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## CASE COMMENTARY – HUSSAINARA KHATOON & ORS. V. HOME SECRETARY, STATE OF BIHAR

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### I. **ABSTRACT**

Citizens hold the judiciary in the highest regard and with firm hope because it is the ultimate defender of everyone's rights. The judiciary is a separate organization that offers relief from society's basic needs. This places a tremendous amount of pressure on the judicial body safeguard the obligations to be made effective.

Any country's ability to develop depends on how well functioning its judicial system is. Therefore, it is crucial to guarantee an efficient, speedy trial and that no one is denied justice. Despite the growing reliance on courts, there is still a segment of society that cannot access them because of lack of resources and ignorance. This makes the requirement for legal aid fundamental. The fact that Hussainara Khatoon's landmark case is a few decades old suggests that the need for a quick trial was recognized long ago. However, there are still a great number of cases pending, therefore it is imperative that we review these rulings and take prompt action to address the issue involving the country.

### II. **KEYWORDS**

Justice, Prisoners, Speedy Trial, Detention.

<b>Case Title</b>	Hussainara Khatoon & Ors. v. Home Secretary, State of Bihar
<b>Case Number</b>	Writ Petition No. 57 of 1979
<b>Date of the Order</b>	9 March 1979
<b>Citation</b>	1979 AIR 1369, 1979 SCR (3) 532
<b>Court</b>	Supreme Court Of India
<b>Quorum</b>	<ul style="list-style-type: none"><li>• A.D. Koshal,</li><li>• P. N. Bhagwati and</li><li>• R.S. Pathak, JJ.</li></ul>
<b>Author of the Judgment</b>	P Bhagwati
<b>Appellant</b>	Hussainara Khatoon and Ors.
<b>Respondent</b>	Home Secretary, State of Bihar
<b>Acts and Section Involved</b>	Article-21 and Article-39(A) of the Indian Constitution

### **III. INTRODUCTION AND BACKGROUND OF JUDGMENT**

Hussainara Khatoon & Ors. v. Home Secretary, State of Bihar holds a landmark judgment which expands the scope of the Article 21 of the Indian Constitution. The right to speedy trial, being the fundamental right under the Constitution of India which also acts as a loophole to the accused in misleading the case in contrast to the provision of fair play. Therefore, the court is obliged to deliver justice based on fair play and speedy trial favoring the victim involved in the case after the detailed investigation regarding the issues involved.

This case also threw lights on the rights hold by the prisoners against any violation. The subject matter also involves the free legal aid and quick trial to be given for the weaker sections of the community under Article 39A of the Indian constitution to render justice.

### **IV. FACTS AND ISSUE**

The origin of the case is after the publication of an article in The Indian Express Newspaper in 1979 regarding the detention of under-trial prisoners from Bihar Jail as there were some prisoners who stayed for a longer time than their actual period of detention. Advocate Pushpa Kapila Hingorani (Mother of Public Interest Litigation in India), who read the article from the newspaper, filed a Public Interest Litigation (PIL) – writ of Habeas Corpus in the Supreme Court of India, which was the first Public Interest Litigation filed. This case revolves around the rights exerted by each of the accused and the constitutionality of Article 21 and justice for speedy trial for the prisoners of Bihar.

Further, it was stated that many men, women and also children were in jail for many years due to the delay in trial process of the court and also some are unaware regarding the basis of their detention in the due process of waiting for justice. Though, the offence even after proving would not constitute to warrant punishment more than few months. The State of Bihar was instructed to categorize the offences

into two major categories, which are – minor offences and the major offences. It was further mentioned to constitute the year-wise breakdown of prisoners in the classification already stated. Amidst of all these conditions implied, the charted was not submitted by the state during the hearing. It was also mentioned by the petitioner that people under minor charger were also held in prison for 5 to 10 years without a fair and speedy trial. The petition was not considered to be valid as there was no client but only the affidavit based on article by Rustmoji. Later, the Preliminary hearing on February 5, 1979, by three-benched judge and notice was given to State of Bihar to proceed with the actions. As the State was unable to appear during the preliminary hearing, the court ordered to release all the prisoners mentioned in the Rustmoji's Indian Express article. Therefore, the State appeared on the next hearing but was not able to oppose the allegations laid down.

### **V. ISSUES RAISED**

- Whether the under-trial prisoners who have been detained longer than their term period of punishment be released?
- Whether the state should provide free legitimate aid to economically weaker under-trial prisoners?
- Does Article 21's right to life and personal liberty should include the right to a speedy trial?

### **VI. ARGUMENTS**

According to the appeal, the prisoner who was awaiting trial had been detained without having a fair and legal trial. For accusations that have not been concluded still, could not result in punishment for more than a few years, they had been suffering in jail.

The counter filed by the respondent was mentioning about various other under-trial prisoners in this case, who were unable to appeal are also detained at Ranchi Central Jail, Patna Central Jail, Muzaffarpur Central Jail. They were repeatedly produced before the



Magistrates, but were not released and were repeatedly remanded to judicial custody by the Magistrates of the respective courts. The validity of this statement was questioned as the dates of the detention were not predicted at the earliest.

Additionally, the Respondents argued that the investigation has to pause the 10% of the cases as there is a delay in receiving expert opinions, which they used to justify an increase in the number of pending cases. The Court, however, rejected this argument on the grounds that the State can accomplish the same goal through several strategies.

#### **VII. JUDGMENT**

All of the convicts who were awaiting trial and whose names were on the list provided by Attorney Pushpa Kapila Hingorani were ordered to be released by the court. The Court also pointed out that because these accused are being held longer than what would have been allowed for them if they had been tried and found guilty, long-term detention would be against the law and violate their Article 21 fundamental rights.

This Hon'ble Supreme Court further mandated that the State provide free legal representation to prisoners who are now being tried for crimes that qualify for bail during the course of their trial before the magistrates. The goal of a rapid trial was to be attained, and this was done so that even the destitute under-trial convicts may seek for bail. The State of Bihar's Magistrate and Session's courts, as well as the total number of cases outstanding in each court as of December 31, 1978, were all ordered to be disclosed by the Supreme Court in its decision to the State Government and High Court. If a matter has been outstanding for more than six months, they must additionally provide an explanation of the factors that have contributed to the delay in resolution.

#### **VIII. CRITICAL ANALYSIS**

Delay in justice is justice denied. These incidents demonstrate the importance of every citizen having the right to a prompt trial. Numerous convictions of people who are in reality innocent of the allegations have occurred. The rights of the guilty person were violated by procedural mistakes. A Kashmiri shawl seller named Mohammed Ali Bhat was detained by the Delhi police in 1996 and later imprisoned as a suspect in the Lajpat Nagar and Samlethi explosion cases. The Rajasthan High Court just found him "not guilty" of the charges. Another case of our slow justice system costing Bhat 23 years of his life in prison for a crime he didn't commit. According to data on Indian jails, 76.1% of convicts are awaiting trial, meaning they are paying for their pricey time in jail even if they have not yet been found guilty of the crime. Despite being offered bail, the majority of these people are so destitute that they cannot pay the bond amount. Even after being released from prison, the time spent in jail has a significant impact on a person's life since society does not distinguish between a prisoner awaiting trial and a criminal.

#### **IX. CONCLUSION**

The Hussainara Khatoun v. State of Bihar case highlights a flaw in the nation's justice system. Although our Constitution recognizes the right to a speedy trial as a Fundamental Right, this case highlights a flagrant violation of that right when under trial detainees were forced to serve lengthy prison terms simply because the courts lacked the time to either clear them of guilt or determine their appropriate sentence. Even though some of the accused were innocent, they were held behind bars anyhow, in violation of their basic human rights. Additionally, India's bail system has proven discriminatory to those who cannot pay the costs of legal representation because they are poor.

A legal system cannot be considered fair and reasonable if it is unable to deliver justice for the nations impoverished. Since the case, nearly 40,000 convicts who were awaiting trial have

been freed, demonstrating that if one is dedicated to the benefit of the nation, one can achieve it and see significant results. More advocates like Advocate Pushpa Kapila Hingorani are needed so that the poor and needy can have support when they speak out, and every citizen needs to be aware of the rights that the law grants to them because the law only supports those who are aware of their rights and not those who choose to ignore them.

#### X. **REFERENCE**

- <https://indiankanoon.org/doc/1373215/>
- <https://lawbhoomi.com/case-analysis-hussainara-khaton-ors-v-home-secretary-state-of-bihar-air-1979-sc-1369/#:~:text=Case%20Analysis%20%7C%20Hussainara%20Khaton%20%26%20Ors,Bihar%20%5BAIR%201979%20SC%201369%5D>
- <https://www.legalserviceindia.com/legal/article-8850-hussainara-khaton-vs-home-secretary-state-of-bihar-the-right-to-speedy-justice.html>

#### XI. **RELATED CASE LAW**

- The Prosecutrix Vs. State of M.P. & Ors
- Kartar Singh v. State of Punjab

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