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Essence of Section 561A of the Code of Criminal Procedure, 1898

Black & White Law Issue

Dedicated to

To all the dedicated souls who have contributed to develop the legal structure of the society and give us a world where disputes can be resolved through law.

Black & White Law Issue

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ABOUT BLACK & WHITE LAW HOUSE

Black and White is a Law House established in Bangladesh. It is a renowned Law House consisting of both young professionals and experienced experts. It aims to facilitate all kinds of legal services from a single network.

We believe that clients and litigants coming for legal services should not let suffer any further. We believe in providing a compact and comprehensive service to our clients so that our clients find peace inside and also grow confidence observing that they are in the right place.

Our services are not confined to litigation, arbitration and commercial dispute resolution only but also extend to consultancy, business related counseling, problem solving through counseling or mediation or compromise. We believe in solving legal problems in most easy, convenient, less-expensive and smart way. We maintain utmost sincerity, honesty and accountability with our clients. We do not treat our clients as money making subjects and do not put them under pressure to access expert lawyers only with money. We are selective in terms of clients and cases. We only deal the cases having points and merits. We discourage unnecessary litigations. We are working for making justice more accessible and available to all kinds of claimants and sufferers who are in need of legal help and assistance.

We believe that being lawyers we carry out more social responsibility to ensure truthfulness, fairness, righteousness and justice. We are the rebels of rule of law. The rule of law is now not only a matter of constitutional law or state's good governance; it is also a matter of businesses and corporations. Therefore, we provide positive counseling and motivation to our corporate clients towards making their business more sustainable with profit and fame being more socially committed for the implementation of rule of law. We help them to comply with the domestic and international legal obligations for making their businesses more sustainable and acceptable both domestically and globally. We also help young investors to comply with legal requirements for starting their businesses and dreams.

Indeed, we do value our clients and their interests first. We put ourselves into the shoes of our respective clients. Securing the rights of our clients in most improved legal way and fostering human rights, rule of law, justice and fairness are some of the fundamental aims among others for which we are working strongly.

Apart from legal services, we promote legal research, publications and idea sharing. As a part of that endeavor, we have already published few books which are available in the market. In addition, we have taken initiative to publish research articles and judicial developments on various legal issues. The idea of publishing Black and White Law Issue is one of that. Thanks to all for supporting and motivating us. Keep us in your blessings so that we can work hard more and keep adding value to our legal development.

Essence of Section 561A of the Code of Criminal Procedure, 1898

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Essence of Section 561A of the Code of Criminal Procedure, 1898

Background of the Study

Section 561A was not in the original Code of Criminal Procedure, 1898 (*as 'the Code'*) at the time of its inception. The Code came into operation on the 1st day of July, 1898¹ after its promulgation on 22nd March, 1898. And Section 561A was inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (Act No. XVIII of 1923). Since then it is in the Code without any further amendment or interference by the Legislature.

Section 561A has been the area of much interest for the litigants, especially to the accused for quashing the proceeding i.e. a criminal case.² It is also popular to any litigant of a criminal proceeding when there is no other alternative remedy available. Sometimes, section 561A is interpreted from wider perspective, and sometimes narrow, and sometimes mixture of both. That is why the jurisprudence of this Section is ever developing and still holds relevance to the legal scholars, advocates and judges equally.

Section 561A is not a long provision. It is a section of one sentence containing only 54 (fifty four) words within. But this Section has a vast legal wisdom. It is still developing. It is randomly used in legal practice and yet to be explored more. The spirit laid down in this one sentence has left the judges and lawyers with wonder of legal interpretation. This is the beauty of law. This is the beauty of this Section. In practice, some try to limit down and some try to extend the discretionary power laid down in this Section. However, these two different streams on different directions do not destroy the essence or sanctity of this Section; rather they both have created a bridge of harmony in exercising the application of this Section in case to case basis with time, situation and circumstances maintaining check and balance. The section plays invaluable role in the judicial process as it is preventing or restraining arbitrariness or irrationality of process and bringing the judges out of box and thinking wide, thus extending the scope of justice with reasonableness and rationality.

Having a glimpse of the versatility and moving nature of Section 561A and its development with time, this study will sketch Section 561A in most comprehensive way with till date judicial rulings and interpretation. It will also advocate for more legal interpretation of this Section.

¹ Section 1(1) of the Code of Criminal Procedure, 1898.

² There is no denying of the fact that in exercises of the jurisdiction under section 561A of the Code of Criminal Procedure, High Court Division can quash the proceeding if there is no sufficient material to connect the petitioner with the accusation as alleged.

[*Ahmed Zamal Masum v State*, 15 BLC 2010 HCD 346.]