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Ink and Gavel: Navigating the Thin Line between Media Trial and Fair Trial

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ABSTRACT

This article explores the complex relationship between media trials and fair trials, examining the evolving dynamics of law and media in contemporary society. Inspired by Shakespeare's "Macbeth," it contemplates the fluid nature of societal norms, where what is acceptable today may be deemed disreputable tomorrow, and vice versa. The article emphasizes the need to understand the historical development of law and media to comprehend the current conflict between a free trial and a free media. Article 19 (1) (a) of the Indian Constitution safeguards both individual free speech and press freedom. However, it is important to recognize that this does not grant absolute freedom of expression without accountability. Striking a balance between free speech and responsible information dissemination is crucial. The media and the judicial system share a common purpose, acting as vital sources of information for the public. Referred to as the "eyes and ears of the people," the media plays a crucial role in informing society, while the courts seek to uncover truth, defend democratic ideals, and address societal issues. The article stresses the importance of responsible journalism by shifting focus towards pressing matters such as prison conditions, education, orphanages, courts, unemployment, poverty, and illiteracy. The article discusses the comparison between media trials and fair trials, highlighting their nuances and implications. It emphasizes the need for a fearless and vibrant media that adheres to ethical standards and prioritizes the well-being of society. Recent incidents and judicial judgments related to media trials are examined, shedding light on the complexities and controversies surrounding the topic. In conclusion, this article provokes thoughtful reflection on the interplay of law and media, underscoring the significance of responsible journalism and the pursuit of justice. It advocates for a delicate balance between media freedom and ethical information dissemination for the betterment of society.

Keywords: Media trials, Fair trials, Law and media, Free speech, Responsible journalism.

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I. INTRODUCTION

What will happen if our drinking water becomes polluted or contains toxic substances? The answer could be that we will no longer be healthy. What will happen if our daily source of information is vitiated by misinformation and prejudiced arguments? Though drinking water and reading the news are not comparable, whereas water is essential to our health, independent news media are vital for a democratic society. The media is often regarded as the fourth pillar of democracy, following the legislative, executive, and judiciary. From print media to electronic media, it is crucial in bridging the gap between the people and the government. The function of the media is to keep the public informed about factual information about their everyday lives. While the Constitution of India does not expressly state the right to press freedom, there exist multiple legal precedents that support the claim that the press and media have the constitutional right to freedom of speech and expression, as enshrined in Article 19(1)(a) of the Constitution. Article 19 stipulates that rights are not absolute and are subject to reasonable constraints Article 19(2). Over the course of the article, we will discuss the issues related to the Media Trial, Freedom of Speech, and Fair Trial.

II. MEDIA TRIAL VS. FAIR TRIAL

While the term ‘trial’ is not defined in either the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973, Black's Law Dictionary (9th Edition. 2009) provides a definition which states that it is "a formal judicial examination of evidence and determination of legal claims in an adversary proceeding."

In general, the term ‘trial’ denotes a legal proceeding before a court of law. Therefore, the concept of a media trial is not applicable under this circumstance. However, it is worth noting that the media may sometimes be deemed to have assumed the role of a judicial forum, as defined by the laws of the state, even if such a characterization is not entirely accurate.

In the case of “*State of Maharashtra v. Rajendra Jawanmal Gandhi*,”³ the Hon’ble Supreme Court of India pronounced that a trial by press, electronic media, or public agitation is entirely contrary to the rule of law and has the potential to result in a miscarriage of justice.

When the media asserts its position as the true view over those entrusted with the role of investigation or adjudication, this is referred to as a "media trial." It is crucial to bear in mind that there is a difference between a media trial and the factual reporting of a criminal proceeding. In “*Romila Thapar v. Union of India*,” it has been recognized by the court that any publishing

³ “Criminal Appeal Nos. 840 & 839 OF 1997”

that may negatively affect the accused person's fair trial is unacceptable.⁴

As per Article 21 of the Constitution, the right to a fair trial encompasses the right to life and personal liberty. Therefore, everyone in India has the unalienable right to a fair trial. The criminal justice system involves two doctrines: (i) Guilty beyond a reasonable doubt and (ii) Presumption of innocence.

There is an unarguable matter that might be seen as the accused suffering from double victimization at the hands of both the media and the judicial system. The influence of media interference is such that even if the alleged accused is found not guilty after the trial, the public's attitude will not alter because of what was transmitted by the media. This is because of the effect of media interference.

Freedoms and rights conflict when the media reports on the legal process. The apex court of India considered press freedom as — “*the mother of all other liberties in a democratic society.*”⁵ However, how far can it be stretched to strike a balance between the independence of the media and interference in judicial proceedings? Nevertheless, excessive media coverage may lead to the publication and dissemination of conversations with witnesses or victims' families, which can potentially prejudice the accused's conviction while the case is still pending before the court of law.

Article 19(1)(a) of the Indian Constitution guarantees the freedom of speech and expression, subject to reasonable restrictions as permitted by Article 19(2). Although the term 'administration of justice' is not specifically mentioned in Article 19(2), interfering with the administration of justice is explicitly designated as a form of contempt under Sections 2 and 3 of the Contempt of Courts Act, 1971.

III. THE NEED FOR A FEARLESS AND VIBRANT MEDIA

A flourishing democratic society requires free, independent, and brave media, with no tyranny or censorship of news dissemination. The ‘Right to Know’ is deemed to be an integral aspect of the fundamental rights safeguarded under Articles 19 and 21 of the Indian Constitution. The Media serves the purpose of the right to know for the public.

Citing “*Attorney General v. Guardian Newspapers Ltd.*,”⁶ the High Court of Kerala noted in the matter of “*In Re M.V. Jayarajan*”⁷ as follows:

⁴ AIR 2018 SC 4683.

⁵ “*In Re: Harijai Singh*, AIR 1997 SC 73”

⁶ 1988 (3) All ER 545.

⁷ 2011 (2) KLD 767.

The existence of a free press is an inevitable necessity in maintaining parliamentary democracy. The Press occupies an unenviable position because the media are the eyes and ears of the general public. They act on behalf of the general public. Their right to know and their right to publish is neither more nor less than that of the general public for whom they are trustees.⁸

It's worth noting that the media often plays a crucial role in exposing government corruption and bringing the government's inaction to light, leading to improvement. The murder of Arushi Talwar and Jessica Lal, the BMW accident, the rape case of Nirbhaya, and the Nira Radia controversy are just a few of the crimes that have garnered public attention in recent years. Furthermore, in addition to the aforementioned incidents, there have been other fraudulent schemes such as the 2G, Bofors, Commonwealth Games, and Harshad Mehta stock market scams. Despite their differences, these events share a common thread: media involvement. However, complications may arise when the media crosses the line and seeks to undermine the judiciary by making prejudiced comments on ongoing court proceedings.

IV. A FEW MEDIA EXCESSES

The trial court of Goa passed an order in 2017 restraining the media from publishing news related to the court proceedings in the Tarun Tejpal case. Journalist and Tehelka chief editor Tarun Tejpal is charged with raping a junior colleague in November 2013. *Times Now* carried out a debate. Several panellists and lawyers participated in that debate. The video recording captured by the CCTV system was exhibited multiple times. The media panelists are bashing each other, attacking, and giving their subjective opinions on Tejpal & complainant-woman.⁹ In June 2017, the trial court in Goa issued an injunction prohibiting the publishing of court proceedings. The court ruled in favour of in-camera proceeding, making them private. The Court issued an order to safeguard the dignity, respect, and privacy of both the victim and the accused.¹⁰

The Kerala High Court set aside the findings of the Justice G Sivarajan Commission, which is commonly referred to as the Solar Commission, regarding the sexual allegations against former Kerala Chief Minister Oommen Chandy in the solar scam case. The court ruled that a person's right to privacy extends to protecting their reputation from the activities of other parties, such as the media or other private individuals.

⁸ *Id.* at para. 50.

⁹ “Sebastian, Manu. ‘Times Now’s Parallel Trial...Interference in Administration of Justice’ Livelaw.in (Live Law, 2018) (Link)”

¹⁰ “Mishra, Prabhati Nayak, ‘Tarun Tejpal Rape Trial: Court Restrains Publication of Proceedings’ Livelaw.in (Live Law, 2017) (Link)”

[T]he newly recognized fundamental right to privacy, which takes within its fold the right to protect one's reputation as well, would merit classification as a fundamental right that protects an individual, not against the arbitrary State action, but also from the actions of other private citizens, such as the press or media, the Court observed.¹¹

On December 19, 2017, Justice AK Jayasankaran Nambiar issued a temporary restraining order prohibiting print, electronic, or internet media from (i) reporting, (ii) publicly discussing, or (iii) publishing the contents of Saritha Nair's letter for two months, stating that the contents of the letter have the potential to cause irreparable harm to the petitioner by inciting public opinion to interfere with the administration of justice, which would ultimately lead to the denial of a fair trial.¹² Additionally, it was said that the petitioner's reputation may be harmed, which would be against his or her basic rights as outlined in Article 21 of the Indian Constitution.

A court in Delhi has prohibited the media from publishing “unsubstantiated and uncorroborated” allegation against Praful Patel, a former minister of civil aviation and current Member of Parliament for the Nationalist Congress Party (NCP) in Maharashtra, pending an inquiry into his suspected involvement in a money laundering case.¹³

Media is considered the fourth pillar of Society. It is expected to publish and provide information to the public which is based on truth and evidence. Imputations, claims, and information published on the basis of unsubstantiated and incorrect facts in order to sensationalize would have widespread effects and their own consequences, the Court noted in the order (Para 20).¹⁴

In the above-mentioned case, in paragraphs 11 & 12 of the order citing “*Express Newspaper v. Union of India*”¹⁵ and “*Shashi Tharoor v. Arnab Goswami*”¹⁶, the court emphasized that “Freedom of speech” does not provide anybody with the freedom to defame anyone. It's in the best interest of everyone to have a fair trial, for the accused as well as for society as a whole. The principle of justice is shattered by a conviction that results from an unfair trial. The Court noted in the exercise of their freedom to report, journalists may conduct investigations, but they are not authorized to make declarations of guilt, engage in pre-judgment, or unfairly influence

¹¹ “Manu Sebastian, ‘Newly Recognized Fundamental Right to Privacy...Kerala HC Observes in Solar Scam Case,’ Livelaw.in (Live Law, 2018)(Link)”

¹² “Sebastian, Manu. ‘Solar Scam-Relief...Kerala HC Restrains Publication, Discussion on Saritha Nair’s Letter For 2 Months,’ Livelaw.in (Live Law, 2017) (Link)”

¹³ “Saxena, Akshita, ‘Delhi HC Restrains Media...Information against NCP MP Praful Patel in Money Laundering Case,’ Livelaw.in (Live Law, 2019) (Link)”

¹⁴ “Praful Patel v. Indian Express, CS No 803/19, (Delhi High Court).”

¹⁵ (1985) 1 SCC 641.

¹⁶ 246 (2018) DLT 279.

ongoing legal proceedings.¹⁷

In a contentious case of sexual harassment brought by a lady named Jasleen Kaur, media outlets branded the alleged accused, Sarvjeet, as "*Delhi ka darinda*" without investigating his side of the story.¹⁸ The court eventually acquitted him of all charges.¹⁹ The failure of media to distinguish between an accused and a convicted individual poses a hindrance to the application of the doctrine "*audi alteram partem*," which means hearing both sides.

In August 2020, the Bombay High Court quashed FIRs and Chargesheets against foreign nationals of Tablighi Jamaat, who were accused of spreading the coronavirus, and condemned the sensationalism in the media. The court observed that the print and electronic media had propagated baseless and unwarranted claims against the foreigners, especially related to their religious activities. The bench stated that the material available did not support such allegations and emphasized the importance of responsible and balanced reporting in such cases.²⁰

On September 3, 2020, the Bombay High Court issued an order urging and expecting the media to exercise caution while reporting on the developments in the case involving Bollywood star Sushant Singh Rajput's death. The bench said that the media shouldn't publish anything that may compromise the ongoing probe.²¹

The Delhi Court reprimanded the media for disseminating uncorroborated news regarding the purported confessional statements of Umar Khalid in the Delhi riots conspiracy case. The court cautioned that a 'media trial' cannot undermine the presumption of innocence, which is a fundamental principle of criminal jurisprudence.²² In court noted in the order thus:

This should not be destroyed at the very threshold through the process of media trial. Protection of such presumption is essential for the maintenance of the dignity of the courts and is one of the cardinal principles of the rule of law in a free democratic country....[R]eporter should have such basic knowledge of the law as readers/viewers consider news items accurate without verifying the facts. Further, the general public might not be aware of the law as mentioned above. Therefore, the Press and Media must inform and educate its readers and viewers

¹⁷ *Id.*

¹⁸ "Tamang, Sylvester, 'Sarvjeet Singh Might Have Been Acquitted...False Cases Ruins One's Life' IndiaTimes (India Times, 2019) (Link)"

¹⁹ "Jasleen Kaur case: Sarvjeet acquitted after four years, netizens demand an apology, The New Indian Express (The New Indian Express, 2019) (Link)"

²⁰ "LIVELAW NEWS NETWORK, 'Media Propaganda That Tablighi Jamaat Attendees Spread COVID-19 in India Was Unwarranted: Bombay HC,' Livelaw.in (Live Law, 2020) (Link)"

²¹ "LIVELAW NEWS NETWORK, 'Bombay HC Says It Expects Media To Show Restraint In Reporting...In Sushant Singh Rajput Case.,' Livelaw.in (Live Law, 2020) (Link)"

²² "State v. Umar Khalid, FIR No. 101/2020, dated 15.01.2021"

about all the relevant facts and circumstances of a news item published or shown on the News channel, and Court batted in favour of self-regulation as held by the Hon'ble Supreme Court of India in *Sukhwant Singh v. State of Punjab*.²³

V. MEDIA TRIAL: ANOMALIES AND LIMITATIONS

A free press is essential for a democratic society, but it is not absolute. While reporting to the general public, the media is obligated to ensure that the information disseminated is accurate and does not infringe on the legal rights of others. It is important to recognize that the freedom of speech and expression is subject to legal limitations under Article 19(2) of the Indian Constitution, which aim to safeguard the interests of sovereignty, integrity, security, decency, morality, and public order etc. Therefore, journalists must be mindful of these limitations while exercising their right to free speech and expression.

The electronic media, which has already entered every household, is now putting the accused on trial and convicting them without allowing the opposing side a chance to present their case. They are regarded as "Breaking News Items", putting their dignified lives in jeopardy. Even after being found not guilty in court, there is no way to recover since the media would not give it the same attention or give it the same importance.

The English court in "*Regina v. Lord Chancellor, Ex parte Witham*"²⁴ observed that the right to access justice is no less important than the right to free expression. In fact, the right to a fair trial, which inherently includes the right of access to the court, is one of the most fundamental and near absolute rights.

"*Regina v. Evening Standard Co. LD.*"²⁵, in this case, the English court accepted the honest & unintentional mistake by the reporter and imposed a penalty. The court recognized the publication of comments or reports on cases before trial as an interference with the due course of justice and considered it inherently prejudicial. The Court opined that prejudicing the public against individuals before the case is heard can be considered as contempt of court. Maintaining the purity and clarity of justice is of paramount importance, ensuring that parties can proceed safely with their cases and protect their characters.

Accordingly, the "presumed prejudice" rule has been used by the English courts to rule that pre-trial publicity has compromised defendants' rights to a fair trial.²⁶ English courts limit

²³ 2009 (7) SCC 559.

²⁴ "*Regina v. Lord Chancellor, Ex parte Witham*, [1998] 2 W.L.R. 849; [1998] Q.B. 575"

²⁵ "*Regina v. Evening Standard Co. LD.*, [1954] 2 W.L.R. 861; [1954] 1 Q.B. 578"

²⁶ "*Attorney-General v. Guardian Newspapers Limited*, [1999] 7 WLUK 496; [1999] E.M.L.R. 904"

information to maintain fairness. English courts may prohibit or penalise behaviour that obstructs, prejudices, or abuses justice under the 1981 Contempt of Court Act by restricting certain information in order to ensure a fair trial.

The Hon'ble Supreme Court of India, in the case of State of *“Maharashtra v. Rajendra Gandhi”*²⁷, has held that the conduct of a trial through press, electronic media or public agitation is contrary to the principles of the rule of law. The constitutional bench of the Supreme Court has also affirmed the adjournment of the reporting of cases that are subjudice.²⁸ It is imperative to ensure that the course of justice is not obstructed, and the right of a fair trial is upheld, as guaranteed under the Constitution.

In *“Saibal v. BK Sen”*²⁹, the Supreme Court made observations regarding the context of a parallel investigation:

[I]t would be mischievous for a newspaper to systematically conduct an independent investigation into a crime for which a man has been arrested and to publish the results of the investigation. This is because, trials by newspapers, when a trial by one of the regular tribunals is going on, must be prevented. The basis for this view is that such action on the part of the newspaper tends to interfere with the course of justice.

The Hon'ble Supreme Court, in its unanimous judgment in the matter of Justice *“KS Puttaswamy v. Union of India”*³⁰, the right to privacy is an inalienable feature guaranteed by Part III of the Indian Constitution. Consequently, the constant intrusion of the media into the lives of the accused/suspect and their loved ones is an affront to their 'right to privacy'.

In *“Subramaniam Swamy v. Union of India”*³¹, the apex court opined that the right to life includes protection for one's "dignity," which includes the ability to live one's life without being subject to arbitrary harm to one's reputation. A person's right to privacy is not unreasonably or excessively hampered by the restrictions put on their freedom of expression. As a result, tarnishing the image of the deceased by openly and transparently publicizing and broadcasting details of his life only for the benefit of the people, rather than in the public interest, is unjust.

In its 251-page judgment on a batch of petitions, the Bombay High Court on 'media trials' on the death of young actor Sushant Singh Rajput observed that some reporting of media houses 'Prima Facie Contemptuous' and attracts a penalty.³² The court made a very significant

²⁷ 1997 (8) SCC 386.

²⁸ “Sahara India Real Estate v. SEBI, 2010 (12) SCC 603”

²⁹ AIR 1961 SC 633.

³⁰ 2018 (1) SCC 809.

³¹ 2015 (13) SCC 353.

³² “Nilesh Navalakha v. Union of India, MANU/MH/0044/2021”

observation and laid down constructive guidelines for media reporting. In the judgment, the Court said that:

[M]edia trials during the pre-trial investigation stage by reportage and exposure of key witnesses and evidence clearly undermine the concept of the free and fair trial....The actions of the media in sensationalizing the actor's death is not only adversely impacting the ongoing investigation by the CBI, but was also in the teeth of the 'doctrine of postponement' propounded by a Constitution Bench of the Supreme Court in the case of *Sahara India Real Estate Corporation Ltd v. SEBI*.³³

The Supreme Court has cautioned against the potential bias that may result from the media's unrestrained and uncontrolled freedom in the case of “*Sidhartha Vashist Manu Sharma v. State (NCT of Delhi)*”³⁴. It has further emphasized that a media trial does not benefit the inquiry by the investigating agency or the rights of the accused in any way. The court has recognized that the right to free expression, as enshrined in Article 19(1) (a) of the Constitution, must be exercised with utmost caution and restraint to prevent interference with the fair administration of justice and to avoid unfavorable outcomes in pending cases that are being considered by the courts.

The Bombay High Court, on 4th March 2021, instructed media organizations to strictly adhere to the guidelines issued in the *Nilesh Navlakha* case³⁵ and restricted the publication of the event involving the lady who died after falling from the balcony of her house.³⁶

In various matters, the News Broadcasting Standards Authority (NBSA) ordered media houses to take down the episode because of its objectionable and vilified reporting. The NBSA instructed every media outlet to promptly delete unverified and slanderous reporting associating Bollywood actress Rakul Preet Singh with dealing drugs case.³⁷

The News Broadcasting and Digital Standards Authority (NBDSA) ruled on June 14, 2022, that a debate show organized by Zee News on population control violated its rule for fair & unbiased reporting, so it ordered that the videos be taken down from all platforms.³⁸ Even NBDSA

³³ (2012) 10 SCC 603.

³⁴ (2010) 6 SCC 1.

³⁵ *Supra* note 32.

³⁶ “Upadhyay, Sparsh, ‘Exercise Restraint and Follow Nilesh Navlakha Case...Bombay High Court to Media’ (2021) Livelaw.in (Live Law) (Link)”

³⁷ “LIVELAW NEWS NETWORK, ‘NBSA Slams TV Channels For Vilifying Reports Against Rakul Preet...Videos To Be Taken Down,’ Livelaw.in (Live Law, 2020) (Link)”

³⁸ “Maniyar, Zahid. ‘CJP Impact: NBDSA directs Zee News to take down video of communal show on Population Control.’ CJP (CJP, 2022) (Link)”

expressed "strong disapproval" of the Zee News program against JNU scholar Shehla Rashid. It found that the presentation lacked objectivity and fairness, and only portrayed "one side of the story."³⁹

VI. MEDIA TRIALS: A NECESSARY EVIL?

There have been several occasions when a media trial has jeopardized the administration of justice. The constant publicizing of sensational cases may be distressing because it calls into question the purity of the state police or investigation machinery. Suppose the sanctity of the law is violated and the media attempts to sway public opinion against state law and order. In that case, it will have an unavoidable impact on people's trust and confidence in the police or investigation agencies. This can lead to a widespread conviction that the power structure cannot be trusted, and it can entirely damage the people's right to have faith in their local police forces or government agencies. As a result, this is nothing more than a stumbling block to the administration of justice and widespread suspicion of public institutions, both of which are exceedingly difficult and dangerous conditions for being in a democratic democracy. There will be prevailing disorder and anarchy if liberty remains unchecked, and corruption will gulp the institution if it is uncensored.

The Bombay High Court expressed apprehension about the audacious trend of conducting a "media trial" while hearing a group of petitions that aimed to restrict the reporting on the death case of the young actor, Sushant Singh Rajput. The bench questioned the media's role, stating that "what is the purpose of our presence if you assume the roles of the investigator, prosecutor, and the judge?" and "ignorance of the law is not an acceptable justification. You should have considered the CrPC if you were so eager to uncover the truth."⁴⁰ The Delhi High Court has questioned the validity of a parallel investigation or trial by stating, "Would it not be preferable for the courts to proceed in their own manner?" Although the court has not proposed any censorship orders, it has expressed disapproval of media intervention in investigation matters and emphasized the need to preserve their integrity.⁴¹

The Supreme Court of India, in the case of "**R.K. Anand v. Registrar, Delhi High Court**"⁴², acknowledged the adverse impact of media trials with the following statement:

³⁹ "Bhaumik, Aaratrika. 'NBDSA Expresses Strong Disapproval of Zee News Program against Shehla Rashid; Directs Removal of Video Links.' Livelaw.in (Live Law, 2022)(Link)"

⁴⁰ "Talwar, Sanya. 'If You Become Investigator, Prosecutor & Judge, Why Are We Here? Bombay HC Expresses Concerns over Media Trial.' Livelaw.in (Live Law, 2020) (Link)"

⁴¹ "Aditi, 'Responsible journalism need of the time: Delhi HC directs Arnab Goswami' Bar and Bench (Bar and Bench-Indian Legal news, 2020) (Link)"

⁴² "R.K. Anand v. Registrar, Delhi High Court, (2009) 8 SCC 106"

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 is wrong. During high publicity cases, the media are often accused of provoking an atmosphere of public hysteria akin to a lynch mob which not only makes a fair trial 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.⁴³

In the case of "*Zahira Habibullah Sheikh v. State of Gujarat*"⁴⁴, the Supreme Court emphasized the importance of a fair trial, stating that it must be conducted before an impartial judge, a fair prosecutor, and in an atmosphere of judicial calm. Furthermore, a fair trial requires that bias or prejudice for or against the accused, the witness, or the cause being tried must be eliminated to ensure justice is served.

The mass media trial inadvertently impacts judges. As judges are also human beings, they are not exempt from criticism. Lord Denning asserted at the Court of Appeal that judges would not be persuaded by media attention, but the House of Lords contradicted his notion.⁴⁵ Even revealing the names of witnesses might result in threats or pressure from both the accused and the police. Either the witness withdraws from the case at an early stage, which raises the issue of the admissibility of the hostile witness before the court and ultimately jeopardizes the case.

VII. CONCLUSION

Self-regulatory bodies in India, such as the News Broadcast Federation and the News Broadcasters Association, are primarily responsible for policing the broadcast media in India. There is no Indian equivalent of the Press Council of India, which is a government-appointed organisation that regulates the press. These organisations have formed a self-imposed code of ethics that serves as a set of guiding principles for maintaining neutrality in reporting and the privacy of individuals. This code of ethics also protects the confidentiality of sources. Furthermore, according to the Cable Television Networks (Regulation) Act of 1995, any programme that offends against decency, involves an offence against religions or societies, or contains obscene, defamatory, or purposefully misleading material should not be aired on television. In spite of this, there is severe competition in the media sector attributed to garnering

⁴³ "*id.* at para. 174"

⁴⁴ "*Zahira Habibullah Sheikh v. State of Gujarat*, (2004) 4 SCC 158"

⁴⁵ "*Attorney General v. BBC*, 1981 AC 303 (CA), p. 315; Law Commission of India, 200th Report on TRIAL BY MEDIA FREE SPEECH AND FAIR TRIAL UNDER CRIMINAL PROCEDURE CODE, 1973, 1829 (August 2006)"

more Television Rating Points, and as a result, the media sometimes broadcasts misleading information at the expense of reality in order to gain the attention of viewers. Even the self-regulatory body fails to regulate them, and they remain "toothless." Some media organisations do not come under those self-regulatory bodies. Questions can be asked about how the government will regulate them. Not only that, the issue would be: in the instance of the inaction or mere action of the self-regulatory body, what other option is left for individuals or the public at large when the media runs kangaroo courts? The role of the media should be to be a watchdog and maintain a constant check on the job that the government is doing. Due to the fact that the vast majority of people place unquestioning faith and reliance on the news, the media should maintain its independence and objectivity. In a democratic society, a blanket gag on the media has serious consequences and stifles freedom of speech and expression. As a result, delaying an inquiry even before it begins and prohibiting any factual reporting on it is an overreaction. There needs to be a balance between "Fair trial and Media trial"
