



# **A LEGAL STUDY ON ADJOURNMENT PROCEEDINGS UNDER SEC. 309 OF CR. P. C.**

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**Abstract--** The primary purpose of this paper is to understand the provisions of Sec-309. To study the concepts of remand and the stay of criminal proceedings with relevant cases. In this section, we will investigate the contained instructions to the court daily for the prompt implementation of the criminal proceedings until the opinions of all witnesses are heard. "It empowers the Magistrate to remand the accused to judicial custody after the offense has been identified and the trial has begun, if necessary."

"This provision also governs the criminal courts' ability to postpone or adjourn cases, emphasizing that extended stays of proceedings should be avoided to avoid the loss of evidence due to the passage of time and undue harassment of the accused." After receiving notice of the offense, the Court can postpone the investigation or trial if it feels it is essential. Similarly, if necessary, the Court may adjourn the trial after it has commenced. In both cases, however, it must keep track of the reasons for the postponement or adjournment.

The benefit of this study is to know how this section 309 works and the restrictions imposed in such types of cases.

**Keyword:** *Analysis of section 309 of Cr. P.C, reform, amendment, evaluation, Victim, Fundamental rights, Human rights.*

## **I. INTRODUCTION**

The Central Government Act, 1973, governs the power to dispose of every investigation or trial proceeding as efficiently as possible, and above all, once the investigation of witnesses has begun, "it continues day after day until all of the witnesses' present have been investigated, unless the Court finds it necessary for reasons to be recorded on a later date." If the court, after taking cognizance of the offense or at the time of the trial, thinks it required or advisable to adjourn or adjourn the start of any inquiry or trial, it may be postponed or not be postponed for reasons to be recorded from time to time. Similarly, adjourn on such terms and for such time as it sees fit, and shall put the suspect into custody by the warrant, if any officer associates the suspect under this section for fifteen days, shall not be kept in custody for the duration of the inquiry.

However, once the witnesses have testified, no adjournment or adjournments shall be permitted, except for extraordinary grounds to be documented in writing, while they are not examined; further, no postponement made purely by the suspect will not be granted permission.

Overall, the ability of the criminal justice system to function depends primarily on the willingness of people to provide information and evidence without fear or inducement. While the importance of a witness is well acknowledged, the circumstances in which witnesses are treated in India are appalling. Witnesses in this country are no longer ready to come forward and testify. This scenario has evolved due to the many forces acting continuously in the process.

The witness is indecisive as he faces anger, pressure, and threats from the accused party, which threatens his life and existence. The situation gets worse when he realizes that the state has no legal obligation to provide him security. Moreover, he has to reappear before the court several times due to the judicial process, for which he has to enter the court again and again and has to face adjournments. All this causes him a lot of frustration and wastes a lot of time and effort. Furthermore, he is not influenced by the actions and behaviour of the police, prosecutors, and court officials. Sometimes the offender is treated

on an equal footing. He becomes hostile as a result of his troubles. Retraction also creates new concerns and problems for the delivery of justice.

If the Court feels compelled or expedient to adjourn or postpone the commencement of any investigative process or trial after careful assessment of an offense committed or after the commencement of the trial, it may, from time - to - time, based on the Code of Criminal Procedure, section 309, be postponed for reasons to be considered or adjourn him on such conditions and for such time as he deems necessary. Every investigation or trial must be convened as promptly as possible once the examination of witnesses commences, whether by warrant remand or otherwise. Unless the Court decides that proceeding from the next day is essential for documentation reasons, it will be continued with each day until the examination of all witnesses present is completed. If you are detained; provided, however, that no Magistrate shall confine an alleged offender under this (CrPC section 309) section for more than 15 days; no adjournment and shall be granted bail, except on special grounds that must be documented in writing, or when witnesses appear before getting interrogated. Furthermore, no postponement shall be delivered to allow the accused to demonstrate his or her innocence to prevent the stipulated punishment. It is a proper ground for remand if enough evidence has been gathered to raise suspicion that the suspect committed the crime and it appears that additional evidence will be gained through remand. Adjournment or postponement may be permitted in certain circumstances on the condition that the prosecution or accused pay the expense.

## II. OBJECTIVE

To study the various powers and restrictions concerned under Section 309 of CrPC.

## III. SCOPE OF THIS SECTION

Only until the case is committed to the Court of Session do “the provisions of Section 309 of the Criminal Procedure Code apply. Section 309 of the Code of Criminal procedure will apply when the trial starts. Every trial inquiry shall be conducted as quickly as possible, and once the investigation of witnesses has begun, it shall be continued day by day until all of the witnesses in participation have now been examined, except if the Court determines that adjournment beyond the next day is essential for causes to be recorded. Insofar as an accused is standing trial, the requirements of Section 309, Cr PC are self-contained.” The provisions of Section 309, CrPC are self-contained in the sense that while an accused is on trial before a Court and is in custody the Court has the authority to detain the accused to detention for up to 15 days until the next court hearing.

## IV. POWER AND RESTRICTIONS UNDER SECTION 309 OF CR.P.C.

The problem of adjournments affects courts at every level. The wide indulgence of adjournments has been institutionalized to lengthen trials for various reasons. The higher Court has often advised the trial courts to avoid granting adjournments and to implement the motto of quick trial. Subsection (a) was replaced by sub-section (b) of the Criminal Amendment Act No. 13 of 2013, which took effect on February 3, 2013.

1. of Section 309 and has also been amended vide Act No.5 of 2009 when a proviso to sub-section.
2. The Code was changed to include it in Section 309. In reality, “Section 309 was not designed to allow judges to grant lengthy adjournments to lessen the docket overload. Section 309 of the Criminal Procedure Code explicitly says that in every investigation or prosecution, the court cases shall be conducted as quickly as possible, and that, once the investigation of witnesses has begun,

the very same shall be decided to continue from day to day until all the witnesses in attendees have been investigated, unless the Courts ascertain that adjournment beyond the next day is necessary is for a rationale to be registered. Section 309 of the Cr.P.C. gives judges the authority to postpone or adjourn sessions.”

3. Every inquiry or trial shall be maintained from day to day until all of the respondents in presence have been examined unless the Court determines that adjournments beyond the next day are essential for reasons of Power and Restrictions.
4. If the Court decides that it is essential or advisable to delay or adjourn any inquiry or trial after taking cognizance of an offense or initiating a court case, it may do so from time to time, for reasons to be documented, on such terms as it sees fit, for this kind of time as it deems reasonable, and may remand the accused if it is in custody:
  - Provided, however, that no Magistrate may detain an alleged suspect in custody for more than 15 days at a time under Section:
  - Furthermore, while witnesses are present no delay or extension shall be given without the consent of the court. Their examination, unless for extraordinary grounds to be documented in writing.
  - It is also stated that no postponement shall be given only to allow the alleged offender to show cause why the punishment proposed for him ought not to be imposed.

**Provided that:**

- 1) Neither adjournment shall be granted at the request of a party unless the circumstances are beyond that party's control.
- 2) the fact that a leader of one party is involved in another case shall not be such a ground for adjournment, and the fact that a party's leader is involved in another court shall not be a ground for adjournment.
- 3) “If a witness is present in court however one of the parties or his pleader is not present, or if the party or his pleader is present but just not ready to examine or cross-examine the witness, the judge may, if it thinks fit, Record the witness's statement and pass such orders away from main examination or cross-examination of both the witness, as the instance may be.”

**Explanation 1:** It is a good cause for remand if credible evidence has been acquired to generate suspicion that the accused has committed an alleged offense, and it seems that additional evidence may well be obtained by a remand.

**Explanation 2:** As presented by D. Nageswara Rao, Pro.JCJ, Manthani, the circumstances on which an adjournment or a postponement may be granted may be given the power and constraints under Section 309 and Section 311 of the CrPC. In some circumstances, the government or the accused may pay the cost.

## V. PROBLEM IDENTIFY IN PROCESS OF JUSTICE

### ➤ Deceptive behaviours due to delays in testing

Trial refers to the determination of guilt or innocence of a person who has been charged with a crime. In India, trials are conducted in lower criminal courts, often used interchangeably with trial court. Every day many crimes including rape, murder, domestic violence and stalking are taking place in India. As per the print, there are around 2.32 criminal cases pending in India. This clearly shows the failure of the trial court to hear in time and provide justice to the victim. There are various fraudulent practices and factors that have been identified and attributed to delays in testing:

## ➤ **Adjournment of cases for petty reasons**

“Courts have been burdened with cases, and adjournments on frivolous grounds have resulted in pending cases. Section 309 of CrPC, along with Rule I, Order XVII of CrPC, empowers the court to adjourn and adjourn the hearing. This adjournment is generally granted when the court considers it appropriate to adjourn the hearing on a case-by-case basis.”

The court may issue a postponement for a variety of reasons, including illness of either party, its counsel, or its witnesses, the council's inability to handle the case, the reasonable time necessary for the preparation of the case, and so on. Courts can refuse postponement based on none of a witness present in court, counsel's non-availability due to other court obligations, abuse of the court's procedure, and so on.

## ➤ **Witnesses are not present.**

It also plays an important and primary role in the delay in testing. A list of witnesses is to be presented by the parties whom they wish to call for various purposes, including giving evidence, producing documents and obtaining summons to appear in court. Order XVI of CrPC, Rule 1(1) specifies the time limit for filing a hearing but allows it to be filed with a delay of fifteen days.

The main reason for presenting the list of witnesses is to give notice to the opposite party about the nature of the witnesses so that they can know the nature of the evidence and prepare accordingly. In India, delays have been observed by courts where parties are unable to produce a list of witnesses, causing undue delay. Other delays include non-appearance of witnesses when summons is issued.

Even though the courts have the power to issue various awards against the summoned person who did not appear in court, including warrants of arrest, sale of his property, and imposition of fine, the laziness of the Indian courts, especially at the district level, is a reason. The big danger is not getting justice on time.

## ➤ **Absence of Lawyers**

“Due to the non-availability of lawyers on the scheduled date of hearing, cases are being seen for a long time. Courts usually adjourn the case when a lawyer for one of the parties is absent due to ill health and other medical matters, but in reality, the reason for unavailability is usually due to the preparation or engagement. It also plays an important and primary role in the delay in testing.” A list of witnesses is to be presented by the parties whom they wish to call for various purposes, including giving evidence, producing documents, and obtaining summons to appear in court. “Order XVI of CrPC, Rule 1(1) specifies the time limit for filing a hearing but allows it to be filed with a delay of fifteen days.”

The main reason for presenting the list of witnesses is to give notice to the opposite party about the nature of the witnesses so that they can know the nature of the evidence and prepare accordingly. In India, delays have been observed by courts where parties are unable to produce a list of witnesses, causing undue delay. Other delays include the non-appearance of witnesses when the summons is issued. Amendment of the other court. “Case, In India, both the codes, i.e. CPC and CrPC, are based on the general guidelines that it is not ethical for either party to suffer in the absence of its counsel. CPC, under Order IX, Rule-1 states that the parties are required to appear for the defendant in person or through their lawyers on the day of summons to appear for the defendant. If the plaintiff does not appear, such cases are dismissed, and if the defendant does not appear, the suit is heard ex-party.”

If the court determines that the defendant's failure to appear on the next scheduled hearing date was unreasonable, the court may order the defendant to pay the costs. Because the cost of living is so low in today's inflationary environment, it's easy to postpone a case's proceedings.

## ➤ **Application at any level**

Lawyers in India have the habit of applying for a trial at any point during the process. This is done under the cover of presenting papers or altering arguments that are ostensibly relevant to consider before a case is decided. Existing laws also aid lawyers in this tactic, which causes unnecessary delays.

The court may allow a party to change its arguments if it becomes needed to ascertain the actual subject in dispute between the parties, according to Order VI, Rule-17 of the CrPC. A 2002 modification to the CrPC attempted to address the issue of delays by permitting politicians to change their arguments before the start of the trial until the court determined that the party also couldn't wait for the trial to start.

The lawyers took full advantage of this investigative work and requested that their arguments be modified as a result of it. However, it has been noted that this is frequently done to occupy the time of either the judges whenever they believe they are likely to lose the case. Following such procedures causes significant delays because additional documents must go through a long drawn-output process similar to that of a new application, including notices, argumentation, and so on before the case can be resolved.

### ➤ Delayed Pronouncement of Judgment

The denial of justice is frequently considered more destructive and harmful than the denial of justice. Excessive, inexplicable delay in conveying the decision limits the ability to appeal.

## VI. “POWERS AND RESTRICTIONS UNDER SECTION 309 OF CRPC”

The power to accept or prohibit the transfer of undertrials is judicial, not ministerial — such a transfer may jeopardize the undertrial's right to defend himself, and he may be separated from his friends and relatives (see *Sunil Batra v. Delhi Administration*: AIR 1980 SC 1579).

As a result, it is critical for the court to apply their minds fair and impartial to the conditions in which transfer was sought in light of the prisoner's objections - the decision so issued is a court order, or at the very least a quasi-judicial order. *A- Maharashtra State and Others Adi vs. Saeed Sohail Shaikh Adi* - 2013 (2) ALT (CRI) (SC) 30 Adi vs. Saeed Sohail Shaikh Adi vs. Saeed Sohail Shaikh Adi vs. Saeed (d

***If the advocate uses the filibustering approach, he or she is engaging in professional misconduct:*** - The trial court did not adjourn the case after the main hearing unless there were compelling reasons - (Under Section 309 Cr. P.C). When there are witnesses present, the practice of adjournment is avoided. The trial court must find other ways to make a living to cure the testimony as a responsible person. Witnesses cannot be summoned repeatedly for the sake of the advocate's convenience. Such an adjournment without cause will be viewed as a breach of the advocate's duties, as it equates to harassment and suffering for the witness. If the Advocate uses a filibustering approach, it is considered proper misconduct (*Shambhu Nath Singh* (2001) 2 ALT (CRL) 88 (SC)).

***The process of not ensuring a proper speedy trial would be in contravention of Article 21:*** - In the case of *Mohn Lal*, it was observed: In this, P.W. 1 rape victim girl to be produced before the trial court on five different dates to record her statement over two years, which helped the victim's mother win - moreover, how the trial was conducted It is shocking when seen in the background of “section 309(1) and its provision - whether it was the duty of the trial court to persuade or compel the victim girl and her mother to retract in any way - Pending trial, the father of the victim girl died - The security cover of their family withered - The victim and her mother under immense pressure from the appellants - The victim girl ( p. Hostile - It is the delayed trial which gave rise to manoeuvre and mischief by the appellants.(Para 10, 11, 12, 13 14 & 15) *Mohan Lal & Ors vs State of Punjab* - 2013 (12) SCC 519.” *Mo. In Khalid v State of West Bengal*, (2002) 7 SCC 334, this Court held that when a witness is available and his examination-head has expired, the trial court should not adjourn the case unless there are

compelling reasons. needed. only asking. While deciding the said case, the court laid great emphasis on the provisions of section 309 of CrPC.

And relied on the earlier decision in the state of "UP. v. Shambhu Nath Singh, (2001) 4 SCC 667; and NG Dastane v. Srikanth S. Shivde, (2001) 6 scc 135. In the said case, this court has set aside the practice of courts to adjourn cases without examination of witnesses in the presence of witnesses. The trial court must realize that the witness is a responsible citizen who has some other job to earn a living, and the witness cannot be asked to come again and again for the convenience of the council concerned. Seeking adjournment to adjourn the examination of witnesses without any reason amounts to dereliction of duty on the part of the advocate as it amounts to harassing and causing hardship to the witnesses. The filibuster strategy, if adopted by an advocate, is also professional misconduct."

Any procedure that does not ensure a reasonably speedy trial may be considered 'fair, fair or just' and would be a violation of Article 21. (Video: Maneka Gandhi v. Union of India et al., AIR 1978 sc 597; Abdul Rehman) Antulay et al. vs. RS Nayak et al., AIR 1992 sc 1701; Advocate Prasad Singh Vs State of Bihar, AIR 2009 Sc 1822; and Sri Sudarshanacharya v. Sri Purushottamacharya et al. (2012 9 SCC 241). See. Mohan Lal & Ors Vs State of Punjab.

### **The inconvenience of a lawyer is not a 'special reason' for bypassing the mandate of section 309 of the Code: -**

Even though witnesses are present, cases are delayed for less significant reasons or even minor causes. Is. In these cases, too, an adjournment is only given on demand. On that basis, the legislature has indicated its disapproval of the adjournment. An advocate's inconvenience is not a "special reason" for avoiding the Code's section 309 duty.

"If a court finds that the legislature's mandated day-to-day examination of witnesses cannot be carried out due to the accused's or his counsel's non-cooperation, the court may take any of the measures listed in subsection (2) of Is. Section 302, such as placing the accused in custody or imposing costs on the party seeking an adjournment." If the accused is absent when the witness appears for the investigation, the Court may revoke his bail if he is on bail, unless his lawyer is allowed to continue the investigation of the witnesses present even if the accused is not there. Provided, however, that the accused does not provide a written undertaking that he would not contest his identification as a specific defendant in the action." The High Court may, on part of the Administration, monitor, supervise, and make instructions in regard of measures under the legislative request contained in Section 309 of the Code," the Hon'ble Supreme Court stated. Look at the case of U.P. State vs. Shambhu Nath Singh et al., which was decided in 2001 (4) SCC 667.

## **VII. IMPACT OF COVID-19 LOCKDOWN ON CRIMINAL PROCESS**

Taking note of the global outbreak of COVID-19, the Indian legal system took steps to prevent the virus from spreading in the country. The majority of the court or tribunals were inactive. Only "essential concerns" would be dealt with during the lockdown, according to the Supreme Court. To maintain social distance without sacrificing justice, the Court also resolved to encourage e-filing of complaints and virtual court procedures.

The ramifications and viability of virtual procedures in criminal cases are also discussed, as well as steps to ensure that a fair trial is not delayed under Section 309 of the Code of Criminal Procedure, 1973.

During the lockdown, the right to a prompt trial has been severely violated. Section 309 of the CrPC guarantees this right. It is also a constitutional right, incorporated in Article 21 of the Indian Constitution's right to life and dignity.

"Any system that does not ensure a proper fast trial cannot be said to be fair, impartial, or just, and would be a violation of Article 21," the court ruled in *Hussainara Khatoon v. Home Secretary*.

This could suggest that the Supreme Court's directive to focus on only the most pressing issues is unconstitutional. Whether or whether it was unconstitutional, the accused suffered a significant loss. This tendency of restricting the right to fast

This could suggest that the Supreme Court's directives to focus on only the most pressing issues are unconstitutional. Whether or not it is unconstitutional, the accused has suffered a significant setback. This trend of restricting access to fast testing is not unique to India. The Speedy Trial Act has been revoked in various places in the United States.

The gathering of witnesses and expert witnesses is an important aspect of a trial since it helps to establish the facts of the case. Witnesses may be called by the prosecution, defense, or the court itself. This stage of the trial is mostly unaffected by the lockdown and the switch to virtual courts.

Witnesses may be called by the prosecution, defense, or the court itself. This stage of the trial is mostly unaffected by the lockdown and the switch to virtual courts. Allowing witnesses' comments to be recorded by video-conferencing is already standard practice in some cases, such as when witnesses are ill or want to avoid costly travel.

As a result, it is a portion of the exam that has already been digitized. The following are some examples of criminal law in this line:

In *Malay Kumar Ganguly v. Sukumar Mukherjee and others*, the court held J.J. Merchant (Dr) Vs. Srinath Chaturvedi in which it was held that "By arranging a telephone conference, one may video call or ask questions, and at the outset, this expense should be met by the individual who purports to have such a video conference." The case also permitted video conference cross-examination, which is a key aspect of the criminal trial. Based on this, Malay Kumar Ganguly's court authorized expert testimony to be recorded via video conference. In *Saxena et al. v Union of India (UoI) and others*, it was held that video conferencing is permitted if the witness is "unable to be personally present in court to record evidence due to surveillance conditions. "The global epidemic qualifies as a "surveillance" setting for video conferencing. As a result, the current form of the legislation allows for the internet recording of witnesses and expert testimony.

## VIII. CASES STUDY

The Criminal Procedure Code of 1973 (hereafter referred to as CrPC) is procedural legislation that establishes the procedure to be taken in a criminal case, as well as the duty of delivering justice in a fair, effective, and efficient manner. Section 309(1) of the CrPC focuses on expediting a trial and allowing for day-to-day hearing after a witness has been examined. As a result, the technique is designed to take swift action while completing the test to provide immediate relief to the victim.

- 1) The Supreme Court concluded in *Sukhpal Singh v Kalyan Singh* that there are no fixed rules governing the court's ability to grant or refuse an adjournment. Nonetheless, the court should grant it based on reasonable grounds and after taking into account the circumstances of the case in each instance. As a result, the reasons for the adjournment must be recorded. Fraud and power play an important role in today's world, and they can readily be utilized to postpone trials and adjourn processes on a variety of grounds, even when they are irrational. As a result, they subvert the law's intent and requirements.
- 2) The Malimath committee also advised that courts refrain from using adjournments to postpone both the case and the application of the law. To address such a situation, the Committee suggested that extraordinary cases be identified under which an extension could be granted. In cases where

continuances are not justified and Article 21 on timely trial is being violated, the Supreme Court has declared that the court should investigate the situation itself. Under Section 309 of the CrPC, the party seeking the adjournment might also be charged with the cost of the adjournment. The fee will cover the cost of a witness whose testimony was not recorded due to a postponement or other similar situations.

- 3) In *Sukhpal Singh v. Kalyan Singh* (supra), the Supreme Court held that "the right of appeal cannot be made fraudulent by postponing the declaration of the verdict to satisfy the condition of 21 of the Constitution, which is not due to the plaintiff, the State, or the legal profession." The verdict shall be announced in open court or at a later time after adequate notice to the parties involved, according to Section 353(1) of the CrPC. The phrase "next time" without any qualifiers implies that passing decisions will be delayed, which is contrary to legal standards.
- 4) The Law Commission of India has stated that if judges do not give judgments after several months, they may refuse to grant judgments to anyone in the court system. shatters one's belief in The Malimath committee also recommended that courts not use adjournments as a means of delaying both the trial and the administration of justice. To deal with such a situation, the Committee suggested defining exceptional circumstances under which an extension could be granted. In cases where adjournments are unreasonable and a violation of Article 21 on prompt trial has occurred, the Supreme Court determined that the court should investigate.
- 5) In the cases of *A.R. Antulay et al. vs. R.S. Nayak et al.* and *Raj Dev Sharma v. the State of Bihar*, the Supreme Court made orders for a fast trial as well as a maximum time restriction for the conduct of the trial under the IPC. The letter claims that Article 21 of the Indian Constitution, based on Section 309 of the CrPC, guarantees the right to a speedy trial, but that this is not being followed due to deceptive practices such as adjournment of cases, non-appearance of witnesses, and the absence of lawyers. has not been implemented, and the trial is being delayed due to interim application.
- 6) *Lokendra vs. Uttar Pradesh*, 1996 State CrlJ 67 (All) There's no need for the individual who requests and receives the adjournment may be charged with the cost of the adjournment, as stipulated in Section 309 of the CrPC. This sum will also include the costs of witnesses whose statements were not recorded owing to postponement or other similar situations. In *Hussainara Khatoon and Ors. Vs. Home Secretary, State of Bihar*, the Hon'ble Supreme Court declared that a speedy trial is an essential and necessary component of a fair, fair, and just process as mandated by Article 21 of the Indian Constitution.

In a murder case, the Allahabad High Court granted bail because the detention order under section 309(2) of the CrPC was unlawful. After all, the reason for the delay was not disclosed and the requisite authority for the custody was not given. The reasons examined do not need to be expounded upon; rather, they should simply state why the subject was postponed to a specific date. The fact that the presiding officers were on leave or had been moved was sufficient. The Court ruled that the current detention is legal and that the accused could not benefit from any previous technological fault.

- 7) The Supreme Court clarified in *State of Maharashtra v Sukhdev Singh*, (1992) SCC 700, that when no power to adjourn the punishment is stipulated in section 309 of the Cr. P.C., it should be allowed where the accused has committed a large crime. In the circumstances where the material is required to be produced.
- 8) In *Jay Kumar v State of Madhya Pradesh*, AIR 1999 SC 1860, this Court noted that the trial court had enabled the defendant to produce material that he had refused to produce and that the mitigating



circumstances stated by him were taken into account. The judge's failure to adjourn the hearing under such circumstances was not a miscarriage of justice, according to this court. The Hon'ble Supreme Court reaffirmed the same point.

## IX. SOME SUGGESTIONS TO THE PRESIDING OFFICERS OF CRIMINAL COURTS REGARDING ADJOURNMENT

- 1) The case should be heard daily, and this procedure should be properly observed. Only if doing so would defeat the goals of justice, as required by law, can an exception be given.
- 2) No adjournment shall be granted save for special reasons to be recorded in writing, in the presence of two witnesses, and without examination of them, under the second clause of sub-section (2) of section 309 of the CrPC. All witnesses present on any particular day should be questioned as thoroughly as feasible.
- 3) The Magistrate should keep track of the grounds for not hearing a part-trial case and any postponements of the case where witnesses are presented. An exception can be made only if an instance thereon would defeat the objects of justice, as required by law.
- 4) No case should be postponed because all of the witnesses who are summoned have failed to appear.
- 5) If the accused is in detention, the adjournment may not exceed seven days; if the accused is on bail, the adjournment may not exceed 15 days. Adjournment for a lengthier duration should only be granted for exceptional circumstances that should be documented.
- 6) Normally, the comfort of the lawyers will not be deemed a good reason to adjourn the case.

## X. CONCLUSION

After considering the aforementioned elements, it can be concluded that no single aspect is primarily responsible for the testing delay. All of these variables combine to cause a delay in the trial, culminating in a delay in the victim receiving justice. One of the most important causes for the trial's postponement is the frequent adjournments. However, the inflow of cases far outnumbers such adjournments, resulting in a case pending. The fact that each court has a small judge in comparison to the number of judges is another important aspect that causes the trial to be delayed is widely agreed that the quantimeters of judges in each courtroom should indeed be increased to expedite cases hearings. As a result, only strict enforcement of fast trials within time limits will ensure speedy access to the courts in India if Section 309 of the CrPC is fully executed. As a result, it is critical to alter Section 309 by imposing a financial penalty for delaying and resolving all of the aforementioned issues, so that the issue of delays may be removed from the start and the test required by Article 21 of the Indian Constitution can be completed quickly.

At this time, the witnesses' cross-examination has been postponed without explanation, and the dates have been supplied after a long period. The rule of law and the opinions expressed by this Court on occasion appear to have been utterly disregarded. The educated Trial Judge appears to have been excommunicated from his memories of the severity and holiness of a criminal trial. In this case, we can gain by referring to the declaration.

Despite the court's repeated orders, the situation remains unchanged. We hope that presiding officers of criminal trial courts are aware of the importance of not allowing such adjournments after the start of evidence in serious criminal offenses. We also believe that, in the interests of justice, eyewitnesses should be questioned by the prosecution as soon as possible.

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- [17] Statement showing approved strength, working strength, and vacancies of judges in the Supreme Court of India and the High Courts (as of 1 Mar. 2017), <http://docs.google.com/viewerng/viewer?url=http://judicialreforms.org/wp-content/uploads/2017/03/Vacancy-01-03-2017-1.pdf&hl>
- [18] Department of Justice, Government Litigations, <http://doj.gov.in/page/government-litigations>
- [19] Under Article 12 of the Constitution of India, the term 'State' includes the union and state governments, the Parliament and the state legislatures, all local authorities, and other authorities within the territory of India or under the control of the Indian government. Thus, by judicial interpretations and case laws, various departments and ministries have come within the limits of Part III of the Constitution. Similarly, the 'local authorities' such as municipalities, panchayats, or similar authorities that have the power to make laws and regulations and also enforce them and 'other authorities' exercising governmental functions as instrumentalities of the state have been brought within the purview of writ jurisdictions under Articles 32 and 226 of the Constitution.
- [20] Id., para 16, at 22. Quoted from Centre for Research & Planning, Supreme Court of India, Subordinate Court of India: A Report on Access to Justice 2016, New Delhi, <http://supremecourtofindia.nic.in/Subordinate%20Court%20of%20India.pdf>
- [21] The Judiciary, report of the National Commission to Review the Working of the Constitution 1, <http://lawmin.nic.in/ncrwc/finalreport/v1ch7.htm> (last
- [22] Government of India, *supra* note 13.
- [23] The Law Commission of India is the primary organization that conducts studies and research on various aspects of legal reforms.
- [24] The Law Commission of India, Ministry of Law and Justice, Government of India, <http://lawcommissionofindia.nic.in/>.