

COURT OF JUDICIAL MAGISTRATE- THE FIRST LINE OF DEFENCE AGAINST VEXATIOUS CRIMINAL LITIGATION



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Abstract

The course of a criminal case is almost entirely dependent on the manner it is handled by the courts of judicial magistrates in their pre trial phase; and when it is so, the judicial Magistrates have a duty not only to identify a series of multiple frivolous criminal proceedings originating from the same transaction but also to nip it in the bud by utilising his powers in appropriate cases. An over jealous litigant has a tendency to exploit the loop-holes of criminal justice administration system but these courts have to ensure that the fundamental rights of the party at the receiving end are not trampled in this vicious repetitive process. The Supreme Court of India (see AIR 2021 SC 1381) felt compelled to note in this context that these courts have as much responsibility in protecting the fundamental rights of the citizenry of India as the Apex Court of this land.

Keywords- cognizable, investigation, inquiry, Judicial Magistrate, procedure

Some cases should never reach at the doorsill of Apex Court simply because they do not deserve to be there - being repetitive off shoots emanating from the same transaction with the sole purpose of perpetually harassing the opponent in a series of criminal litigation. But then recently it (again) happened and the issue of frivolous vexatious criminal litigation (again) came under the scanner of Supreme Court and grabbed the attention of academia also. To understand the whole issue, let us start from the basic law in this respect- for deciding the procedure to be adopted, crime is divided in two categories- one, is for cognizable cases and the other for non cognizable ones.¹ The selection of process out of the available alternates in the criminal justice administration system depends upon this classification to a large extent viz. if it is a non cognizable case, section 155 CrPC (Criminal Procedure Code, 1973- hereinafter CrPC) is resorted to; and if it is a cognizable case, section 154 CrPC is to be resorted to and the police is supposed to register an FIR and then investigate the matter; although in India criminal justice system getting an FIR registered by police is an uphill task; even the Supreme Court has divided people in 'ordinary' people and 'resourceful/practical' people and observed that if unfortunately one is from the former category, then even after registering of FIR there are less chances that the offence be investigated by the police, on the other hand, if one is from the later privileged category, FIRs are registered in a matter of minutes and investigation proceeds with 'supersonic speed'.² Anyway, apart from

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¹ See section 2 (c) and 2 (l) CrPC; also refer to Schedule First of CrPC, 1973

² See Lalita Kumari v. Govt. of Uttar Pradesh 2008 (11) SCALE 154

these two available modes, there is yet another way of initiating criminal justice administration system in the context of commission of crime, and that is by way of filing complaint under section 200 CrPC- this complaint procedure (section 200 to section 203 CrPC) does not differentiate on the basis of the offence being cognizable or non cognizable one.

This writing examines the way criminal litigation process is abused by those who keep on harassing their opponents at their whims and fancies by throwing the state instrumentalities- read police and courts- into action time and again by filing abovementioned proceedings successively one after the other. Such people take the system for a ride and do everything possible under the sun to keep the sword hanging on the heads of their opponents. They would get the FIR registered and after sometime to keep the opponent on their toes they would get another FIR registered after some time on the same incident; and mind you here we are not referring to cross FIRs rather we are looking at the instances where another FIR is registered by the same party for the same incident against the same opponent- yes, that also happens. We also find cases of NCR after NCR pertaining to the same incident by the same party against the same 'other' party. We find instances of repetitive complaints under section 200 CrPC upon the same incident by the same party against the same 'other' party. As if that is not enough, we also find instances of first filing of FIR/NCR under section 154/155 CrPC as the case may be, and thereafter a complaint filed under section 200 CrPC upon the same incident by the same party against the same opponent. These seem to be the cases of excess- of personal vendetta on the part of litigant/s; and of state corruption / carelessness as you want to portray it on the part of state officials including presiding officers of judicial courts. But one thing is sure that for the 'other' party/opponent, there is no end of this dark tunnel and it is he who endlessly suffers without any fault of his- paying to lawyers for the litigation, sometimes from his savings and sometimes after borrowing, spending his valuable time, which he would have spent in earning something for his family, briefing counsel and loitering in the court premises just waiting for his case to be announced in the court of law. Let us briefly survey the existing observations by the Supreme Court in this respect.

Successive FIRs/NCRsu/s 154/155CrPC

In cognizable cases, Cross-FIRs from the two sides is a usual phenomena where the two parties allege commission of cognizable offences by each other within the same transaction. But there are instances where on the same transaction, the same party files second/successive FIR/s against the same 'other' party or say adding one or two more persons as accused and adding one or two more penal provision/shere and there. It goes without saying that such embellishments would not only be planned and strategic 'improvements' upon the original version of facts but could have been well taken care of by the investigating agency while investigating the matter upon the earlier FIR itself. The apparent motive of restarting the whole thing again is to get the opponent arrested one more time, making him to suffer humiliation at the hands of police and probably again going to jail if his bail application is rejected. The Supreme Court commenting upon it has observed³ that filing of second FIR in this manner is totally impermissible as it violates Article 21 of the Constitution of India.



Article 21 guarantees that personal liberty cannot be taken without due process of law and allowing such successive FIRs from same side for the same transaction will make the accused therein to forego and surrender his personal liberty time and again before the criminal justice administration machinery without following due process. Here note that on happening of an event which changes the contours of the criminal case- say e.g. death of the injured victim in hospital changing the case from section 326 to section 302- the possibility of re-arrest in the same FIR is not ruled out.

In another case,⁴ the Apex Court observed that undoubtedly the police has power for investigation including conducting further investigation under section 173(8) CrPC even after filing charge sheet in the case; however such sweeping and expansive powers of police has to be balanced with Articles 19 and 21 of the Constitution of India. These investigating powers of police cannot subject a citizen to successive investigation upon the same incident especially upon successive FIRs and it cannot happen whether the police has already filed the charge sheet in the case or not. In both the eventualities, the course open for the police is to investigate upon the same earlier FIR; of course, addition/deletion of sections and accused may be done in the ongoing investigation or in further investigation as the case may be.

This discussion with all suitable modification/s as required applies to the cases of successive NCRs under section 155 CrPC on the same incident by the same party against the same opponents.

Successive Complaints u/s 200 CrPC

Complaint under section 200 CrPC is filed before the Magistrate and it may pertain to any case- cognizable or non cognizable. As we have the instances of Cross-FIRs and Cross-NCRs, so also we come across the cases where Cross/Counter-Complaints under section 200 CrPC are filed before the Magistrate by opposite parties in the same case/transaction. Holding them as a valid course of action, the Supreme Court observed⁵ that if we prohibit such Counter-Complaints, it would be of serious impediment to the cause of justice for it may happen that the real guilty party in an event manages to file the first complaint under section 200 CrPC or for that matter an FIR/NCR, in such case if the law precludes any further complaint or FIR/NCR as the case may be by the real victim giving his side of the story, his legitimate rights would be in peril and it would be a great injustice to him.

Hence, as Cross-FIRs/NCRs, Cross/Counter-Complaints under section 200 CrPC are permissible and perfectly valid. But at the same time, second/successive complaint/s under section 200 CrPC by the same complainant against the same 'other' party pertaining to the same incident with some artificial embellishments here and there must not be allowed. If there is any such attempt by a party, naturally the other party when comes before the court in pursuance of the summons issued under section 204 CrPC would tell that court about the fact of earlier proceeding pending in respect to the same incident; but before that occasion arises, such party bears the harassment of again responding to repetitive summons and surrender in again before the court in the same case which tantamount to unduly curtailing his personal liberty. In this context, as observed by the Supreme Court,⁶ it is the bounden duty of the complainant to make a full and true disclosure of the facts of the case in the subsequent complaint including that of

⁴T. T. Anthony v. State of Kerala (2001) 6 SCC 181

⁵Upkar Singh v. VedPrakash (2004) 13 SCC 292

⁶Ram Dhan v. State of Uttar Pradesh (2012) 5 SCC 536

the pendency of any previous complaint on the same incident, and thereupon it is the duty of Magistrate to deal with him with a heavy hand and nip such vexatious second/successive complaint/sin the bud which was fuelled only by personal vendetta. Such second/successive complaint/shave no necessity in the eyes of law to be filed in such manner and serve no purpose in the course of justice except to harass the 'other'/opponent party.

Complaint u/s 200 CrPC after FIR/NCR u/s 154/155

(Even) in a trivial case, 'practical people'⁷ manage to get FIR registered of course by manipulating legal provisions and factual circumstances with active association of some state officials who evince extra interest⁸ in the matter for some ulterior motives. On the other hand, for not so influential people, getting even an NCR registered is a herculean task. As if that is not sufficient, practical people then focus on the maximum possible exploitation of the system and to keep their opponent constantly harassed through the state instrumentality they file criminal complaint under section 200 CrPC before the concerned magistrate. Here let us keep in view the observation of Apex Court in T. T. Anthony's case supra that every time a person's personal liberty is taken away without due course of law and he is forced to attend/surrender at a particular place, his rights under Article 21 of the Constitution of India is violated. It is no place and occasion to dilate upon the fact that the Supreme Court in a galaxy of cases observed Article 21 to contain the most basic right available to people under the Constitution of India.

Let us take onereal example of this sort of occurrence. In a recent case,⁹ one party got an NCR registered under section 323, 504 and 506 IPC against his neighbour in the year 2012 in respect of an incident occurring the same year. Criminal force was used from both sides so the neighbour also got an NCR registered against him under same sections. As if that did not satisfy his ego, the first party in 2018, after a gap of 6 years, filed a complaint under section 200 CrPC upon the same incident before the concerned judicial magistrate. The magistrate issued summons on the complaint under section 204 CrPC. This summoning was challenged but curiously it was upheld first by the sessions court and then by the High Court. The matter was then taken to the Supreme Court. Commenting upon the conduct of the party filing complaint under section 200 CrPC before the judicial magistrate, the Supreme Court observed that that was a concerted effort on his part to mislead the magistrate with a clear motive of harassing his opponent with a frivolous and vexatious process. Reflecting upon the conduct of judicial magistrate in issuing the summons, the Supreme Court observed that it was a case where the magistrate surprisingly, while being aware that there was a significant delay in filing that complaint (6 years after the incident) and that there was another legal proceeding in the form of NCR going on in respect of the same incident, issued summons under section 204 CrPC on that complaint against the other party. Looking at the circumstances of the case, the Apex Court felt compelled to observe that it seems that the sessions court took 'extra interest' in the matter in not only upholding this summoning by judicial magistrate, as if that was not enough, it 'improved' the case of complainant by adding section 506 part II IPC to it which was punishable with upto 7 years of imprisonment, that was done 'probably only to bring that complaint within

⁷See supra at 2

⁸We shall see in our discussion infra that the Supreme Court has recently used this phrase even in the context of judicial courts.

⁹Krishan Lal Chawla v. State of Uttar Pradesh AIR 2021 SC 1381 (2021 SCC OnLine SC 191)



limitation period under section 468 CrPC'.

Ultimately the Supreme Court quashed that summoning but the damage had already been done as the other party had to fight the case for almost 3 years for getting the order of summoning quashed right from sessions court to the High Court and then to the Supreme Court. Mental disturbance, wastage of money and time were the inevitable by-products of this process.

In Upkar Singh's case supra, the Supreme Court clearly observed that any complaint filed before a magistrate under section 200 CrPC by the same party against its opponent subsequent to the registration of an FIR/NCR as the case may be by the police upon the same incident, is prohibited under the code simply because the matter has already come under the scanner of criminal justice administration system; the process has started, one may take his grievances in respect of that process to the concerned court or for that matter to the higher officials of police but filing another complaint under section 200 CrPC in the same matter is simply not permissible. Such complainant cannot subject the other party to a double whammy of two parallel processes simultaneously.

In any such case, as observed by the Supreme Court,¹⁰ it lies upon the litigant to come clean on facts, he is supposed to make a full and fair disclosure of all the relevant facts in his knowledge and any suppression thereof must be taken seriously by the court. In such settled legal position, it is the duty of the complainant to disclose any previous proceeding if going on upon the same incident. Upon such disclosure, when the magistrate gets to know about the existence of previous proceeding, he must consolidate the two under section 210 CrPC if the previous such proceeding was an investigation going on pursuant to an FIR if the case was cognizable or pursuant to an order under section 155 (2) CrPC if the case was non cognizable; as for the remaining possibility i.e. if it was a non cognizable case but there was no section 155 (2) CrPC order, the magistrate must not issue summons upon the subsequent criminal complaint as more efficacious recourse in this situation would be to consider what could be done on the earlier original NCR filed with the police in the case. In any case, as observed by the Supreme Court,¹¹ if there is a significant delay between the occurrence of incident and the filing of criminal complaint thereupon, it is incumbent upon the magistrate that he examines any possibility of exploitation and abuse of the process of court by making further enquiries. The magistrate in such cases must find out the real truth in the matter and dismiss frivolous complaints at the outset itself after applying his judicial mind.

Key Position of the Judicial Magistrate

If we look at the positioning of judicial magistrate in the criminal justice system administration system, we find that in all cases across the board- whether they are triable by magistrate's court or triable by session courts¹² or whether they are cognizable/non cognizable- his role is crucial in more than one ways in the life span of a criminal case.

If we look at the pre trial¹³ stage in all criminal cases- magistrate triable or session triable- the judicial magistrate performs some key functions which may seal the fate of the case in one way or the other. Let us delineate some stages where the judicial

¹⁰See K. D. Sharma v. SAIL (2008) 12 SCC 481

¹¹See Supra Krishan Lal Chawla case

¹²This is the main division of triability of criminal cases as per their nature / heinousness- refer to First Schedule to CrPC.

¹³Trial starts with the framing of charges- which in magistrate triable cases is done by the magistrate whereas in session triable cases it is done by the session court.

magistrate functioning is crucial to the foundation of a criminal case.

1. At the stage of registration of FIR

Section 154 CrPC provides for the registration of FIR by police in case of a cognizable offence but it is no secret that getting the FIR registered by police is not an 'ordinary' task- refer to the discussion above centered around Lalita Kumari's case-in this state of affairs, the courts of judicial magistrate upholds the rule of law and provides access to justice to the 'ordinary' people of this country by ordering police to register FIR under section 156(3) CrPC. And this discussion holds both for magistrate triable cases and session triable cases.

2. After the registration of FIR

In all cases, once FIR is registered, section 157 CrPC says an 'occurrence report' has to be sent to the illaqa magistrate (judicial magistrate of that police station) as soon as possible. This provision is designed to check diversions, and embellishments and non-investigation on the part of police. In case of non investigation by police, the judicial magistrate may direct an inquiry or if he deems fit he is empowered to look in the matter himself.

3. Arrest in the stage of Investigation

Then it is the court of judicial magistrate which in all criminal cases is the first court of approach- section 57 CrPC says that the person arrested must be produced before the magistrate within 24 hours of his arrest; this is also mandated by Article 22(2) of the Constitution of India. As per *Armesh Kumar's case*,¹⁴ heavy duty is casted on the court of judicial magistrate to ensure that the police has not over-stepped its powers and unnecessarily harassed the accused in the case as far as the matter of arrest is concerned. Thereafter under section 167 CrPC the judicial magistrate has a key role to perform in the context of continuance of arrestee's detention in police custody or judicial custody, as the case may be, and then in the matter of statutory bail in case of non filing of challan by police within the stipulated time frame in section 167 CrPC..

4. Statements and Confessions under section 164 CrPC during the stage of investigation

It is yet another important function of a judicial magistrate that he records the statement/s of witnesses and confession of accused persons during the stage of investigation in a criminal case. Such statements are to be given under oath though in case of confession the oath is not to be administered to the accused. It is the paramount duty of the judicial magistrate that he ensures that the accused while getting his confession recorded under here section 164 CrPC is free of any fear, force or compulsion of police.

Also in this respect it is notable that as far as the investigation is concerned in all criminal cases, the judicial magistrate performs crucial functions in the form of Test Identification Parade, scientific tests e.g. DNA etc.

5. Monitoring of investigation

Investigation is generally understood to be the prerogative of police- the way it is to be conducted is to be decided by the police and judiciary is expected not to interfere in that matter as per the theory of separation of powers. But in *Sakiri Vasu's case*¹⁵ the Supreme Court applied the theory of 'implied powers' and observed that when the judicial magistrate has power to order registration of FIR it has also the power to monitor the



investigation in a criminal case- this is analogous to- when one has power to direct something to be done it has implied powers to see that it is properly done.

6. Further Investigation

Police files the challan under section 173 CrPC in the court of judicial magistrate- after a series of judicial pronouncements by the Apex court¹⁶ it is now settled law that the court is not bound by the conclusion of police. Judicial courts may act de hors the police report; also it may order the police to 'further investigate' in the matter under section 173(8) CrPC. Earlier a restrictive view was taken in this respect that further investigation could be ordered by the judicial magistrate only before the accused appears before him in pursuance of the process issued- but now in *Vinubhai Haribhai's case*¹⁷, the Supreme Court observed that there seems to be no plausible reason/s given by the earlier courts as to why a Magistrate ceases to have power to order further investigation once he issues process and the accused appears before him in pursuance of that; while concomitantly, the power of police to investigate further into the offence remains intact till the stage the trial commences. The court further observed that to hold that the police retains the power to further investigate till charges are framed, subject of course, to the Magistrate's nod under section 173(8) CrPC; but Magistrate's supervisory jurisdiction suddenly ceases much before that, would be a travesty of justice.

As seen above, it is clear that the court of judicial magistrate has to perform crucial functions in the pre-trial phase of all criminal cases. In the same manner, it is to be appreciated that the court of judicial magistrate has a special role in curbing the abuse of process in the form of vexatious multiple criminal proceedings emanating from a single transaction- it is in the court of judicial magistrate that every criminal complaint under section 200 CrPC is to be filed- irrespective of the fact whether the case is magistrate triable or session triable. In all complaint cases, the process originates from the magistrate's level. They are the sentinels of the entire criminal justice administration system in this domain. It is their bounden duty to not only decide the cases running through the trial but also they have a duty to nip in bud the vexatious litigation if possible even before it reaches the stage of trial- whether in their own court or in the court of session. Magistrate's vigil is the first line of defence and an integrated automatic mechanism saving people from the abuse of unwarranted repetitive processes of courts. The Supreme Court observed¹⁸ to the effect that the Magistrates have as much, if not more, responsibility in protecting the most sacrosanct rights of the citizenry of India as the Apex court itself; that in this context, the Magistrates have important role in setting the record straight and curbing injustice. They must act as the first line of defence mechanism for the harassed litigant. In that manner, the Magistrates are under legal obligation to nip frivolous litigation in the bud and to make sure that such cases do not enter the stage of trial; that they can do so by using their power of discharging the accused in deserving cases. While doing so, the Magistrates ensure that the personal liberty of the citizenry of this country is not taken away without due process as guaranteed by Article 21 of the Constitution.

Curtailing frivolous criminal litigation is a crucial step towards achieving rule of law in a real sense. This however cannot be done without the vigil and active association of lower judiciary i.e. magistrate's courts because that is where the seeds are sown. In this

¹⁶See e.g. *State of Bihar v. J. A. C Saldanha* AIR 1980 SC 326

¹⁷*Vinubhai Haribhai Malviya v. State of Gujarat* 2019 (17) SCC 1

¹⁸See *Krishan Lal Chawla's case* supra at 9

context, magistrate's key position in the criminal justice administration system may be understood as follows-

At the time when criminal justice administration system is set in motion, its primary course almost entirely depends upon the application of judicial mind by the magistrate. Be it section 156 (3) CrPC or section 155 (2) CrPC or for that matter section 200 CrPC, it is abundantly clear that irrespective of the kind of case involved, much depends upon the application of mind by magistrate especially during the starting phase of legal proceedings pertaining to a crime. In such circumstances, it goes without saying that the magistrate also carries the responsibility to make sure that such legal proceedings must not start where it should not.

If we talk especially about complaint procedure in CrPC from section 200 to section 203 following which the magistrate under section 204 issues process against the accused, we see that the power under section 202 CrPC is a very crucial power bestowed upon him. Under section 202 CrPC, after the complaint is filed before him, the magistrate may postpone the issuance of process against the accused and may make an inquiry or order an investigation by the police. This power is patently for the purpose of filtering out the vexatious complaint at this initial stage itself, and the magistrates must make full use of this power to know about the circumstances in which the complaint was filed, particularly the reason for delay in filing the complaint if any.

The next important power in the hands of magistrate in this context is contained in section 203 CrPC which says that if after the examination of the complainant and the result of inquiry or investigation under section 202 CrPC as the case may be, the magistrate is satisfied that there is no ground for proceeding further in the case then he must dismiss the case after recording his reasons. If such scrutiny of the complaint shows that the allegations as contained in the complaint create suspicion of vexatious litigation, the magistrate must nip it in the bud itself. In a case,¹⁹ the Supreme Court observed that the Magistrate must peruse the complaint with a view to ascertain whether there is substance in it and if he finds otherwise, he must not issue process against the accused in a casual manner so as to make him to face the criminal proceedings. However, at the same time, the Magistrate must make sure that no accused against whom there are substantial allegations in the complaint, go scot free.

These powers which have been given to the magistrate have great significance for the right of life and personal liberty of people which has been guaranteed to them by Article 21 of the Constitution of India. With great powers come great responsibilities also. Magistrates carry humongous responsibility upon their shoulders for exercising such powers with great vigil and after due application of their judicial acumen. In another case,²⁰ the Supreme Court observed that summoning a person as an accused in a criminal complaint case cannot be done as a matter of routine. Magistrate must not sit as a silent spectator during the stage of recording of preliminary evidence; he must exhibit active interest by asking questions from the complainant's witnesses. The order of Magistrate must reflect that he has applied his mind to the facts and circumstances of the case; that he has appreciated the evidence, both oral and documentary, and has satisfied himself that it would be sufficient to bring charge home to the accused.

¹⁹See Chandra Deo Singh v. Prakash Chandra Bose AIR 1963 SC 1430

²⁰Pepsi Foods Ltd. v. Special Judicial Magistrate (1998) 5 SCC 749



As far as the above observation of the Supreme Court is concerned and so far as it relates to the magistrate's role in asking questions from the complainant and his witnesses, it is to be kept in mind that every trial is a sort of voyage wherein discovery of truth remains the main quest. In India, keeping in view the adversarial system we follow, the judiciary is not generally supposed to be actively involved in 'fact finding' on its own but we have no dearth of provisions for such role to be played by the judges. In this context, section 165 Evidence Act deserves special mention which confers on the court power to ask questions from any party before him in a legal proceeding and to order production of material 'in order to discover or to obtain proper proof of relevant facts' in the case. No doubt it is a trace of inquisitorial system in our legal system but then such approach on the part of judicial magistrate has been held²¹ to be justified in appropriate cases where dispensation of justice so requires.

All this amply shows that the magistrate must ensure that the criminal proceeding takes its course only after he is satisfied that it is a real deserving case where the wheel of criminal justice administration system should be set rolling. These powers conferred upon the judicial magistrate demonstrate that he has a duty under CrPC as well as under the Constitution of India to exert this powers judiciously and dismiss vexatious litigation in its initial phase itself. In an important observation about the trial courts' placement and responsibility in the criminal justice administration system, the Supreme Court observed²² that the trial judge is the 'kingpin' of our hierarchical criminal justice administration system; it is based upon his understanding of the case that the cause of justice is first responded in a formal institutional way; it is he who comes in direct contact with the common man who may not have the resources to proceed further to higher/appellate court/s; as for him, the trial court itself may be the first and last court of resort. The trial judge's knowledge and personality go into making the court's overall functioning successful.

Concluding Observations

In India, we are burdened by huge backlog of cases. According to an estimate, almost 70% of the total pendency in trial courts is that of criminal cases.²³ Out of this backlog of criminal cases pending at different levels of courts, a huge fraction is definitely that of such vexatious litigation which is filed only with the motive of harassing opponents by abusing the criminal justice delivery system. Legal machinery is used for achieving nefarious aims and objectives. In these circumstances, it is the responsibility of the courts manned by judicial magistrates that they apply their mind to stem out the flow of vexatious litigation as soon as they find one. Curbing frivolous litigation is apparently a vital step for making the judicial system more efficient and less time consuming. A falsely accused person not only suffers financial loss but also suffers at the social front. Starting from finding a lawyer, briefing him about the case, arranging money, diverting his time and thereby inevitably cutting upon his earnings- and it goes on- he loses a part of his life and his existence in the process. Criminal justice administration system must not be used as a tool to settle personal vendetta. The plight of a person caught in the cobweb of vexatious litigation has been clearly reflected by the Supreme Court when it

²¹See e.g. *ZahiraHabibullaH.Sheikhv.StateofGujarat* (2004) 4 SCC 158

²²See *All India Judges' Association v. Union of India* (1992) 1 SCC 119

²³See *Krishan Lal Chawla's case supra*

observed²⁴ to the effect that Indian judicial system is plagued by vexatious litigation. We must devise ways and means to deter obsessive litigants from filing their ill-considered claims. In every such litigation, if allowed to take place in a court of law, an innocent citizen is going to suffer long drawn periods of anxiety and uncertainty. It will be draining upon him not only psychologically but also financially. Curtailing such frivolous litigation is not possible without the active involvement of lower judiciary- the courts of judicial magistrates. This if done in real sense would not only save the public resources but would also subserve the rights and interests of our citizenry as provided in CrPC and our Constitution. The sword of Damocles cannot be allowed to hang forever on the heads of people falling unpredictably at the whims and fancies of the chronic over jealous litigants seeking to harass and persecute at will. We gain strength in our conclusion from Article 21 of the Constitution of India which duly encapsulates the right to speedy trial. Trial in this context would mean not only the actual trial before the court- which, as i mentioned above, starts with the framing of charges by the concerned court- but also it would cover its preceding phases such as inquiry and investigation, as the case may be.