



VERDICT BEFORE TRIAL: THE CONSTITUTIONAL PERIL OF SENSATIONAL JOURNALISM

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ABSTRACT

The increasing influence of mass media in India has given rise to the phenomenon of media trial, wherein media platforms assume the role of adjudicators in matters pending before courts. Though the media remains an important pillar of democracy in facilitating transparency and accountability, the excessive and sensationalised reporting of sub judice matters often frustrates the essential elements of criminal justice, namely, the presumption of innocence and the right to a just trial. This paper critically examines the concept of media trial in India within the constitutional framework of freedom of speech and expression under Article 19(1)(a) and the right to life and personal liberty under Article 21 of the Constitution of India. It further discusses the state of legal boundaries created by contempt of court, defamation laws, and judicial precedents with special reference to landmark decisions of the Supreme Court. The media trial, as it happens, affects the accused, the judiciary, and public confidence in the system of delivery of justice. The paper argues for a balanced approach that can preserve freedom of the press while maintaining the integrity of the judicial process and concludes by emphasising that, to prevent media overreach in India, a clearer regulatory guideline is required along with strong self-regulatory mechanisms.

Keywords: Mass Media, Freedom of Speech, Contempt of Court, Media Trial, Freedom of the Press.

INTRODUCTION

The expression “trial by media” is defined to mean: “The impact of television and newspaper coverage on a person's reputation by creating a widespread perception of guilt regardless of any verdict in a court of law. During high publicity court cases, the media are often accused of

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provoking an atmosphere of public hysteria akin to a lynch mob which not only makes a fair trial nearly impossible but means that, regardless of the result of the trial, in public perception the accused is already held guilty and would not be able to live the rest of their life without intense public scrutiny.”¹ In a democracy, the media is regarded as the fourth estate, linking the government with the people and ensuring transparency and accountability. However, for the last couple of decades, the rush of money in newsrooms and round-the-clock reporting gave rise to a very disturbing phenomenon: media trial. Herein, parallel investigations are run by each outlet of news outlet, framing public opinion, and pronouncing people guilty or not guilty before courts have spoken. The behaviour threatens judicial independence and the rights of an individual.

CONSTITUTIONAL FRAMEWORK AND LEGAL LANDSCAPE

Article 19(1)(a) and Press Freedom: Article 19(1)(a) of the Indian Constitution guarantees the freedom of speech and expression, including freedom of the press. The Supreme Court has held that a free press is vital for the functioning of democracy and performs such critical functions as informing citizens, facilitating public debate, and serving as a check on government. This prerogative is not absolute.

Article 19(2) provides that in the interests of sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation, or incitement to an offence, reasonable restrictions may be imposed on freedom of speech. The Supreme Court has thus identified that freedom of the press could be pitted against fair trial rights, and restrictions could be imposed when media coverage is likely to prejudice ongoing cases.²

Article 21 and Fair Trial Rights: Article 21 has been liberally construed by the Supreme Court as including a host of unenumerated rights intrinsic to life and personal liberty. The right to a fair trial is one such fundamental right, which is inclusive of rights pertaining to trial by an impartial tribunal, the right to legal representation, and the right to be presumed innocent until proven otherwise.³

¹ <https://patnahighcourt.gov.in/ILR/viewpdf.aspx?T=ARTICLE&ID=Mg%3D%3D-KJBD41z3f%2Fk%3D>

² <https://sikkimjudicialacademy.nic.in/sites/default/files/PPTs/2025.06.06%20Media%20Trial%20PPT.pdf>

³ <https://thelawwaywithlawyers.com/indian-constitution-and-media-is-media-trial-endangering-judicial-independence-in-india/>

In *K. Veeraswami v. Union of India* 1991 SCR (3) 189, the Supreme Court explained that an independent judiciary is imperative in providing a fair trial; it acts to protect the rule of law from arbitrary use of authority. All these basic guarantees are put in jeopardy when disparaging media exposure develops an atmosphere of prejudice.⁴

Contempt of Courts Act, 1971: The Contempt of Courts Act, 1971, along with Articles 129 and 215 of the Constitution, empowers the Supreme Court and High Courts to punish for contempt. This includes publications that prejudice fair trials or impair judicial impartiality. Journalists may be liable for contempt if they publish anything that might prejudice a fair trial or impair the impartiality of courts, whether in criminal or civil proceedings.⁵

The law prohibits publications calculated to bring courts or judges into contempt, lower judicial authority, or interfere with the due course of justice. However, the Act does not prevent comments before litigation starts or after it ends, creating temporal boundaries for contempt liability.

EVOLUTION OF MEDIA TRIALS IN INDIA

Early Recognition and Print Media Era: Concern about prejudicial publicity in India has evolved alongside media development. During the print media era, coverage was geographically limited and temporally constrained. Newspapers had regional circulation, and information dissemination was relatively controlled. Courts dealt with occasional instances of prejudicial reporting, but the problem remained manageable through traditional contempt powers.

The Television Revolution: The advent of 24-hour news channels in the 1990s transformed India's media landscape. Television coverage adopted formats that amplify drama, including panel debates, reenactments, leaked investigation details, and emotionally charged commentary, creating environments resembling parallel trials. News channels competing for viewership began sensationalising criminal cases, often presenting accused persons as guilty before judicial determination.

The Supreme Court in *State of Maharashtra v. Rajendra Jawanmal Gandhi* 1997 (8) SCC 386 criticized media for sensationalising criminal cases, warning that this could lead to trial by

⁴ *K. Veeraswami v. Union of India* 1991 SCR (3) 189

⁵ <https://www.indiacode.nic.in/handle/123456789/1514?locale=en>

media, effectively undermining the judicial process. The Court recognised that the media's power to influence large audiences makes neutrality imperative, as prejudiced narratives can result in mob mentality, stigmatisation, and undue pressure on judicial institutions.⁶

The Digital Age and Social Media: The internet and social media have fundamentally altered the media-trial dynamic. Information is now permanent, searchable, and viral. Social media platforms enable unfiltered commentary by millions, creating echo chambers that traditional judicial institutions cannot penetrate. The court in the Sushant Singh Rajput case (2020) emphasised that, given the press/media's ability to mould public opinion through selective publicity, they ought to refrain from biased presentations having enormous potential to deflect the course of justice.⁷

The Bombay High Court in 2020 found that Times Now and Republic TV had reported cases maligning the investigation and obstructing administration of justice, with coverage lacking in bona fides and aimed at interfering with justice administration.

LANDMARK INDIAN JUDGMENTS ON MEDIA TRIALS

A. R. Rajagopal v. State of Tamil Nadu 1994 SCC (6) 632: In this landmark case, the Supreme Court warned against media reporting that could affect the dignity of court proceedings and infringe upon the right to a fair trial. The judgment reinforced that media freedom cannot override judicial dignity and fair trial rights. The Court established parameters for permissible media coverage while emphasising that freedom of expression must be exercised responsibly.⁸

Sahara India Real Estate Corp. Ltd. v. SEBI 2012 (10) SCC 603: This case represents the most comprehensive Supreme Court pronouncement on media trials. The Court acknowledged that while media freedom is essential for accountability, it must not prejudice judicial processes or infringe on individual rights, highlighting the necessity of balancing freedom of the press with fair trial rights.

The Supreme Court held that it has the power to evolve neutralising devices such as postponement of trial, retrial, change of venue, and, in appropriate cases, grant acquittal in case

⁶ State of Maharashtra v. Rajendra Jawanmal Gandhi 1997 (8) SCC 386

⁷ <https://timesofindia.indiatimes.com/india/sushant-singh-rajput-death-case-the-timeline-of-events-and-key-controversies/articleshow/119349929.cms>

⁸ A. R. Rajagopal v. State of Tamil Nadu 1994 SCC (6) 632

of excessive media prejudicial publicity to neutralise conflicting rights. This established the doctrine of "neutralising devices" to protect fair trial rights without directly restricting press freedom.⁹

The Court upheld postponement orders, which temporarily defer publication of sensitive information to protect fair trial rights, as reasonable restrictions under Article 19(2). However, such orders are used sparingly, only when essential to preserve judicial integrity.

R.K. Anand v. Registrar, Delhi High Court (2009) 8 SCC 106: The Supreme Court in this case highlighted that prejudicial reporting can interfere with the administration of justice. The judgment emphasised judicial responsibility to control media coverage that threatens fair proceedings, establishing guidelines for managing high-profile cases.¹⁰

D. Asharam Bapu v. Union of India (2013) 10 SCC 37: The Supreme Court observed that it hopes media, both print and electronic, would follow earlier guidelines regarding restraint in reporting sub judice matters. The Court reiterated that the media must exercise self-regulation to prevent trial by media.¹¹

Suresh Chandra Jana v. State of West Bengal (2017): The Supreme Court acknowledged the need to highlight principles of criminal justice administration, constructing a broader jurisprudential understanding from comparative perspectives, including New Zealand, Australia, England, and the United States. The Court recognised that modern criminal justice systems must balance transparency with fairness.¹²

CASE STUDIES: MEDIA TRIALS IN INDIA

The Jessica Lal Murder Case (1999-2010): Jessica Lal, a model working as a bartender, was shot dead on April 29, 1999, by Manu Sharma (also known as Siddharth Vashisht), son of a prominent Haryana politician, after she refused to serve him alcohol past midnight. Despite eyewitnesses and strong circumstantial evidence, the trial court acquitted all nine accused on February 21, 2006, leading to massive public outrage and media campaigns.¹³

⁹ Sahara India Real Estate Corp. Ltd. v. SEBI 2012 (10) SCC 603

¹⁰ R.K. Anand v. Registrar, Delhi High Court (2009) 8 SCC 106

¹¹ D. Asharam Bapu v. Union of India (2013) 10 SCC 37

¹² <https://indiankanoon.org/search/?formInput=citedby:168408259>

¹³ Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi) 2008 AIR SCW 4765

Media's Role: Following the acquittal, newspapers ran headlines reading "No one killed Jessica." NDTV started a campaign urging viewers to petition for a new trial, collecting over 200,000 cellphone text messages. Students held candlelight vigils at India Gate, wore t-shirts reading "we support re-investigation of Jessica Lal's murder," and poured into Parliament Street with protest signs.

In response to media pressure and protests, the Delhi Police petitioned the High Court for a case review. On September 9, 2006, Tehelka aired a sting operation appearing to show witnesses had been bribed to retract testimony, with Venod Sharma named as having paid witnesses.

Judicial Outcome: The Delhi High Court, spurred by public pressure and media revelations, reversed the trial court decision on December 15, 2006, convicting Manu Sharma of murder and sentencing him to life imprisonment. The Supreme Court in 2010 upheld the conviction, accepting there had been an element of "trial by media" but believing it had not affected the High Court's decision.

Constitutional Implications: The Supreme Court in *Manu Sharma v. State (NCT of Delhi)*, (2010) 6 SCC 1, emphasised that justice must be blind to power, privilege, and social status. While media activism secured justice, the case raised questions about whether convictions influenced by public pressure compromise judicial independence. The positive role of media in exposing witness tampering was undeniable, yet the case demonstrated the media's power to shape outcomes.¹⁴

The Aarushi Talwar Double Murder Case (2008-2017): On May 16, 2008, 13-year-old Aarushi Talwar and domestic servant Hemraj Banjade were found murdered in the Talwar residence in Noida. The case became one of India's most sensationalised media trials, with extensive prejudicial coverage that tarnished the reputation of the deceased and interfered with the ongoing investigation.¹⁵

Media Coverage and Character Assassination: On May 25, 2008, Zee News telecast *Crime File*, where anchor Manoj Raghuvanshi authoritatively claimed that Aarushi had sought comfort in an affair with Hemraj because her father was having an extramarital affair, accompanied by graphic fictional reconstructions. The media literally lapped up theories

¹⁴ <https://indiankanoon.org/docfragment/1515299/?formInput=jessica%20lal%20%20%20%20>

¹⁵ <https://www.myadvo.in/blog/everything-you-need-to-know-about-aarushi-talwar-murder-case/>

propounded by police and CBI, including killing with golf sticks and scalpels, despite a lack of proof, sensationalising unsubstantiated allegations.

The Supreme Court on August 9, 2010, criticised "sensationalist" media reports on Aarushi's murder as lacking in "sensitivity, taste and decorum" and in complete violation of the apex court's earlier call for restraint. Justice Kabir observed: "This is sickening... to write about a child who was only 14 years old when she died. Her reputation is tarnished... This is sensationalism and simply character assassination. Can it be justified?"

Investigation and Trial: The Noida Police initially arrested Dr. Rajesh Talwar based on speculation. The CBI's first team exonerated parents but suspected domestic servants. However, media coverage created an overwhelmingly negative public perception. Despite the CBI's narcoanalysis report of February 2010 stating that Rajesh and Nupur Talwar did not indicate participation in the crime, the CBI maliciously hid these documents from the magistrate.

On February 9, 2011, the Special CBI Court rejected the closure report and summoned the Talwars. In November 2013, they were convicted and sentenced to life imprisonment by the CBI Special Court amid criticism that the judgment was based on weak evidence.

Acquittal and Vindication: The Allahabad High Court on October 12, 2017, acquitted Rajesh and Nupur Talwar, citing that the CBI had failed to prove guilt beyond a reasonable doubt and that critical gaps in evidence existed. The High Court found that the trial judge had prejudged the issue and was predetermined to convict.

Media Trial Impact: The Talwars' acquittal emphasised the importance of fair trials and the potential harm caused by prejudicial media coverage, which may influence both public opinion and legal outcomes. The Supreme Court heavily criticised the role of the media, though it also acknowledged that media glare was one major reason for pointing out faulty police investigation, leading to CBI involvement.

The case remains unsolved, with the Talwars' reputations permanently damaged despite their acquittal—demonstrating that media trials can destroy lives regardless of judicial outcomes.¹⁶

¹⁶ <https://journal.indianlegalsolution.com/2019/10/15/critical-analysis-of-arushi-talwar-murder-case-pragya-jain-taniya-roy/>

The Sushant Singh Rajput Case (2020): Following the actor's death by suicide, news channels' reporting hampered the investigation. The Bombay High Court held that Times Now and Republic TV reported cases maligning the investigation and obstructing justice administration. "We have no hesitation to record that this sort of reporting by the media is immensely prejudicial to the interests of the accused and could dent the process of a future fair trial and derail the due administration of criminal justice"

The Court stated that "given the circumstance that the press/media can mould the opinion of society by publicity of certain facets of an investigative process, which could give rise to strong public emotions and prejudice the case of one party or the other, it ought to refrain from taking stances in its presentations which are biased."¹⁷

Priyadarshini Mattoo Case 1996: The Priyadarshini Mattoo rape and murder case (1996) initially resulted in the acquittal of the accused, Santosh Kumar Singh, by the Delhi Sessions Court in 1999, despite strong circumstantial and forensic evidence. This acquittal sparked intense media scrutiny and public outrage, as the media highlighted serious lapses in investigation, prosecutorial failures, and the influence wielded by the accused due to his father's position in the police service.

Unlike sensational media trials that prejudge guilt during ongoing proceedings, media involvement in this case primarily followed the acquittal, focusing on accountability and justice for the victim. Persistent media coverage kept the issue alive in public discourse and exerted moral pressure on the legal system, which ultimately led to the Delhi High Court overturning the acquittal in 2006 and convicting the accused. The Supreme Court later upheld the conviction in 2010.

From a legal perspective, the case demonstrates a nuanced form of media trial where media intervention functioned as a catalyst for judicial review rather than as a parallel adjudicatory forum. Courts themselves acknowledged that while media attention cannot substitute for due process, it can play a constructive role in exposing failures within the justice system. At the same time, the case serves as a cautionary example, underscoring that media influence must remain within constitutional limits to avoid prejudicing fair trial rights under Article 21.¹⁸

¹⁷ <https://cbi.gov.in/assets/files/media/1032909912Clippings%20dt.%2024.03.2025.pdf>

¹⁸ State (Through Cbi) vs Santosh Kumar Singh 1996

COMPARATIVE INTERNATIONAL PERSPECTIVES

The Supreme Court in *Suresh Chandra Jana vs. State of West Bengal* acknowledged the need for comparative perspectives, examining approaches in New Zealand, Australia, England, and the United States.

United Kingdom: The UK employs strict contempt of court laws prohibiting publication of prejudicial material once proceedings are "active." The Contempt of Court Act 1981 creates criminal liability for publications creating a substantial risk of serious prejudice.¹⁹

United States: The First Amendment provides robust protection for press freedom, similar to Article 19(1)(a). However, American courts employ extensive voir dire, change of venue, and jury sequestration in high-profile cases to protect fair trial rights.

Australia: Australian states employ sub judice contempt laws and suppression orders prohibiting publication of specific information, balancing these with open justice principles.

RECOMMENDATIONS FOR REFORM

Statutory Reforms

Amending Contempt Act: The Law Commission Report under Justice M. Jagannath Rao (August 2006) recommended prohibiting publication of anything prejudicial to the reputation of the accused from the time of arrest, making arrest rather than charge-sheet filing the starting point for restrictions.²⁰

Media Officer System: The Supreme Court suggested introducing Media Officers who may act as bridges between the media and investigating authorities, preserving public interest while controlling information flow. This position should be created through legislation.

Mandatory Guidelines: Courts should issue comprehensive, binding guidelines for media coverage of criminal cases, similar to guidelines in civil litigation contexts.

Self-Regulatory Mechanisms: On regulation by media houses, the Court explicitly stated concerns about the lack of regulation on electronic mode and urged the Central Government to

¹⁹ <https://www.legislation.gov.uk/ukpga/1981/49>

²⁰ <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081057.pdf>

take appropriate measures to control trial by media through the establishment of statutory bodies.

The Press Council of India and News Broadcasting Standards Authority (NBSA) must enforce stricter codes of conduct. Self-regulation should include:

- Prohibition on characterising the accused as guilty before conviction
- Restrictions on publishing confessions, prior criminal history, and character evidence
- Requirements for balanced reporting, presenting defence perspectives
- Sanctions for violations, including fines and broadcast restrictions

Technological Solutions

Digital Contempt Monitoring: Develop systems to monitor and flag prejudicial content in real-time, enabling swift court intervention.

Social Media Protocols: Collaborate with platforms to implement "sub judice" tags on high-profile cases, warning users about ongoing proceedings and limiting algorithmic amplification of prejudicial content.

Judicial Literacy: Train judges on digital media dynamics, social media impact, and techniques for managing high-profile trials in the internet age.

Public Awareness: Educate citizens about the presumption of innocence, the dangers of trial by media, and the importance of reserving judgment until judicial determination. Media literacy programs should be integrated into school curricula.

CONCLUSION

The judiciary and media are institutions inhabiting separate spheres; their functions do not overlap. One cannot and must not use the other for the discharge of its functions. The media should only engage in acts of journalism and not act as a special agency for courts. Ultimately, India must recommit to the principle that verdicts come after trials, not before them, that constitutional rights mean more than the passions of the moment, and that justice, even when delayed by procedural protections, remains worth pursuing. The Constitution's promise of liberty and fairness depends on resolving this tension in ways that honour both press freedom and fair trial rights, ensuring that neither is sacrificed at the altar of the other.