



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

MEDIA TRIAL AND ITS IMPACT ON ADMINISTRATION OF JUSTICE

Tharini. R

BALLB(Hons), LLM (Taxation Law)
Assistant Professor
Saveetha School of Law
Chennai, India

ABSTRACT:

Indian democracy is upheld by the three major pillars namely, legislature, executive and judiciary. Lord Macaulay, considered “media” to be the fourth pillar of the democracy. It is always critical to raise awareness and bring changes in the minds of the people. This can be done only by the means of free and independent media, thus ensuring the democracy. Though Part 3 of the Indian Constitution has not expressly provided for the “Freedom of Media”, the Supreme Court with its interpretation has ensured the freedom under Article 19(1)(a) guaranteeing the “Freedom of speech and expression”. The media has developed to the phase wherein people are able to access to the worldwide happenings in their hands by means of the digital world. But in the recent times, media is frequently criticised particularly in reporting the high-profile cases, as they try to sensationalise and distort the facts in order to gain the public attention. The media has equal responsibility as to the judiciary in upholding justice and both should never be at loggerheads. Under the guise of investigative journalism, the media goes beyond and interferes in the functions of judiciary. This is posing a huge obstacle to free and fair trial. This research article focuses on the freedom and also the degree of the restriction imposed on such freedom. Further focuses on the impact of media trial that takes the cover of freedom of speech and expression and poses undue interference in the administration of justice. The articles also addresses the impact of media trial on right to privacy, right to reputation and right to fair trial.

KEYWORDS: Media Trial, Fair Trial, Criminal Justice System, Right to Privacy, Freedom of Speech & Expression, Reasonable Restrictions.

INTRODUCTION:

Trial by media is a phrase popularized in the late 20th century and early 21st century to describe the influence of television and newspaper advertising on a person's reputation by creating a widespread perception of guilt, regardless of the court's decision. In every democratic country, there is a heated debate between those who support a free and uncensored media and those who prioritize right of privacy and fair trial. Media has reasserted itself as a "public court" (Janta Adalat) and started to intervene in the judicial proceedings. It completely ignores the important distinction between the accused and the convicted, leading to the suppression of golden rule of "presumption of innocence until proven guilty" and "guilt beyond reasonable doubt." In the present time, the concept of media trial where the media itself conducts various investigations, building public opinion against the accused even before the court recognizes the case. In this way, it leads to prejudice of public and sometimes even judges that, as a result, the accused, who should be presumed innocent, is treated as a criminal, giving up all his rights and liberties. If the amount of publicity by media is excessive about the suspect or accused person before his trial, prejudices the justice system or causes him to

be named as the perpetrator of the crime, amounting to an undue interference with the "Administration of Justice".

ROLE OF MEDIA IN DEMOCRATIC SOCIETY:

The Supreme Court of India has provided that the people's right to know is a fundamental principle of 'freedom of the press'. The SC said: "the primary function, therefore, of the press is to provide comprehensive and objective information on all aspects of the country's political, social, economic and cultural life. It has an educative and mobilising role to play. It plays an important role in moulding public opinion."¹ "Freedom of press" promotes the "right to know" by giving the public access to all sources of information. It makes the public aware of everything. The role of media in a democracy is to promote transparency. Media allows the people to express their views on matters of public concern.

Therefore, the freedom of the press is not specifically mentioned in the Constitution of India but mentioned under Art. 19(1)(a), namely freedom of speech and expression which is described as the mother of all freedoms. In India, the press is not completely independent; it is subjected to reasonable restrictions under Article 19(2) of the Indian constitution that provides with certain limitations.

CONCEPT OF MEDIA TRIAL:

Indian media has gradually become a major source of information over the past few decades, becoming a symbol of change and is no longer the only way to deliver information, which has led to caution on the part of the media when distributing information². There are cases such as *S.P.S. Rathor v. CBI New Delhi*³, *Surendra Koli v. State of UP*⁴, *Sushil Ansal v. CBI*⁵, where the media plays an important role in bringing to justice those accused of heinous crimes, but the question arises to what extent this concept of "freedom of speech" can be exercised.

The theme of media trial introduced in the current environment is that "public interest" is not important, but "what the public is interested in" has become more important. A pending lawsuit simultaneously limits a judge's ability to decide the issue on the merits. If a judge's decision goes against "the media's decision," the media call it biased or unethical. When a cloud environment is created where issues are constantly updated and reviewed, it puts the case at risk. Unfortunately, laws intended to regulate the behavior of journalists are not enough to prevent opposition to civil rights. Also, media reports about cases pending in court hinder the provision of justice and fairness in these cases. In the past, few media stories include Arushi Murder Case, Jessica Lal Murder Case, BMW Accident Case, Nirbhaya Rape Case, written by Nira Radia. Apart from this, there have been scams like 2G scam, Bofors scam, Commonwealth Games scam and Harshad Mehta stockscam. All of these cases involve different areas but share one thing in common that they are carried by the media. This brings us back to the question posed at the beginning; to what extent interference can be shown as a duty of the healthy regulator and the point where it begins to interfere with the judicial process. But at the same time, a conflict arises when the media company goes beyond its domain and tries to take the authority of the court and make judgmental views about the ongoing cases.

IMPACT OF MEDIA TRIAL:

The main effect of media testing is that media play an important role in reporting events that would otherwise be confidential. It would not be wrong to say that the media work as watchdogs and help reach a platform where people can understand what is happening in society. But the media's trial misrepresents those accused leading to detriment of their careers, especially because they were accused.

¹ In Re: Harijai Singh and Anr.; In Re: Vijay Kumar, (1996) 6 SCC 466.

² Madhavi Goradia Divan, 'Facets of Media Law', 2nd Edition, 2018, pg. 1.

³ AIR 2016 SC.

⁴ AIR 2011 SC 970.

⁵ (2014) 6 SCC 173.

A. MEDIA TRIAL AND FREEDOM OF SPEECH & EXPRESSION:

In *Printers (Mysore) Ltd v. Asst. Commercial Tax Commissioner*⁶, the SC reiterated that freedom of the press is a valuable asset in most democracies and the press has rightly been described as the fourth pillar of democracy. In the case of *Indian Express v. Union of India*⁷, the Supreme Court held that the press has a very important place in the apparatus of democracy. Courts have a duty to ensure the freedom of the press and to overturn laws and supervisory duties that limit this opportunity. However, in civil society, no right to freedom, regardless of its value, cannot be considered absolute, unlimited or unconditional in all situations. Freedom of the press, like any other fundamental freedom, must be exercised within reasonable limits as under Article (19)(2) of the Constitution of India. Excessive publicity by the media hinders the delivery of justice by the courts and affects the suspects, victims, accused and witnesses by interfering with their right to privacy.

B. FAIR TRIAL:

Innocent until proven guilty and incontrovertible evidence are two basic principles of Indian criminal justice system. Everyone who is tried in our country has the right to a fair trial. Fair justice includes public hearings, independent judges, qualified counsel, the presumption of innocence and the system of justice and judges who are impartial, independent and competent guarantee a fair trial. It includes the right to be innocent until proven guilty, the right not to be compelled to be a witness against oneself, the right to a public trial, the right to legal representation, and the right to a speedy trial. In the case of *Zahira Habibullah Sheikh V. In the state of Gujarat*⁸, the Supreme Court explained that “fair trial obviously would mean a trial before an impartial Judge, a fair prosecutor and atmosphere of judicial calm. Fair trial means a trial in which bias or prejudice for or against the accused, the witnesses, or the cause which is being tried is eliminated”. Trials by the media, electronic media and public opinion is in violation of the basic rules of the law. Thus obstructing the administration of justice.

C. RIGHT TO PRIVACY:

Article 12 of the Universal Declaration of Human Rights (1948) and wide interpretation of Article 21 of the Indian Constitution by the Supreme Court upholds the right to privacy. Oftentimes, media companies that are responsible for attracting public attention do things that are prohibited. In the case of celebrities or certain statuses, news channels broadcast personal information (without any consideration for verification). Not only the accused but also the victims get into a lot of media coverage violating their personal right to privacy. Thus, the privacy to be protected unless it threatens the public interest.

D. CONTEMPT OF COURT:

A case trial by media is contempt of court which must be punished. Any article, media coverage that seeks to prejudice the minds of judges, intimidate witnesses or parties, or create conditions in which the administration of justice will be difficult or impossible leads to contempt⁹. Talking about the live case or abuse of person can be considered contempt when the judge is judging¹⁰. The law provides certain rights for those who judge justice in front of an impartial court, which is not influenced by the press in any way. Obstruction or interference with the administration of justice in respect of a defendant, prejudicial publications affect the mind of the judge as well as the public mind, which can lead to unfair trial, and this influence motivates the court to decide how to start the trial¹¹.

⁶ 1994 SCC (2) 434.

⁷ (1985) 1 SCC 641.

⁸ AIR 2002(2 SCC (Jour) 75.

⁹ Roop Chand Sharma VS. Avatar Singh Brar, AIR 1943 lah 329 (FB).

¹⁰ Subash Chandra V.S.M. Agarwal, 1984 Cri Lj 481 (Del).

¹¹ Y.V. Hanumantha Rao V. K.R. Pattabhiram and Anr AIR 1975 AP 30.

E. INFLUENCE ON JUDGES:

The Supreme Court in the case of *State of Maharashtra v. Rajendra Jawanmal Gandhi*¹² said that judgment through the press, electronic media or through public agitation is against the rule of law and it can lead to violation of justice and the judge will protect it from such "pressure". These days trial is heavily influenced by media. Like other human beings, judges are also criticized, whether it is about their judicial behaviour or their private behaviour. Media publications may inadvertently "influence a judge or jury." In a recent case *Rhea Chakraborty v. Bihar state media case 2020* (Sushant Singh Rajput death case) has gone beyond its jurisdiction or scope. Talking about the alleged victim is cruel and slanderous. Broadcasting channels in the race for TRP ratings have forgotten all ethics and professionalism.

F. INFLUENCE ON ACCUSED, VICTIM AND WITNESS:

A suspect or an accused person can be seriously harmed if the media portrays the suspect as if he or she has been convicted before the trial. Even if the person is finally released according to the law, such release cannot help the accused to rebuild his lost image in the society. Also, if the identity of the witnesses is published, their safety may be compromised due to pressure from either the accused or his associates and the police. Also, in some cases, it is necessary to hide the intended person in order to avoid any invasion of the person's privacy.

JUSTIFICATIONS BY THE MEDIA:

Social media is often justified by arguing that the media promotes the dominant ideas and thoughts in society. The media also supports by arguing that in a democracy, having a transparent and accountable system is paramount. Media, through their campaign, give the public the opportunity to express their views and thus ensure their participation. In *Re: Harijai Singh and Anr*¹³ and in *Re: Vijay Kumar*, the Supreme Court had the opportunity to declare the freedom of the press, recognizing it as "an essential element of any form of democracy" and considering it as "the mother of all other freedom in a democratic society". The Supreme Court has stated that the main principle underlying the freedom of the press is that the public has the right to know¹⁴. However, it should be remembered that though the media enjoys freedom of speech and the public has a right to know, the media should not create sensational stories.

LEGAL BOUNDARIES:

Indian law already provides for reasonable restrictions under Indian Constitution. The Contempt of Courts Act, 1971 also defines any publication, report or advertisement from the media, if covered by the definition of contempt, will be considered as contempt of court and will be punished therein. The Indian Council Act, Indian Penal Code, 1860, Criminal Procedure Code, 1973 and many other laws also cover the issue where the right to media is restricted and penalized for illegal admission or conduct.

The most extensive analysis of the positive and negative aspects of media trials was done in the 200th report of the 17th Law Commission, Trial by Media: Free Speech vs. Fair trial under the criminal procedure (Amendment and Contempt of Courts Act, 1971) which made recommendations to address the negative impact of inciting complaints on the administration of justice. It suggested introducing a law prohibiting the media from reporting any news that goes against the rights of the accused, from arrests to investigations and trials in criminal cases.

CONCLUSION:

Media is considered to be the most important means of disseminating the information to the public. Any institution including legislature, executive or judiciary becomes liable if it acts beyond its legitimate functions. But these at times becomes favourable as in the case of judicial activism. Media trial is also one such where it has both positive and negative effects. Though it acts as a watch dog, at times it becomes over active in the name of investigative journalism. This is actively interfering and affecting the work of police and judiciary in progressing towards the administration of justice. There must be a self-restriction over its activities in order to emphasis fair trial and court proceedings must be respected with adequate sense of responsibility. Media is considered to be the fourth pillar on the fact that it provides complete assistance in upholding the democracy.

¹² (1997) 8 SCC 386.

¹³ (1996) 6 SCC 466.

¹⁴ A.G. v. Times Newspaper, (1973) 3 All ER 54; Express Publications (Madurai) Ltd. v. Union of India, AIR 2004 SC 1950, para 29.

Therefore, it is the duty of the media to support the court proceedings and functions and not to completely take up the judicial administration through their investigative nature. They under the hood of “Media Trial” not only have negative effect upon the accused and victims but also in one way or the other tend to influence the judiciary in rendering the justice. Hence, they should stand by in assisting towards the administration of justice and not themselves administer the justice.

SUGGESTIONS:

1. Most of the media houses are owned by the private investors with the primary motive of profit making. Some are politically biased due to which the news informed tend to be favourable towards particular fact. Devoid this, their primary motive should be in disseminating information to the people.
2. The Indian Press Council should have higher authority in regulating the rules. Currently, it has a very limited authority, the punishment to be made severe. The law covers only the print media. It should include the electronic media to have a wider scope.
3. Judiciary should step in limiting the power of the media under the reasonable restrictions.
4. Though the 200th Law Commission Report made its recommendation, the same hasn't been implemented in strict sense. This has to be considered in order to regulate the activity of media over its interference in investigation and administration of justice.

REFERENCE:

1. Akriti Tomar, *Media Trial and its impact on the process of Justice: An Analytical Study*, 2(7) IJRPR 44-48 (2021).
2. Ammu V. Nair, *Media Trials In India*, 2(1) BLJ (2020).
3. Anjum Saxena, Dr. Mohd Imran, *Impact of Media Trial on Judiciary*, 11(8) IJCRT 766-779 (2023).
4. Dr. Seema Yadhav, *Media Trial effects upon Human Rights & Judiciary*, 5(7) JMRD 18-22 (2019).
5. Kavin S, Priyanka S, *Checks and Balances between Judiciary and Media Trial*, 5(2) IJLHB 271-276 (2019).
6. Mohd. Aqib, Utkarsh Dwivedi, *Judiciary and Media Trial: A Need for Balance*, 5(2) IJLHB155-161(2019).
7. Nikitha Suresh, Lucy Sara George, *Trial by Media: An overview*, 4(2) IJLMH 267-272 (2021).
8. Nimisha Jha, NLIU, Bhopal, *Constitutionality of media trails in India: a detailed analysis*, lawctopus, available at: <https://www.lawctopus.com/academike/media-trials-india/> (Visited on September 13, 2023).
9. Press Law Guide, “Fair Trial”, available at: <http://www.thehoot.org/press-laws-guide/fair-trial-6286> (Visited on September 13, 2023).
10. Sanatan Deshpande, Priyanka Jagawanshi, *A Critical Analysis of media trial and its effect on Indian Judiciary*, 6(1)IJRAR 173-182 (2019).
11. Surekha Vitthal Bhosle, *A Critical Analysis of Media Trial and its Effect on Indian Judiciary*, 9(4) JETIR 619- 624 (2022).
12. SC row: Four dissenting judges attend court, Bar Council says ‘issue resolved’, India TV (15/01/2018), available at: <https://www.indiatvnews.com/news/india-sc-row-issue-settled-says-ag-kk-venugopal-allfour-judges-attend-court-422248> (visited on September 13, 2023)