



Media Trial in India: A Legal Study

Chirag Anand¹

¹Chanakya National Law University

ABSTRACT

“I would rather have a completely free press with all the danger involved in the wrong use of that freedom than a suppressed or regulated press- Nehru”

In today's world no matter what age a person belongs to, but what keeps them engaged is the media. It has become the basic requirement now and maybe it is right to say that one can't imagine a life without media whether it's about education or entertainment the whole world relies on the media. It is the media which keeps us connected and updated from north to south or east to west. The 21st century has modernized the demi-world of media, and this generation has been witnessing the shift from traditional print media such as newspaper radio television and modern media like social media platforms. This social media is an alternative piece of modern society.

The hyperactive participation of the media in the cases is known as media trials, leading to create chaos both in the individuals and the judiciary. It creates so much public City on the matter that it causes either biased view which heavily affects the parties involved, its audiences or gives rise to prejudice, resulting in the miscarriage of justice. Media has a powerful impact on the case, and reputation of the parties as it attracts the people's sentiment and thereby sometimes forcing the judges to pass the verdict against the accused even though the accused is innocent.

This paper focuses on how such a media trial affects the fair trial of the accused and makes it difficult for the administration of justice. This paper will also help you to recognise the major drawbacks and how its encroachment had shaken the judicial body. And how media trials influence the society by restricting them to think in a narrower sense.

1. Introduction

Everyone maybe heard this story, a very famous childhood story "the Pied Piper of Hamelin". In this story, as soon the Piper blows the pipe all the rats and later on the children begins to follow him. With the sound from the pipe, they just carried away escaping their consciousness. But in today's time this is no more just a story, the role of media today, is same as of the role of pied Piper in the story. The media today, influence the mind of the large population so effectively, that it becomes much difficult for them to see right or wrong with their own perspective. Therefore, it can be said that, that whosoever controls the media, controls the minds of the people and the same has been seen in the last few decades.

Justice M. Katju, has also reaffirmed the significant role of media in transforming India into a industrial society from an archaic one.² Media creates awareness about socio-political and economic events around the globe. The manner in which media disseminates information creates desirable expression and sentiments".³ The media has not stopped here only but also spreaded its wings over the adjudication. This contravention of the media into the criminal cases has been termed as media trial.

It is no secret that media has a huge influence on people's life and minds. It affects so much that it shapess how we see the world. Over the past few years media has increasingly presented itself through multiple mediums thereby exerting greater influence on peoples minds compared to earlier lives.

The Vice President of India, Shri M. Venkaiah Naidu, said:

“The strength of a democracy depends upon the strength of each pillar and the way the pillars complement each other. Any shaky pillar weakens the democratic structure.”⁴

Trial by media is a phrase used in the late 20th and early 21st centuries to describe the influence that television and reports have on a person's reputation by establishing a broad perception of guilt independent of any court law judgement.

¹ LL.M. Scholar, Chanakya National Law University, Patna (session: 2022-2023)

² Justice Markandey katju, “The role of Media should be playing in India.”, The Hindu, 5-11-2011.

³ Trial by Media: Looking Beyond the Pale of Legality”, civil services times magazines, (12-7-2001)

⁴Press Information Bureau, Government of India (8 December 2019) <<https://pib.gov.in/newsite/PrintRelease.aspx?relid=195595#:~:text=Mentioning%20the%20four%20pillars%20of,way%20pillars%20complement%20each%20other.>> accessed 9 January 2021

Unfortunately, the media, especially in India, have strayed from reporting the facts and have increasingly adopted mimicking court proceedings in newsrooms. Revealed more often in the press. Indian media coverage is aimed at increasing audience and viewership, not to increase public understanding of the judicial system and cases. This affects court proceedings as well. There have been many cases in India whose final verdict was clearly influenced by this media trial, including the famous Aarushi Talwar murder⁵, Jessica Lal murder⁶ and the recent death of Sushant Singh Rajput.

In democratic setup country, like India, the press or media is considered the fourth pillar of the state. We know three organs of the Government, i.e. Legislative, executive and judiciary, separate and independent from each other. As the fourth pillar, mass communication and media can be said to be equal importance as the other three organs of the state. The media is a platform for sharing of ideas and communication between societies. These ideas form the basis for social participation and discussion.

The three branches of government: legislative, executive, and judiciary exercises their powers and authorities from the Indian Constitution. Although the press/media have no such expressed provisions, but draws its powers from the Indian constitution. This power is exercised from the Constitution containing an extensive list of: Fundamental rights. One of these fundamental rights is Article 19, which provides for freedom of speech and expression. As we know, with every freedom their comes a scope of its abuse, so Article 19 also provides certain restrictions on freedom of speech and express.

2. Media trial: An overview

Suppose a sensational or controversial case, or a case involving a eminent party, comes to court, public excitement rises and people want to know about the small improvements the court has made during the proceedings and want to stay up-to-date , or new evidence discovered by an investigative team, or the name of a person who turns out to be a potential suspect. News channels, newspapers, or websites have quenched this thirst commonly roused by publishing news, articles, etc. that consist of their own versions of facts that, infrequently, may differ from the actual facts.

When a person sees such stories or reads such articles or newspapers, a point of view is made, based solely on these stories and articles, and begins to regard the person being tried as accused or innocent just based on the prima facie irrespective of evidences. The perception made by the majority based on such news and invoking their minds to agree on what they see, is called the "media process". In other words, the process of assuming accused, a guilty or innocent even before the court makes its verdict, is known as media trial.

The media has now evolved as a 'public court' (Janta Adalat) and has began to interfere in court proceedings. It completely overlooks a significant gap in between, accused and convicted persons jeopardizing the golden rule of "presumption of innocence until proven guilty" and "guilty beyond reasonable doubt."What we see now is that, the media trial themselves conduct investigations, and organize another survey to build public opinion against the defendant much earlier the court notifies the case. In this way it prejudices the general public, and sometimes even judges, considering an innocent as criminal with all his rights and freedoms unencumbered.

A media trial is described as the process by which the media takes a case into their own hands and declares the person guilty or innocent. In other words, it means taking the case into one's own hands and declaring who is guilty or not even before the court passes its judgment. Contrary to the notion of fair trial, as determined by the Hon'ble Supreme Court, right to fair trial falls under the ambit of Fundamental rights deriving its validity from Article 21 of the constitution.

3. RIGHT TO FAIR TRIAL

For any justice system, fair trial for the accused is an essential part as guaranteed by the natural justice. The concept of fair trial is a complex and multifaceted right that appears in many legal norms, and the constitutional basis of this procedure is respected in Article 21 to facilitate the administration of justice. The media must ensure that the right of privacy and freedom of expression are kept in sync and that the privacy of individuals is fully protected, thereby upholding the cherished principles of a democratic society enshrined in the Constitution of India. Underlying the right to equality is the right to a fair trial. This is an amendment to Article 21 of the Indian Constitution which provides a guarantee against any form of discriminatory conduct against the defendant or suspect at any stage of the trial. This promotes equal treatment before the law. This was established in *Maneka Gandhi v. UOI*⁷. Furthermore, the right to remain silent is a constitutional privilege under Section 20(3) of the Indian Constitution, which provides the defendant's right to self-incrimination. Persons accused of criminal offenses shall not be compelled to testify against themselves. Sections 316, 315, 313, 161(2) of the Code of Criminal Procedure, and various provisions of the Code of Evidence, likewise do this by giving immunity and protection to defendants at all stages of proceedings. It is a grave miscarriage of justice for the media to interfere in a trial and violate the right to be presumed innocent. The importance of the fundamental right to presumption of innocence was emphasized in the *Vishaka v. State of Rajasthan*⁸ case. Later on, in *P.N. Krishna Lal vs. Government of Kerala*⁹, SC introduced the principle of "presumption of innocence" as an integral part of Indian law. But in complete disregard for this sacred tenet of criminal law, the media has exceeded its limits by arresting suspects and accused as "convicts" in court, completely confusing clear lanes with prejudice.

⁵ 2013 (82) ACC 303

⁶ Sidhartha vashisht Alias Manu Sharma vs. State (NCT of Delhi)

⁷ AIR 1978 SC 597 ; (1978) 1 SCC 248

⁸ AIR 1997 SC 3011

⁹ 1995 Supp(2) SCC 187

In the case of National Legal Services Authority v. Union of India¹⁰, it was held that it was the court's duty to interpret the country's laws without being influenced by public opinion provoked by the media. It is important to categorize the stages of criminal trials into pre-trial, trial, and post-trial stages. Because these stages involve a series of actions, and tampering with the law at any stage will have adverse effects, delay trials, and mislead due process of law.

4. Media trial affecting fair trial

People have an absolute right to a free trial, and it cannot be denied. There is also the possibility the media has brought prejudice. Media channels also try to bias the minds of viewers and readers leading to the creation of, contempt of court¹¹, a concept established as a result of such unfair and unjust trials. Publications intended to poison jurors, intimidate witnesses or parties, or create an atmosphere in which enforcement of justice becomes difficult results as contempt of court. Commenting on a pending suits or abusing a party is also considered as contempt when triable by a judge. No publisher or the editor has the right to assume the role of investigator misleading the court against anyone.

As guaranteed by the Constitution, the parties to a case have an absolute right to a fair trial in a court of law which is completely impartial and free from the influence of the press and newspapers. That right is certainly undermined when the press starts using language that tends to influence and control the administration of justice. The concept of "fair trial" was introduced as a safeguard in criminal proceedings by relevant court decisions.

In the criminal justice system we follow, guilt must be proven beyond any reasonable doubt. Clearly, laws are governed by senses, not by sentiments. In the meantime when we show our emotions, the media and the public forget that it puts a competent judge under such tremendous pressure from all sections of society. In such situations, can anyone expect a fair verdict?

A suspect is innocent unless convicted by a court of competent jurisdiction. But the new trend has started of declaring the suspect guilty right by the time of their arrest. The media is expected to report the facts concerning the public issues but it seems that, media is busy in passing judgments.

5. Media trial: a Contempt of Court

Trials by the media can jeopardize the principles of natural justice and the defendant's right to be presumed innocent until proven guilty. All defendants have the right to a free and fair trial and to the legal aid they need as guaranteed by the constitution. But for financial gain and TRP ratings the media sensationalize the news to entice and excite their audiences which also affect judicial decision-making. Freedom of speech and expression does not recognize the right to say or publish what you want. It does not confer absolute and unrestricted immunity from responsibility for one's actions, nor freedom to interfere and manipulate court proceedings, nor freedom to provoke public opinion with unsubstantiated arguments. Criminal contempt is defined under Section 2 of the Contempt of Court Act, 1971. This includes publication of any matter that in any way affects or interferes with court proceedings or the administration of justice.

However, this does not mean that media coverage should go on strike, especially if the coverage relates to legal or legislative criticism. As the Act itself states, "any publication that does not contravene with ongoing court proceedings and is based on fair criticism of the judgement of the case does not amount to contempt.

6. Media trial: judicial aspect

Sensational journalism also influence justice. For example, the "trial by the media" has almost begun shortly after Afzal Guru was arrested for attacking the Indian parliament. Meanwhile, in December 2001, the police held a press conference, and Afzal 'burdened' himself on national media. The media played an important role in shaping public conscience before Afzal has been tried. Findings by Judge Venkatarama Reddi under maintenance to impose the death penalty on Mohammed Afzal; "The incident that caused many victims, Shaken the conscience of entire nations and collectives Society cannot be fulfilled without the death penalty given to the perpetrator." When the public believes justice is a noose around Afzal Guru's head in case of parliamentary attack, then there is no shortage. The evidence against him justifies his guilt.

The increase in public noise generated by the media Conviction in the "court of public opinion", influenced judgment in court. Similarly, S.A.R. Geelani, one of Afzal's co-defendants in attacks on parliament, Originally sentenced to death for his alleged involvement Despite the overwhelming lack of evidence, but the prosecution's case was based on a lonely phone call. Geelani and his brother in conversation with the media painted him as a dangerous and trained terrorist. Delhi Supreme Court Overturns Appeal Convicted and described the prosecution's case as "at best "Absurd and tragic." Although the Supreme Court ruled that tacitly acknowledged that negative publicity could negate it Granted defendants a fair trial and dismissed Vikas Yadav's plea Transfer of appeal against conviction by Delhi High Court of Allahabad High Court of Nitish Katara Murder Case.

¹⁰ Writ Petition (civil) No. 604 of 2013

¹¹ Article 129 and 215 of the Indian Constitution.

7. JUDICIAL INTERPRETATION: TRIAL BY MEDIA

The media trial phenomenon contains various nuances and complexities that can be gleaned from judicial decisions that describe the scope and aspects of media prosecution. The 9/11 terrorist attacks in Mumbai saw major leaks in the coverage. The incident threatened national security as news reports revealed details of security guards, police and hostages. The media is clumsily involved in improving Target Rating Points (TRPs), thereby contributing to the media threat. Individuals' reputations should not be harmed by the media except in the public interest or to reveal the truth. An individual's social life is compromised regardless of the court's ruling. In *Leo Roy Frey v. R. Prasad*¹², the court ruled in favor of the media, whose disclosure, beyond reasonable doubt, would impede a fair trial in a subordinated case or impede imminent trial. He stated that it should be estimated to be equivalent. In *Rajendra Sail vs. M.P. High Court Bar Association*¹³, S.C. found it very necessary in the current scenario to check out an inherently controversial release. Courts could block due process of law and bring contempt lawsuits against media companies whose rights to free expression are not absolute. This was the court's ruling on its own application to the Times of India. Harijay Singh said that freedom of the press does not stand on a higher pedestal than freedom of speech and expression.

The right of the media to express their opinions is restricted. One of the most effective tools to curb the unlimited power in the hands of the media is the power of courts to initiate disrespect proceedings. Broadcasting half-baked versions of only one side needs to be strictly checked because it is a medium that attracts a large audience. This happened in the case of *M.P. Lohia vs. W.B. State*¹⁴ otherwise. In the case of *Rao Harnarain Singh Sheoji Singh v. Gumani Ram Arya*¹⁵, the role of the media was strictly defined, reporting issues and not deciding the cases that went to trial. But if the media criticism is fair, it doesn't amount to disrespect. There is fierce and unhealthy competition among media operators to get news to the public, endangering the interests of the public and hindering the judicial process. Therefore, courts should actively intervene and play a more active role, such as controlling external factors that tend to interfere in criminal proceedings.

8. Concluding Observation.

Media is a powerful medium, supporting the exchange and communication of ideas and opinions. Independent media are courageous and play an active role in seeking truth in democracies. But with press freedom comes a responsibility to be aware of the consequences of that action. The interplay between the right to freedom of expression and the right to a fair trial has created conflicts between competing rights. There is an urgent need to contain the impact of media trials affecting the criminal justice system and the general public. To reconcile fair trials and press freedom, the Contempt of Court Act of 1971 must be effectively enforced. Until a court decides on a matter under judgment, the media has a duty to report the facts fairly and accurately without bias. The media needs to understand the principles of legal consequences that underlie the criminal justice system. Existing legislation does not include the latest technological developments in the media, creating a legal dilemma. Media coverage of a defendant's past beliefs and character creates a pervasive image of that person in the reader's mind. The media must turn its attention to law, rule of law, jurisprudence, and policy to end the barrage of prohibitions and restrictions. Reporters need to develop an informed attitude and understanding of the procedures for reporting court cases. A slightly more viable option is to go beyond Article 19(2) to (6) and overemphasize Article 19(1)(a) to punish and prevent disclosures that impede enforcement of justice. To enforce severe penalties for Courts should impose sanctions under the Contempt of Court Act 1971 to have the effect of deterring sensationalist reporting. This is a rigorous approach to liability practiced in the UK and US legal systems and is set as Bench Bar Press Guideline 91 to reduce the impact of pre-judicial propaganda. In addition, journalists sought appropriate training on certain aspects of the law relating to freedom of expression and its restrictions, the right to defamation and disrespect.

¹² AIR 1958 P H 377, 1958 CriLJ 1225

¹³ Appeal (crl.) 398-399 of 2001

¹⁴ Appeal (crl.) 219 of 2005

¹⁵ AIR 1958 P H 273.