HUMAN RIGHTS *monitor*

Emerging state of insecurity: India's war against itself

HUMAN RIGHTS FEATURE

INDIA is the largest democracy in the world, has the longest democratic history in South Asia, and takes justifiable pride in these facts. It also misses no opportunity to tell the world particularly its troubled smaller neighbours that its credentials entitle it to a far greater esteem than is usually accorded. Missing from its rhetorical campaign, however, is the important detail that large sections of its population live in Emergency-type conditions, enduring debilitating restrictions on their civil and political liberties.

Nearly 55 years after independence and 53 years after the Universal Declaration of Human Rights came into being, India remains in the shadow of State-imposed constraints on freedom, harking back to the 19-month interlude in the 1970s that shook the country's faith in its democratic foundations.

India in 2002 suffers from a deluge of legislation that restricts fundamental liberties. Laws purporting to safeguard national security and public order have been employed to counter ambiguously defined threats. Applied over large zones of the country from the state of Jammu & Kashmir in the north to several states in the northeast as well as Andhra Pradesh in the south these acts contain provisions that are incompatible with the principles that form the basis of a democratic State.

Preventive detention and extraordinary police powers are measures that normally follow the proclamation of a state of emergency, which, in turn, is justifiable only if strictly necessary to counter an immediate threat to the life of a nation. These unrestrained and unprincipled grants of power to police and security forces guarantee that virtually the entire country will remain in a state of undeclared emergency. Rather than forestall emergency conditions, these draconian laws contribute to a pervasive sense of insecurity and instability.

The Disturbed Areas Act, for example, gives the police extraordinary powers of arrest and detention. It was applied in Assam in 1955 and later extended to Nagaland, Manipur, parts of Tripura, and in two districts of Arunachal Pradesh, purportedly to deal with the various insurgencies in the region. It was also imposed in Jammu and Kashmir (1990), and finally in Andhra Pradesh to deal with the extreme-left Naxalite movement.

The National Security Act (NSA) 1980 provides for detention of a person "with a view to preventing him from acting in any manner prejudicial to" various State objectives including national security and public order. The maximum period of detention is 12 months. The Act limits the powers of the court to review detention orders. And while it requires the Government to refer all cases to an Advisory Board consisting of High Court judges within three weeks of the detention, it does not permit legal counsel to appear before the Board on behalf of the detenu. The proceedings of the Advisory Board are moreover closed to the public and its report to the Government is confidential. Finally, it gives legal immunity to any government officer acting in good faith in pursuance of the Act. At the end of 1997, according to Government records, approximately 500 persons were in detention under the NSA.

The Jammu and Kashmir Public Safety Act (PSA) of 1978 applies similar procedures to the state of Jammu and Kashmir, allowing detention without trial for two years. According to Government records, updated as far as August 1997, nearly 1,600 persons were being held in five detention centers in Jammu and Kashmir as compared to 2,070 in 1995. Of these, 1,298 persons were held under the PSA. More recent figures from official sources such as the Home Ministry are unavailable.

The Armed Forces Special Powers Act (AFSPA) of 1958 remains in effect in Jammu and Kashmir, Nagaland, Manipur, Assam, and parts of Tripura. It gives the Central Government the power to declare any State or Union Territory a disturbed area, allows security forces to fire at any person if it is considered "necessary for maintenance of law and order." They can also arrest any person "against whom reasonable suspicion exists" with no obligation to inform the detainee of the grounds for arrest. Finally, security personnel are given immunity from prosecution for any acts committed by them in relation to the Act.

The Prevention of Terrorism Ordinance (POTO) of 2001 is the latest in the series of measures that often cause more harm than the threat they are meant to tackle. POTO provides for the holding of an accused person for a prolonged period of detention for upto 180 days without charges, and effectively subverts the cardinal principle of the criminal justice system the presumption of innocence by putting the burden of proof on the accused, withholding of the identity of witnesses, making confessions made to the police officer admissible as evidence, and giving the public prosecutor the power to veto bail.

The imprecise nature of the regulation and by implication, the prospects for its misuse quickly became evident in a case from Jammu and Kashmir, the first state to implement the Ordinance. Four days after police detained a carpet-weaver under POTO, evicted his family and sealed his house, the state government ordered the seal to be broken and allowed the family to return. The Minister of Law and Parliamentary Affairs said that "in this case, the provisions of POTO were misconceived." The Inspector General of Police had said that the house had been sealed under Sections 8 & 9 because there was reason to suspect that it could have been built from "terrorist proceeds." The following day, he said the decision to break the seal was "a government decision and we have to abide by it."

There is every possibility that other provisions of the Ordinance will be similarly "misconceived," with more injurious implications.

Several provisions in the laws cited above violate the spirit of the Indian Constitution and also contravene international law. In the case of the AFSPA, for example, the declaration that an area is disturbed essentially amounts to declaring a state of emergency but bypasses the Constitutional safeguards. The point that this bill invokes a state of emergency was raised by Mr Mahanty (Dhenkanal) in the 1958 Lok Sabha debates. He said the Assembly could not proceed if Section 352(1) of the Constitution was not fulfilled.

In response, Mr G B Pant, then Home Minister, attempted to argue that the powers granted under the AFSPA do not resemble a state of emergency. He said that in an emergency, fundamental rights can be abrogated and that the AFSPA does not abrogate those rights. But under Section 4(a) the right to life is clearly violated. An officer shooting to kill, because he is of the opinion that it is necessary, does not conform, even prima facie, with the Article 21 Constitutional requirement that the right to life cannot be abridged except according to procedure established by law. The Home Minister said the AFSPA powers stem rather from Article 355 of the Constitution, which gives the Central Government authority to protect the States against external aggression.

India in 2002 suffers from a deluge of legislation that restricts fundamental liberties. Laws purporting to safeguard national security and public order have been employed to counter ambiguously defined threats. Applied over large zones of the country from the state of Jammu & Kashmir in the north to several states in the northeast as well as Andhra Pradesh in the south these acts contain provisions that are incompatible with the principles that form the basis of a democratic State.

Certain rights however must be fully respected at all times and under all circumstances. These include the right not to be arbitrarily deprived of life, the right to freedom from torture, the right to a fair trial and the right to protection against discrimination. All the Acts listed above lack the safeguards needed to ensure the protection of these basic rights.

India is a party to the International Convention on Civil and Political Rights (ICCPR) and is therefore obliged to abide by its provisions. Furthermore, any derogation from its provisions is only permissible under three conditions. Firstly, it is only "in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed" that states may derogate from their obligations under the ICCPR. Also, such derogation must be "strictly required by the exigencies of the situation" and cannot be inconsistent with other international law obligations. The AFSPA, for example, was enacted without such an official proclamation of emergency and goes beyond the requirements of the situation. No official proclamation was made with regard to the application of the NSA or POTO either.

Secondly, there can be no derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18. The AFSPA violates three of these - Article 6 guaranteeing the right to life and prohibiting the arbitrary deprivation of life, Article 7 prohibiting torture and Article 8 prohibiting forced labour.

Certain elements contained in these Acts violate other key provisions of the ICCPR. Article 4 of POTO violates Article 14 (2) of the ICCPR which states that any person "charged with a criminal offence to be presumed innocent until proven guilty." POTO allows detention for a minimum of one year, and it is for the accused to prove his or her innocence, which is made more difficult by the courts' powers to convict a person using only the testimony of the arresting police officers.

The NSA also derogates from rights guaranteed under the ICCPR, in particular Article 9 which provides that anyone who is arrested must be informed of the reasons for the arrest and the charges against him. Under Section 8 (2) of the NSA, the authorities may not disclose the grounds on which the person has been detained. This is also in direct contravention of article 14 (3) of the Covenant.

Thirdly, under article 40 of the ICCPR, any state which derogates from the Covenant must inform the other States parties immediately, through the Secretary-General. It must also give reasons for the derogation and the date on which the derogations are terminated. India has not met this obligation with regard to any of the above legislation.

In its Concluding Observations after having considered India's Third Periodic Report in July 1997, the UN Human Rights Committee expressed its concern "at the continuing reliance on special powers under legislation such as the Armed Forces Special Powers Act, the Public Safety Act and the National Security Act in areas declared to be disturbed and at serious human rights violations, in particular with respect to Article 6,7,9 and 14 of the Covenant, committed by security and armed forces acting under these laws as well as by paramilitary and insurgent groups." The Committee also expressed regret that by applying legislation such as the AFSPA, the State party was "in effect using emergency powers without resorting to Article 4, paragraph 3, of the Covenant." It recommended the close monitoring of the application of "these emergency powers" to ensure strict compliance with the provisions of the Covenant.

Extensively applied, and with no provision for regular review, these laws moreover have been singularly ineffective with regard to their stated aims. The problems of insurgency remain, and in some cases, have been aggravated. In the absence of attempts to treat these issues as political problems rather than law and order crises, the laws cited above will do nothing more than give State authorities a free hand to act with impunity and legitimise such repression.

If India aspires to gain its much-coveted place in the world, it must start by adhering to international norms and obligations. It must also submit its actions to scrutiny. That will be the real test of its democracy.

By arrangement with South Asia Human Rights Documentation Centre

Star LAW *report*

Jail or bail?

High Court Division (Criminal Appellate Jurisdiction)
Supreme Court of Bangladesh
Criminal Appeal No. 3442 of 2000
Tayazuddin and another... Accused-appellants
Vs
The State... Respondent
Before Mr Justice A K Badrul Huq and Mr Justice AFM Mesbauddin
Judgment : July 29, 2001
Result : Appeal dismissed

Judgment

A K Badrul Huq, J: Jail or Bail is the question that survives for determination in this criminal appeal presented by two accused appellants under section 24 of Nari-O-Shishu Nirjatan (Bishesh Bidhan) Ain of 1995 in challenge of the order dated November 11, 2000 recorded by Nari-O-Shishu Nirjatan Bishesh Adalat, Dinajpur in Bishesh Adalat Case No. 24 of 2000 canceling bail of accused appellants.

Nari-O-Shishu Nirjatan (Bishesh Bidhan) Ain of 1995 shall be referred to hereinafter as the Ain of 1995 and Nari-O-Shishu Nirjatan Bishesh Adalat will be described as Bishesh Adalat.

The fact

Ferdousi Begum, a girl aged 15 years and an examinee of Secondary School Certificate became a victim of acid burn and Shakawat Hossain son of accused-appellant No. 1 and brother's son of accused appellant No. 2 is the alleged perpetrator of the crime of acid throwing and accused appellants have been depicted as accomplice of the crime.

The incident took place on 10.2.2000, and on the very day a First Information Report was lodged with Hakimpur Police Station leading to registration of Hakimpur Police Station Case No. 5 dated 12.2.2000 and accused-appellants stand indicted for offence punishable under section 5(a) (b) and (f) and 14 of the Ain of 1995.

First Information Report states that accused Shakawat Hossain used to disturb victim Ferdousi Begum with love proposals and other indecent proposals. The matter was informed to accused appellants. The accused appellants did not pay any heed to it rather they instigated accused Shakawat Hossain and in various ways asked for victim Ferdousi's hand for Shakawat Hossain. Accused Shakawat Hossain on 10.2.2000 in a pre-planned way entered into Ferdousi Begum's house and threw acid on Ferdousi Begum which burnt her face, head and different parts of body as well as burnt different parts of the bodies of her sister in law and aunt and after that Shakawat Hossain fled away.

During investigation police recorded the statements of witnesses under section 161 of the Code of Criminal Procedure and collected materials and datas.

Police found that accused appellants instead of taking steps in restraining accused Shakawat Hossain, rather conspired to throw acid on Ferdousi Begum, as they were infuriated by the refusal of victim's mother of their proposal.

Police on completion of investigation gave charge sheet against them under section 5(a)(b)(f) and 14 of the Ain of 1995.

Accused-appellant No 2 had been arrested by police on 5.9.2000 and he was granted bail by Bishesh Adalat, Dinajpur on 15.10.2000. Accused appellant No 1, thereafter, on 25.9.2000 surrendered before Bishesh Adalat, and he was freed on bail on the same date.

On the date of framing charge, that is 21.11.2000, the informant filed a petition for cancellation of bail of the accused appellants contending that the accused appellants being released on bail and accused Shakawat who was absconded, were putting pressure upon Informant party to withdraw the case and also threatening them. Further contended that the accused appellants were intimidating others by saying that those who would give evidence would be killed and being terrorised by accused appellants the mother of victim, a witness made a G.D. Entry No 693 dated 19.10.2000.

The deliberation

Bishesh Adalat by order under challenge in this appeal cancelled the bail of accused appellants. In recording cancellation, Bishesh Adalat heard learned advocate of the informant and also learned Advocate of accused appellants and considered their submissions. Bishesh Adalat considered G D Entry No 693 dated 19.10.2000 made by informant wherein it is stated that accused appellants on being released on bail threatens the Informant and witnesses to kill them. Bishesh Adalat examined photos of victim Ferdoushi Begum before and after incident and found that her face had been disfigured. Bishesh Adalat had also seen victim in Adalat and found that victim had been crippled for life. Bishesh Adalat took into account all picture of the case.

Aggrieved by the order of cancellation of bail, accused appellants approached this Court invoking jurisdiction under section 24 of the Ain of 1995. The accused appellants were granted ad-interim bail, which was extended from time to time and lastly on 23.7.2001 for one week more from the date of expiry.

Grounds in support of appeal are catalogued hereunder:

I. In First Information Report there was no specific overt act against accused appellants and they might be enlarged on bail.

II. Bail once granted cannot be cancelled without substantial proof of allegation of misuse of bail. Bail once granted to an accused person, a valuable right accrued in his favour, could not be cancelled on the basis of bald allegations of witness or holding out threats. The accused appellants having not misused the privilege of bail, their bail could not have been cancelled.

Victim Ferdousi Begum and mother of victim as applicants by way of an application prayed for recalling or cancelling bail granted by court on being added as parties in appeal.

Following arguments have been put forward by the respondent:

I. Offence committed by accused-appellants is grave and heinous in nature and they have also gave death threats to the informants party and the witnesses. If the accused appellants are freed on bail then the victim, victim's mother and witnesses will not feel secured to attend the court and course of administration of justice would be hampered. In the interest of fair trial and justice accused appellants are required to be detained in the jail custody till disposal of case.

II. Victim, her mother and witnesses will not be able to proceed with the case if the accused appellants are free and not put in lockup. Article 27 of The Constitution of the People's Republic of Bangladesh has been referred to in support of the contention.

Granting of bail in a non-bailable offence is a concession allowed to accused persons with the presupposition that the privilege granted will not be abused in any manner. Grant of bail is a sort of trust reposed upon an accused person by court and if it's found that he has betrayed the trust in any manner or that he has abused the liberty granted to him by court he disentitles himself to the privilege so granted.

III. Accused-appellants misused the privilege of bail after they were granted ad-interim bail by this Court and threatened Informant Party and witnesses which is an interference in administration of justice and High Court Division is competent to cancel the bail of the accused appellants for misusing the privilege of bail.

Granting of bail in a non-bailable offence is a concession allowed to accused persons with the presupposition that the privilege granted will not be abused in any manner. Grant of bail is a sort of trust reposed upon an accused person by court and if its found that he has betrayed the trust in any manner or that he has abused the liberty granted to him by court he disentitles himself to the privilege so granted. The interest of administration of justice demands that nobody should be allowed to impede the course of justice and hampers its administration in any way. If it appears that it is no longer conducive to a fair trial if accused person is allowed to retain his freedom of bail during trial, bail granted is to be cancelled and the accused person be committed to custody. It is no doubt true that when the accused person had been granted bail, court should be careful and cautious in exercising power of taking back the accused in custody unless there is a reasonable apprehension that the accused person would interfere and pollute cause of justice warranting cancellation of bail. It is also to be borne in mind that thoughtless bail enables the bailee to exploit opportunity to interfere with cause of Justice in intimidating the witnesses.

Grounds taken in the application for cancellation of bail by Informant before Bishesh Adalat were that the accused appellants on being freed on bail started threatening Informant, the victim , mother of victim and the witnesses and putting pressure upon them to withdraw the case and that they would be killed in the event of giving testimony in support of prosecution case and the mother of the victim, Mahmuda Begum made a GD Entry No 693 dated 19.10.2000.

Bishesh Adalat in cancelling bail considered GD Entry No. 693 dated 19.10.2000 wherein there had been statement that accused-appellant on being released on bail threatened Informant and witnesses to kill them. Bishesh Adalat examined photo of victim Ferdousi Begum before and after incident and found that her face had been disfigured. Victim also appeared before Bishesh Adalat and Bishesh Adalat saw her and found that through acid burn she was made crippled for her life. Bishesh Adalat took into account the entire picture, facts and circumstances of the case and then cancelled the bail. The decision and conclusion reached by Bishesh Adalat in canceling bail appears to be unexceptional and the power exercised by Bishesh Adalat had been guided by sound judicial principles regulating cancellation of bail.

This Court is in seisin of the matter. Accused-appellants were granted ad-interim bail on 20.12.2001 for a limited period by a Single Vacation Judge pending hearing of the substantive appeal by appropriate Bench. The appeal was admitted by Regular Division Bench on 14.1.2001. Ad-interim bail was extended from time to time and lastly on 18.7.2001 for a period of one week from date. GD Entry No. 1166 registered by Mahmuda Begum, mother of the victim of crime is dated 28.5.2001. In counter affidavit filed by State Respondent the said GD Entry has been annexed as Annexure 'A' wherein assertion had been made to the effect that on getting bail from court accused appellants held out threat to her, members of her family and the witnesses that they would be killed. From GD Entry it becomes manifestly clear that the accused appellants are intimidating the informant, victim, victim's mother and her family members and suborning the witnesses and are interfering with the course of administration of justice and abused the privilege of bail granted to them by this Court. The accused appellants having misused the privilege of bail are required to be committed to custody on cancellation of bail. In this context we are in respectful agreement with observation and view recorded by Division Bench of High Court Division in Dr. Mominur Rahman alias Zinnah and another Vs. The State 18 BLD (HCD) 433 that High Court Division would take into notice of the allegation of misuse of privilege of ad-interim bail granted to an accused during pendency of Rule. In that case, Rule was issued.

The crime alleged is grave, heinous and shocking in nature. This type of crime is a crime against humanity and society. In case of this type of dehumanising act society's cry for justice becomes louder. The victim Ferdoushi Begum had been present before us at the time of hearing of the appeal. We saw her in court and the crime appeared to be revolting and the perpetrators of the crime must be dealt with reflecting public abhorrence of the crime. It is, contended that accused Shakawat Hossain is moving freely in the locality and he is under the shelter of accused appellants and he along with accused appellants are threatening and intimidating witnesses and the accused Shakawat Hossain is required to be apprehended immediately for the sake of fair trial and justice.

Article 27 of our Constitution enshrines that all citizens are entitled to equal protection of law. Article 31 postulates that every citizen got the right to enjoy protection of law and this right is an inalienable right of every citizen. Article 32 states that no person shall be deprived of life or personal liberty save in accordance with law. Article 3 of the Universal Declaration of Human Rights adopted by General Assembly on 10-12-1948 provides that everyone has a right to life, liberty and security of person. Article 27, 31 and 32 impose a duty and obligation on the State to protect and safeguard a citizen of the Republic and ensure his security. On the strength of Article 27, 31 and 32, the informant, the victim, mother of victim and witnesses of the case got the right to have protection from the State who acts through Law Enforcing Agency and machinery. In a democratic country governed by Rule of Law, the Government is responsible for ensuring free and fair trial not only to the accused but also to the victim of crime. It is, also, emphasised that the Court is not only to see the right of the accused persons but also to see the right of the victim of crime and the society at large. The Court is to see that the victim can have a trial free from all fear and insecurity. Justice is a divine function and the Court in dispensing justice discharges divine functions. In the interest of fair trial and administration of justice we record directions upon Secretary, Minister of Home Affairs, Government of the People's Republic of Bangladesh and three others which are indicated below.

The decision

Taking into account an overall picture, fact, circumstances and materials placed before us we are of this considered and dispassionate view that in the interest of fair play, fair trial and justice, the accused appellants are not entitled to remain free by way of bail and they are to be put behind prison bar. The answer to the question posed is jail and not bail.

Corollary thereof is that the appeal fails and the same stands dismissed. The order dated 11-11-2000 recorded by Bishesh Adalat in Bishesh Adalat Case No. 249 of 2000 cancelling bail to accused appellants stands maintained. The ad-interim bail granted to accused-appellants by Order dated 20-12-2000 and subsequently extended from time to time and lastly on 23-7-2001 for one week from the date of expiry stands recalled/vacated. Accused appellants are directed to surrender to Bishesh Adalat, Dinajpur within two weeks from date of receipt of this judgement by Bishesh Adalat. In case of failure on the part of accused appellants to surrender within time fixed by this Court, Bishesh Adalat will take all steps to put them in judicial lock up. The Bishesh Adalat is also directed to conclude trial of the case within four months from the date of receipt of this judgement.

The Secretary, Ministry of Home Affairs, to the Government of the People's Republic of Bangladesh, Inspector General of Police, Dhaka, Deputy Inspector General of Police, Rajshahi Range, Rajshahi and Superintendent of Police, Dinajpur are directed:

I. To take all steps to secure the safety of the informant, victim Ferdoushi Begum, Mahmuda Begum, mother of victim and witnesses whose name appear in the charge sheet enabling them to appear before Bishesh Adalat, Dinajpur to give testimony in support of prosecution case.

II. To apprehend accused Shakawat Hossain, son of Md Tayezuddin of village Bandaria (Matikata), Police Station Hakimpur, District-Dinajpur immediately and send him to jail custody.

LAW *vision*

Case management and court administration

MD. ABDUL MATIN

Demand for Justice is one of the prime needs of a citizen in a democratic country all over the world. It is the general characteristic of a right thinking member of the society that he wants quick dispensation of justice when his legal right or the legal right with which he is concerned is infringed and he seeks redress for it in a court of law. Our country believes in democratic principles and our constitution ensures a citizen of his right to life, liberty and property. Efficient judicial system is the safeguard of the fundamental rights of a citizen. Efficiency of the judiciary depends on the quick dispensation of justice at the minimum cost. However, in practice, we find in the courts of our country prolongation of suits and cases with extreme exploitation of the litigant public at large.

Relevant problems in civil suits

In civil suits and cases the problems that are commonly observed are as follows: I) Inadequate payment of court fees; ii) Long delay in filing W/S or W/O; iii) Amendment of pleadings for unlimited times at all stages; iv) Wasting of time after framing of issues; v) Taking adjournments on various grounds at the trial stage; and vi) Deliberate misuse of the provisions of Order 9 Rule 4, Rule 9 and 0rder 9, Rule 13 of the Code of Civil Procedure.

Problems in case of disposal of civil appeals and revisions are also similar.

The other problems which are felt are weak court administration and case management system, lack of modern facilities for expeditious disposal of cases, insufficiency of judges in comparison to suits and cases, want of willingness of the parties and their advocates to make an speedy end of litigation within the shortest possible time, influence and nepotism in recruitment of inefficient Court employees and uprising corruption in the Court.

In order to minimize the problems mentioned above relevant laws and policies may be amended. More than that or effective policies within the framework of law and keeping in conformity with the local practice and sentiments maybe adopted. We should always think that where there is a problem there is a way. Court administration and case management are inter-related and necessary for expeditious and less expensive trial. Judges should take seat punctually in the judicial chair for more disposals of cases and do regular administrative work in their offices with off and on inspections in Court and departments under them. They should be periodically trained to develop their efficiency. They should be given modern facilities and better working conditions. Advocates and their clerks should improve their traditional mentality to prolong litigation for the selfish personal gain.

Scope of misusing the privileges of restoration of cases, amendment of pleadings, taking time for hearing argument in appeals may be limited by amending laws. Number of judges may be increased with separation of Court for exclusive civil works. Court employees must be selected for appointment fairly on free competition without any nepotism or favoritism. No indulgence should be given to corrupted employees. To increase disposal of cases a senior judge should transfer additional cases day to day for disposal to his junior collages as far as practicable. Modern facilities should be introduced to make the capacity of a judge more forceful. For this, our government should start the process of computerization at every tier of judiciary. Family Court judges have already started to work as a conciliator for settling matrimonial disputes, maintenance and custody of children etc within the framework of family courts ordinance. Establishment of money loan court with special law in the relevant field has expedited loan recovery cases.

Relevant problems in criminal cases

In criminal cases, the problems, which are commonly observed, are almost similar with certain exceptions. Unlike civil suits, criminal cases are not so lengthy by its very nature. Liabilities for criminal cases are mainly penal. Purpose of criminal justice is to maintain peace and tranquility by maintaining law and order within a society. So, disposal of criminal cases with the least possible time should be more emphasized.

At present, there is no time limit for completion of trial of criminal cases. Numbers of criminal courts are inadequate to cope with the increasing uprising position of crimes in the society is rampant. Attendance of witnesses in criminal courts is not up to the mark. Temporary appointment of the Public Prosecutors and Assistant Public Prosecutors makes them commercial for which they work with less devotion. Their political appointment also interferes with the impartiality of the trial of cases. Investigation agencies make unreasonable delay in completing investigations of cases, as they remain busy in administrative works. The Magistrates also for the same reason cannot give full attention to judicial works. Some times, they do not co-operate fully with the District and Sessions Judge to send case records for trial and disregard other judicial orders for their subordination to administrative authority.

Problems pointed out above may be resolved by taking administrative measures and necessary amendment of laws. As justice depends on the combined efforts of certain agencies like police, Magistracy and opinion of experts, consciousness of citizens and hard work of upright judges of quality all of them should work in a body with vigilance to uphold justice otherwise no social peaceful life can be enjoyed.

Md Abdul Matin is a District and Sessions Judge, District W.C.Court, Kushtia