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MEDIA TRIAL AND INDIAN JUDICIARY: A COMPARITIVE STUDY

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ABSTRACT - Trail by Media is a phrase which was popular in the late 20th century and the early 21st century to define the impact of television and newspaper coverage on a person's reputation by creating a widespread perception of guilt irrespective of any verdict in a court of law. This research paper is an attempt to analyze the role of media in the society, to find the impact of media trial on Indian judiciary and to critically analyze two conflicting fundamental rights i.e. Right to Freedom of speech and expression vs. Right to personal liberty and fair trial. The study is analytical in nature. For this purpose, secondary data has been reviewed and collected. In the study it was found that the court of justice is the only forum and competent for justice and decisions and these forums must be allowed to role without any interference hindrance or spreading prejudice in the public opinion. Right to free and fair trial under the Indian constitution must be indorsed.

KEYWORDS: Media Trial, Prejudice, Personal liberty, Free and fair trial

INTRODUCTION- Media is popularly known as the “fourth pillar of democracy” after the Legislature, Executive, and Judiciary. It plays a vital role in creating awareness among people and can change society's viewpoint. Therefore, to ensure democracy, free and independent media is necessary. Part 3 of the Constitution of India does not explicitly talk about Freedom of the Press. However, in several cases, the Supreme Court held that the freedom of speech and expression enshrined in Article 19(1)(a) of the Constitution of India also includes freedom of the press. This problem is heightened in instances of high-profile criminal investigations and trials, especially in matters involving celebrities and political issues - where media reporting can shape popular sentiments and hence create undue pressure on judges and lawyers. In such a scenario there is an urgent need for the news-media to respect the balance between the ‘freedom of press’ and the ‘right to fair trial’.

Society is affected by the media multifariously. Mass media have played a leading role in shaping, guiding and reflecting the public opinion. Media play a significant role in shaping public perceptions on a variety of important issues, both through the information that is dispensed through them, and through the interpretation they place upon this information. They also play a large role in shaping modern culture, by portraying a particular set of beliefs, values, and traditions (an entire way of life) as reality. That is, by portraying a certain interpretation of reality, they shape reality to be more in line with that interpretation. The press is commercialized to a large extent. In this business, profits and social responsibility need to be balanced and if that does not happen, society will not accept the media for long. As an independent and statutory body, the PCI shall ensure that a balance is struck between profit-making and social responsibility, profit-making tendency of some media owners and contractual basis hiring of journalists are hampering quality of journalism.

REVIEW OF LITERATURE

- (Singh, 2020-21)-The Author critically analyzed the practice of media trials, the role of investigative journalism in criminal trials and public opinion of the case and suggested that few steps to curb the prejudicial reporting of cases of the media. The Author also suggested that media should not focus on feeding the public in what public is interested rather it should have morality and ethics of feeding the society in Public Interest.
- (Kumari & Chauhan, 2022) Authors studied the impact of media trial on judiciary and democracy as well as the reality of media trial towards the justice to the victim in the court of law. They also focused on the contradiction of two fundamental rights i.e. Right to privacy and fair trial of the accused & Right to freedom of the Press/Media. They used doctrinal method of research by collecting primary and secondary data. The results of the study were that media trial is a very negative or the counter of law and it results in perception building and hinder the fair proceedings in the court of law. They also stated that media should have proper rule of conducts so that it should not hinder or effect the right to personal liberty.
- (Hassan) Author stated that the media is eye and ear of the general public. The constitution guarantees the freedom of press article 19(1) but also provide Right to Life and the Right to free trial of an accused person which cannot be compromised in any way. Author also discussed that even judges are compelled to make a decision as per public opinion which is a result of media trial. Author concluded that media trial reports some things even before the police has found about it and this investigative journalism is good in participative democracy, but it should be kept in mind that the hindrance by media in the fair trials is more harmful for the sustenance of democracy. Their must be balance maintained between the right to the media to investigative journalism and the right of individual to fair trial.

- (Ramchandani, 2020) The author in-depth analyzed the constitutionality of the media trial. Further the author discussed the negative impact of the media and how media trials affect the working of the legal system and can lead to misrepresentation and injustice. Author described that media is a means of mass communication just to inform and spread awareness among the general public not to prejudice and encroach the proceedings in the court of law. Trial by media/press has a dangerous stand that becomes extremely difficult for the judges to make an unbiased judgement. Author also discussed that media trial makes the pressure on judiciary by influencing the general public by conducting trial and leads to miscarriage of justice.

OBJECTIVES OF STUDY- The objectives of the research study are as follows: -

1. To analyze the role of media in the society.
2. To find the impact of media trial on Indian judiciary.
3. To critically analyze two conflicting fundamental rights i.e. Right to Freedom of speech and expression vs. Right to personal liberty and fair trial.

RESEARCH METHODOLOGY

Present study is analytical in nature. For this purpose, secondary data has been reviewed and collected from newspapers, journals, television, articles and reports.

Role of Media in the Society-

Media plays a vital role in spreading awareness in the society. In present world the role of media and mass communications has become vast and crucial because media is been called as a “Sword in democracy”. Media acts as a watchman to protect the public interest and to protect general public from malpractices. The importance of media in nation building cannot be neglected. The role of media in society is the smooth flow of information and awareness. There are both positive as well as negative impact of media on the society. media is very integral part of our life therefore they generate popular interest and debate about any social problem. Media effects and changes knowledge, attitude and behavior of the society, so it’s the duty and responsibility and duty of media to be truthful, fair and follow code of ethics and professional conducts.

Media Trial and Indian Judiciary-

Media trial can be described as a debate or discussion prejudicing any matter or case in the society where print and electronic media conduct their own trial and makes the perception according to the information or illusions they are provided or collected. In past years this encroachment of media over the administration of judiciary and court of law which are been made as per constitution to provide justice and to state what is as per law or not? has been increased. There is no law or rule that prohibits the media or set their areas of functioning. As we see that in today’s

scenario the news channels conduct trial comprising debate and discussion about the celebrities, top people on their lifestyle or any case they are indulge which is being proceeded in the court of law. Media trial turn the general public perception or the public opinion as per what they are trying to have and then they also pressurize the judiciary to turn their decision as per the public perception or opinion not as per the evidences or the clause in the rule of law.

Media is the source of communication which was been made only to aware or to provide information to the general public or society, but in the recent times media not only encroached the functioning of judiciary but also makes or states judgement as per the content they have and effects the judicial trial and proceeding in the courts conducted.

Right to Freedom of Speech and Expressions vs. Right to Personal Liberty and Fair Trial-

The constitution of India does not separately give any freedom of press or the electronic media in the part III (Fundamental Rights). Article 19(1) (a) speaks about the freedom of speech and expression that is taken by the media as the Freedom of Press. None freedoms given in the constitution in India are absolute, but can be reasonable restricted and their restrictions are itself provided in the Indian constitution or the other statutes as the condition may be. The restriction of article 19(1) (a) are provided in article 19 (2).

Article 20(1) of Indian constitution says that no person shall be convicted of any offence except for violation of the law on force. Article 20(2) states that, no person shall be prosecuted and punished for the same offence more than once. Article 20(3) is an important and it deals with the right against self-incrimination. This clause says that “No person accused of any offence shall be compelled to be a witness against himself.

Article 21 is the important article which guarantees the right to life and liberty. It reads, “no shall be deprived of his life or personal liberty except according to procedure established by law”.

The Supreme Court in Maneka Gandhi case interpreted the words “according to the procedure established by law” as requiring a procedure which is fair, just and equitable and not arbitrary.

Conclusions and Suggestions- Media is a foundation stone in democracy which functions for the superior awareness of society but the process of law and judiciary should not be mired by the media coverage or media trial. The rule of law must conquer and directive of freedom of press must be built to limit the fields of media to place or aware the public with matter and without giving any prejudice decision or assumption.

The court of justice is the only forum and competent for justice and decisions and these forums must be allowed to role without any interference hindrance or spreading prejudice in the public opinion. Right to free and fair trial under the Indian constitution must be indorsed.

Suggestions regarding media trial and its impact on judiciary are - Legislature should work and bring act or a law describing the role and freedom of media and by defining the limitations of media/press in the area of debates and discussion on any of society. Media should also build their own code of conducts and ethics for their practices of

the awareness they are meant to spread without encroaching the role of judiciary for providing fair justice without pressure.

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