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Role of Media Trials in Criminal Justice System: An Analysis

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ABSTRACT

“Trial by media” is a term that has only lately been developed to describe a part of ‘media activism.’ It refers to “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-profile cases, the media frequently create an ambience of public hysteria akin to a lynch mob, which not only makes a fair trial impossible but also means that, regardless of the trial’s outcome, the condemned is now held liable. The media playing the job of a foe and utilizing the masses as judges to lead their own preliminaries is the way a media preliminary comes to be. The media is frequently brutal to the psychological well-being of everyone involved, particularly the accused and victims. They intrude on their privacy, infringing on Article 21’s guarantee of the right to privacy. The purpose of this paper is to shed light on the constitutionality of media trials in today’s age of various judicial proceedings.

Keywords: Article 21, Right to privacy.

I. INTRODUCTION

The media used to be a blessing in that it educated people and made them aware of what was going on around the globe. The Indian media must adhere to the values outlined in the Indian Constitution. The legislature, executive, and judiciary are the three basic pillars of democracy; however, the media has recently emerged as a fourth pillar. It emphasizes society’s social, legal, economic, and cultural issues.

The media has now transformed into a Janta Adalat’s, or Public Court, and has begun interfering in judicial procedures. The media fully ignores the crucial gap between the convict and the accused by upholding the core principles of ‘presumption of innocence unless proven guilty’ and ‘guilt beyond a reasonable doubt’. What is now being watched is a second probe conducted by the media, known as a media trial. It entails establishing public opinion against the suspect or accused even before the court takes notice of the matter, in addition to inquiry.

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As a result, the public is prejudiced, and the accused, who should have been presumed innocent, is presumed guilty, with all of his rights and liberties unrestricted.

Excessive media coverage of the accused or suspect prior to the court of law trial either incriminates a fair trial or characterizes the accused or suspect as the one who has unquestionably committed the crime; this amounts to undue interference with the “administration of justice”, necessitating contempt of court proceedings against the media. Unfortunately, the norms established to control journalism and journalism practice are insufficient to avoid the infringement of civil rights.

II. MEDIA TRIAL

There have been countless instances in which the media took matters into their own hands and declared an accused to be guilty long before the court had reached a verdict. There have been some well-known cases that would have resulted in the court declaring the accused innocent if it hadn't been for the media's wrath in moulding public opinion and influencing judicial decisions. The Jessica Lal case, the Priyadarshini Mattoo case, and the Bijal Joshi rape case are just a few examples. It is the broad public of the accused's guilt and the imposition of a specific perception of him, regardless of the court's decision. Where court cases have received a lot of attention, the media has often played a big part in inducing panic among the audience, making it practically difficult for the trial to be fair. There are a variety of reasons why the media pays so close attention to particular cases. The following are the reasons-:

1. Situations involving minors or cases that are so awful or violent that the media feels compelled to sensationalise them.
2. A prominent celebrity could be a victim or an accused in the case.

When significant celebrities are involved, the media's influence can drastically impact the opinions of their so-called “fans”.

III. CONSTITUTIONALITY OF MEDIA TRIALS

The constitutionality of media trials is determined by the influence they have on society, as the freedom of the press and the independence of the judiciary are both required for the establishment of any rule of law.

(A) Freedom of Press

The right to freedom is guaranteed by Article 19 of the Indian Constitution. Article 19(1) of the Indian Constitution guarantees the right to freedom of expression, i.e., the freedom to hold opinions without interference and the freedom to seek, receive, and impart information, ideas,

and concepts of any kind, regardless of restrictions, orally, in writing, or even in print, or in any form of art, or through any other media of one's choice. This is also subject to specific duties and responsibilities, as well as other people's rights and reputations. Although unlike in the United States of America, press freedom in India is not a separate constitutional right, it is still protected and accorded the status of freedom by the Supreme Court of India under Article 19.

In other situations, however, the Supreme Court has stated that trials by the press, electronic media, social media, or any other form of public agitation are instances when the general rule of law is violated, resulting in a miscarriage of justice.

(B) Immunity under the Contempt of Courts Act, 1971

Publications made during free trials are protected from contempt prosecution under the 1971 Contempt of Courts Act. Contempt of court is defined as any publication that interferes with obstructs or tends to obstruct any proceeding, whether civil or criminal and the course of justice, which is actually a pending proceeding. It's called contempt because some of the acts that are disclosed before the court's judgement can mislead the public and jeopardise the accused's previous convictions, confessions made in front of the police, or just character assassination.

Even before the actual trial began in the highly publicised case of Aarushi Talwar's murder in 2013, the media had already concluded who was guilty and who has not. There were widespread demonstrations and public outrage over the fact that her own parents were to blame for her death. But, despite the fact that the press had gone insane in this instance, the press has been granted immunity. Without the intervention of the legislation, such publications have been known to continue unchecked.

IV. INFLUENCE OF MEDIA

(A) On the accused

1. If the media has already portrayed a suspect or accused as guilty before the trial in court, there is a risk that the accused may be severely prejudiced.
2. Even if a suspect or accused person is cleared by the Court after due process, the acquittal may not be beneficial in rehabilitating the accused's reputation in society.
3. Exaggerated and unreasonable media coverage, describing the defendant as guilty even while the verdict is still pending, amounts to improper influence over the "administration of justice", necessitating a contempt of court action against the media.

(B) On the witness

1. If the witness's identity is disclosed, the witness may face pressure from the authorities as well as the accused or his associates.
2. Early on, the witness wants to disengage and get out of the commotion as quickly as possible.
3. The witness's safety is then a critical concern. This raises the question of whether hostile witness evidence is admissible, as well as if the law should be changed to prevent witnesses from changing their claims.

(C) On Judges and Court

1. Even judges are subject to criticism, which might be directed at their judicial conduct or their conduct in a purely personal capacity. However, it is a cause for concern when the criticism levelled against judges is unsubstantiated or ill-informed, as this has the potential to erode public confidence in the court.
2. A judge must defend himself against media pressure that can 'unknowingly' affect juries or judges, and judges, like all humans, are susceptible to such indirect pressures, at least subconsciously or unconsciously.

The Supreme Court declared in the case of **State of Maharashtra v. Rajendra Jawanmal Gandhi**², that a trial by electronic media, press or public agitation is contrary to the rule of law and might result in a miscarriage of justice.

V. CRITICISM OF MEDIA TRIAL

In a democratic country, the media plays a critical role. All of the democratic pillars should be able to function independently without interfering with the functions of others. In high-profile criminal trials like as the Indrani Mukerjee case, Jessica Lal case, and so on, the media has trampled on the judiciary's sanctity. Moreover, because of the media's intervention, some of the accused have been released.

The matter was regarded as highly severe by a three-judge bench led by the Chief Justice of India R.M. Lodha, who remarked that the Court would consider a few recommendations to balance the interests and rights of the parties. The following are the guidelines followed by the Court:

1. Following an increase in the number of media trials, the Supreme Court should

² A.I.R. 1997

investigate the issue, as it leads to public condemnation of the accused based on material provided by prosecutors and police, even if the trial before the court of law has yet to begin.

2. The reports of a media briefing by the police and other investigating agencies have been taken seriously by the courts. Nothing should be done to jeopardise the investigation process as they fall under the ambit of Article 21 of the Indian Constitution and they all require specific checks.
3. When a trial is already underway in the courtroom, a parallel media trial should not be permitted. The Supreme Court is now anticipated to consider establishing guidelines for the media when it comes to covering criminal cases and receiving briefings from the investigative authorities.

The Supreme Court declared in **Saibal Kumar Gupta and Others. v. B.K. Sen and Another**³, that a newspaper intruding into a crime and conducting an independent investigation for which the accused or suspect has been apprehended and then publishing the results of that inquiry would be mischievous. This is deceptive because when one of the country's regular tribunals is conducting a trial, a trial by newspapers must be outlawed. This is founded on the belief that a newspaper's investigation tends to obstruct the process of justice, regardless of whether the investigation prejudices the accused or prosecution.

With the passage of time, the aim of the media has shifted. In most circumstances, the media interferes with the functions of the judiciary rather than just reporting the facts of the case. In the largest democratic setup, the termite of corruption has demolished the core structure of the judicial system. Litigants take unethical steps to spare the accused from conviction, such as buying public officials to falsify the evidence, pressuring the defence to withdraw the case, and so on. Because of this massive institutional mismatch, criminal trials have been pre-emptively covered by the media. By using sensational journalism, the media has been successful in instilling prejudice in the public's mindset.

VI. MEDIA TRIALS V. FREEDOM OF SPEECH AND EXPRESSION

Indian Constitution provides freedom of speech and expression under Article 19(1)(a). Freedom of expression has a critical role in the shaping of public opinion on economic, social, and political issues.

³ A.I.R. 1961

In **Indian Express Newspapers v. Union of India**⁴, Justice Venkataramiah, held that press freedom is at the centre of social and political discourse. In the developing world, when all channels of modern communication, such as television and other forms, are not available to all sections of society, the press has taken on the role of public educator and makes education feasible on a global scale through imparting formal and non-formal education. The goal of the press is to promote the public interest by publicising viewpoints and facts that a democratic electorate would be unable to make an informed decision without (Government). Newspapers, as distributors of news and public opinion, have an impact on government administration and frequently publish material that is unpopular with governments and other authorities.

The Supreme Court's comment above demonstrates that press freedom is critical to the democratic process's proper functioning. It is self-evident that every citizen has the right to engage in the democratic process, which is defined as a government of, by, and for the people. Every individual must have access to a free and open discussion of public issues in order to exercise his freedom to make an informed decision. This explains the constitutional perspective on press freedom in India.

In the case of **Papnasam Labour Union v. Madura Coats Limited**⁵, the Supreme Court established a few guidelines and principles to be considered when determining the constitutionality of a statutory provision, and restrictions were imposed on the fundamental rights guaranteed under Article 19(1)(a) to (g) of the Indian Constitution when freedom was challenged on the basis of unreasonableness.

VII. MEDIA TRIALS V. FAIR TRIAL

The right to a fair trial is guaranteed under Article 21 of the Indian Constitution, which is regarded as a part of the right to life and liberty. The core meaning of "Right to Fair Trial" is that a trial should not be influenced by external factors, which is regarded as a fundamental concept of Indian law. Article 129 and 215 of the Indian Constitution, as well as the Contempt of Courts Act of 1971, contain measures aimed at protecting this freedom. The criminal justice system in our country follows the 'presumption of innocence', which means that until proven guilty, a person is assumed innocent by the competent court. It is required, that the media should not identify any witness as then their chances to turn hostile increases and mainly the media should not be running any parallel trial of the case that brings undue pressure on the judge or the jury adjudicating upon the case.

⁴ A.I.R. 1985

⁵ A.I.R. 1994

The Supreme Court declared in **Zahira Habibullah Sheikh v. the State of Gujarat** ⁶, that a fair trial would certainly mean a trial conducted before an impartial judge and a fair prosecutor in an atmosphere of judicial calm, as is represented in several practises and rules. A fair trial is one in which there is no bias or prejudice for or against the witnesses, accused, or the cause of being tried is eliminated.

The Court held in **Vijay Singhal and Others. v. Government of NCT of Delhi and Another** ⁷, that the purpose of trials is to achieve the ends of justice, and if there is a competition to achieve that end between the right to freedom of expression and the right to a fair trial, the right to a fair trial will triumph over the right to freedom of expression.

In the case of **Sahara India Real Estate Corporation Limited and Others. v. Securities and Exchange Board of India and Another** ⁸, the Supreme Court held that the media has the right to know what is going on in courts and communicate that information to the public, strengthening public confidence in the court's transparency. Even if a trial is accurately and fairly reported, such as a murder trial, there is a significant risk of prejudice, that might not be related to the ongoing trial but later in the subsequent trials. The postponement not only ensures the fairness of subsequent or related cases but also helps to avoid any potential media contempt.

In numerous decisions, the Supreme Court and the High Court have criticised the media trials of a sub-judice matter, claiming that it affects the judge's or jury's opinion on that case, as well as similar instances in the future. In their 2010 edition of the Norm of Journalism Conduct, the Press Council of India also stated that such sensational journalism should be avoided.

VIII. MEDIA TRIALS V. RIGHT TO BE REPRESENTED

We can now see that the media is pressuring lawyers not to take up the accused's case, so infringing on the accused's right to be represented in court by the lawyer of his choice. In this way, the media trials work against the natural justice system.

When the prominent lawyer, Ram Jethmalani, agreed to defend the prime accused of the case, Manu Sharma, in the Jessica Lal murder case, he faced public criticism. In another case, lawyer, Kamini Jaiswal, was representing an "anti-national" for supporting Sar Geelani, a professor at Delhi University who was accused of the 2001 Parliament attack. Prashant Bhushan, the lawyer who appeared on behalf of Yakub Memon, was also opposed.

In such cases, the lawyer's safety is jeopardised, and they are unable to fulfil their ethical duties

⁶ A.I.R. 2006

⁷ A.I.R. 2013

⁸ A.I.R. 2012

to give legal assistance in criminal issues. As a result, media trials have an impact on the natural justice principle.

IX. IS MEDIA TRIAL CONTEMPT OF COURT?

The use of the media to conduct a trial is a kind of contempt of court that must be penalised. The Contempt of Court Act distinguishes between civil and criminal contempt.

Prejudicing a trial, scandalising a case, and impeding the administration of justice are the three categories of criminal contempt.

Interference or prejudice in the judicial process: The notion of natural justice was inspired by this principle. Every accused has the right to a fair trial which is combined with the notion that “justice must appear to be done”. Attempts are made to prejudice a trial in a variety of ways. If prejudice-based cases are allowed to succeed, the result will be that most people will be convicted of crimes they did not commit, as in the case of Pradyum Thakur, where the bus driver was initially convicted, but later on, it was discovered that the real culprit was the boy’s senior in his own school.

To prevent such unfair and unjust trials, contempt of court has been established. Contempt is defined as the dissemination of news with the goal to poison the minds of the accused, witnesses, or jurors, or creating an environment in which the administration of justice becomes difficult or impossible. When a matter is triable by a judge, contempt of court also involves commenting on pending cases or abuse of parties. In any situation, the media has no right to act as an investigator in order to try to influence the court.

X. LANDMARK CASES

There have been many landmark cases related to contempt of the court. A few of them are listed below:

In the case, of **Re: P.C. Sen**⁹, a special leave petition was filed alleging that a broadcast on an All-India Radio station on November 25, 1965, was obstructive in the course of justice and amounted to contempt of court because it revealed the identity of the accused. Any legislation relating to contempt of court, according to Justice Shah, is well-established. Contempt of court is defined as any conduct or publication that aims to bring any Judge or the court into disrepute, that tries to undermine the authority of the court, or that tries to interfere with the legal procedures.

⁹ A.I.R. 1970 S.C. 1821

A curfew had been imposed in a small district of Andhra Pradesh in the case of **Y.V. Hanumantha Rao v. K.R. Pattabhiram and Another**¹⁰. The court expressed that the curfew that had been imposed was arbitrary and that there was no law to back it up. While the case was ongoing, the “Deccan Chronicles” published articles about the curfew rule and why it was created, as well as historical background and details about the case. It was thus noticed that, while a case was underway in a court of law, no comments should be made about it that could jeopardise the outcome of the case, such as prejudice in the decisions made by the judge, the witness, or any other member of the general public with access to such media news. It was also noted in this instance that, even if a person who publishes such news considers it to be true, it will still be considered contempt of court because the truth was established before the judiciary’s ruling.

There was scant evidence that the accused had murdered his companion in the case of **Sushil Sharma v. The State (Delhi Administrative and Others)**¹¹. While the case was still pending in court, the media began portraying the accused as a murderer and was capable of influencing public opinion even before the case was decided. The High Court of Delhi ruled that a person’s conviction would be completely based on the facts of the case, not because the media wanted the individual to be found guilty. The charges against the accused must be built based on the evidence available on file, and not on what the media depicts the person to be.

XI. CONCLUSION

There have been numerous events where the media has been blamed and accused of conducting the accused’s trial by issuing a “Verdict” based on their findings prior to the Court’s decision. It is critical that the trial be conducted by the Court rather than the media. The media trial is unquestionably an unwarranted intrusion into the justice-delivery process.

When it comes to drafting media rules, the legislature has a big job to do to ensure that their freedom isn’t stifled. The media has the right to discuss and comment on the case rulings, but they do not have the right or freedom to begin a trial on matters that are still under appeal. Before beginning the trial of a pending case, the right of the accused to a fair trial always takes precedence over the media’s freedom. The goal of justice is hampered by the media trial.

It is apparent that the media’s influence has a negative impact rather than a positive impact (except for a few exceptions). The media should be effectively regulated by the courts. The media should not be given full power in the court hearings.

¹⁰ A.I.R. 1973

¹¹ A.I.R. 1996

The most effective strategy to regulate the media is to use contempt of court to punish those who violate the fundamental code of conduct. The Supreme Court has permitted the use of contempt powers by courts against publications and media outlets in a number of cases. The media's freedom of speech and expression cannot be allowed to go so far as to jeopardise the trial itself.
