funding fast-track courts. Following the December 2012 gangrape and murder, the Union Government set up a 'Nirbhaya Fund', amended the Juvenile Justice Act and set up fast-track Mahila Courts. In 2019, the government approved a scheme for setting up 1,023 fast-track special courts (FTSCs) across the country for expeditious disposal of pending rape cases under the Indian penal Code (IPC) and crimes under the POCSO Act. Other Initiative of Government: In 2018, the Government of India amended the criminal laws to provide more stringent punishments to the rape accused in the cases where the rape victims are minors. The amendment declared a death sentence the punishment for the accused where the victim is below 12 years of age. Life imprisonment was the punishment if the victim was below 16 years of age. Issues Associated: High Pendency of Cases: Expeditious justice and a fair trial are a part of the Fundamental Rights of a citizen. Due to the high pendency of

cases in the courts, it takes too long for justice to be delivered. According to National Crime Records Bureau (NCRB), at the end of 2019, rape cases had a pendency rate of 89.5% and the conviction rate of 27.8%. For POCSO cases, 88.8% cases were pending at the end of the year, and of those disposed of, 34.9% ended in a conviction. Ineffective Working of Courts: As per a report of the Ministry of Home Affairs, by December 2020, out of sanctioned strength of 1023 fast-track courts, only 597 courts were functioning out of which 321 were POCSO courts. As per the timelines prescribed, cases under the jurisdiction of POCSO courts are required to be solved within 60 days which is also not the case in reality. Issues with the Lawyers and Witnesses: The lawyers are also to be blamed for the delayed hearing of the cases too as they seek frequent and unnecessary adjournments and witnesses are also found unwilling to come to the courts again and again. Delay due to absence of witnesses was seen as one of the main reasons for adjournments. Lower Judge to Population Ratio: Currently, 20% of the posts in the lower judiciary at the district and magistrate level are still vacant. These are perpetual vacancies which are not being filled up. Simply constituting special courts but not filling up the vacant posts itself increases the burden of the court. Also, these judges are more or less judges from session courts who are given the extra responsibility of fast-track courts.

Way Forward-Collaborative Effort of Judiciary and Government: The very purpose of FTSCs can be fulfilled only with the effective coordination of High Courts and State Governments. Both of them should be equally vigilant to ensure that the courts are constituted, infrastructure is provided and cases are tried as expeditiously as possible. Equality in Justice: Every accused person has the right to try to prove himself/herself innocent till the last court; from district level court to the Supreme Court. The judicial system has to ensure that in the haste to provide justice to the victim, it does not deny the justice to the accused too. Protection of Witnesses: There is a need to have witness protection laws. The lack of stringent laws for providing protection to the witness creates fear in his/her mind when confronting the accused. Lack of proper protection provided to the witness prevents him/her in providing any assistance for the expeditious delivery of justice. Capacity Building and Reducing Stress of Judges: The FTSCs must have dedicated judges so that cases can be heard on a regular basis. There must be sufficient judges with proper knowledge of their field/jurisdiction. The number of cases present before a judge in a day should be limited too. Special Procedures for FTSCs: The legal process is in need of strengthening. Same trial procedure for a normal court and a special court will create no difference and will further

increase the pendency of more and more cases. Without compromising with the fair trial, an easier process and mechanism can be laid down for the special courts. An effort in this direction shall be made so that special courts apply a special procedure and also reduce the timelines for hearing the cases. Judiciary in Rural and Backward Areas: The sexual crimes in the rural and backward sectors often go unreported. Augmenting technological, judicial and legal infrastructure in the rural and tribal areas where not only the number of cases is increasing day by day but also the lack of delivery of justice is even worse.

Sensitisation has to be done too, not just in the courts but in the home itself. Nipping the evil in the bud is the way ahead. Making the fast-track courts alone is not the panacea; the society has to be made more empathetic towards women. The other ways of sensitizing the society include introducing sex education classes in the schools in rural areas and government schools. Sensitisation on the part of the lawyers and police is also required. Time bound justice to victims of sexual offences is one of the major concerns regarding justice delivery in our country. The government has to ensure that the common man seeking justice does not have to run pillars to poles. This type of fast-track mechanism has the potential to reduce the chances of such kind of situation but requires effective implementation. Timely and effective implementation of laws is essential to create a deterrent effect. The effect is not likely to be created if there is a large pendency of cases and it takes years for justice to be delivered.