

# SPEEDY TRIAL IN CRIMINAL CASES BY FAST TRACK COURT [ SUGGESTED METHOD FOR SUBORDINATE COURTS]

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**Abstract :** *This study intends to evaluate the working of Sessions Court and need to make track fast of fast track court. Fast track courts are established for speedy trials in special cases where hearing is being done either daily or without much delay. The provisions of Criminal Procedure Code are applicable to Fast Track Courts. The fast track court is also required to dispose of cases of given targets. The Criminal Procedure Code does not provide a deadline for most of the court business processes or judicial work. Obviously, the Fast track court requires, quick processes, Fast working Court Staff, Advanced infrastructures. The Track-1 of the Model Case Management Rules is nothing but fast track for the criminal cases. In this paper the reasons for delay are discussed with recommendations to reduce it. It is observed that, fast track courts requires active court management. If the effective case management system is provided and court business process made fast with the help of advanced technology then it may enhance efficiency and effectiveness. The court manager is helpful for making track fasts. For criminal trial, an example of the Rape case trial (Approximate time) is discussed with some recommendations . Much focus on the process of court business only. It is observed for the need of a criminal trial monitoring systems. The suggested method is my personal view. This is not exhaustive study and more research is necessary.*

**Key words :** Court Case Management , Caseload management , Fast Track court , Life Cycle of criminal Case , Model Case management Rules,Rape Trial , Speedy trial.

**1. Introduction:** The procedure described in the Criminal Procedure Code, 1973, has to be followed in every investigation, inquiry and trial, for every offence under the Indian Penal Code or under any other law. The criminal trials have been categorized as: Warrant Trial , Summons Trial , Summary Trial and Sessions Trial. The offences punishable with death, life imprisonment or imprisonment for a term exceeding seven years, the trial to be conducted in a session court. As per section 9 of the Criminal Procedure Code, the court of sessions is established. Section 209 lay down the procedure which the magistrate should follow when an offence is exclusively triable by session court. The magistrate has to comply the provisions of section 207 and section 208 so that the accused may meet his case. The section 225 to 237 are concerned with the procedure of trials held before the court of sessions.

## 1.1 The process [in Brief] :-

**Opening Case:** Section 226 speaks , the public prosecutor opens his case by describing what charges is brought against the accused and what evidence he will prove the guilt of accused.

**Discharge :** Section 227 speaks, if the judge after going through the record and documents submitted , and after hearing the prosecution and the accused comes to the conclusion that no sufficient ground exists to proceed against the accused, he shall discharge him. The court is required to state reasons for discharging the accused.

**Framing Charge:** Section 228

**Conviction on plea of guilty :** Section 229

**Date for prosecution evidence:** Section 230 speaks, the accused may not plead or refuse to plead or he may claim to be tried or he may plead but the judge in his discretion may not convict him. In all these cases the judge fixes a date for the examination of witnesses and if necessary issues process to compel attendance of witnesses or production of document or other thing.

**Evidence for prosecution:** Section 231 speaks to record oral evidence.

**Acquittal:** The judge has to record the statement of accused for incriminating evidence as per the section 313 of Cr.P.C. Section 232 speaks, the judge records an order of acquittal if after (a) Taking the evidence for the prosecution,(b) examining the accused , and (c) (i) hearing the prosecution and (ii) defence on the point , he considers that there is no evidence that the accused had committed the offence.

**Entering upon defence:** Section 233 speaks, if the accused is not acquitted then , the judge to record the remaining statement under section 313 . Accused may enter on his defence. The accused may put his written statement. The accused may apply for issue of process to compel attendance of witnesses or production of documents or things.

**Arguments:** Section 234

**Judgment of acquittal or conviction:** Section 235 speaks to deliver judgment. If the accused is convicted then he has to hear on the point of sentence , after giving sufficient opportunity .

**1.2 Deadlines for the Criminal Cases :** In the Criminal Procedure Code or in Criminal Manual , for the court business process dead-line is not provided for most of the provisions [see Table-1]

*FAQ Question on Bombay High Court Website : How much time is required to get the result of a case?*  
Normally criminal case is expected to be decided within six months [1].

**Model Case Management Rules :** In case of Salem Advocate Bar ... vs Union Of India , decided on 2 August, 2005 , the Hon'ble Apex court pleased to discuss Model Case Management Rules and discussed Five Tracks for the Criminal Cases ( See Table- 2 ). It is also pleased to discuss that, 'Whenever there is any inconsistency between these rules and the provisions of either the Code of Civil Procedure, 1908 or the Code of Criminal Procedure 1973 or the High Courts Act or any other Statutes, the provisions of such Codes and Statutes shall prevail '[2] .

**Table-2:** Categorization of Criminal Cases into Five Tracks :

Track-1	Track-2	Track-3	Track-4	Track-5
Capital punishment, rape and cases involving sexual offences or dowry deaths	Other cases where the accused is not granted bail and is in jail	Cases which affect a large number of persons such as cases of mass cheating, economic offences, illicit liquor tragedy and food adulteration cases, etc	Offences which are tried by special courts such as POTA, TADA, NDPS, Prevention of Corruption Act, etc.	All other offences
Maximum within 9 months	Maximum within 12 months	Maximum within 12 months	Maximum within 15 months.	Maximum within 15 months.

**1.3 Fast Track Court :-** Dictionary meaning of Fast Track means “A route or method which provides for more rapid results than usual. It also means “ happening, developing or more progressing more quickly than usual. Thus fast track court means a special type of court set up for speedy trial in special cases where hearing is being done either daily or without much delay.

The Central Government has framed a scheme that envisages the appointment of ad hoc judges has to be carried out by High Court.

The Hon'ble Apex court pleased to observe that, Priority shall be given by the Fast Track Courts for disposal of those Sessions cases which are pending for the longest period of time, and/or those involving under-trials. Similar shall be the approach for Civil cases i.e. old cases shall be given priority [3].

**The objectives of Fast Track Courts :**

- To expedite the pendency in courts under a time-bound program.
- To give top priority to sessions cases and under-trial cases.
- To reduce the number of under-trials in jail thereby reducing expenditure as well as burden on jails.
- Setting up fast track court in each district [ as per scheme].

Fast Track of the civil cases/ civil applications for the Track No. 1 & 2 of the Model Case

Management Rules, was discussed, wherein it is observed that , ' On more events, the life of the case increases . If the parties take effective steps, then it is possible to reduce the time limit ' [4].

Now the court managers are also appointed to enhance the court track fast. At present , there is a provision for display of daily board, court orders and life cycle.

**2. Methodology:** Due to delay in trials and other circumstances before the regular courts , the fast track courts are established. The procedure for Criminal procedure Code is also applicable to the Fast Track court. Making track fast means to remove the obstructions that arises out of the regular track. It means, no waiting for the commencement of trial and the arrangements for trial shall be ready. It is for avoiding the wastage of time to make the quick process. From the observations , it clearly shows that, There is no separate guidelines on scheduling the trials before the fast track courts. There is no separate deadline for trial in the Model Case Management Rules or Bombay High Court website for the fast track court. There is need of trial monitoring systems by the stakeholders.

Therefor following questions arises :

- \* Whether the deadline for the criminal cases by Bombay High Court and Track-1 of the Model Case Management Rules are useful for the fast track trials ?
- \* What is expected to schedule for trial by the fast track court ?
- \* What monitoring systems is necessary for the stakeholders ?

For the above questions, the study is carried out with (A) Comparison of Regular Track and Suggestions for fast track (B) Clubbing Process (C ) Scheduling the trial (D) Court Management (E) Speedy Trial. (F) On-line software.

## 2.1 (A) Comparison of Regular Track and Suggestions for Fast Track :

### 2.1.1 Court-related Factors:

**(a) Regular Court :** Any case can be allotted. The deadline for the trial is six months (as per Bombay High Court) and Nine months (as per the Model Case Management Rules). The High court has to frame norms for disposal of cases of the sessions judge. The High Court has to carry out inspection of the sessions court (as per the Criminal Manual and Circulars). The sessions have to be schedule as per the time available to the court.

**Fast Track Court :** Cases which are pending for the longest period of time, and/or those involving under-trials. It is for speedy trials in special cases. Hearing is being done either daily or without much delay. The fast track court is also required to dispose of cases of given targets. At least one Administrative Judge shall be nominated for each High Court to monitor the disposal of cases of Fast

Track Courts and to resolve the difficulties and shortcomings, if any, with the administrative support and cooperation of the concerned State Government [2].

**(b) The split trial process:**

**Regular court :-** The court records evidence of the witness that is produced. The court records his evidence and then adjourn the case of further witnesses or may adjourn case on the ground of, 'No court time'.

**Fast track :** It is expected that ,the court to examine the witnesses one after another without splitting the trial . The parties should take care that, the witnesses should remain present in advance.

**(c) Recording Oral evidence :**

**Regular Court :** The judge has to dictate the oral evidence of the witness . He has to translate into regional language also. Then he has to check the recorded depositions. He has to explain the deposition to the witness.

**Fast track court:** The evidence recording processes is same. It is necessary to provide stenotype , voice writing, digital recording and other advanced electronic instruments.

**(d) Procedure of Information Technology :**

**Regular Court :** During trial , if any point in exhibiting of electronic documents arises, then the court have to wait , till the suitable instruments are produced by the party. The court may issue a process to concern an agency to produce such instruments.

**Fast Track:** Advanced technology should be available. For certain types of evidence , the party to make necessary arrangements in advance.

**(e) Case Load :**

**Regular Court :** The cases have to allot equally or as per the procedure adopted by the district court. Due to heavy flow of cases and pendency , the equal distribution formula has to apply.

**Fast Track court :** It is expected that, cases that are described of the scheme has to be allotted. There should not be heavy case loads. The court manager to prepare statistical data for case loads, caseload and case management. The Judge has to conduct inventories of cases to determine the actual number of pending cases. The court should make appropriate schedules for trials with the cooperation from the prosecutor and defence counsel. More than one sessions should be allocated in advance and more desirably on consecutive dates. Court Manager , being professional person is helpful in carrying out these tasks.

**(f) Court Staff :**

**Regular Court:** The district court establishment section has to allot the court staff as per the method adopted by the district court or as per guidelines.

**Fast Track Court :** Specially trained court staffs is necessary who possesses knowledge of managerial and technical skills. He should possess sufficient knowledge for court technology. The specially trained stenographer is also required to record the evidence speedily. The court manager may carry out human

resources management for providing skilled court staffs.

### 2.1.2 Prosecution related factors:

**a)The public prosecutor plays the following role of the Trial stage:**

(1)Hearing on taking cognizance of a case of the court.(2)Hearing on framing charge.(3)Production of the prosecution evidence. (4)Study the statement of accused.(5)To cross examine the defence evidence.(6)Hearing the final argument.(7)Hearing on conviction, in case accused is convicted.

**Regular Court :** For the above processes, the prosecutor moves applications for adjournments. As the trial is not time-bound and prosecutor is overloaded with cases, the court grants adjournments. The prosecutor examines maximum witnesses.

**Fast Track court :** It is expected that, the prosecutor should not be overloaded with the cases of other courts. He should get sufficient time prepares for trial. There is need to provide advanced instruments to the prosecutor so that he could prepare for the trial. The prosecutor should be able to calculate the time to present his case and to concentrate the schedule of the case. This will also enable the court and manager to plan the time frame of the cases of avoiding unnecessary delay in trial. The prosecutor has to scrutinize the case filed by anticipating the rebuttal of the case of defence counsel. In fact there should be coordination between investigating agencies and prosecution for production of material witnesses and exhibiting documents.

### 2.1.3.Defence Counsel-related Factors:[Applicable to both types of courts]:

**(a)Moving adjournment applications of evidence:-** Defence counsel moves adjournment applications of various grounds. He moves review applications for the exhibited documents. Filing of unnecessary discharge petitions before the trial Court and quashing petitions before the High Court thereby hampering the progress of the trial. Non-co-operation of accused by absenting frequently and changing the counsel often with a view to protract the proceedings [5].

**(b) Moving adjournments on the ground of heavy cases :** Due to heavy cases of the defence counsel, he could not schedule his cases and moves applications for an adjournment. For this purpose , fixed schedule for trial with the consent to the defence counsel is one of the remedy.

**(c) Moving adjournments for failure to prepare:** The defence counsel could not prepare for trial of the fixed date due to his heavy case load. In fact said reason also comes from the prosecutor. The heavy case load remedy is fixing the schedule as discussed above . It is expected that, for the preparation of trial, it is also necessary to provide copy of recorded evidence, photocopies of exhibited property & statement.

### 2.1.4. Other Process :

**a) Summons/Warrant :**For summons/warrant has to be served through the police department. For fast track court it is expected that, the concern agency to make special arrangements for the service of

summons/warrants against accused or witnesses. Now the modern technology is helpful to serve summons and communication with the person to whom the summons is issued.

b) **Chemical Analyzer/Forensic report is not received** :The chemical analyzers to send the reports to the concern police station and then said police station to file reports in the court . Most of the cases is to be adjourned due to non receipt of such reports. To send report is at the hand of said laboratory .For fast track court, special attention to be necessary.

c) **Absence of an investigating officer for the trial on one ground or the other:** There should be specific directions to the investigation departments that, the investigating officer should positively remain present on the fixed date of the trial before the fast track court.

d) **Under-trial accused not produced** :In fast track court, (1) If it is not possible to produce the accused physically then the videoconferencing system should be ready for trial.(2) There should be effective communication systems with the jail authority.

e) **Property not produced:-** The property involved in crime has to produce with Charge sheet. For fast track court, it is necessary that, prior to commencement of trial, the property will be produced.

#### 2.1.5. Court Business process :

(a) **Adjourned for Summons/Warrants Preparation** :Cases should not adjourn , due to non preparation of summons/warrant paper with the court staff.

**Suggested Method** : The computerized software CIS is helpful. The court manager is helpful for monitoring the compliance by the court staff.

(b) **Delay in supplying certified copies** :The process of supplying certified copies become easier due to the Modern Technology. But the machines like Photocopiers should be well maintained. The court manager can manage the modern technology.

#### 3. Clubbing Process : The above provisions are clubbed to reduce the delay as [ two steps on fixed date] :-

- The process of section 226(Opening Case) and 227(Discharge) can be carried out on one date.
- The process of section 228(Framing Charge) , 229 (plead guilty) and 230 (date of Prosecution) can be work out on one date. It is a stage to fix a schedule the time-table for the evidence and issuing process by the court.
- *For recording evidence Section 231* : Section 309 of the CrPC provides that the proceeding shall be held

as expeditiously as possible and in particular, when the examination of witnesses has once begun, the same shall be continued day-to-day until all the witnesses in attendance have been examined. It is expected that, only the material witnesses for unfolding the prosecution story need be produced. Whenever an objection is raised during evidence taking the stage regarding the admissibility of any material or item of oral evidence the trial court can make a note of such objection and mark the objected document tentatively as an exhibit in case [ or record the objected part of the oral evidence] subject to such objections to be decided at the last stage in final judgment [5].

- The process of section 232 (Acquittal) and 232 (Entering upon defence) can be carried out on within one day interval.
- *For argument Section 234 :* The section 314 enable the parties to a proceedings to address oral arguments and also entitle them to submit a memorandum to the court setting forth, in brief , arguments in support of their case. It empowers the court to regulate irrelevant and unnecessary elaborate arguments.

#### **4. Material points for Scheduling the trial :**

- 1) The daily board (cause list ) should be as per the prescribed format .
- 2) Sufficient number of cases must be scheduled for each day to ensure optimal utilization of prescribed court time.
- 3) It is necessary to study the present case load and case flow management and time require for cases.
- 4) It is necessary to prepare relevant statistical data for scheduling the future daily board.
- 5) Fixed schedule for the trial of case. Before commencing trial it is necessary call both sides of the admission of documents that are not disputed.
- 6) Prosecutor and Defence counsel should present for trial in criminal matters at fixed time.
- 7) The prosecutor to ascertain his material witness as per list given in the charge-sheet.
- 8) The witness/ accused should remain present on the fixed time. Ensure that, all efforts are taken to remain present by the witness /accused and their counsels.
- 9) For recording oral evidence of the witness, the recording should be as per the Evidence Act and other Act applicable to the case in hand. It is necessary to provide advanced technology for recording the evidence likes audio voice recording machines . Such machine is useful to count the time required to record the evidence.

- 10) The provision for filing written notes of argument is provided. The Parties to adopt said provision.
- 11) If the entire process is recorded in CCTV machine then the time required for the business process can be calculated.
- 12) Firm trial dates and limited adjournment policies are key variables in effective case management.
- 13) When court staff transferred/went on leave, there should be provision for the staff who can handle the process in fast.
- 14) The pending applications for miscellaneous reasons should be decided, as early.
- 15) Study the daily board ( calender of days) and previous history for disposal of cases. Study the adjournments and its reasons.

**5. Role of the Court Manager :** The duties and responsibilities of the court manager is clearly defined by the High Court. The court manager has to manage the inventories / cases of the court. He has to prepare and execute the mid-term & short term plans for summons /warrant issuing work to secure the presence of witness/accused. He has to carry out legal services work with responsiveness. He has to maintain the computer and information instruments with judicial service center of the district court. He has to make management for human resources for the court staff. Active case management, case-flow management plan is key to make the track. Thus with the help of professional person/court managers, it is easy to make the court business fast for the track of the court in scheduling and monitoring the entire process of the fast track court.

***5.1 Before scheduling any trial , the manager to prepare following information:***

1. Number of pending cases with its type and age.
2. Age of the parties.
3. Part heard pending trials and its reasons.
4. Required time for trial to schedule ( probable- on the basis of number of witnesses/accused).
5. Rate of filing new cases.

**5.2 Weekly Scheduling-Time Management**

**Example :** Court Manager to produce information before the Judge before scheduling the trial. He has to also produce the Weekly Time Management [scheduled trial and its stages ]( See Table-3). Considering the stages of cases fixed on each day , weeks or subsequent weeks , the judge can schedule the trial.

The stages of trial can be reduced , if they are clubbed. It can expand, if the adjournment is granted , process could not proceed and due to unavoidable reason. The single Fast Track court where in the cases proceed with its stages, one by one. It is for the court manager that, track should not be blocked due to administrative or delay of court business process.

**Table-3:**

**Weekly Scheduling – Time Management**

Stage	Case No.	Opening case	Charge	Scheduling Trial	Prosecution Evidence	Accused Statement (I)	Argument	Accused Statement(II)	Defence Witness	Argument	Judgment	Hearing Conviction	Conviction
Monday	T r a c k	23/13	●										
		02/13			●								
		64/13	●										
Tuesday	T r a c k												
Wednesday													
Thursday													
Friday													
Sturday													

In the above table-3, Case No. (23/13) is fixed for framing charge. Case No. (2/13) is fixed for evidence of prosecution. So it is possible to fix a new case of opening of the Case No.( 64/13). The court manager to identify fast track changes of case-by-case bases. The manager to anticipate problems before they arise. He has to identify problems with processes. Therefore , for each process it is necessary to schedule the action to be taken by the Judge, action to be taken by the court staff and action to be taken by the court manager.

**6. Drawing Deadline for Events/Process :** A deadline is a time or date before which a particular task must be finished or a particular thing must be done. As a deadline is not provided for most of the provisions of Criminal Procedure Code, so it is necessary to frame deadline for the events/process. The deadline has to frame to see the readiness of the system. The deadline fixing is depends on a lot of factors.

*Following are some factors :*

1. Type of event/process .2) Nature of Event/process .3) Expected time to make the infrastructure ready. 4) Expected time to make arrangements to carryout the event/process. 5) What are the impediments that may likely to be happen , during the course of carrying the event/process ? 6) What precautionary measures are ready to dissolve the impediments ? 7) What are the previous experiences or opinion of scholars for carrying out the event/process?.

**7. Example : Rape Case- Speedy Trial.**

The Criminal Procedure Code, Section 309 speaks that, the Trial shall, as far as possible, be completed within a period of two months from the date of commencement of the examination of witnesses. The proviso of section 26 speaks that , offence punishable under section 376 of Indian Penal Code, shall be tried as far as practicable by a court presided over by a woman.

In rape trial the defence puts questions that rarely found in other trials. The rape trial has unique features therefore a proper understanding of rape trial can only be obtained through analysis. I therefore study for the

requirements of time for the speedy trial in rape case. [ The time scheduling is as per my personal views]. [ The following Table-4 is approximate time].

**Table-4:**

Process/act/event	Dates	Number of Days/interval
Opening Case/Discharge	01	01
Framing Charge /plead Guilty	01	03
Schedule for Evidence of Prosecution	01	03
Issuing Summons/production of property	01	15
Evidence of Prosecution	15	15
Statement of Accused (Partly statement under section 313)	01	04
Acquittal Hearing	01	02
Statement of Accused (Remaining statement Under Section 313)	01	04
Issuing defence witness summons	01	08
Evidence by defence	05	05
Argument by Prosecution	02	02
Argument by Defence	04	03
Judgment	01	10
If Not acquitted...Hearing on sentence	01	03
Conviction order	01	03

**7.1 Observations [For Approximate time for Rape Case ]:** The investigating agency filed a charge sheet on 90 th day. On the same day the Magistrate passed an order for a summons to the accused to remain present at the committal process. The court clerk to prepare a summons on next day. The summons service requires atleast 08 days. The time required for summons service depends upon the number of accused and their residence.

On the fixed date of return to summons service, the Magistrate heard both side and passed order for committal. In the committal order the magistrate has to fix the date of appearance of the accused before the sessions court and has to issue notice to the public prosecutor. If the accused is in jail, then he has to issue warrant to the jail authority to produce the accused before the sessions court on the fixed date. Suppose on 16 th day from the committal the accused have to remain present before sessions court. In between these period, the magistrate has to send the committed record and proceedings to the sessions court and it may require 03 days. The administrative section of the district court has to allot to the case. It requires 02 days. Thus the process of filing form charge-sheet to committal order required 10 days and from committal order to sessions court may requires 5 to 6 days. It also depends upon the sending record & property involved in the case and distance between the Magistrate court and district/sessions court. The next date is already fixed on 16 th days. So till

opening case argument with sessions court requires 26 days. On the fixed 16 th day, after hearing argument with opening of the case , if accused is not discharged then on same date or on next date , the judge has to frame the charge. Supposed charge is framed on 3rd days . Till the date of framing to charge 30 days period required.

Now, the session trial has to schedule for time-bound programs. As per the prayer by prosecutions, the judge has to issue the summons to the prosecution witnesses. Thus 07 days required for this process. Time also requires for the service of a summons to the witnesses. Thus about 22 days are consumed till the fixed date for recording the evidence of the prosecution witness. From recording the evidence of prosecution to till final order require 60 days ( see Table-5). A judicial officer who possesses sufficient experience can easily schedule the tracks for court.

**Table-5:**

Process	Required Time/days
From Filing Charge-sheet to date of committal order	10
For appearance by accused to sessions court	16
Opening case to fixed date for recording evidence	22
From Evidence to Judgment	60

Thus, from the date of filing to a charge sheet to completion of trial required 118 days. It is expected that, from the date of filing of a charge sheet to first opening hearing ( including committal process) to be completed within 10 days. But the time consumes in service of summonses to the accused person ( 08 days as discussed) and sending record/allotment of case (05 to 06 days). The fixed date for appearance for the accused before session court ( less than 15 days ) can be granted. But the committal proceedings is not compliance with provisions only. In the committal process, the copies of the charge sheet have to be supplied to the accused and notice to the prosecutor. The accused/defence and prosecutor requires time to prepare the case for the opening day. From opening case date to actual recording of evidence , the defence will get  $16 + 22 = 38$  days to put the defence study. But same is not with the public prosecutor. To serve the notice of committal and to supply the copies of the charge sheet , depend upon the system adopting at the district government office. However, from the date of opening of the case to the examination of the witnesses , will get 22 days to study the charge sheet. It is expected that, the trial should be commenced within 100 days from the arrest of accused. But said situations is totally depends upon the filing charge sheet by the investigation agency. The trial period is also depends upon numbers of witnesses, number of accused.

**7.2 Analysis for Court Process :** The Magistrate has to take assistance of an interpreter or a special educator in recording the statement. For committing the case Videoconferencing are necessary. Special precautions are necessary for recording evidence of the victim of rape cases as most of the women are highly sensitive and emotional . For taking such precautions, the infrastructure should be available in the court hall. It is expected that, If the victim must be questioned during the in camera hearing the judges should enforce strict limitations on the nature of the questioning to protect the victim from humiliating suggestions. The Hon'ble

Bombay High Court has ruled that so many advocates cannot be permitted to remain present in court in an in-camera rape trial. Court has taken a view that a single junior advocate is enough to assist the defence counsel[6]. While appreciating the evidence of the prosecutrix (victim), the courts must always keep in mind that no self-respecting woman would put her honour at stake by falsely alleging commission of rape on her and, therefore, ordinarily a look for corroboration of her testimony is unnecessary and uncalled for [7].The rapist degrades the very soul of the helpless female and, therefore, the testimony of the prosecutrix must be appreciated in the background of the entire case [8].

**7.3 Analysis for Prosecutor's Role :** The prosecutor has to discharge material duty. In many instances rape takes place in the circumstances where the victim is the only person who can provide direct evidence of what took place. If delay is caused then she could not depose in detailed and it is difficult to recall the sequence of the events. If delay is caused then the witness may also forget the incident or they may not be available. So the prosecutor has to make an effort that the rape case should not be delayed.

**7.4 Observations :** The word '*as far as possible*' of section 309 for the trial of the rape case, speaks that, sufficient opportunity should be given to both sides. It clearly indicates that, the prosecution and defence should get sufficient time to study and prepare for the case/trial. As per my studies, where witnesses are few then the rape can be disposed off within six months but if witnesses are more likes in a case of Gang Rape or high profile where the prosecution cites number of witnesses then such case has to be disposed of with nine months. The deadline provided with Bombay High Court is six months and Model Case Management Rules speaks Nine Months for the trial of the Rape case is useful . However, a fast-track procedure for dealing with cases of rape and gang-rape is necessary.

In most of the cases , the prosecution cites the number of witnesses. The material witnesses might be less in a number. A high profile case wherein the investigating agency cites numbers of witnesses and defence also examines number of witnesses. But it depends upon the fact of the case. Track fast does not indicate to adopt any short cut method to record the evidence of the witnesses. It means to adopt advanced technology to save the time that is consuming while recording the evidence and hearing the case is necessary. The production of witnesses or summons service on the defence witnesses is totally depend upon the summons servicing agency. Thus it clearly shows that, all the elements of the public justice system are inter-dependent. The track expects advanced technology for producing the witnesses for the fixed date of the trial. The judiciary, on its part, remains silent and refrains from conveying to the public that certain delays are beyond its control[9].The object of fast track court is not to give go back to the provisions of the Criminal Procedure Code.

The trial in all fast track court cases to proceed on a day-to-day basis and adjournments would be for a smaller span such as a day or two. The clubbing process [ two steps on one date] is depend upon the number of parties and nature of case. It is also possible from the stage of recording evidence to final stage , if the material witnesses did not support to the story of the prosecution, so that remaining process can be made quick, but in

any circumstances, the Fast track does not refer to the speed of processing or clubbing of process, it means quick trial. Such quick trial is possible only due to coordination with all stakeholders. Such trial can be concluded within 6 to 9 months. The scheduling of cases should be as per priority of cases so that, the target should be achieved.

## 8. Need Of On-line software :

The Hon'ble Apex court pleased to observed that, Where computerization is available, the monthly data will be fed into the computer in such a manner that the judge, will be able to ascertain the position and the stage of every case in every track from the computer screen. Over a period, all cases pending in his Court will be covered. Where computerization is not available, the monitoring must be done manually. The judge shall monitor and control the flow or progress of every case, either from the computer or from the register or data placed before him in the above manner or in some other manner he may innovate[10].

**8.1 Suggested Software :** At present , the facilities at websites is to show cause list/daily board, orders. There is no provision to ascertain the position and the stage of the case on the online computer screen. The online software is necessary .

On the fixed date for opening of the case ( after feeding cases in computer software CIS), the entire track will be visible on the screen. Then fix the schedule of the case as discussed above. The track circuit will show the probable date of disposal and its stages. On the insertion of new events, it will automatically increase its time and further dates to be automatically scheduled. The judicial officer can easily handle & monitors the case circuit track only clicking on the stage and add event point. The future date or process will automatically continue. Future cause list will also automatically update. There should be provision to extend the scheduled dates as per the leave/vacation taken by Judicial officer, declaration of holidays.

**Example :** The judicial officer to click on the stage of the fixed date at Daily board/cause list. In case of occurring an event, he has to add the event. As soon as the order is passed, the alter signal will go to the concern court staff with its limitation to comply (as per the schedule)[ see Table-6].

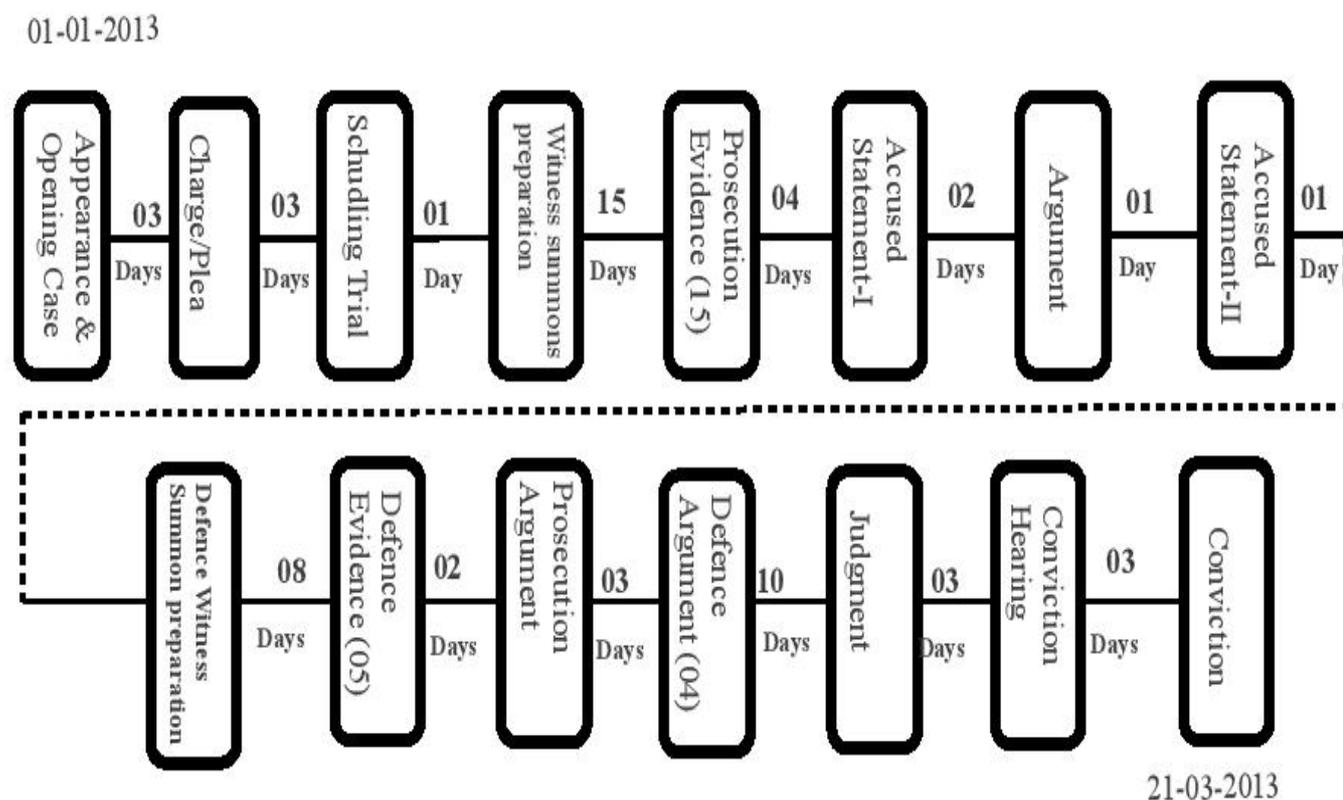
### Table-6:

Cause List for Court No.....Dated 01-01-2013

Sr.No.	Case Number	Name of Plaintiff	Name of Defendant	Stage	Next Date
1	30/14	State of Maharashtra	Dinesh	Opening Case	
2	43/13	State of Maharashtra	Gajanan	Charge	
3	16/12				
4	91/10				
5	30/11				

[ As soon as user CLICK over the CASE of the cause list/daily board, the Track circuit will be automatically display on the screen. Next operation has to be carried out at Track Circuit. As soon as the process/event/act for the fixed date is completed, the column for STAGE and NEXT DATE will be automatically updated . [See Figure-1 and Figure-2]].

Figure-1



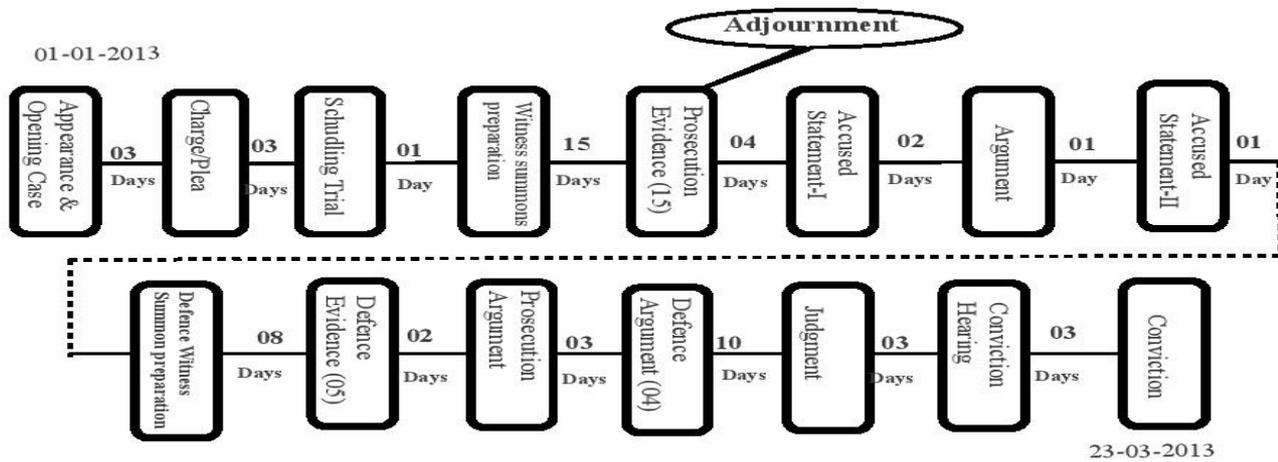
On the website of the court, the track-circuit of the case will show the updates and events with its summary so that the litigants will come to know the time consumed by them for each event [See Table-7].

Table-7:

Add Events[ List not exhaustive] :
1. Adjournment by prosecution
2. Adjournment by defence
3. Adjournment by witness

Only one adjournment was taken by each party each. As the adjournments/acts period is considered so, on adding event for adjournments, time will increase ( see figure-2).

Figure-2:



**8.2 Display of data for Time Consumed :** The track circuit will show the summary for time consumed/consuming by the parties, court process,events etc.[see Table-8].

**Table-8:[Summary for Track-circuit:** The summary will display at the bottom of the track circuit of the screen . It will show the time consumed/consuming by the case.].

Process /events/acts	Consumed Dates	Consumed Days
Adjournments by prosecution		
Adjournments by Defence		
Adjournment by witness		
Judge on leave		
Total Time Consumed :		
1.By Prosecution	—	—
2.By Defence	—	—
3.By witness	—	—
4. By court		

**8.3 Findings for the Online Software :**

*It may be useful as :-*

**To Judge :**The case might have to call for more time and for that purpose it is necessary to record the time spent on the case.

**To court Staffs :** The court staff has to carry out many acts for the execution of the orders passed by the judicial officer. If a deadline is given to such acts then software programs give alert signals to comply such acts.

**To Parties :** At the website for case information system , it is necessary to show the track circuit. It should show the tentative time that will be required to dispose off the case. As soon as the time increases in any reason, then the online track circuit will show the increased time and its cause. It is also useful for the investigating agency and concern witnesses so ascertain the stage of the trial and its speed.

## **9. Recommendations for other criminal Cases :**

1. Provide guidelines on computing the time within which the trial must be commenced.
2. Effective monitoring system for the trial and its speed.
3. Provide data for trial and its events for each case in detail for the public at website.
4. Design case management system.
5. That, adequate provisions be made for staff and infrastructure required for the working of additional Courts [11].

## **10. Recommendations for Rape Cases[ In addition of the recommendations of Criminal Trial]:**

1. The provisions for Rape trial it clearly shows that, Special precautions are necessary for recording evidence of victim in rape cases. For taking such precautions, the infrastructure should be available/ready in the court hall.
2. Every attempt is necessary to arrange a date that is convenient to victims and witnesses and they will be given as much notice as possible when a date has been fixed.
3. Interpreters should be available at Magistrate court and sessions court [ When necessary & in advance ]. The prosecutor will ensure an interpreter is available for the court appearances.
4. Arrangements for the Camera Trial.
5. The choice of woman prosecutors for victim.
6. Provision to ensure that the victim is kept informed of the reason for any significant delay in the proceedings.
7. Provision for committal proceedings that, magistrate to inform to victim/witnesses that the case is committed and fixed on particular date / allotted at particular sessions court.
8. Provision to communicate with a victim, the progress or decisions taken by the court , by the prosecutor.
9. Special provisions for safe place for waiting by the victims and witness at court building.
10. Make a provision to pay Bhatta to the Victim and witnesses in advance.
11. A victim or witness may not aware about the court premises and its process. So there should be provision , to show them the court building, their waiting place in advance.
12. Due to fear for court processes of the mind of a victim or witnesses , it is necessary by the prosecutor to assist them for preparation of evidence like experience of previous depositions.
13. Need of ear-marked woman Police personnel of Court duties .

**Conclusion :** Fast track means quick processes. It does not mean to find out short cut method of the recording evidence or other events provided in the Criminal Procedure Code. If the effective case management system is provided and court business process are made fast with the help of advanced technology then it may

enhance judicial efficiency and effectiveness. If the fast track court is modernized with advanced technology, human resources and the stakeholders realized their responsibility then it would be easy to take adequate measures to ensure speedy trial. It is possible only due to effective management systems which will continually review and maintain the tract in order to assure the effectiveness and efficiency of the procedure and processes. The Track-1 of the Model Case Management Rules is nothing but fast track for the criminal cases and within the deadlines of Track-1 the cases can be decided, but every fast track court must have a case management plan. For case management the time limit has to be established in advance with consultation with counsel for both parties. Effective management of the courts requires commitment from the judge, involvement of court staff, support from stakeholders. The Court manager being professional person is useful to develop short term plans for under trial accused and summons service to the witnesses/ accused in the trials .He is helpful for responsiveness management to provide legal aid to the accused . For providing legal aid to the accused, the probationary officer is also useful, who can collect the information. The online case circuit monitoring systems is useful for all stakeholders so prepares the trail process fast. In any circumstances, the judicial process can't be set aside in the name of speedy trial, therefore more study is necessary to identify areas of delay in the criminal justice system and to take action to address them.

For executing any system to reduce backlogs of cases, it is necessary to remember that, “While laying stress on the urgent need of elimination of delay and reduction of backlogs, we cannot afford to act in undue haste so as to substitute one evil for another one [12].

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## Abbreviation :

Cr.P.C./CrPC= Criminal Procedure Code, 1973

CIS = Case Information System

Roznama = Daily history of the case.

Bhatta =Diet and traveling allowance

Pendency = pending cases.

Panchanama = spot inspection.

## Criminal Manual: Court business process [Table 1] :

Serial No.	Court Business Process
1	No time limit to prepare summons/warrant
2	No time limit for return of summons/warrant
3	No time limit for issue of summons/warrant
4	No time limit to frame charge/explain particulars
5	Roznama does not speaks time consumed for the proceedings taken in it.
6	No time limit to commit the case to the sessions court.
7	What cases are to be fixed for expedite hearing is given but time limit is not provided.
8	Adjournments should not ordinarily exceed seven days when the accused is in custody, and 15 days when he is on bail. Adjournment for longer periods should be granted only for special reasons which should be recorded. But limit for number of adjournments is not provided.
9	For evidence recording , only provision under section 309 of Criminal Procedure Code.
10	No time limit fixed for recording statement under section 313 of Criminal Procedure Code
11	Category of cases are Regular Criminal case, Summary Criminal Case etc , no provision for identifying the nature complex or simplex.
12	No time limit for deciding the miscellaneous applications like recovery in maintenance amount, return of seized property.