Anand Swaroop Tiwari Vs Ram Ratan Jatav and Others

Criminal Revision No. 69 of 1994

Court: Madhya Pradesh High Court (Gwalior Bench)

Date of Decision: Aug. 23, 1995

Acts Referred:
Criminal Procedure Code, 1973 (CrPC) â€" Section 190, 193, 200, 209, 6#Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 â€" Section 14, 2

Citation: (1995) ILR (MP) 478 : (1996) JLJ 8 : (1996) 41 MPLJ 141 : (1996) MPLJ 141

Hon'ble Judges: U.L. Bhat, C.J; S.K. Dubey, J; A.K. Mathur, J

Bench: Full Bench

Advocate: R.K. Sharma and A.K. Shrivastava, for the Appellant; B. Raj Sharma and Govind Singh, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

U.L. Bhat, C.J.

First respondent herein filed a complaint before the Special Court, Bhind u/s 14 of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989 (for short the Act) alleging that the petitioner and second respondent committed offences punishable u/s 342, Indian Penal

Code and Section 3(1)(x) of the Act. The Special Court took cognizance and issued process. The revision petitioner challenges this order

contending that since the Sessions Court has been specified as the Special Court, it cannot take cognizance of any offence without committal order

by a competent Magistrate.

The earliest decision of this Court on this controversy is one by Pandey, J. in Sukhlal Jatav v. State of M. P.1993 MPLJ 875 : 1993 JLJ 679

taking the view that a case under the Act cannot be committed to the Special Court and the Special Court is a Court of original Jurisdiction and is

entitled to take cognizance without committal. Hon. Dwivedi, J. in Meerabai v. Bhujbal, Misc. Cr. Case No. 1270 of 1992 referred the matter to a

Division Bench taking the view that the Special Court is only a Sessions Court, that it is required to follow the procedure prescribed in the Code of

Criminal Procedure (for short the Code) since no separate procedure is described under the Act and a charge-sheet on complaint under the Act

has to be filed before a competent Magistrate who could commit the case to a Special Court and that the Special Court has no jurisdiction to take

cognizance on the basis of charge-sheet or a complaint. The order of reference is reported in 1994 JLJ 203.

A Division Bench of the High Court consisting of Hon. Dharmadhikari, J. and Hon. Tej Shankar, J. in Meera Bai Vs. Bhujbal Singh and Others,

agreed with the view taken in Meerabai''s case and overruled the view taken in Sukhlal Jatav''s case. When the present case came before one of

us (Bhat, C. J.) it was contended that the decision of the Division Bench required reconsideration and accordingly, the matter was referred to a

larger Bench. This is how the case has come before us.

Hon. Pandey, J. followed the view taken by a Division Bench of Kerala High Court in Re. Director General of Prosecution reported in 7993 (1)

Cr.L.J. 760 . The High Court of Kerala relied on certain observations in A.R. Antulay Vs. Ramdas Sriniwas Nayak and Another, The Court was

of the view that special Court under the Act is neither a Court of Session nor a Court of Magistrate but a Court of original jurisdiction which; in the

absence of provisions in the Act regarding the procedure to be followed by it can take cognizance of an offence and proceed with trial under the

Code without being inhibited of Section 193 of the Code. The Court also relied on the observations in The State of Bihar Vs. Ram Naresh

Pandey, where in the context of Section 494 of the old Code corresponding to Section 321 of the Code it was held that expressions, ''try'' or

''tried'' used in Section 494 arc wide enough to cover all types of enquiry and trial. A similar view has been taken by the Orissa High Court in

Udhabhai v. Gova Bindhani 1994 Cr.L.J. 3815. A contrary view was taken by a Division Bench of Patna High Court in Jhagru Mehto v. State of

Bihar, 1991 (1) Crimes page 643. The Court took the view that in the absence of any provision under the Act as to the procedure to be followed

by Special Court procedure prescribed in the Code has to be followed in view of Section 5 of the Code, but there appears to be serious lacuna in

the Act inasmuch as Section 193 of the Code prohibits a Court of Session from taking cognizance of an offence without committal, that there is no

express provision in the Act conferring on a Special Court power to take cognizance of an offence without committal and committal procedure is

essential.

Learned counsel appearing for the revision petitioner supported the view taken by the Division Bench of this Court on the basis of following

submissions : Special Court is really a specified Sessions Court and therefore, is a Sessions Court for the purpose of the Code and is governed by

Section 193 of the Code. It is not a Court of the type contemplated in Criminal Law Amendment Act, 1952 or other statutes. The Act does not

contain any provision of the nature contained in analogous Act laying down either that a Special Court can take cognizance on a police report or a

complaint, or that committal is not required. The Act also does not indicate the procedure to be followed by Special Court in which case Section

4(2) of the Code read in the light of Section 5 of the Code would be attracted and the Special Court has to follow the procedure prescribed under

the Code. The position is made clearer by the absence of any provision in the Act conferring on the Special Court power to hold enquiry on a

private complaint analogous to the power conferred by Section 200 or 202 of the Code. The expression used in Section 14 of the Act is ''trial''

and ''try'' which expression will not comprehend within its scope ''enquiry'' under Chapter XV of the Code.

Learned Counsel for the complainant as well as the learned Additional Advocate General Shri Govind Singh and other counsel who assisted the

Court rebutted the submission and contended that the expressions ''try'' and ''trial'' in Section 14 of the Act comprehend within their scope

''enquiry'' also and the provision has to be understood in the light of the legislative scheme which highlights the need for speedy and expeditious trial

in case of certain offences directed against members of Scheduled Castes and Scheduled Tribes and that while securing machinery for speedy trial,

legislature could not have intended to delay trial by requiring committal proceedings. Learned counsel further contended that the absence in the Act

of express provision similar to that in other Acts declaring the Special Court can take cognizance without committal has no significance in view of

the legislative scheme and the amplitude of the expressions ''trial'' and ''try''.

The preamble of the Act states that this is an Act to prevent commission of offences of atrocities against the members of the Scheduled Castes and

Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and

for matters connected therewith or incidental thereto. Section 2(d) of the Act defines ''Special Court'' as a Court of Session specified as a Special

Court In Section 14. Unless the context otherwise requires, words and expressions not defined in the Act and defined in the code shall have the

meanings assigned in the code. Section 3 of the Act refers to the offences which are to be tried by Special Court. None of these specific offences

is as such an offence under Indian Penal Code, though some of the offences under the Act overlap some Indian Penal Code offences. Maximum

punishment prescribed for various offences under Sections 3, 5 and 13 may be tabulated as follows :

Offence Sentence Minimum sentence

Clauses (i) to (xv) Imprisonment for a term which Six months

of Section 3(1) may extend to 5 years and with fine.

Clauses (i) & (ii) Imprisonment for seven years or Six months,

of Section 3(2) upwards and fine.

Clause (iii) of Seven years RI and fine. Six months

section 3(2)

Clause (iv) of Imprisonment for life and fine,

section 3(2)

Clause (v) of Imprisonment for life and fine

section 3(2)Clause (vi) of Imprisonment provided for the

section 3(2) main offence.

Clause (vii) of Punishment provided for the

section 3(2) offence.

Section 5 Punishment provided for the One year

offence

Section 13 One year and fine.

By virtue of Section 6 of the Act, subject to other provisions of the Act, the provisions of Sections 34, 49 and Chapters IV, V, V-4, XXIII of the

Indian Penal Code shall, so far as may be apply for purposes of the Act. Section 7 enables forfeiture of the property of certain persons by Special

Court. Section 8 deals with presumptions as to offences. Chapter III of the Act deals with externment of a person. Chapter likely to commit

offences under the Act. Sections 11 to 13 of the Act are ancillary provisions.

Section 14 of the Act reads thus :

14. Special Court - for the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High

Court, by notification in the Official Gazette, specify for each district a Court of Session to be a Special Court to try the offences under this Act.

The State Government with the concurrence of the Chief Justice is required to specify for each district a Court of Session to be Special Court to

try offences under the Act and this provision is made for purpose of providing for speedy trial. Section 18 bars the applicability of Section 438 of

the Code. Section 19 bars the applicability of Section 360 of the Code and provisions under the Probation of Offenders Act to the persons above

the age of 18 years who are found guilty under the Act. Section 20 states that save as otherwise provided in the Act provisions of the Act shall

have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any

instrument having effect by virtue of any such law. Section 21 imposes on the State Government duty to take such measures as may be necessary

for the effective implementation of the Act.

Both sides place reliance on the decision in A. R. Antule''s case which arose under the Criminal Law Amendment Act, 1952. Section 6 of the Act

empowers the State Government to appoint as many Special Judges as are necessary to try the specified categories of offences. Section 7 makes

it clear that such offences should be tried only by the Special Judges. Section 8 expressly empowers the Special Judge to take cognizance of

offences without the accused being committed or tried and that in trying the accused shall follow the procedure prescribed by the Old Code for

trial of warrant cases by the Magistrates. The Special Judge also has authority to tender pardon which shall be deemed to have been tendered

under the provisions of the Old Code. The provisions of the Code in so far as they are not inconsistent with the Act of 1952 apply to the

proceedings before the Special Judge and for purposes of the said provisions. Section 8 lays down that Special Judge shall be deemed to be

Sessions Judge trying cases without a jury or without the aid of assessors. A private complaint was filed against A. R. Antule alleging commission

of offence triable by Special Judge under the Act of 1952. The Special Judge took cognizance of the offences upon the complaint and adjourned

the case for recording evidence of the complainant and on the adjourned day, A. R. Antule appeared and contended, inter alia, that Special Judge

cannot take cognizance upon a private complaint. Section 5-A of the Prevention of Corruption Act, 1947 requires a prior investigation by Police

Officer of the designated rank.

The Supreme Court in A R. Antule''s case rejected the contention that a private complaint does not lie in the absence of an unambiguous provision

in the Act to that effect. The Court referred to the express provisions of Section 8 and noticed that these express provisions did not bar initiation of

proceedings by private complaint. The decision rested on express provisions of the 1952 Act. Observations of the Court are instructive. At the

beginning of paragraph 27, it was stated -

It is, however, necessary to decide with precision and accuracy the position of a Special Judge and the Court over which he presides styled as the

Court of a Special Judge because unending confusions have arisen by either assimilating him with a Magistrate or with a Sessions Court.

It was noticed that experience of several years after the passing of the 1947 Act showed that a specific forum for trial of such offences was

necessary and this realisation led to the enactment of 1952 Act.

After referring to Section 6 of the Code according to which there are four types of criminal Courts functioning under the High Court namely, Court

of Session, Judicial Magistrates of the First Class, Judicial Magistrates of the Second Class and Executive Magistrates, the Supreme Court

observed -

As already pointed out, there were four types of criminal Courts functioning under the High Court. To this list was added the. Court of a Special

Judge.

The Court further observed -

Now that a new Criminal Court was being set up, the Legislature took the first step of providing its comparative position in hierarchy of Courts u/s

6, Criminal Procedure Code by bringing it to level more or less comparable to the Court of Session, but in order to avoid any confusion arising out

of comparison by level, it was made explicit in Section 8(1) itself that it is not a Court of Session because it can take cognizance of offences

without commitment as contemplated by Section 193, Criminal Procedure Code. Undoubtedly, in Section 8(3), it was clearly laid down that

subject to the provisions of sub-sections (1) and (2) of Section 8, the Court of Special Judge shall be deemed to be a Court of Session trying

cases without a jury or without the aid of assessors. In contradistinction to the Sessions Court this new Court was to be a Court of original

jurisdiction. The legislature then proceeded to specify which out of the various procedures set out in the Code, this new Court, shall follow for trial

of offences before it.

Dealing with the query whether the Special Judge becomes a Magistrate, the Court observed :

This is the fallacy of the whole approach. In fact, in order to give full effect to Section 8(1), the only thing to do is to read Special Judge in

Sections 238 to 250 wherever the expression ''Magistrate'' occurs. This is what is called legislation by incorporation. Similarly, where the question

of taking cognizance arises, it is futile to go in search of the fact whether for purposes of Section 190 which conferred power on the Magistrate to

take cognizance of the offence. Special Judge is Magistrate? What is to be done is that one has to read the expression ''Special Judge'' in place of

Magistrate, and the whole thing becomes crystal clear. The Legislature wherever it found the gray area clarified it by making specific provision such

as the one in sub-section (2) of Section 8 and to leave no one in doubt further provided in sub-section (3) that all provisions of the Criminal

Procedure Code so far as they are not inconsistent with the Act apply to the proceedings before a Special Judge. At the time when the 1952 Act

was enacted, what was in operation was the Criminal Procedure Code, 1898. It did not envisage any Court of a Special Judge and the Legislature

never wanted to draw up an exhaustive Code of Procedure for this new Criminal Court which was being set up. The net outcome is that a new

Court of original jurisdiction was set up and wherever a question arose as to what are its powers in respect of specific question brought before it as

Court of original criminal jurisdiction, it had to refer to the Criminal Procedure Code undaunted by any designation clantrap. When taking

cognizance a Court of Special Judge enjoyed powers u/s 190. When trying cases, it is obligatory to follow the procedure for trial of warrant cases

by a Magistrate though as and by way of status it was equated with a Court of Session. The entire argument inviting us to specifically decide

whether a Court of a Special Judge for a certain purpose is a Court of Magistrate or a Court of Session revolves round a mistaken belief that a

Special Judge has to be one or the other and must fit in the shot of a Magistrate or a Court of Session. Such an approach would strangulate the

functioning of the Court and must be eschewed. Shorn of all embellishment, the Court of a Special Judge is a Court of original criminal jurisdiction.

As a Court of original criminal jurisdiction in order to make it functionally oriented, some powers were conferred by the statute setting up the

Court. Except those specifically conferred and specifically denied, it has to function as a Court of original criminal jurisdiction not being hidebound

by the terminological status description of Magistrate or a Court of Session. Under the Code, it will enjoy all powers which a Court of original

criminal jurisdiction enjoys, save and except the ones specifically denied.

The Act under consideration does not contain express provisions similar to those contained in Section 8 of 1952 Act. Therefore, the question

arises as to what is the necessary implication of the scheme and provisions of the Act. The observations in A. R. Antule''s referred to above shall

guide us in arriving at a correct conclusion. The preamble asserts that the Act is to prevent commission of offences of atrocities against the

members of the Scheduled Castes and Scheduled Tribes and to provide Special Courts for trial of such offences. Section 14 of the Act states that

the Special Court is intended for purposes of providing "speedy trial.'' To ensure speedy trial Section 15 requires a Special Public Prosecutor to

be appointed to conduct cases in the Court. Application of Section 438 of the Code to cases under the Act is taken away. Application of

provisions of Section 360 of the Code and Probation of Offenders Act. Section 20 of Act provides for overriding other laws. The Act has been

enacted in the wake of sharp criticism about the inactivity of the State in protecting the most downtrodden sections of the society from atrocities at

the hands of others. On the basis of past experience, it was evidently felt that trial of these offences should not be entrusted to the criminal courts in

the hierarchy of courts which are overburdened with work and the trial should be entrusted to Special Courts. The status of level of the Court is

indicated in Section 14 which requires specification of Court of Session as a special Court. The Act does not contain express provision regarding

the procedure to be followed by Special Court. But there are sufficient indications of the legislative intention that Special Courts are to be governed

by provisions of the Code of Criminal Procedure except to the extent'' of any inconsistency with the provisions of the Act. Section 4(2) of the

Criminal Procedure Code states that all offences under any statute other than Indian Penal Code shall be investigated, inquired into, tried and

otherwise dealt with according to the provisions of the Code, but subject to the provisions of such statute regulating such matters. Section 5 says

that nothing contained in the Code shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being in

force, or any special jurisdiction or power conferred or any special form of procedure prescribed, by any other law for the time being in force.

Reference may be made to Section 193 of the Code according to which, except as otherwise expressly provided by the Code or by any other law

for the time being in force, no Court of Session shall take cognizance of any offence as a Court of Original Jurisdiction unless the case has been

committed to it by a Magistrate under this Code. The Legislature, in enacting the Act, must necessarily be cognizant of Sections 4 and 5 of the

Code.

It would be useful in this connection to refer to schedule I of the Code dealing with classification of offences. The schedule indicates classification

of various offences under the Indian Penal Code with reference to punishment, cognizability, bailability and by what Court triable. Part 1 deals with

the offences under Indian Penal Code. Part 2 deals with offences against other laws. Offences against the other laws are classified in three

categories. First category takes in offences punishable for death, imprisonment for life or imprisonment for more than seven years. Such offences

are cognizable, non-bailable and triable by Court of Session. Second category takes in offences punishable with imprisonment for three years and

upwards, but not. more than 7 years. Such offences are cognizable, non-bailable and triable by Magistrate of the First Class. Third category takes

in offences punishable with imprisonment for less than three years or with fine only. Such offences are non-cognizable, bailable and triable by any

Magistrate. Offences under the Act would fall within all the three categories and would be required to be tried by two different categories of

Courts. Such a contingency would have affected the proper implementation of the Act. For this reason also the Parliament provided for trial by a

Special Court which is outside the hierarchy of Criminal Courts. Special Court can try offences falling under any of the categories of cases referred

to in part 2 of Schedule I to the Code. The level of the Special Court is equated to that of Court of Session for several reasons. Experienced

Judges would be available to preside over Special Courts. Such officers would also be well-equipped to try grave offences calling for severe

sentences like imprisonment for life or for long term of years.

Our attention has been invited to a decision of this Court in Bar Association Jhabua v. State of M. P. 1995 MPLJ 562, 1995 JLJ 255, where a

Division Bench held that Court of Sessions is a Court of Sessions Division and the Sessions Judge and Additional Sessions Judges function as

Court of Session and, therefore, when a Court of Sessions Judge is specified as a Special Court, Additional Sessions Judges also have the

jurisdiction to try the cases. This does not mean that a Special Court exercising jurisdiction under the Act is a Court of Sessions or is to function as

a Court of Sessions. The purpose of Section 14 of the Act is to prescribe the level of the Court and to ensure that officers of experience and

knowledge are made available to exercise jurisdiction thereunder and not to lay down that Special Court is a Court of Sessions subject to the

restrictions u/s 193 of the Code. Court of Sessions is to be specified as Special Court; once that is done, the Court is a Special Court and it does

not continue to be a Court of Session. The Legislature would have done well to provide specifically for -.- the procedure to be followed by the

Special Court. In the absence of any such provision the Court cannot throw up its hands saying that this is a lacuna in the Act. The Court has to

consider the controversy in the setting of the legislative scheme and the purpose of providing for Special Court of a very high status, namely, to

ensure speedy trial of offences to safeguard the interests of weaker sections of the population. Cases of all the offences u/s 3 of the Act would be

warrant cases; cases of offences under Sections 4 and 13 would be summons cases. Necessarily trial of such cases would be governed by the

provisions of the Code relating to trial of warrant cases or summons cases, as the case may be, by Magistrates for this purpose. Wherever the

expression ''Magistrate'' occurs in Chapter XIX or XX of the Code, it has to be read as ''Special Court'' as indicated in A. R. Aniule''s case.

Special Court is not a Sessions Court, but is a criminal Court of original jurisdiction and is not governed by the provisions of Section 193 of the

Code. Special Court can take cognizance in any of the circumstances referred to in Section 190 of the Code and is also governed by the

provisions of Chapters XV and XVI of the Code which are not inconsistent with its status and functions as a Court of original jurisdiction.

It is contended that if warrant case procedure is to be adopted, the case has to pass through the stage of enquiry and in a case of private

complaint, there may be occasion for an enquiry u/s 202 of the Code and since the Act has empowered the Special Court to ''try'' or conduct

''trial'' and has not empowered the Special Court to conduct an ''enquiry'' it must follow that the Special Court can only function as a Court of

Session whose jurisdiction arises only on committal. Reference is made to the definition of ''enquiry'' in Section 2(1)(g) of the Code as meaning

every enquiry, other than a trial, conducted under this Code by a Magistrate or Court. Our attention has been invited to a decision of Allahabad

High Court and another of Patna High Court. In R.P. Kapoor Vs. Pratap Singh Kairon, the Allahabad High Court considered the scope of

preliminary enquiry u/s 476 of the old Code and held that an enquiry should be made in the case of an offence u/s 195(l)(b) or (c), Indian Penal

Code and thereafter a complaint should be forwarded to the competent Magistrate. In that connection, the Court observed that ''enquiry'' as

defined in Section 4(1)(k) of the old Code does not include trial. In Tuneshwar Prasad Singh and Anr. v. State of Bihar, AIR 1978 Patna 225,

committal proceeding was pending in regard to an offence u/s 392, Indian Penal Code. The question arose whether Magistrate has power to

remand the accused to custody between the date of taking cognizance and the date of committal. The question depended on the true interpretation

of the provisions of Section 209 read with Section 309(2) of the Code. It was held that a proceeding u/s 209, i.e. committal proceeding, is in the

nature of an ''enquiry'' within the meaning of Section 2(""l)(g) of the Code and as such u/s 309(2), read with Section 209, the Magistrate having

taken cognizance and before committal, is empowered to remand the accused. The Court observed that the definition of the term ''enquiry'' does

not lead one very far and the term ''enquiry'' has a very wide connotation under the Code, that while trial is a judicial proceeding which ends either

in conviction or acquittal, enquiry takes in investigation into facts, causes, effects and relations generally. Application of mind to ascertain what

evidence is made out on the facts alleged and whether such an offence is exclusively triable by a Court of Session is an absolute necessity for the

Magistrate before he can commit a case. Bringing of the judicial mind to bear upon the facts alleged and the ascertainment of the particular penal

provision which is attracted and as to whether such offence is exclusively triable by a Court of Session certainly needs a scrutiny in the sense of an

enquiry, though within a very narrow compass. These decisions are of no assistance to us in considering the amplitude and significance of the

expression ''trial'' or ''try''.

The Supreme Court, in The State of Bihar Vs. Ram Naresh Pandey, had occasion to consider the meaning and significance of these words in the

context of power of withdrawal of a case at committal stage under the provisions of the old Code. The provision, similar to Section 321 of the

Code, enables withdrawal from prosecution of any person either generally or in respect of anyone or more of the offences for which he is ''tried''

and consequential order or discharge or acquittal being passed. After referring to the distinction sought to be drawn between the words ''trial'' and

''enquiry'' and the definition of the word ''enquiry'' u/s 4(k) of the old Code, the Court observed as follows :

There is hardly anything in this definition which throws light on the question whether the word ''trial'' is used in the relevant section in a limited

sense as excluding an inquiry. The word ''trial'' is not defined in the Code. ''Trial'' according to Stroud''s Judicial Dictionary, means the conclusion

by a competent tribunal, of questions in issue in legal proceedings, whether civil or criminal, (Stroud''s Judicial Dictionary, 3rd Edition, Vol. 4, page

3092) and according to Wharton''s Law Lexicon, means the hearing of a cause, civil or criminal, before a judge who has jurisdiction over it,

according to the laws of the land''. (Wharton''s Law Lexicon, 14th Edition, P. 1011). The words ''tried'' and ''trial'' appear to have no fixed or

universal meaning. No doubt, in quite a number of sections in the Code to which our attention has been drawn, the words ''tried'' and ''trial'' have

been used in the sense of reference to a stage after the inquiry. That meaning attaches to the words in those sections having regard to the context in

which they are used. There is no reason why where these words are used in another context in the Code, they should necessarily be limited in their

connotation and significance. They are words which must be considered with regard to the particular context in which they"" are used and with

regard to the scheme and purpose of the provision under consideration."" (Emphasis provided)

We have to understand the meaning, amplitude and significance of provision used in Section 14 in the background of legislative scheme, the

purpose sought to be achieved, namely ''speedy trial'' of categories of offences against the most depressed and oppressed class of citizens. The

provisions regarding committal proceeding under the old Code were found to be conducive to delay in disposal of cases leading to injustice all

round and were drastically altered in enacting the present Code. The elaborate enquiry contemplated in the old Code had to be replaced by an

enquiry of a very limited scope with a view to expedition. Even such enquiry of limited scope can contribute to delay as we find from our

experience over the years after the enactment of the present Code. Even in this State, there are thousands of cases pending committal for long

periods. In these circumstances, it is clear that these words used in Section 14 of the Act should be understood in a wide sense as to include all

stages of investigation and application of judicial mind, whether technically regarded as ''enquiry'' or ''trial''. The full amplitude of expression ''to try''

has been explored by various authoritative dictionaries, according to which the expression means ''examine judicially to examine and investigate a

controversy by legal method'', ''to submit someone to judicial enquiry'', ''to submit a case to judicial examination.'' According to Black''s Dictionary

''trial'' means a judicial examination in accordance with the law of the land, of a cause, either civil or criminal, of the issues between the parties,

whether of law of facts, before a Court that has jurisdiction over it. Understood in this sense, the words must necessarily be comprehended within

its scope, all stages, including taking cognizance, enquiry in the technical sense and trial in the technical sense. We are quite conscious that a

contrary view is not impossible; but bearing in mind the legislative scheme and purpose, we are of the opinion that the interpretation that we seek to

give accords with the legislative intention. Looking at the matter even pragmatically, we are satisfied that a view or understanding which dispenses

with the cumbersome and delay-prone committal proceedings accords with public interest as well as the interest of those who may be arraigned

before a Special Court.

Special Courts under the Act exercising jurisdiction in different districts have been following different procedures. Special Courts in some districts

have been insisting on committal of cases to them, a view which we have found to be erroneous. Special Courts in some other districts have been

taking cognizance on receipt of police charge-sheets or challans and also on private complaints, which we uphold as correct. Wherever Special

Courts have received committal orders in police challan cases and on that basis have taken cognizance, it is quite unnecessary to retrace their steps

or to take cognizance afresh. Special Courts, in such cases, may proceed with the cases as if cognizance has been lawfully taken, since committal

orders necessarily refer to police challans and cognizance could be said to have been taken on the basis of such challans. Where committal orders

have been passed in private complaint cases, Special Courts may deal with the cases, as if they are dealing with private complaint cases u/s 200 of

the Code, reading ""Special Courts" wherever the expression ""Magistrate"" occurs.

In the result, we hold as follows :

(a) Special Courts under the Act are not to function as Sessions Court, but as Courts "of original jurisdiction".

(b) Proceedings of Special Court are governed by Section 190, Chapters XV, XVI (other than Section 209) as also Chapters XIX and XX as the

case may be and such other provisions of the Code as are not inconsistent with the scheme and provisions of the Act, reading ""Special Courts

wherever the expression ""Magistrate"" occurs.

(c) Section 193 of the Code of Criminal Procedure does not apply to proceedings under the Act and committal orders are not required.

(d) Special Court can take cognizance on private complaints after following the procedure provided in the Code in relation to private complaints.

(e) Where cognizance has already been taken on the basis of committal orders in Police challan cases, it is not necessary for the Courts to retrace

their steps or to take cognizance afresh.

(f) Where cognizance has already been taken on the basis of committal orders in private complaint cases, the Special Courts may deal with the

cases as if they are dealing with private complaints u/s 200 of the Code.

The challenge against the proceedings of Special Court in this case fails and the revision petition is dismissed.