
P. Ramachandra Rao Vs State of Karnataka**Crl.A. No.-000535-000535 / 2000**

Court: Supreme Court of India**Date of Decision:** April 16, 2002**Acts Referred:**

Constitution of India, 1950 – Article 14, 19, 21, 32, 39A, 141, 142, 144, 226, 227, 363 Criminal Procedure Code, 1973 – Section 258, 309, 311, 437, 468 # Prevention of Corruption Act, 1947 – Section 5(1), 5(2) # Prevention of Corruption Act, 1988 – Section 13(1)(2), 13(2)

Citation: (2002) 2 ACR 1382 : AIR 2002 SC 1856 : (2002) AIRSCW 1841 : (2002) 1 ALD(Cri) 792 : (2002) 2 ALT(Cri) 133 : (2002) CriLJ 2547 : (2002) 2 Crimes 200 : (2002) 2 GLR 1549 : (2002) 2 JCR 273 : (2002) 4 JT 92 : (2002) 2 KLT 189 : (2002) 3 MhLj 145 : (2002) MPL

Hon'ble Judges: S. P. Bharucha, C.J; S. S. M. Quadri, J; Ruma Pal, J; R. C. Lahoti, J; N. Santosh Hedge, J; Doraiswamy Rajuu Raju, J; Arijit Pasayat, J

Bench: Full Bench

Advocate: R.N. Trivedi, Additional Solicitor General, Subodh Markandeya, Parag P. Tripathi and Ranjit Kumar, Manish Singhvi, for Attorney General for India, R.P. Goel, General for U.P., Ravindra Shrivastava, Genl. for Chattisgarh, Binu Tamta, Varun Goswami, S. Muralidhar, S. Vallinayagam, Shreyas Jaisimha, V.B. Joshi, Ravi Kini, A.V.L. Ram Prasad Varma, A.P. Singh, Umang Dara, Nikhil Nayyar, Urmila Sirur, Sanjay R. Hegde, Satya Mitra, Priya Hegde, Vikrant Yadava, A. Mariarputham, Aruna Mathur, G. Prabhakar, H. Wahi, Ranjan Mukherjee, Rachana Srivastava, Prakash Shrivastava, Anil Kumar Jha, Alka Jha, Tarachandra Sharma, Rajdev Sharma, Neelam Sharma, Ajay Sharma, Rupesh Kumar, Ramesh Babu M.R., Ashok Potshangbam, K.H. Nobin Singh, Inderbir Singh Alag, Rajeev Sharma, P. Parmeswaran, Chitra Markandeya, Feroza Bano, Vibha Dutta Makhija, Bharti Tyagi, Rohit Kumar Singh, S. K. Agnihotri, S.S. Shinde, S.V. Deshpande, Krishna Sarma, Asha G. Nair, V.K. Sidatharan, A. Subhashini, J.M. Khanna and Guntur Prabhakar, for the Appellant;

Final Decision: Allowed

Judgement

R.C. Lahoti, J.

No person shall be deprived of his life or his personal liberty except according to procedure established by law-declares Article 21 of the Constitution. Life and

liberty, the words employed in shaping Article 21, by the Founding Fathers of the Constitution, are not to be read narrowly in the sense drearily dictated by dictionaries, they are organic

terms to be construed meaningfully. Embarking upon the interpretation thereof, feeling the heart-throb of the Preamble, deriving strength from the Directive Principles of State Policy and

alive to their constitutional obligation, the Courts have allowed Article 21 to stretch its arms as wide as it legitimately can. The mental agony, expense and strain which a person proceeded

against in criminal law has to undergo and which, coupled with delay, may result in impairing the capability or ability of the accused to defend himself have persuaded the constitutional

courts of the country in holding the right to speedy trial a manifestation of fair, just and reasonable procedure enshrined in Article 21. Speedy trial, again, would encompass within its sweep

all its stages including investigation, inquiry, trial, appeal, revision and re-trial - in short everything commencing with an accusation and expiring with the final verdict - the two being

respectively the terminus a quo and terminus ad quem --of the journey which an accused must necessarily undertake once faced with an implication. The constitutional philosophy

propounded as right to speedy trial has though grown in age by almost two and a half decades, the goal sought to be achieved is yet a far-off peak. Myriad fact-situations bearing testimony

to denial of such fundamental right to the accused persons, on account of failure on the part of prosecuting agencies and executive to act, and their turning an almost blind eye at securing

expeditious and speedy trial so as to satisfy the mandate of Article 21 of the Constitution have persuaded this Court in devising solutions which go to the extent of almost enacting by judicial

verdict bars of limitation beyond which the trial shall not proceed and the arm of law shall lose its hold. IN its zeal to protect the right to speedy trial of an accused, can the Court devise and

almost enact such bars of limitation though the Legislature and the Statutes have not chosen to do so-is a question of far-reaching implication which has led to the constitution of this Bench of

seven-Judge strength.

2. In Criminal Appeal No. 535/2000 the appellant was working as an Electrical Superintendent in the Mangalore City Corporation. For the check period 1.5.1961 to 25.8.1987 he was

found to have amassed assets disproportionate to his known sources of income. Charge-sheet accusing him of offences u/s 13(1)(e) read with Section 13(2) of the Prevention of

Corruption Act, 1988 was filed on 15.3.1994. Accused appeared before the Special Court and was enlarged on bail on 6.6.1994. Charges were framed on 10.8.1994 and the case

proceeded for trial on 8.11.1994. However, the trial did not commence. On 23.2.1999 the learned Special Judge who was seized of the trial directed the accused to be acquitted as the

trial had not commenced till then and the period of two years had elapsed which obliged him to acquit the accused in terms of the directions of this court in Raj Deo Sharma Vs. State of

Bihar (1998) 7 SCC 507 (hereinafter, Raj Deo Sharma-I). The State of Karnataka through the D.S.P. Lokayukta, Mangalore preferred an appeal before the high Court putting in issue

the acquittal of the accused. The learned Single Judge of the High Court, vide the impugned order, allowed the appeal, set aside the order of acquittal and remanded the case to the Trial

Court, forming an opinion that a case charging an accused with corruption was an exception to the directions made in Raj Deo Sharma-I as clarified by this Court in Raj Deo Sharma (II)

Vs. State of Bihar (1999) 7 SCC 604. Strangely enough the High Court not only condoned a delay of 55 days in filing the appeal against acquittal by the State but also allowed the appeal

itself-both without even issuing notice to the accused. The aggrieved accused has filed this appeal by special leave. Similar are the facts in all the other appeals. Shorn of details, suffice it to

say that in all the appeals the accused persons who were facing corruption charges, were acquitted by the Special Courts for failure of commencement of trial in spite of lapse of two years

from the date of framing of the charges and all the State appeals were allowed by the High Court without noticing the respective accused persons.

3. The appeals came up for hearing before a Bench of three learned Judges who noticed the common ground that the appeals in the High Court were allowed by the learned Judge thereat

without issuing notice to the accused and upon this ground alone, of want of notice, the appeals here at could be allowed and the appeals before the High Court restored to file for fresh

disposal after notice to the accused but it was felt that a question arose in these appeals which was likely to arise in many more and therefore the appeals should be heard on their merits. In

the order dated September 19, 2000, the Bench of three learned Judges stated:

The question is whether the earlier judgments of this court, principally, in Common Cause Vs. Union of India (1996 (4) SCC 33), Common Cause Vs. Union of India (1996(6) SCC

775); Raj Deo Sharma Vs. State of Bihar (1998(7) SCC 507) and Raj Deo Sharma (II) Vs. State of Bihar 1999 (7) SCC 604), would apply to prosecution under the Prevention of

Corruption Act and other economic offences.

Having perused the judgments afore-mentioned, we are of the view that these appeals should be heard by a Constitution Bench. We take this view because we think that it may be

necessary to synthesize the various guidelines and directions issued in these judgments. We are also of the view that a Constitution Bench should consider whether time limits of the nature

mentioned in some of these judgments can, under the law, be laid down".

4. On 25th April, 2001 the appeals were heard by the Constitution Bench and during the course of hearing attention of the Constitution Bench was invited to the decision of an earlier

Constitution Bench in Abdul Rehman Antulay and Ors. Vs. R.S. Nayak & Anr. (1992) 1 SCC 225 and the four judgments referred to in the order of reference dated 19th September,

2000 by the Bench of three learned Judges. It appears that the learned Judges of the Constitution Bench were of the opinion that the directions made in the two Common Cause cases and

the two Raj Deo Sharma"s cases ran counter to the Constitution Bench directions in Abdul Rehman Antulay"s case, the latter being five-Judge Bench decision, the appeals deserved to be

heard by a Bench of seven learned Judges. The relevant part of the order dated 26th April, 2001 reads as under:-

The Constitution Bench judgment in A.R. Antulay"s case holds that "it is neither advisable nor feasible to draw or prescribe an outer time limit for conclusion of all criminal proceedings".

Even so, the four judgments afore-mentioned lay down such time limits. Two of them also lay down to which class of criminal proceedings such time limits should apply and to which class

they should not.

We think, in these circumstances, that a Bench of seven learned Judges should consider whether the dictum afore-mentioned in A.R. Antulay"s case still holds the field: if not, whether the

general directions of the kind given in these judgments are permissible in law and should be upheld.

Having regard to what is to be considered by the Bench of seven learned Judges, notice shall issue to the Attorney General and the Advocates General of the States.

The papers shall be placed before the Hon"ble the Chief Justice for appropriate directions. Having regard to the importance of the matter, the Bench may be constituted at an early date".

5. On 20.2.2002 the Court directed, ""Common Cause"", the petitioner in the two Common Cause cases which arose out of writ-petitions under Article 32 of the Constitution, heard and

decided by this Court as public interest litigations, to be noticed. ""Common Cause"" has responded and made appearance through counsel.

6. We have heard Shri Harish Salve, the learned Solicitor General appearing for Attorney General for India, Mr. Ranjit Kumar, Senior Advocate assisted by Ms. Binu Tamta, Advocate for

the appellants Mr. Sanjay R. Hegde and Mr. Satya Mitra, Advocates for the respondents. Mr. S. Murlidhar, Advocate for ""Common Cause"" and such other Advocates General and

Standing Counsel who have chosen to appear for the States.

7. We shall briefly refer to the five decision cited in the order of reference as also to a few earlier decisions so as to highlight the issue posed before us.

8. The width of vision cast on Article 21, so as to perceive its broad sweep and content, by seven-Judge Bench of this Court in Mrs. Maneka Gandhi Vs. Union of India & Anr., (1978) 1

SCC 248, inspired a declaration of law, made on February 12, 1979 in Hussainara Khatoon and Ors. (I) Vs. Home Secretary, State of Bihar (1980) 1 SCC 81, that Article 21 confers a

fundamental right on every person not to be deprived of his life or liberty, except according to procedure established by law; that such procedure is not some semblance of a procedure but

the procedure should be ""reasonable, fair and just""; and therefrom flows, without doubt, the right to speedy trial. The Court said - ""No procedure which does not ensure a reasonably quick

trial can be regarded as "reasonable, fair or just and it would fall foul of Article 21. There can, therefore, be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious

trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21."" Many accused persons tormented by unduly lengthy trial or criminal proceedings, in

any forum whatsoever were enabled, by Hussainara Khatoon(I) statement of law, in successfully maintaining petitions for quashing of charges, criminal proceedings and/or conviction, on

making out a case of violation of Article 21 of the Constitution. Right to speedy trial and fair procedure has passed through several milestones on the path of constitutional jurisprudence. In

Maneka Gandhi (supra) , this Court held that the several fundamental rights guaranteed by Part III required to be read as components of one integral whole and not as separate channels.

The reasonableness of law and procedure, to withstand the test of Articles 21 19 and 14, must be right and just and fair and not arbitrary, fanciful or oppressive, meaning thereby that

speedy trial must be reasonably expeditious trial as an integral and essential part of the fundamental right of life and liberty under Article 21. Several cases marking the trend and

development of law applying Maneka Gandhi and Hussainara Khatoon(I) principles to myriad situations came up for the consideration of this Court by a Constitution Bench in Abdul

Rehman Antulay and Ors. Vs. R.S. Nayan and Ors. (1992) 1 SCC 225, (A.R. Antulay, for short). The proponents of right to speedy trial strongly urged before this Court for taking one

step forward in the direction and prescribing time limits beyond which no criminal proceeding should be allowed to go on, advocating that unless this was done. Maneka Gandhi and

Hussainara Khatoon(I) exposition of Article 21 would remain a mere illusion and a platitude. Invoking of the constitutional jurisdiction of this Court so as to judicially forge two termini and

lay down periods of limitation applicable like a mathematical formula, beyond which a trial or criminal proceeding shall not proceed, was resisted by the opponents submitting that the right

to speedy trial was an amorphous one something less than other fundamental rights guaranteed by the Constitution. The submissions made by proponents included that the right to speedy

trial following from Article 21 to be meaningful, enforceable and effective ought to be accompanied by an outer limit beyond which continuance of the proceedings will be violative of Article

21. It was submitted that Section 468 of the Code of Criminal Procedure applied only to minor offences but the Court should extend the same principle to major offences as well. It was

also urged that a period of 10 years calculated from the date of registration of crime should be placed as an outer limit wherein shall be counted the time taken by the investigation.

9. The Constitution Bench, in A.R. Antulay's case, heard elaborate arguments. The Court, in its pronouncement, formulated certain propositions, 11 in number, meant to serve as guidelines.

It is not necessary for our purpose to reproduce all those propositions. Suffice it to state that in the opinion of the Constitution Bench (i) fair, just and reasonable procedure implicit in Article

21 of the Constitution creates a right in the accused to be tried speedily; (ii) right to speedy trial following from Article 21 encompasses all the stages, namely, the stage of investigation,

inquiry, trial, appeal, revision and re-trial; (iii) who is responsible for the delay and what factors have contributed towards delay relevant factors. Attendant circumstances, including nature of

the offence, number of accused and witnesses, the work-load of the court concerned, prevailing local conditions and so on-what is called the systemic delays must be kept in view; (iv) each

and every delay does not necessarily prejudice the accused as some delays indeed work to his advantage. Guidelines 8, 9, 10 and 11 are relevant for our purpose and hence are extracted

and reproduced hereunder:-

(8) Ultimately, the court has to balance and weight the several relevant factors-"balancing test" or "balancing process"-and determine in each case whether the right to speedy trial has been

denied in a given case.

(9) Ordinarily speaking, where the court comes to the conclusion that right to speedy trial of an accused has been infringed the charges or the conviction, as the case may be, shall be

quashed. But this is not the only course open. The nature of the offence and other circumstances in a given case may be such that quashing of proceedings may not be in the interest of

justice. In such a case, it is open to the court to make such other appropriate order-including an order to conclude the trial within a fixed time where the trial is not concluded or reducing the

sentence where the trial has concluded as may be deemed just and equitable in the circumstances of the case.

(10) It is neither advisable nor practicable to fix any time-limit for trial of offences. Any such rule is bound to be qualified one. Such rule cannot also be evolved merely to shift the burden of

proving justification on the shoulders of the prosecution. In every case of complaint of denial of right to speedy trial, it is primarily for the prosecution to justify and explain the delay. At the

same time, it is the duty of the court to weight all the circumstances of a given case before pronouncing upon the complaint. The Supreme Court of USA too has repeatedly refused to fix

any such outer time-limit in spite of the Sixth Amendment. Nor do we think that not fixing any such outer limit in effectuates the guarantee of right to speedy trial.

(11). An objection based on denial of right to speedy trial and for relief on that account, should first be addressed to the High Court. Even if the High Court entertains such a plea, ordinarily

it should not stay the proceedings, except in a case of grave and exceptional nature. Such proceedings in High Court must, however, be disposed of on a priority basis.

10. During the course of its judgment also the Constitution Bench made certain observations which need to be extracted and reproduced:-

But then speedy trial or other expressions conveying the said concept-are necessarily relative in nature. One may ask-speedy means, how speedy? How long a delay is to long? We do not

think it is possible to lay down any time schedules for conclusion of criminal proceedings. The nature of offence, the number of accused, the number of witnesses, the workload in the

particular court, means of communication and several other circumstances have to be kept in mind". (para 83).

.....it is neither advisable nor feasible to draw or prescribe an outer time-limit for conclusion of all criminal proceedings. It is not necessary to do so for effectuating the right to speedy trial.

We are also not satisfied that without such an outer limit, the right becomes illusory". (para 83)

.....even apart from Article 21 courts in this country have been cognizant of undue delays in criminal matters and wherever there was inordinate delay or where the proceedings were

pending for too long and any further proceedings were deemed to be oppressive and unwarranted, they were put an end to by making appropriate orders". (para 65)

[emphasis supplied]

11. In 1986, "Common Cause"-a Registered Society, espousing public causes, preferred a petition under Article 32 of the Constitution of India seeking certain directions. By a brief order

("Common Cause" A Registered Society through its Director v. Union of India and Ors. -(1996) 4 SCC 32, hereinafter Common Cause (I) , a two-Judge Bench of this Court issued tow

sets of directions: one, regarding bail, and the other, regarding quashing of trial. Depending on the quantum of imprisonment provided for several offences under the Indian Penal Code and

the period of time which the accused have already spent in jail, the undertrial accused confined in jails were directed to be released on bail or on personal bond subject to such conditions as

the Court may deem fit to impose in the light of Section 437 of Cr.P.C. The other set of directions directed the trial in pending cases to be terminated and the accused to be discharged or

acquitted depending on the nature of offence by reference to (i) the maximum sentence inflictible whether fine only or imprisonment, and if imprisonment, then the maximum set out in the

law, and (ii) the period for which the case has remained pending in the criminal court.

12. A perusal of the directions made by the Division Bench shows the cases having been divided into two categories: (i) traffic offences, and (ii) cases under IPC or any other law for the

time being in force. The Court directed the trial Courts to close such cases on the occurrence of following event and the period of delay:-

Category (i) : Traffic Offences:

13. The Court directed the cases to be closed and the accused to be discharged on lapse of more than two years on account of non-serving of summons to the accused or for any other

reason whatsoever.

Category (ii) : Cases under IPC or any other law for the time being in force:

14. The Court directed that in the following sub-categories if the trial has not commenced and the period noted against cash sub-category has elapsed then the case shall be closed and the

accused shall be discharged or acquitted-

-----Nature of the cases Period of delay i.e. trial not commenced for

Cases compoundable with the More than two years

permission of the Court.

Cases pertaining to offences More than two years
which are non-cognizable and
bailable

Cases in connection with offences More than one year
punishable with fine only and are
not of recurring nature

Cases punishable with More than one year
imprisonment upto one year, with
or without fine

Cases pertaining to offences More than two years
punishable with imprisonment
upto three years with or without
fine

15. The period of pendency was directed to be calculated from the date the accused are summoned to appear in Court. The Division Bench, vide direction 4, specified certain categories of

cases to which its directions would not be applicable. Vide direction 5, this court directed the offences covered by direction 4 to be tried on priority basis and observance of this direction

being monitored by the High Courts. All the directions were made applicable not only to the cases pending on the day but also to cases which may be instituted thereafter.

16. Abovesaid directions in Common Cause-I were made on May 1, 1996. Not even a period of 6 months had elapsed, on 15.10.1996, Shri Sheo Raj Purohit a public-spirited advocate

addressed a Letter Petition to this Court, inviting its attention to certain consequences flowing from the directions made by this Court in Common Cause (I) and which were likely to cause

injustice to the serious detriment of the society and could result in encouraging dilatory tactics adopted by the accused. A two-Judge Bench of this court, which was the same as had issued

directions in Common Cause (I), made three directions which had the effect of clarifying/modifying the directions in Common Cause (I) . The first direction clarified that the time spent in

criminal proceedings, wholly or partly, attributable to the dilatory tactics or prolonging of trial by action of the accused, or on account of stay of criminal proceedings secured by such

accused from higher courts shall be excluded in counting the time-limit regarding pendency of criminal proceedings. Second direction defined the terminus a quo, i.e. what would be the

point of commencement of trial while working out "pendency of trials" in Sessions Court, warrant cases and summons cases. In the third direction, the list of cases, by reference to nature of

offence to which directions in Common Cause (I) would not apply, was expanded.

17. In Raj Deo Sharma (I), an accused charged with offences under Sections 5(2) & 5(1)(c) of the Prevention of Corruption Act, 1947 came up to this Court, having failed in High Court,

seeking quashing of prosecution against him on the ground of violation of right to speedy trial. Against him the offence was registered in 1982 and chargesheet was submitted in 1985. The

accused appeared on 24.4.1987 before the Special Judge. Charges were framed on 4.3.1993. Until 1.6.1995 only 3 out of 40 witnesses were examined. The three-Judge Bench of this

Court, which heard the case, set aside the order passed by the High Court and sent the matter back to the Special Judge for passing appropriate orders in the light of its judgment. Vide

para 17, the three-Judge Bench issued five further directions purporting to be supplemental to the propositions laid down in A.R. Antulay . The directions need not be reproduced and

suffice it to observe that by dividing the offence into two categories - those punishable with imprisonment for a period not exceeding 7 years and those punishable with imprisonment for a

period exceeding 7 years, the Court laid down periods of limitation by reference to which either the prosecution evidence shall be closed or the accused shall be released on bail. So far as

the trial for offences is concerned, for the purpose of making directions, the Court categorized the offences and the nature and period of delay into two, which may be set out in a tabular

form as under:-

Nature of offence Nature and period of delay

Offence punishable with Completion of two years from the date
imprisonment for a period of recording the plea of the accused on
not exceeding seven years, the charges framed, whether the
whether the accused is in prosecution has examined all the
jail or not witnesses or not within the said period
of two years.

Offence punishable with Completion of three years from the
imprisonment for a period date of recording the plea of the
exceeding seven years, accused on the charge framed, whether
whether the accused is in the prosecution has examined all the
jail or not witnesses or not within the said period

18. The consequence which would follow on completion of two or three years, as abovesaid, is, the Court directed, that the trial Court shall close the prosecution evidence and can

proceed to the next step of trial In respect of the second category, the Court added a rider by way of exception stating-""Unless for very exceptional reasons to be recorded and in the

interest of justice, the Court considers it necessary to grant further time to the prosecution to adduce evidence beyond the aforesaid time limit"" (of three years). The period of inability for

completing prosecution evidence attributable to conduct of accused in protracting the trial and the period during which trial remained stayed by orders of the court or by operation of law

was directed to be excluded from calculating the period at the end of which the prosecution evidence shall be closed. Further, the Court said that the directions made by it shall be in

addition to and without prejudice to the directions issued in Common Cause (I) as modified in Common Cause (II) .

19. Raj Deo Sharma (I) came up once again for consideration of this Court in- Raj Deo Sharma Vs. State of Bihar (1999) 7 SCC 604, hereinafter Raj Deo Sharma (II) . This was on an

application filed by Central Bureau of Investigation (CBI) for clarification (and also for some modification) in the directions issued. The three-Judge Bench which heard the matter consisted

of K.T. Thomas, J. and M. Srinivasan, J. who were also on the Bench issuing directions in Raj Deo Sharma (I) and M.B. Shah, J. who was not on the Bench in Raj Deo Sharma (I). In the

submission of CBI the directions of the Court made in Raj Deo Sharma (I) ran counter to A.R. Antulay and did not take into account the time taken by the Court on account of its inability

to carry on day to day trial due to pressure of work. The CBI also pleaded for the directions in Raj Deo Sharma (I) being made prospective only, i.e., period prior to the date of directions

in Raj Deo Sharma (I) being excluded from consideration. All the three learned Judges wrote separate judgments. K.T. Thomas, J. by his judgment, to avert "possibility of miscarriage of

justice", added a rider to the directions made in Raj Deo Sharma (I) that an additional period of one year can be claimed by the prosecution in respect of prosecutions which were pending

on the date of judgment in Raj Deo Sharma (I) and the Court concerned would be free to grant such extension if it considered it necessary in the interest of administration of criminal justice.

M. Srinivasan, J. in his separate judgment, assigning his own reasons, expressed concurrence with the opinion expressed and the only clarification ordered to be made by K.T. Thomas, J.

and placed on record his express disagreement with the opinion recorded by M.B. Shah, J.

20. M.B. Shah, J. in his dissenting judgment noted the most usual causes for delay in delivery of criminal justice as discernible from several reported cases travelling upto this Court and held

that the remedy for the causes of delay in disposal of criminal cases lies in effective steps being taken by the Judiciary, the Legislature and the State Governments, all the three. The dangers

behind constructing time-limit barriers by judicial dictum beyond which a criminal trial or proceedings could not proceed, in the opinion of M.B. Shah, J., are (i) it would affect the smooth

functioning of the society in accordance with law and finally the Constitution. The victims left without any remedy would resort to taking revenge by unlawful means resulting in further

increase in the crime and criminals. People at large in the society would also feel unsafe and insecure and their confidence in the judicial system would be shaken. Law would lose its

deterrent effect on criminals; (ii) with the present strength of Judge and infrastructure available with criminal courts it would be almost impossible for the available criminal courts to dispose

of the cases within the prescribed time-limit; (iii) prescribing such time-limits may run counter to the law specifically laid down by Constitution Bench in Antulay's case . In the fore-quoted

thinking of M.B. Shah, J. we hear the echo of what Constitution Bench spoke in Kartar Singh Vs. State of Punjab (1994) 3 SCC 569, vide para 351, ""No doubt, liberty of a citizen must

be zealously safeguarded by the courts; nonetheless the courts while dispensing justice in case like the one under the TADA Act, should keep in mind not only the liberty of the accused but

also the interest of the victim and their near and dear and above all the collective interest of the community and the safety of the nation so that the public may not lose faith in the system of

judicial administration and indulge in private retribution.

21. At the end M.B. Shah, J. opined that order dated 8.10.1998 made in Raj Deo Sharma (I) requires to be held in abeyance and the State Government and Registrars of the High Courts

ought to be directed to come up with specific plans for the setting up of additional courts/special courts (permanente dead hoc) to cope up with the pending workload on the basis of

available figures of pending cases also by taking into consideration the criteria for disposal of criminal cases prescribed by various High Courts. In conclusion, the Court directed the

application filed by the CBI to be disposed of in terms of the majority opinion.

22. A perception of the cause for delay at the trial and in conclusion of criminal proceedings is necessary so as to appreciate whether setting up bars of limitation entailing termination of trial

or proceedings can be justified. The root cause for delay in dispensation of justice in our country is poor judge-population-ratio. Law Commission of India in its 120th Report on

Manpower Planning in Judiciary (July 1987), based on its survey, regretted that in spite of Article 39A added as a major Directive Principle in the Constitution by 42nd Amendment (1976),

obliging the State to secure such operation of legal system as promotes justice and to ensure that opportunities for securing justice are not denied to any citizen several reorganisation

proposals in the field of administration of justice in India have been basically patch work, ad hoc and unsystematic solutions to the problem. The judge-population-ratio in India (based on

1971 census) was only 10.5 judges per million population while such ratio was 41.6 in Australia, 50.9 in England, 75.2 in Canada and 107 in United States. The law Commission suggested

that India required 107 judges per million of Indian population; however to begin with the judge strength needed to be raised to five-fold, i.e., 50 judges per million population in a period of

five years but in any case not going beyond ten years. Touch of sad sarcasm is difficult to hide when the Law Commission observed (in its 10th Report, *ibid*) that adequate reorganisation of

the Indian judiciary is at the one and at the same time everybody's concern and, therefore, nobody's concern. There are other factors contributing to the delay at the trial. In A.R. Antulay's

case, *vide para 83*, the Constitution Bench has noted that in spite of having proposed to go on with the trial of a case, five days a week and week after week, it may not be possible to

conclude the trial for reasons, viz. (1) non-availability of the counsel, (2) non-availability of the accused, (3) introductory proceedings, and (4) other systemic delays. In addition, the Court

noted that in certain cases there may be a large number of witnesses and in some offences, by their very nature, the evidence may be lengthy. In Kartar Singh Vs. State of Punjab (1994) 3

SCC 569 another Constitution Bench opined that the delay is dependent on the circumstances of each case because reasons for delay will vary, such as (i) delay in investigation on account

of the widespread ramifications of crimes and its designed network either nationally or internationally, (ii) the deliberate absence of witness or witnesses, (iii) crowded dockets on the file of

the court etc. In Raj Deo Sharma (II) , in the dissenting opinion of M.B. Shah, J., the reasons for delay have been summarized as, (1) Dilatory proceedings; (2) Absence of effective steps

towards radical simplification and streamlining of criminal procedure; (3) Multitier appeals revision applications and diversion to disposal of interlocutory matters; (4) Heavy dockets;

mounting arrears delayed service of process; and (5) Judiciary, starved by executive by neglect of basic necessities and amenities, enabling smooth functioning.

23. Several cases coming to our notice while hearing appeals, petitions and miscellaneous petitions (such as for bail and quashing of proceedings) reveal, apart from inadequate judge

strength, other factors contributing to the delay at the trial. Generally speaking, these are: (i) absence of or delay in appointment of, public prosecutors proportionate with the number of

courts/cases; (ii) absence of or belated service of summons and warrants on the accused/witnesses; (iii) non-production of undertrial prisoners in the Court; (iv) presiding Judge proceeding

on leave, though the cases are fixed for trial; (v) strikes by members of Bar; and (vi) counsel engaged by the accused suddenly declining to appear or seeking an adjournment for personal

reasons or personal inconvenience. It is common knowledge that appointments of public prosecutors are politicized. By convention, government advocates and public prosecutors were

appointed by the executive on the recommendation of or in consultation with the head of judicial administration at the relevant level but gradually the executive has started bypassing the

merit based recommendations of, or process of consultation with, District and Sessions, Judges. For non-service of summons/orders and non-production of under trial prisoners, the usual

reasons assigned are shortage of police personnel and police people being busy in VIP duties or law and order duties. These can hardly be valid reasons for not making the requisite police

personnel available for assisting the Courts in expediting the trial. The members of the Bar shall also have to realize and remind themselves of their professional obligation-legal and ethical,

that having accepted a brief for an accused they have no justification to decline or avoid appearing at the trial when the case is taken up for hearing by the Court. All these factors

demonstrate that the goal of speedy justice can be achieved by a combined and result-oriented collective thinking and action on the part of the Legislature, the Judiciary, the Executive and

representative bodies of members of Bar.

24. Is it at all necessary to have limitation bars terminating trials and proceedings? is there no effective mechanisms available for achieving the same end? The Criminal Procedure Code, as it

stands, incorporates a few provisions to which resort can be had for protecting the interest of the accused and saving him from unreasonable prolixity or laxity at the trial amounting to

oppression. Section 309, dealing with power to postpone or adjourn proceedings, provides generally for every inquiry or trial, being proceeded with as expeditiously as possible, and in

particular, when the examination of witnesses has once begun, the same to be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the

adjournment of the same beyond the following day to be necessary for reasons to be recorded. Explanation-2 to Section 309 confers power on the Court to impose costs to be paid by the

prosecution or the accused, in appropriate cases, and putting the parties on terms while granting an adjournment or postponing of proceedings. This power to impose costs is rarely

exercised by the Courts, Section 258, in Chapter XX of Cr.P.C. on Trial of Summons-cases, empowers the Magistrate trying summons cases instituted otherwise than upon complaint, for

reasons to be recorded by him, to stop the proceedings at any stage without pronouncing any judgment and where such stoppage of proceedings is made after the evidence of the principal

witnesses has been recorded, to pronounce a judgment of acquittal, and in any other case, release the accused, having effect of discharge. This provision is almost never used by the Courts.

In appropriate cases, inherent power of the High Court, u/s 482 can be invoked to make such orders, as may be necessary, to give effect to any order under the Code of Criminal

Procedure or to prevent abuse of the process of any Court, or otherwise, to secure the ends of justice. The power is wide and, if judiciously and consciously exercised, a court can take care of

almost all the situations where interference by the High Court becomes necessary on account of delay in proceedings or for any other reason amounting to oppression or harassment in any

trial, inquiry or proceedings. In appropriate cases, the High Courts have exercised their jurisdiction u/s 482 of Cr.P.C. for quashing of first information report and investigation, and

terminating criminal proceedings if the case of abuse of process of law was clearly made out. Such power can certainly be exercised on a case being made out of breach of fundamental

right conferred by Article 21 of the Constitution. The Constitution Bench in A.R. Antulay's case referred to such power, vesting in the High Court (vide paras 62 and 65 of its judgment)

and held that it was clear that even apart from Article 21, the Courts can take care of undue or inordinate delays in criminal matters or proceedings if they remain pending for too long and

putting to an end, by making appropriate orders, to further proceedings when they are found to be oppressive and unwarranted.

25. Legislation is that source of law which consists in the declaration of legal rules by a competent authority. When judges by judicial decisions lay down a new principle of general

application of the nature specifically reserved for legislature they may be said to have legislated, and not merely declared the law. Salmond on Principles of Jurisprudence (12th Edition)

goes on to say- ""We must distinguish law-making by legislators from law-making by the courts. Legislators can lay down rules purely for the future and without reference to any actual

dispute; the courts, insofar as they create law, can do so only in application to the cases before them and only insofar as is necessary for their solution. Judicial law-making is incidental to

the solving of legal disputes; legislative law-making is the central function of the legislator""(page 115). It is not difficult to perceive the dividing line between permissible legislation by judicial

directives and enacting law-the field exclusively reserved for legislature. We are concerned here to determine whether in prescribing various periods of limitation, adverted to above, the

Court transgressed the limit of judicial legislation.

26. Bars of limitation, judicially engrafted, are no doubt, meant to provide a solution to the aforementioned problems. But a solution of this nature gives rise to grater problems like scuttling a

trial without adjudication, stultifying access to justice and giving easy exit from the portals of justice. Such general remedial measures cannot be said to be apt solutions. For two reasons we

hold such bars of limitation uncalled for and impermissible; first, because it tantamount to impermissible legislation- an activity beyond the power which the Constitution confers on judiciary,

and secondly, because such bars of limitation fly in the face of law laid down by Constitution Bench in A.R. Antulay's case and, therefore, run counter to the doctrine of precedents and

their binding efficacy.

27. In an monograph ""Judicial Activism and Constitutional Democracy in India"" commended by Professor Sir William Wade, Q.C. as a ""small book devoted to a big subject"", the learned

author, while recording appreciation of judicial activism, sounds a note of caution-""it is plain that the judiciary is the least competent to function as a legislative or the administrative agency.

For one thing, courts lack the facilities to gather detailed data or to make probing enquiries. Reliance on advocates who appear before them for data is likely to give them partisan or

inadequate information. On the other hand if court have to rely on their own knowledge or research it is bound to be selective and subjective. Courts also have no means for effectively

supervising and implementing the aftermath of their orders, schemes and mandates, since courts mandate for isolated cases, their decrees make no allowance for the differing and varying

situations which administrators will encounter in applying the mandates to other cases. Courts have also no method to reverse their orders if they are found unworkable or requiring

modification"". Highlighting the difficulties which the courts are likely to encounter if embarking in the fields of legislation or administration, the learned author advises ""the Supreme Court

could have well left the decision-making to the other branches of government after directing their attention to the problems rather than itself entering the remedial field"".

28. The primary function of judiciary is to interpret the law. It may lay down principles, guidelines and exhibit creativity in the field left open and unoccupied by Legislation. Patrick Devlin in

"The Judge" (1979) refers to the role of the Judge as lawmaker and states that there is no doubt that historically judges did not make law, at least in the sense of formulating it. Even now

when they are against innovation, they have never formally abrogated their powers; their attitude is;""We could if we would but we think it better not" But as a matter of history did the

English judges of the golden age make law? They decided case which worked up into principles. The judges, as Lord Wright once put it in an unexpectedly picturesque phrase, proceeded

"from case to case, like the ancient Mediterranean mariners, hugging the coast from point and avoiding the dangers of the open sea of system and science. The golden age judges were not

rationalisers and, except in the devising of procedures, they were not innovators. They did not design a new machine capable of speeding ahead; they struggled with the aid of fictions and

bits of procedural string to keep the machine on the road.

29. Professor S.P. Sathe, in his recent work (Year 2002) ""Judicial Activism in India-Transgressing Borders and Enforcing Limits"", touches the topic ""Directions: A New Form of Judicial

Legislation"". Evaluating legitimacy of judicial activism, the learned author has cautioned against Court ""legislating"" exactly in the way in which a Legislature legislates and he observes by

reference to a few cases that the guidelines laid down by court, at times, cross the border of judicial law making in the realist sense and trench upon legislating like a Legislature. ""Directions

are either issued to fill in the gaps in the legislation or to provide for matters that have not been provided by any legislation. The Court has taken over the legislative function not in the

traditional interstitial sense but in an overt manner and has justified it as being an essential component of its role as a constitutional court."" (p.242). "" In a strict sense these are instances of

judicial excesses that fly in the face of the doctrine of separation of powers. The doctrine of separation of powers envisages that the legislature should make law, the executive should

execute it, and the judiciary should settle disputes in accordance with the existing law. In reality such watertight separation exists nowhere and is impracticable. Broadly, it means that one

organ of the State should not perform a function that essentially belongs to another organ. While law-making through interpretation and expansion of the meanings of open-textured

expressions such as "due process of law", "equal protection of law," or "freedom of speech and expression" is a legitimate judicial function, the making of an entirely new law.. thought

directions.... is not legitimate judicial function."" (p.220).

30. Prescribing periods of limitation at the end of which the trial court would be obliged to terminate the proceedings and necessarily acquit or discharge the accused, and further, making

such directions applicable to all the cases in the present and for the future amounts to legislation, which, in our opinion, cannot be done by judicial directives and within the arena of the

judicial law-making power available to constitutional courts, howsoever liberally we may interpret Articles 32 21 141 and 142 of the Constitution. The dividing line is fine but perceptible.

Courts can declare the law, they can interpret the law, they can remove obvious lacunae and fill the gaps but they cannot entrench upon in the field of legislation properly meant for the

legislature. Binding directions can be issued for enforcing the law and appropriate directions may issue, including laying down of time limits or chalking out a calendar for proceedings to

follow, to redeem the injustice done or for taking care of rights violated, in a given case or set of cases, depending on facts brought to the notice of Court. This is permissible for judiciary to

do. But it may not, like legislature, enact a provision akin to or on the lines of Chapter XXXVI of the Code of Criminal Procedure, 1973.

31. The other reason why the bars of limitation enacted in Common Cause (I), Common Cause (II) and Raj Deo Sharma (II) and Raj Deo Sharma (II) cannot be sustained is that these

decisions though two or three-judge Bench decisions run counter to that extent to the dictum of Constitution Bench in A.R. Antulay's case and therefore cannot be said to be good law to

the extent they are in breach of the doctrine of precedents. The well settled principle of precedents which has crystallised into a rule of law is that a bench of lesser strength is bound by the

view expressed by a bench of larger strength and cannot take a view in departure or in conflict therefore. We have in the earlier part of this judgment extracted and reproduced passages

from A.R. Antulay's case . The Constitution Bench turned down the fervent plea of proponents of right to speedy trial for laying down time-limits as bar beyond which a criminal

proceedings or trial shall not proceed and expressly ruled that it was neither advisable nor practicable (and hence not judicially feasible) to fix a time-limit for trial of offences. Having

placed on record the exposition of law as to right to speedy trial flowing from Article 21 of the Constitution this Court held that it was necessary to leave the rule as elastic and not to fix it in

the frame of defined and rigid rules. It must be left to the judicious discretion of the court seized of an individual case to find out from the totality of circumstances of a given case if the

quantum of time consumed upto a given point of time amounted to violation of Article 21, and if so, then to terminate the particular proceedings, and if not, then to proceed ahead. The test

is whether the proceedings or trial has remained pending for such a length of time that the inordinate delay can legitimately be called oppressive and unwarranted, as suggested in A.R.

Antulay . In Kartar Singh's cases (supra) the Constitution Bench while recognising the principle that the denial of an accused's right of speedy trial may result, in a decision to dismiss the

indictment or in reversing of a conviction, went on to state, "Of course, no length of time is per se too long to pass scrutiny under this principle nor the accused is called upon to show the

actual prejudice by delay of disposal of cases. On the other hand, the court has to adopt a balancing approach by taking note of the possible prejudices and disadvantages to be suffered by

the accused by avoidable delay and to determine whether the accused in a criminal proceedings has been deprived of his right of having speedy trial with unreasonable delay which could be

identified by the factors-(1) length of delay, (2) the justification for the delay, (3) the accused's assertion of his right to speedy trial, and (4) prejudice caused to the accused by such delay.

(para 92).

32. For all the foregoing reasons, we are of the opinion that in Common Cause case (I) (as modified in Common Cause (II) and Raj Deo Sharma (I) and (II) , the Court could not have

prescribed periods of limitation beyond which the trial of a criminal case or a criminal proceedings cannot continue and must mandatorily be closed followed by an order acquitting or

discharging the accused. In conclusion we hold:-

(1) The dictum in A.R. Antulay's case is correct and still holds the field.

(2) The propositions emerging from Article 21 of the Constitution and expounding the right to speedy trial laid down as guidelines in A.R. Antulays" case , adequately take care of right to

speedy trial. We uphold and re-affirm the said propositions.

(3) The guidelines laid down in A.R. Antulay"s case are not exhaustive but only illustrative. They are not intended to operate as hard and fast rules or to be applied like a strait-jacket

formula. Their applicability would depend on the fact-situation of each case. It is difficult to foresee all situations and no generalization can be made.

(4) It is neither advisable, nor feasible, nor judicially permissible to draw or prescribe can outer limit for conclusion of all criminal proceedings. The time-limits or bars of limitation prescribed

in the several directions made in Common Cause (I), Raj Deo Sharma (I) and Raj Deo Sharma (II) could not have been so prescribed or drawn and are not good law. The criminal courts

are not obliged to terminate trial or criminal proceedings merely on account of lapse of time, as prescribed by the directions made uncommon Cause Case (I), Raj Deo Sharma case (I) and

(II) . At the most the periods of time prescribed in those decisions can be taken by the courts seized of the trial or proceedings to act as reminders when they may be persuaded to apply

their judicial mind to the facts and circumstances of the case before them and determine by taking into consideration the several relevant factors as pointed out in A.R. Antulay"s case and

decided whether the trial or proceedings have become so inordinately delayed as to be called oppressive and unwarranted. Such time-limits cannot and will not by themselves be treated by

any Court as a bar to further continuance of the trial or proceedings and as mandatorily obliging the court to terminate the same and acquit or discharge the accused.

(5) The Criminal Courts should exercise t heir available powers. such as those under Sections 309 311 and 258, of Code of Criminal Procedure to effectuate the right to speedy trial. A

watchful and diligent trial judge can prove to be better protector of such right than any guidelines. In appropriate cases jurisdiction of High Court u/s 482 of Cr.P.C. and Articles 226 and

227 of Constitution can be invoked seeking appropriate relief or suitable directions.

(6) This is an appropriate occasion to remind the Union of India and the State Governments of their constitutional obligation to strengthen the judiciary-quantitatively and qualitatively-by

providing requisite funds, manpower and infrastructure. We hope and trust that the Governments shall act.

33 We answer the questions posed in the orders of reference dated September 19, 2000 and April 26,2001 in the abovesaid terms.

34. The appeals are allowed. The impugned judgments of the High Court are set aside. As the High Court not have condoned the delay in filing of he appeals and then allowed the appeals

without noticing the respective accused-respondents before the High Court, now the High Court shall hear and decide the appeals afresh after noticing the accused-respondent before it in

each of the appeals and consistently with he principles of law laid down hereinabove.

35. Before we may part, we would like to make certain observations ex abundanti cantela:

36. Firstly, we have dealt with the directions made by this Court in Common Cause Case I and II and Raj Deo Sharma Case I and II regarding trial of cases. The directions made in those

cases regarding enlargement of accused persons on bail are not subject mater of this reference or these appeals and we have consciously abstained from dealing with legality, propriety or

otherwise of directions in regard to bail. This is because different considerations arise before the criminal courts while dealing with termination of a trial or proceedings and while dealing with

right of accused to be enlarged on bail.

37. Secondly, though we are deleting the directions made respectively by two and three-Judge Benches of this Court in the cases under reference, for reasons which we have already

stated, we should not, even for a moment, be considered as having made a departure from the law as to speedy trial and speedy conclusion of criminal proceedings of whatever nature and

at whichever stage before any authority or the court. It is the constitutional obligation of the State to dispense speedy justice, more so in the field of criminal law, and paucity of funds or

resources is no defence to denial of right to justice emanating from Articles 21, 19 and 14 and the Preamble of the Constitution as also from the Directive Principles of State Policy. It is high

time that the Union of India and the various States realize their constitutional obligation and do something concrete in the direction of strengthening the justice delivery system. We need to

remind all concerned of what was said by this Court in *Hussainara Khatoon (IV) 1980 (1) SCC 98*, "The State cannot be permitted to deny the constitutional right of speedy trial to the

accused on the ground that the State has no adequate financial resources to incur the necessary expenditure needed for improving the administrative and judicial apparatus with a view to

ensuring speedy trial. The State may have its financial constraints and its priorities on expenditure, but, the law does not permit any government to deprive its citizens of constitutional rights

on a plea of poverty's, or administrative inability.

38. Thirdly, we are deleting the bars of limitation on the twin grounds that it amounts to judicial legislation, which is not permissible, and because they run counter to the doctrine of binding

precedents. The larger question of powers of the court to pass orders and issue directions in public interest or in social action litigations, specially by reference to Articles 32, 141, 142 and

144 of the Constitution, is not subject matter of reference before us and this judgment should not be read as an interpretation of those Articles of the Constitution and laying down, defining

or limiting the scope of the powers exercisable thereunder by this Court.

39. And lastly, it is clarified that this decision shall not be a ground for re-opening a case or proceedings by setting aside any such acquittal or discharge as is based on the authority of "

Common Cause" and "Raj Deo Sharma" cases and which has already achieved finality and re-open the trial against the accused therein.

Raju, J.

40. I have had the privilege of going through the judgment of esteemed and learned brother R.C. Lahoti, J., while I am in respectful agreement that the appeals are to be allowed and

remitted to the High Court to be heard and decided afresh, I feel compelled to express my reservation and inability to subscribe to some of the observations contained therein relating to the

powers and jurisdiction of this Court.

41. The declaration of law made by the Constitution Bench of five learned Judges of this Court in the decision reported in *Abdul Rehman Antulay and Ors. Vs. R.S. Nayak & Anr.* (1992)

1 SCC 225 still holds the field and its binding force and authority has not been undermined or whittled down or altered in any manner by an other decision of a larger Bench. Consequently,

the Benches of lesser number of Constitution of Judges which dealt with the cases reported in *Common Cause Vs. Union of India* (1996 (4) SCC 33); *Raj Deo Sharma Vs. State of Bihar*

(1998) 7 SCC 507 and *Raj Deo Sharma (II) Vs. State of Bihar* (1999) 7 SCC 604 could not have laid down any principles in derogation of the ratio laid down in *A.R. Antulay's* case

(supra) either by way of elaboration, expansion, clarification or in the process of trying to distinguish the same with reference to either the nature of causes considered therein or the

consequences which are likely to follow and which, in their view, deserve to be averted. Even where necessities or justification, if any, were found therefor, there could not have been scope

for such liberties being taken to transgress the doctrine of binding precedents, which has come to stay firmly in our method of Administration of Justice and what is permissible even under

such circumstances being only to have had the matter referred to for reconsideration by a larger Bench of this Court and not to deviate by no other means. The solitary reason would suffice

by itself to overrule the above decisions, the correctness of which stand referred to for consideration by this Bench. All the more so when, there is no reason to doubt the correctness of the

decision in A.R. Antulay's case (supra) and this Bench concurs with the principles laid down therein.

42. Though this Court does not consider itself to be an Imperium in Imperio or would function as a despotic branch of "The State", the fact that the founding fathers of our Constitution

designedly and deliberately, perhaps, did not envisage the imposition of any jurisdiction embargo on this Court, except in Article 363 of the Constitution of India is significant and sufficient

enough, in my view, to identify the depth and width or extent of this powers. The other fetters devised or perceived on its exercise of powers or jurisdiction to entertain/deal with a matter

were merely self-imposed for one or the other reason assigned therefore and they could not stand in the way of or deter this Court in any manner from rising up to respond in a given

situation as and when necessitated and effectively play its role in accommodating the Constitution to changing circumstances and enduring values as a "Sentinel on the qui vive" to preserve

and safeguard the Constitution, prefect and enforce the fundamental rights and other constitutional mandates - which constitute the inviolable rights of the people as well as those features,

which formed its basic structure too and considered to be even beyond the reach of any subsequent constitutional amendment. In substance, this Court, in my view, is the ultimate repository

of all judicial powers at National level by virtue of it being the Summit Court at the pyramidal height of Administration of Justice in the country and as the upholder and final interpreter of the

Constitution of India and defender of the fundamentals of "Rule of Law".

43. It is not only difficult but impossible to foresee and enumerate all possible situations arising, to provide in advance solutions with any hard and fast rules of universal application for all

times to come. It is well known that where there is right, there should be a remedy. In what exceptional cases, not normally visualized or anticipated by law, what type of an extra-ordinary

remedy must be devised or designed to solve the issue arising would invariably depend upon the gravity of the situation, nature of violation and efficacy as well as utility of the existing

machinery and the imperative need or necessity to find a solution even outside the ordinary framework or avenue or remedies to avert any resultant damage beyond repair or redemption, to

any person. Apparently, in my view, alive to such possibilities only even this Court in A.R. Antulay's case (supra) has chosen to decline the request for fixation of any period of time limit for

trial of offences not on any total want or lack of jurisdiction in this Court, but for the reason that it is ""neither advisable nor practicable"" to fix any such time limit and that the non-fixation

does not ineffectuate the guarantee of right to speedy trial. The prospects and scope to achieve the desired object of a speedy trial even within the available procedural safeguards and

avenues provided for obtaining relief, have also been indicated in the said decision as well as in the judgment prepared by learned brother R.C. Lahoti, J. I am of the firm opinion that this

Court should never venture to disown its own jurisdiction on any area or in respect of any matter or over any one authority or person, when the Constitution is found to be at stake and the

Fundamental Rights of citizens/persons are under fire, to restore them to their position and uphold the Constitution and the Rule of Law-for which this Court has been established and

constituted with due primacy and necessary powers authority and jurisdiction, both express and implied.

44. Except dissociating myself from certain observations made expressing doubts about the jurisdiction of this Court, for the reasons stated above, I am in entire agreement with the other

reasons and conclusions in the judgment.