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## Fast-track Courts to Clear Dishonoured Cheque Cases

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### Why In News

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A Constitution Bench of the Supreme Court has proposed setting up **fast-track courts** for a limited time to clear **dishonoured cheque cases**.

Earlier the Supreme Court has suggested forming a committee to resolve the **problem of pendency of cheque bounce cases**.

### Key Points

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- **Supreme Court Proposal:** Set up fast-track courts under **Section 138 of the Negotiable Instruments Act, 2018**.

**Power to establish additional courts:** The government has both power and an obligation under **Article 247 of the Constitution** to set up “additional courts” to better the administration of **laws enacted by Parliament**, including the Negotiable Instruments Act, which deals with cheques.

**Article 247:** It gives power to Parliament to establish **certain additional courts** for the better administration of laws made by it or of any existing laws with respect to a **matter enumerated in the Union List**.

- **Pendency of Dishonoured Cheque Cases:** The pendency of cheque bounce cases **forms 30% to 40% of the backlog in trial courts** and a sizable chunk of the pile-up in High Courts.

### Negotiable Instrument

- These are signed documents that promise a sum of payment to a specified person or the assignee.
- It is **transferable in nature**, allowing the holder to take the funds as cash or use them in a manner appropriate for the transaction or according to their preference.
- Promissory notes, bills of exchange, and cheques are categorised as the negotiable instruments.

### Dishonoured Cheque

- A cheque is said to be **honoured**, if the banks give the amount to the payee. While, if the bank refuses to pay the amount to the payee, the cheque is said to be **dishonoured**.
  - In other words, dishonour of cheque is a condition in which the bank refuses to pay the amount of cheque to the payee.
  - The dishonour of cheque is a **criminal offence** and is punishable by imprisonment up to two years or with monetary penalty or with both.
- **Cheque:** It is a **negotiable instrument**. Cheques are not negotiable by any person other than the payee. The cheques have to be deposited into the payee's bank account. The author of the cheque is called 'drawer', the person in whose favour, the cheque is drawn is called 'payee', and the bank who is directed to pay the amount is known as 'drawee'.

## Pendency of Cases in Judiciary

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- According to the **Economic Survey 2018-19** there are about **3.5 crore cases pending in the judicial system**, especially in **district and subordinate courts**.
  - About 87.54% of the total **pendency of cases** is in the district and subordinate courts.
  - More than **64% of all cases** are **pending for more than 1 year**.
  - The **average disposal time** for civil and criminal cases in Indian District & Subordinate courts in 2018 was 4.4 fold and 6 fold higher respectively when compared with the **average of Council of Europe members (2016)**.
  - A **Case Clearance Rate of 100%** (i.e. zero accumulation) can be achieved with the addition of merely 2,279 judges in the lower courts, 93 in High Courts and only one in the Supreme Court, which is **already within sanctioned strength and only needs filling of vacancies**.
- **Reforms Suggested:**
  - Increased number of **working days**.
  - **Establishment of Indian Courts and Tribunal Services** to focus on the administrative aspects of the legal system.
  - **Deployment of technology** to improve efficiency of the courts, e.g. **eCourts Mission Mode Project** and the National Judicial Data Grid being rolled-out in phases by the Ministry of Law and Justice.
  - **Better Case and Court Management:** Professional Court Managers as suggested by the 13<sup>th</sup> Finance Commission. Court managers or equivalent professionals are the need of the hour and justice delivery can improve only if the courts accept and adopt **professional help in their administration**.
  - Setting up of **Tribunals, Fast Track Courts and Special Courts** to dispense important cases at the earliest.
  - Mechanisms such as **ADR (Alternate Dispute Resolution)**, Lok Adalats, Gram Nyayalayas should be effectively utilised.

## Way Forward

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- There should be wide introspection through extensive discussions, debates and consultations to identify the **root causes of delays in our justice delivery** system and provide meaningful solutions to improve the justice delivery system in India.
- Judicial reforms, if taken seriously, expeditious and effective justice can see the light of day and improve **India's standing in the reports of the World Bank** and other institutions and organisations that study judicial processes.

**Source: TH**