

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

---

Volume 5 | Issue 6

---

2022

© 2022 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

---

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Media Trial versus Free and Fair Administration of Justice

---

DR. RAZIT SHARMA<sup>1</sup> AND PRIYA CHANANA<sup>2</sup>

## ABSTRACT

*Trial by the media in a case whether civil or criminal is a part of investigative journalism and comes well within the right to freedom of speech and expression of the press. This can also involve the media to encroach upon the rights of the parties to proceedings while exercising its freedom of speech and expression. Moreover, discussing various privileged information in the public domain during proceedings causes many versions of the same story to come out and be sensationalized on the media platform. The media taking the role of an adversary and using the audience as a judge to conduct their own trials is how a media trial comes to be. Media on account of excessive coverage goes beyond its domain and publishes and covers interviews of witness or relative of a victim and prejudices the issue of conviction of the accused while the matter is pending adjudication in a court of law. This has a tendency to prejudice the mind of Court, Counsels and general public at large.*

**Keywords:** *Accused, Administration of Justice, Fair trial, Media, Media Trial, Sensationalise, Victim.*

## I. INTRODUCTION

The freedom of the press, it is not specifically referred to in Part III of the Indian Constitution, which, however, is the well-respect Supreme Court has recognized a number of the decisions of the board of the freedom of speech and expression includes the freedom of the press.

In a fast-changing socio-economic conditions in a country like India, the role of the media and the press, has taken on a meaning, and therefore it is often referred to as ‘the media’ is the fourth column of India democracy.

In accordance with the criminal law and practice, with a suspected or accused person has the right to a fair trial and is innocent until proven guilty by a court of law.

No one shall be allowed to prejudge or prejudice his case is pending, until the end of the experiment. However, the media, and it has an unrestricted level of coverage that goes beyond the scope of, and publishers, and includes interviews with a witness or a family member of the

---

<sup>1</sup> Author is an Assistant Professor at ICFAI Law School, ICFAI University Dehradun, India.

<sup>2</sup> Author is a Ph.D Scholar at ICFAI Law School, ICFAI University Dehradun, India.

victim, and prejudices the question is, is the conviction of the accused, while the problems under consideration in the court of law. It tends to be detrimental to the Court of Justice, the prosecutor's office and the community as a whole.

## **II. CONSTITUTIONAL ASPECT**

Article 19 (1) (a) of the Constitution of India guarantees the freedom of speech and expression in Article 19 (2) allows for reasonable restrictions. However, under Article 19 (2), the "law" is not explicitly mentioned in the definition of the offence of "contempt of court" in Section 2 of the Contempt of Court Act, 1971, and is therefore, in Section 3 as a synonym for the word of contempt of court. Thus, disclosure of the cover, which may interfere with, or tends to interfere with the justice, which means that it is an act of contempt of court, and in compliance with the Law on Contempt of Court, and the like, in order to prevent such a malfunction, the provisions of this Act, and to impose such a limitation upon the reasonable restrictions on the freedom of speech and expression, as whole be justified.

On the basis of Article 19 (1) (a) of the Constitution of India, the Freedom of the press, which includes his rights and in accordance with Article 21 of the Constitution of India, the accused or suspected person to the test, as well as a civil trial that did not have a fundamental right to a free and fair trial.<sup>3</sup>

Thus, the balance between the two main pieces of legislation is needed, and the time has come for the Courts to make the appropriate instructions for the presentation of the report on (the electronic and print media), which is a sub-court. If the rights are of equal importance to an individual, the court will have as assessment tool that is based on the laws and regulations in those two lines are the same takes place in the Constitutional Scheme. In the Constitution of the United States of America, and to the freedom of the press is essential, and the involvement of the media is to inform, comment on them, or wait for trial, and it is illegal.

## **III. OTHER LEGISLATIONS**

The Law Commission of India, in his 200th Report was submitted on August 31, 2006, which featured the use of a variety of amendments to the Contempt of Court Act, 1971, and the Delay of Conduct, Measures to coordinate these two rights, the freedom of the press, and the Right to a Free and Fair Trial and said that such powers could not be assigned to the lower court where the criminal proceedings are to be "active".

This is because, under the Contempt of Court Act, 1971, the lower courts do not have the power

---

<sup>3</sup>Maneka Gandhi v. Union of India, 1978 SCR (2) 621.

to take action for the contempt of court. In accordance, under Section 15 (2), only in the 'references' and can be made to the Supreme Court. In addition to the consideration of the rights to freedom of speech and of the related legal proceedings, the suspect or the accused, as stated in the Maneka Gandhi's<sup>4</sup>, it can be done at a more convenient time, by the supreme court for the issuance of a stay order, which will be represented by a team consisting of at least two of the judges.

However, it should be noted that the media plays a very big role in exposing the corruption in the government of bankroll should be, and, in many cases, the authorities do not take action, and, in the end, there will be action taken. But, at the same time, conflicts may occur if the media will go out of range and try to usurp the authority of the judicial power, and the making of the judges to comment on ongoing legal proceedings. However, the balance between the rights of the people, and the presumption of innocence of the accused until they are found guilty by a court of law may be inevitable, but the competition in the respect, publications, and the population among the different media that has a tendency to interfere in the administration of justice has become a matter of concern to both the legislature and the judiciary.

#### **IV. MEASURES**

Following are the measures taken by the court of justice as-

##### **1. Prior Restraint: -**

Open justice is the foundation of our legal system. It instills confidence in the administration of justice and legal systems. However, the right to social justice is not an absolute one. It can be restricted by a court of law within its own jurisdiction, which, as has been in the case of Maneka Gandhi's Case... **Shridhar Mirajkar v. State of Maharashtra**<sup>5</sup>, if as the needs of justice so require. What are the laws that prohibit the publication during the period for which a legal procedure is pending, it is acceptable according to current case law of the court of justice if it considers that the interests of justice so require? For example, a temporary ban on the publication of the court of justice of material in the mass media, in accordance with the present resolution of the court of justice may not be considered to be in conflict with Article 19 (1) (a).

##### **2. Contempt of Court Act, 1971: -**

The mass media have a right to know what is going on in the courts, and the dissemination of information to the public, which will increase the trust and confidence of the public in the

---

<sup>4</sup> 1978 SCR (2) 621.

<sup>5</sup>AIR 1967 SC 1.

liquidity of the court. As mentioned above, it is often not a fair and accurate report about a process (for example, a murder), which, however, will give rise to a serious risk of the notification in the next trial, but later on, in or related conduct. In such cases, there is no practical tool for applications other than the deferral of commissions that are not in a position to prevent any risk of loss or damage to subsequent or related to a process. Regardless of the nature of the reporting of a study, it will be recognized as a lack of respect, and only if, it can be said on the facts of the case, it is synonymous with a substantial interference with the administration of justice. The reason for Section 4, the grant of the rights in the matter, and the person who makes it to the publication on the condition that it is fair and accurate. It is based on the idea of justice in the courts.

### **3. Order of Postponement of Publication: -**

The right to freedom of opinion and expression under the First Amendment to the United States, it is absolute, that is, not the Indian Constitution, is due to the fact that it is the law, it is limited by the test of reasonableness, and in compliance with the Sections of the Limits referred to in Article 19 (2). Therefore, the collision model is better suited to the United States Constitution, rather than to the Native American or Canadian Law, as of the First Amendment, it is not the same as in Article 19 (2), or Section 1 of the Canadian Charter. This has led to a judge, in some cases, to the development of methods and techniques that should be applied in cases where there is no evidence of over-biased promotion, court of justice of the functions to be assigned to it. In our opinion, an order to suspend the publication or public disclosure of the right, as shown above, taking into account the period of time (the stage at which they are to be issued), the timing, and the right of appeal from such orders, it is just a tool, when there are no other alternatives, such as a change of the venue or o postpone the case to the court as the preventive measures for the protection of the press, and of the agencies of law enforcement abuse of the trial court, and in order to avoid unnaturalness, or prejudiced.

### **4. Right to Approach the High Court or Supreme Court: -**

According to the law stated in this document and to any person, or aggrieved person, whether as a victim, which is actually delays, depending on the content of the post, and the consequences of doing so was a violation of his rights under Article 21 and to a fair trial, and that all them understood that it was the right one to apply to any competent Judicial Authority, and is subject to an order, there is a delay in publication and/or release or offensive messages, or there is a delay in the reporting of some of the stages of the investigation, (including the identity of the victim, the witnesses and the applicant), the Court shall recognize such preventive relief, on the

balance sheet, of the right to a fair trial and the rights referred to in Article 19 (1) (a), taking into account the above-mentioned principles of necessity and proportionality, and in the back of my mind, that this notice, orders will be applied intermittently and only in the cases where there is a real and substantial risk of harm to the proper administration of justice, or the fairness of the process.<sup>6</sup>

### **Court reporting**

A universal, an independent judiciary and a free press are the key elements of a constitutional democracy. With the advent of cable television, local area network, a radio, and the Internet to increase the reach and impact of the mass media. In India, unlike in the Western countries, and the number of copies of newspapers and magazines, and is constantly on the rise due to the rapid growth of the level. In this ever-growing readership, and audiences have been given a media organization to have an exceptional role in the shaping of public opinion and preferences. There is no doubt that a free press that makes a well-informed culture, and contributes to the proper functioning of the democratic institutions.

However, the freedom of the press also involves a certain degree of responsibility. The framers of our Constitution guaranteed freedom of the press, largely due to his own experience of that State of oppression under colonial rule. The importance of the preservation of this freedom, it was further strengthened after the Emergency Period of time. However, in the era of liberalization, as well as their own players to be aggressive in the market, came to looking to the viewers and readers with the conceptual understanding of the freedom of the press and took on more of the dimensions.

One of the aspects of such an independent of the media, it comes down to the fact that, even as many large organizations seems to have an advantage in the distribution of news in the market, it is very important to ensure the protection of the rights of the minor players, especially the ones that the opposition's views.

The second measures are to ensure that it tends to lower the value of the entity's internal control, and that can be done in an atmosphere of intense competition for the media setting. It was pointed out that in the race to get the attention of the viewers and the readers, and reporting, often in a distortion of the facts, and denationalization. In the pursuit of their commercial interests, and calls for the use of invasive methods for the collection of text messages that can often be a barrier to ensure the privacy of the individuals who are the subject of this cover. So

---

<sup>6</sup>Media Trial, available at: <https://www.mondaq.com/india/human-rights/262924/media-trial-versus-free-and-fair-administration-of-justice-need-for-guidelines> (Visited on 10.11.2022)

far as the dispute is involved in this problem, is the worst possible abstract, it is in the light of the child's legal issues in the report may be seemingly in conflict with the interests of the parties to the dispute. This problem is exacerbated in high-profile cases, in criminal matters and court procedures, and in particular, issues related to corruption, as well as reports in the media, to be able to generate the popular feeling, and will, therefore, exert undue pressure on the courts and the rule of law. In this case, the time has come, the pressure is on to maintain a balance between the constitutional guarantees of the freedom of the press, on the one hand, and the right to a fair trial, on the other.<sup>7</sup>

The role of widespread television coverage, in particular, as a profession, and in many other cases, the most recent example is the coverage of the Mumbai terrorist attacks. As for the cover, undoubtedly pays an important role in the dissemination of important information during a crisis, such as the identity of the person who's passed away, and the availability of health care. However, there is a need for caution when it comes to the presentation of the gory images of the non-authenticated facts. For example, there is a perception in some quarters that the constant reporting on the status of the security forces could compromise the effectiveness of a search and rescue mission. In addition, there is a body, which have an impact not only on respect for the dignity of those who have passed on, but it also creates more widespread anger, which in turn can lead to violence, and to adapt it to the future. Also, the coverage of the charges of the court, by means of a medium to a broadcast medium for the exercise of a certain amount of caution and respect for the rights of the parties. I have made this comparison, as in the case of terrorism, the negative impact of the universal coverage is immediate and obvious. This suggests that, in the context of a judicial proceeding, irresponsible reporting can lead to significant damage, although to a much lesser extent.

The reporting of the trials, the media, and the Administration of Justice, by K. G. Balakrishnan referred to as the (2010) PL July 10, in the currency of an independent judiciary and a free press is essential in a constitutional democracy.

However, for the discussion of issues in the media, I would like to have a description of the principal categories of things that are important to the Board in relation to its coverage of the case in court. They can be formulated as follows: -

First of all, there is an obligation to provide fair an accurate reporting for the whole test or trial stage, when the court of justice in debates, and finally, when the judgment or decision. This raises several questions, such as, very often, there are reports in which the financial statements

---

<sup>7</sup>K. S. Pandey, *the Press in India* 141 (Kanishka Publishers New Delhi, 2nd Edn., 1997).

are, in accordance with the researchers, or even the discussion of the trial judge and attorneys at law, are both incorrect, presented and cited without reference to their context.

Second, in some cases, there is an urgent need for the protection of personal data, and the website's security. As a rule, the court proceedings should be open to the general public, however, there is a need to stop using it only in exceptional circumstance.

## **V. CONCLUSION**

The Media is a matter of dispute in a phrase popular in the late 20th and 21st century to describe the impact of television and the press have on a person's reputation, and the formation of a broad-based perception of guilt or innocence before, or after, of a decision of the court. The media is the voice of a thousand, which is a platform for the common law. In a fast-changing socio-economic environment, such as India, the (largest democratic country), the media, and it has gained the upper hand, and as a result, it has become the fourth pillar of democracy. Of course, sometimes there is a drop of ink fell from a journalist's pen is more powerful than a bullet from a soldier with a rifle. In accordance with the criminal code, a suspect or accused person has the right to a fair trial to the court to prove his guilt or innocence. The right to freedom of speech and expression is found in Article 19 of the Constitution of India. However, this freedom is not absolute, because it is bound by a member of the same article, which provides that the right to freedom of opinion and expression includes the freedom to pursue contempt of court.

We live in a society in which spurious realities are created by the media, government bodies, large corporations, religious groups, and political groups. The media, what do you have to be good in this. In India, the press, the court proceedings, the media has not reached significant proportions. The media's the most powerful being on the planet. They have the power to make the innocent guilty and to make the innocent guilty and that is the "Power" in order to control the minds of the masses of the people. In the past few years, and that the human essence is closely linked to by the media, that the children of today, to speak out on social media. It can change the whole perception. The concept of mass media is not a new one. There are plenty of cases when the media is involved in the conduct of the trial, the accused, and with the release of "the decision" before the court for its decision. The court can, in fact, it is a process that is carried out by the court of law. It is very important for any system of justice is that the accused receive a fair trial.

The media is about to be reincarnated as a public court. It was the voice of the people, who have never heard it to be a light to the people who will never be able to look at the facts and a guide



to all of the courts that have an impact on the decision-making process. High-profile civil cases are decided, not only in food but also in the court of public opinion. The size of the cover and the filter through which messages in the media about the trials of a significant deviation in the civil case. The more important issue is the complexity of the junior, bias, and how this attitude is working for the members of the jury, on the one hand, it is reality. It is not a secret that each and every one of us has a bias. The challenge is to understand how these instructions may ultimately affect the assessment of the evidence, and how the issue can be addressed. The judges are also human beings; they also care about the reputation, promotions, and rewards. The influence of media is our daily life, so that through it all, the family can't stay away from it. And, as a result of extra pressure on the judges, including the processes associated with a high rate of return. The media should acts as a watchdog and to the general public to see everything that's happening around them, as well as to serve as a platform for the voice of the community. However, even in the Light of the media, it is something to do for your salary, and verification. Therefore, it needs to be regulated, particularly with regard to maintenance of the basic code.

Why are we so embarrassed in India for the recognition of our strengths and successes? We have such a great nation. We have so many amazing success stories, but it is to ignore one of them, as mentioned by the late Dr. A. P. J. Abdul Kalam.

In the Akshay Kumar – starer 'Rustom', based on the famous *K. M. Nanavati v. State of Maharashtra* case, the journalist Erich Billimoria, played by Kumud Mishra, creates a positive public image of Rustom (Akshay Kumar) and manipulates the jury. Here, the journalist was key to the way the case turned out since it seems that without his efforts, the jury would have held Rustom guilty. In the movie, Billimoria was responsible what is today called a 'media trial', when the media portrays the accused as guilty or innocent, even as the trial is going on. Such a portrayal is said to greatly manipulate the case as it builds a popular public opinion, and can even influence the judge.

After the release of the controversial documentary 'India's Daughter', the Delhi High Court, which heard the case, it should be noted that the media has a tendency to have a subconscious pressure on the judges. The jury said that it has no objection to the truth, but it has to be assumed to be released after the High Court had passed the verdict.

The report of the Noida doubles the amount of it is another case where the media is facing a lot of criticism of Dr. Rajesh and Nupur Talwar were reported as a cause of the murder of their daughter, however, although there is no evidence of any such action by the police, and not conclusive evidence was available to them.

With the threat of a lawsuit, the media, and that is a very real possibility. Media organizations, under the guidance of a “dedicated journalism”, with the individual cases, it was carefully and strategically. The mass media have a major influence on public opinion, and even the court are not susceptible to manipulation. One of the important factors here is that the model of the media that the media is focusing on and what it is to be ignored. Even the Supreme Court, which has always been a supporter of the press, and freedom of the press, and was delivered to the court on the issue, the media, and ultimately, guidelines have been established on how the media reports on ongoing investigations and legal proceedings.

The importance of a free press and a strong media, in a genuine democracy, it is not to be denied. No, democracy is not effective-mass-media. The media have a huge amount of energy, and if used correctly, can be a serious harm for the people. No third party that can be set up for the purpose of monitoring the mass media, and because of this, it would be a threat to their freedom and liberty, and what that means is that the burden of responsibility on the media, and the workers themselves have to check and make sure that they don't do harm than good. At the same time, the public needs to be more competent in the media, and the fact of the invention.

It is recommended that in order to prevent the publication or presentation of the material, to the detriment of the defendant.

Prior to the Restriction, in accordance with their rights, the courts can provide such a law prohibiting disclosure of information in court proceedings for a period of time, which makes it rational to restrict the freedom of, as referred to in Article 19 (1) (a) of the Constitution of India.

Contempt of Court Act, 1971: The Inaccuracy in the reporting of behavior will only be taken into account if there is evidence of a serious breach of the administration of justice. Section 4 of the Act gives the right to cancel the publication, and if it is correct and accurate. This is why the mass media have the utmost confidence in the accuracy of the information.

The role of the media should be to aid the process of justice rather than hindering it or passing judgements beforehand.

\*\*\*\*\*