

ANALYSING THE LEGALITY OF MEDIA TRIALS IN THE INDIAN CONTEXT

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“Innocent until proven guilty they say, the courts shall determine the guilt, but stuck in the media’s play, the man’s character gets biasedly built.”

ABSTRACT

The fourth pillar of democracy is the media. It stands for all citizens' rights. While some nations have specifically recognized media rights in their laws, others have not done so but have treated them with respect anyway. But media can overstep its bounds, just like a human. There are instances when the media conducts a separate trial of itself rather than simply presenting the information to the general public. And when it does so, a large number of people have their rights violated. It appears that judicial rulings are being challenged. All those engaged in the case have their reputations ruined. But occasionally, straying from the norm helps to modify the way the law operates for the better. I'll be analyzing media rights in the Indian context in this piece. I'll go into more detail on what happens when the media oversteps its bounds before talking about whether these activities are legal.

INTRODUCTION

Since the British era, the Freedom of Speech and expression has been cradled by our freedom fighters. The fight in that era was carried forward by printing pamphlets and newspapers to make people aware of the prevalent injustice and urge them to take action to protect themselves and work for the freedom of the nation. Media was all about connectivity in those days. The British made a number of laws restricting and limiting published content. Censorship became a very strict affair that would not leave anything slightly against the British regime to perpetuate in the public. Strict actions were taken against the ones who broke these laws. The aim behind these restrictions was to dilute the stirring within the colonial residents against their imperial masters by destroying their connectivity and sparks of ideas of revolutionaries from perpetuating them amongst the commoners. Media has always helped ignite affirmative revolutions and propagate crucial information. The structure of the State with the Legislature, Executive, and Judiciary would have been highly unreachable to the general public without the

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support of the media. The fact that people are aware of the activities of their representatives and protectors is empowering at many levels. People know that they cannot be unfairly and autocratically ruled and that governance is being carried out properly or not.

Today, the media's primary focus has shifted from communication to conviction. Media is frequently observed manipulating facts and information in order to increase their TRP. A general discussion of a court case in progress is helpful for disseminating important information about how our legal systems operate, but how this information is presented must be objective to avoid inciting prejudice in the general public. In such analyses, the guilty are occasionally unfairly shielded while the innocent are occasionally torn apart and have their reputations, dignity, and other attributes questioned. Media trials refer to the practice of proclaiming an accused person guilty before the court has rendered its decision. The truth is that the media trial contains both positive and negative sides, just like every other phenomenon in existence. The fact that the judicial trial process is made visible allows people to see whether or not their interests are being safeguarded, whether justice is being served, and whether the process in which they have such tremendous faith is even deserving of that faith. Judges have the same limitations as regular people. They are not immune from errors. However, the issue here is that their errors might endanger someone's life and reputation tremendously. Therefore, it is even more important to spot these errors and fix them before they have a serious negative impact on human rights. In such a situation, media trial draws attention to those errors and omissions, makes them public, and channel enough support to pressurize the appropriate authorities to take the necessary actions. The basic reasons behind the increased media trials are delays by the judicial system in providing justice and delivery of unsatisfactory decisions in certain cases. Now that newspapers, radio channels, and TV channels are not the only platforms for mass communication, individuals on social media have taken the responsibility of information broadcasting themselves.

RIGHTS: MEDIA V. INDIVIDUAL

The rights of media have been accommodated within the Right to Freedom of Speech and Expression given by Article 19(1)(a) of the Indian Constitution. It guarantees all citizens, the right to portray their thoughts through spoken or written words, gestures, etc. subject to certain reasonable restrictions as given in Article 19(2) of the Indian Constitution. Within this ambit fall the rights of publications and presentations of information by the media. Judiciary has

always promoted media rights through cases like Romesh Thapar v. State of Madras¹ and Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India². On the other hand, it has also shown concerns regarding the blatant violation of statutes by the media. Courts have condemned and restricted media trials in cases like Saibal Kumar Gupta v. B.K. Sen³, Re P.C. Sen case⁴, R. v. Gray case⁵, Y.V. Hanumantha Rao v. K.R. Pattabhiram⁶, Kathua Rape case, and National Herald case amongst many others.

In A.K. Gopalan v. Noordeen case of 1969⁷, the hon'ble court held that after the arrest of a person, if any publication is biased in favor of the suspect, then it would be a case of contempt of the court.

Justice Sikri has commented that "Media has completely changed in the digital age and now we are living in an era of paid and fake news."

POSITIVE EFFECTS WITH RESPECT TO IMPORTANT CASES

Through the years we have seen multiple cases where the media has helped influentially in uncovering facts and loopholes in court proceedings which have helped our administrative and legal system evolve.

JESSICA LAL CASE⁸: A girl was shot in the head by a political figure's cousin for no other reason than that she had the right to refuse to offer him some beverages. There were about 300 people present when this dreadful event happened. The few individuals who agreed to testify in the well-known case were bribed and threatened with hostility. Although the guilty party was right in front of the court, it was impossible to convict him. The media intervened by organizing a sting operation that revealed numerous witnesses and evidence. The offender was ultimately found guilty, and this case served as the poster child for the objective and effective media that democracy so fervently loves.

¹ 1950 SCR 594

² 1985 SCR (2) 287

³ 1961 SCR (3) 460

⁴ 1969 2 SCR 649

⁵ 2006 SCC 54

⁶ AIR 1975 AP 30

⁷ 1970 SCR (2) 410

⁸ (2010) 6 SCC 1

MUKESH AND ANOTHER v. NCT OF DELHI (NIRBHAYA RAPE CASE)⁹: On December 16, 2012, the murder and rape tragedy that shocked the entire country 2012 occurred. On a bus that the girl and her male friend boarded, a 23-year-old female paramedic was assaulted, gang-raped, and severely beaten. Treatment was made available at the earliest but the injuries were so brutal that she couldn't fight anymore and eventually died as a result of the incident. She left the world with many unanswered questions for the general public and the legal community. Judges Dipak Mishra, Ashok Bhushan, and Bhanumati made up the three-judge bench that presided over the case Mukesh and Another vs NCT of Delhi. Amongst the 6 convicts, 1 (Ram Singh) committed suicide in prison, 4 of them were given death sentences and the juvenile was sentenced to 3 years in a correction facility by the Juvenile Justice Board. It sparked a lot of discussion in the media, with one of the main topics being the involvement of the juvenile offender who was only six months away from becoming an adult. This violates the Juvenile Justice (Care and Protection) Act 2000, and the offender was only given a three-year prison sentence by the judge. Several protests, candle marches, and large-scale media analysis sessions against this Apex Court ruling called for changes to the current Juvenile Justice Law. After much discussion, the country's juvenile justice laws were changed to allow juveniles between the ages of 16 and 18 to be tried as adults for serious offenses. In the midst of heated debates, protracted discussions, and street protests by Child Rights Organisations and certain lawmakers, the Indian Parliament enacted the Juvenile Justice (Care and Protection of Children) Act 2015.

Some other noteworthy cases are the Priyadarshini Matoo Case¹⁰, Bijal Joshi Rape Case¹¹, and Nitish Katara Murder Case¹².

NEGATIVE EFFECTS WITH RESPECT TO IMPORTANT CASES

Media trials have wreaked havoc in the lives of numerous people. The delivery of justice is as it is a complicated process that is further entangled through the dispersion of partially correct and highly biased information. It affects the general public just as much as it affects the people in constant limelight like actors and public figures.

⁹ (2017) 6 SCC 1

¹⁰ 2007 CriLJ 964

¹¹ (1997) 2 GLR 1147

¹² CrI.A.Nos.741, 910/2008 & 145/2012

K.M. NANAVATI CASE v. STATE OF MAHARASHTRA¹³: K.M. Nanavati, a highly decorated Naval Commander murdered Prem Ahuja, the lover of his wife, and was acquitted by a jury that was said to be highly influenced by the widespread support media had gathered for him through the publication of twisted facts. He was portrayed as a wronged husband betrayed by his friend, which accompanied by his spotless repute as a Naval officer made him a public figure. When later tried in the Bombay High court, he was given life imprisonment for culpable homicide amounting to murder.

BOFORS SCANDAL CASE¹⁴: There was a contract between the Indian government and a Swedish Arms Company Bofors which was alleged to be illegal due to suspicions of bribes being given to top officials in order to seal the deal. Even before facts and data were uncovered by the investigative agencies and the courts could function on it, the media declared it a scandal, and widespread scrutiny got invited to the party in power.

SANJAY DUTT CASE¹⁵, RHEA CHAKRABORTY CASE, ARYAN KHAN CASE, ARUSHI TALWAR MURDER CASE¹⁶: The common ground in these cases was the fact that the accused persons were public figures, and once suspicions against them crept up, once the case was brought to light, the media tore their character up in shreds. Sanjay Dutt was declared a terrorist. Rhea Chakraborty was declared to be the reason for Sushant Singh Rajput's death. Aryan Khan was declared a drug addict and dealer. Arushi's parents were declared cold-blooded, highly trained murderers accused of killing their own daughter even before the court proceedings could take place. All these declarations were solely based on a shallow look at the facts and connections of dotted lines. Highly fabricated stories gave media channels a great opportunity to increase their TRP manifolds but destroyed the career prospects, reputation, and social life of these potentially innocent people. The media relentlessly went ahead with the idea of a "guilty until proven innocent" approach in these cases.

¹³ 1962 SCR Supl. (1) 567

¹⁴ Shourie, A. (2022) Bofors scandal – when Rajiv Gandhi's biggest opposition was a swarm of angry journalists, ThePrint. Available at: <https://theprint.in/pageturner/excerpt/bofors-scandal-when-rajiv-gandhis-biggest-opposition-was-a-swarm-of-angry-journalists/888252/> (Accessed: January 19, 2023).

¹⁵ Special Leave Petition (crl.) 1834-35 of 1994

¹⁶ (1984) 2 SCC 627

ARE MEDIA TRIALS LEGAL? IF YES, THEN WHY ARE THERE NO LAWS GOVERNING THEM? IF NO, THEN WHY IS THE MEDIA STILL ABLE TO PRACTICE THEM?

The concept of media trial has not been mentioned in either the Indian Constitution or any other statute. It is not even supported by any judgment of the hon'ble courts. Media trials are illegal on the following basis:

Violates the reasonable restrictions of contempt of courts and defamation given in article 19(2) of the Indian Constitution: The ultimate expression of justice, equality, and rights is in the courts. Extreme caution and consideration for rights and obligations are used when making decisions. Such judgments must not be disregarded. The appeals process is in place if someone disagrees with the court's ruling in order to ensure that opposing viewpoints are heard and that the majority can be happy with the outcomes. Media trials have always cast doubt on how courts operate, and while they have occasionally aided in the discovery of the truth, other times they have done nothing more than blatant disdain and disrespect the court's ruling. Due to this, the general public begins to doubt the decisions and the notion of an impartial judiciary as a whole. Therefore, it is necessary to punish this behavior, and the idea of contempt of court accomplishes this. Individual reputations have considerable significance, just as the standing and respect of courts do. One of the most fundamental qualities that every person tries to preserve is reputation. The act of spreading untrue information about a person that harms their reputation is referred to as defamation.

Violates the Contempt of Courts Act 1971: The act defines contempt of various natures, what may or may not amount to contempt, and how the court shall proceed when it takes place.

Violates the Right to Privacy, Right to fair Trial, and Right to Life with Dignity under Article 21: The individuals involved in court proceedings, investigating officers, and other related people have their own private lives. Private matters are thoughtlessly disclosed and privacy is brutally breached. When a media trial begins, the character of each individual is built in the light of unverified information publicly. The judges are also human beings and sometimes these biased narratives deter the judges from taking just decisions. This takes away the accused's right to a fair trial. Even if the court decides in the favour of the accused, the strain media puts on his/her character does not easily go away and the dignity gets snatched away.

Violates Press Council of India Guidelines, Madrid Principles on the relationship between the Media and Judicial Independence 1994, the suggestions of 200th Law Commission Report, and Lord Macaulay's Principle of Division of Power.

CONCLUSION

As these laws adequately prove that media trials are illegal, there are no laws governing them. But the sad reality is, the administrative and judicial systems are not able to stop the media channels from conducting them. Also, now that the majority of people are active social media users, even if the government and law somehow manage to curb the TV channels, Radio channels, or other mass media, they will not be practically able to stop the individual scrutiny of thousands of ideologically radical opinions floating under the protection of freedom of speech and expression. Too strict of measures by the authorized bodies would prove to be futile as it would lead to nothing but the constant paranoia of probable prosecution of the individuals. It will take no time for democracy to turn to autocracy, dictatorship in the eyes of the citizens. This will lead to high internal instability which India in its current position in the world cannot think of affording. Censorship laws have been criticized since the advent of the concept and in this politically critical atmosphere strengthening them will create problems instead of solving them.

