

Special and Exclusive courts: SC plans exclusive courts for cheque related cases

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The Supreme Court contemplated guidelines to streamline disposal of cheque bounce cases clogging the judicial docket and sought Centre's response on establishing additional courts with judicial officers to exclusively try these cases. The Sc asked Union of India if it is willing to create additional courts for Section 138 Negotiable Instruments Act cases (commonly referred to as cheque bounce cases) using power under Article 247.

In news: Are you willing to create Special Courts for cheque bounce cases: SC asks Centre

Placing it in syllabus: Law & Policy

Dimensions:

- What are Special Courts?
- Difference between Special and Fast Track Courts
- Their Importance
- Problems associated with them
- Way forward

Content:

What are Special Courts?

- A special court is a court with limited jurisdiction.
- It is created under Article 247 of Indian Constitution (This article allows Parliament to create additional courts for better administration of laws.)
- It deals with a particular field of law (not a particular territorial jurisdiction)
- A Special court can hear only a particularly type of

cases can try like only rape cases or NDPS cases or corruption cases.

Pendency of Cheque Bounce Cases:

- The total criminal cases pending in the country as on January 1, 2020 were over 2.31 crore of which cheque bounce cases were over 35.16 lakh, occupying almost 15% of the total criminal case pendency.
- The Negotiable Instruments Act prescribes a six-month deadline for trial to complete.
- But an analysis showed that on an average, a case under Section 138 NI Act remained for three years and eight months in the judicial system.
- This backlog was on account of two reasons – increase in institution of cheque bounce complaints and the failure to serve summons on the accused, who are often beyond the territorial jurisdiction of the court where the case gets instituted.

Difference between Special and Fast Track Courts

- In a special court there is no pressure to adjudicate the matter in fixed time and there are chances that the special court may take longer time.
- Special court are for uncommon cases (only one type of cases) eg: Family Court, Consumer Court, Labour Court, POCSO courts etc

Fast Track Courts

- Fast Track Courts (FTC) have the objective is the speedy disbursement of pending cases.
- Fast track courts are organized with the sole purpose to dispense Justice as expeditiously as possible by **conducting proceedings preferably on a day to day basis.**
- The cases already filed before the concerned Court (i.e. particular jurisdiction) will be transferred to FTC for

speedy disposal.

- In the FTC, **any or all types of trials** can be conducted.

Both Special Courts and Fast Track Courts are considered as Trial courts. Their judgement is appealable in High Court and Supreme Court of India

Importance of Special Courts

- Special Courts specialise in certain area/laws and ensure that the citizens are not overly inconvenienced in the resolution of minor disputes.
- Special Courts enhance the case management aspect, allowing courts to speed up case processing, reduce caseload, reduce time to disposition, and increase trial capacity.
- Another benefit of offering specialized courts would be that judges could be assigned to courts that best suit their unique talents and/or expertise.
- This would allow judges with the most familiarity to the specific problem to hear the case.
- This has the potential to result in expedited discovery, identification of unresolved issues, a true assessment of the strengths and weaknesses of a case, fair and consistent outcomes, and quicker resolutions.
- Specialized courts can also be useful in freeing up the resources of the lower courts where many of the cases would normally be tried.
- In specialized or problem-solving courts, the goals may be more related to achieving positive individual and community outcomes.
- For Example: The main purpose behind setting up Family Courts was to take the cases dealing with family matters away from the intimidating atmosphere of regular courts and ensure that a congenial environment is set up to deal with matters such as marriage, divorce, alimony, child custody etc. Special emphasis is put on settling the disputes by mediation and conciliation. This ensures

that the matter is solved by an agreement between both the parties and reduces the chances of any further conflict.

Problems associated with them

- From the available data in India, it is fairly conclusive that there is no exclusivity in 'special courts'.
- In most instances existing courts are designated as special courts, the original intent of speedy disposal of cases seems to have been defeated.
- Special Courts in India are Trial courts. Their judgement is appealable in the High Court and Supreme Court of India. Thus, justice can be delayed.

Way forward

- Appointing judges with the most familiarity to the specific problem to hear the cases.
- Evolving Special Courts into Problem-solving courts (this is opposite of Traditional Courts whose goals are viewed largely in administrative terms court volume and case flow)
- Maintaining the exclusivity of special Courts i.e. Separate and exclusive mechanism for special courts

Mould your thought: What are Special Courts? Why are they important? Evaluate their effectiveness in India. **Approach to the answer:**

- Introduction
- Define Special Courts with examples
- Discuss their importance
- Mention the their problems
- Discuss way forward
- Conclusion