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# The Power and Pitfalls of Media Trials: The Effect on Indian Judiciary

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## ABSTRACT

*This paper discusses the impact of media trials on the judiciary in India. The media and the judiciary are two essential institutions that protect citizens from the power of the state. Media trials can influence public opinion and potentially affect judges' decision-making, violating an accused's right to a fair trial, especially for high-profile cases that are muddled with sensationalism. While media trials can produce positive results by promoting transparency and accountability, biased reporting and sensationalism can lead to a prejudiced environment. The paper also highlights important Indian judicial precedents and notable incidents related to media trials and the relationship between Media, Judiciary and public opinion. The main question that arises is whether the media is causing more harm than good to our society.*

**Keywords:** Media, Judiciary, Public opinion, Media Trial.

## I. INTRODUCTION

The Judiciary and the media are two vital organs that help protect the country's citizens from the onslaught of the State. They are the best instruments to checkmate power. Media trials have the ability to change the course of Judicial proceedings. The way in which they report the cases has the ability to influence public opinion and potentially affect the decision-making of the judges. One of the biggest impacts of media trials is that they can violate an accused's right to a fair trial as they can create a prejudiced environment. This is especially true for high-profile cases that are extensively covered and are muddled with sensationalism. They create a perception of guilt or innocence which pressurizes the judiciary to take a decision in favor of the majority, even if evidence suggests otherwise. Media trials are capable of producing both positive and negative results. If the media covers a matter in a true and unbiased manner, where the primary motive is justice, they help create transparency and accountability. But if the media presumes the role of a TRP-driven machine that twists and turns the facts of a case to mislead the public for the promotion of business interests, berths in Rajya Sabha, tickets to Lok Sabha, Padma Awards, and other nefarious favors, then it loses its credibility as the fourth pillar of

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democracy.<sup>2</sup>

## II. MEDIA TRIAL

It is a challenge that must be tackled but not at the expense of freedom of speech enshrined under Article 19 of the Constitution. The question that arises is how the profession of journalism and the institution of media which was regarded as one of the most honorable professions in the past, is the new monster of the present. In fact, the media has the power to truly hypnotize the general public. A mere headline written in bold letters has the capacity to set the nation on fire with communal riots. They create moral panic' amongst the public and, with the advancement of the internet and social networking the media now possesses the power to bring crime and punishment from the court to the streets.<sup>3</sup> The general complaint against the media is that they create a 'prejudiced environment. The Law Commission in its 200th report stated that "the whole pattern of publication of news has changed and several such publications are likely to have a prejudiced impact on the suspects, accused, witnesses and even judges and in on the administration of justice".<sup>4</sup> On November 3, 2006, the then-Chief Justice of India. YK Sabharwal cautioned that if the trend of media trial was to continue then soon there would be no convictions, he stated that media trials create confusion in the minds of the judges, because the media had already given its verdict.<sup>5</sup> The media also creates judicial sensitivity towards public opinion which is always not such an undesirable effect, especially in circumstances where public opinion helps with the advancement of public welfare and is sometimes more advanced in law, for example, the removal of A. 377 of the constitution. In India, the public sphere is divided on various issues. Media has contradictory results depending on the audience. The coverage of Afzal Guru as a terrorist by Indian Media made him a martyr in Kashmir, Maya Kodnani's conviction for the 2002 Gujarat riots is seen as a good thing by all right-minded Indians but the communal-minded Hindus of Gujarat think that she was unfairly victimized. So the question that arises is whether the media is causing more harm than good, to society"<sup>6</sup>

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<sup>2</sup>Ranjan, Sudhanshu. "MEDIA AND JUDICIARY: REVITALIZATION OF DEMOCRACY." *Journal of the Indian Law Institute*, vol. 57, no. 3, 2015, pp. 415–36. *JSTOR*, <http://www.jstor.org/stable/44782789>. Accessed 23 Apr. 2023.

<sup>3</sup> Ranjan, Sudhanshu. "MEDIA AND JUDICIARY: REVITALIZATION OF DEMOCRACY." *Journal of the Indian Law Institute*, vol. 57, no. 3, 2015, pp. 415–36. *JSTOR*, <http://www.jstor.org/stable/44782789>. Accessed 23 Apr. 2023

<sup>4</sup> Law Commission of India, 200th Report on Trial by Media: Free Speech versus Free Trial Under Criminal Procedure Code, 1973 (2006)

<sup>5</sup> Sudhanshu Ranjan, "Media on Trial" *The Times of India*, Jan. 26, 20

<sup>6</sup> SUNDAR, NANDINI. "The Chilling Effect of Restraints." *Economic and Political Weekly*, vol. 50, no. 15, 2015, pp. 85–86. *JSTOR*, <http://www.jstor.org/stable/24481891>. Accessed 23 Apr. 2023.

### III. IMPORTANT INDIAN JUDICIAL PRECEDENTS AND NOTABLE INCIDENTS

*Saibal Kumar Gupta and Others versus B.K. Sen and Another*<sup>7</sup>, the Court held that newspapers are obligated not to interfere with an ongoing investigation at the expense of the accused's wellbeing and efficient administration of justice.

In *Sushil Sharma versus The State (Delhi Administration) and Others*<sup>8</sup>, it was held that judicial pronouncements are to be made based on facts deciphered during the investigation and not media coverage. Furthermore, the proceeding will not qualify as a 'fair trial' if the judge is not in a state of neutrality and is susceptible to media influence

*In Re: Harijai Singh and Anr. v. In Re: Vijay Kumar*<sup>9</sup> the Supreme Court stated on the scope of freedom of the press as “an essential prerequisite of a democratic form of government” and regarded it as “the mother of all other liberties in a democratic society”.

*Zahira Habibullah Sheikh versus the State of Gujarat*<sup>10</sup>, the Court declared that a trial is fair when the prosecutor is non-partisan, equitable and fair-minded, devoid of undue influence.

*Vijay Singhal and Others versus the Government of NCT of Delhi and Another*<sup>11</sup>, between the Right to a Fair Trial and the right of Freedom of Speech and Expression, in the event of a conflict between the two. The former overrides the latter.

*In Hamdard Dawakhana v. Union of India*,<sup>12</sup> “that the right includes the right to acquire and impart ideas and information about matters of common interest.

**T. Nagappa versus Muralidhar**<sup>13</sup> reaffirmed the right of an accused to defend himself under Article 21 of the Constitution of India

In *Rattiaran versus the State of Madhya Pradesh*<sup>14</sup>- “Fair Trial is an intrinsic component of criminal jurisprudence in India”

*In Anukul Chandra Pradhan v. Union of India*<sup>15</sup>, the Supreme Court observed that “No occasion should arise for an impression that the publicity attached to these matters (the hawala transactions) has tended to dilute the emphasis on the essentials of a fair trial and the basic principles of jurisprudence including the presumption of innocence of the accused unless found

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<sup>7</sup> Saibal Kumar Gupta and Others versus B.K. Sen and Another, AIR 1961 SC 633

<sup>8</sup> Sushil Sharma versus The State (Delhi Administration) and Others, 1996 CriLJ 3944

<sup>9</sup> Re: Harijai Singh and Anr. v. In Re: Vijay Kumar, (1996) 6 SCC 466

<sup>10</sup> Zahira Habibullah Sheikh versus the State of Gujarat, (2006) 3 SCC 374

<sup>11</sup> Vijay Singhal and Others versus the Government of NCT of Delhi and Another, (2014) 4 SCC 375

<sup>12</sup> Hamdard Dawakhana v. Union of India 1960 (2) SCR 671

<sup>13</sup> Nagappa versus Muralidhar, (2008) 5 SCC 633)

<sup>14</sup> Rattiaran versus the State of Madhya Pradesh, (2012) 4 SCC 516

<sup>15</sup> Anukul Chandra Pradhan v. Union of India, 1996 (6) SCC 354

guilty at the end of the trial”

The media is notoriously known for attempting character assassination, and the Indian Jurisprudence is no exception. In 1999, Jessica Lal was fatally shot by Manu Sharma after she refused to serve him liquor. The witnesses turned hostile after falling prey to the media's wrath. After a thorough investigation by news outlets, it came to the public's notice that the accused's father bribed the witnesses.<sup>16</sup>

In the Sheena Bohra Murder Case, the eyes of the media have pierced the personal life of the main accused Indirani Mukherjee which was fully accused by the media. Every aspect of her personal life and character was in public lens of examination via media. There have been numerous instances in which media has conducted trials of an accused and they had been verdicts even before the judgment passed by the judiciary.

In 20th century a famous celebrity Fatty Arbuvckle was proven guilty by a media trial but he was proved not guilty by the Hon'ble Court but due to the media trial his entire career and his reputation was against him due to all the wrong media coverage.<sup>17</sup>

In the case of Arushi Talwar Murder Case the media has verdict that the murder has been done by her parents Rajesh Talwar and Nupur Talwar, he was not guilty but the media proved him guilty.<sup>18</sup>

In 2013, Khurshid Anwar jumped to his death after rape charges were levelled against him by a 23-year-old woman on a social networking site. The post was circulated in various media outlets, which tarnished his reputation.<sup>19</sup>

After the death of Sushant Singh Rajput in 2020, the accused Rhea Chakraborty has endured severe disparagement and barbarism from the media. While the case is ongoing, the press has already given birth to an alternate narration of events at the detriment of the accused and her family's privacy.<sup>20</sup>

Recently Sarvjeet Singh, who had been falsely accused by one Jasleen Kaur for harassing her where she posted a picture of him on Facebook which went viral, led to the arrest of Sarvjeet Singh. After the inquiry it came to light that Sarvjeet Singh was innocent but due to the media

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<sup>16</sup> Samanta, Navajyoti, Trial by Media - Jessica Lal Case, SSRN, (March 2008).<https://ssrn.com/abstract=1003644>

<sup>17</sup> Nikitha Suresh and Lucy Sara George, *Trial by Media: An Overview*, 4 (2) IJLMH Page 267 - 272 (2021), DOI: <http://doi.org/10.1732/IJLMH.26050>

<sup>18</sup> Lity Manisha and Meghna Rawat, Trial by Media: Undermining of the Indian Judiciary, *International Journal of Legal Science and Innovation*, Vol. 3 Issue 4; 434, Page 434 - 456, (2021)

<sup>19</sup> Nimisha Jha, "Constitutionality of Media Trials in India: A Detailed Analysis", *Academike*, (November 13, 2015), <https://www.lawctopus.com/academike/media-trials-india/>

<sup>20</sup> Karunakar, Deeksha, Media Trial in India with Relation to Durkheim Theory of Collective Effervescence (April 14, 2021), <http://dx.doi.org/10.2139/ssrn.3826099>

coverage and hype created by the media, the media labeled him as a harasser and Sarvjeet Singh faced public humiliation and was sacked from his job. This incident clearly shows how the media can ruin the life of an innocent through its coverage without verifying with the true events.

The Principal of St. Stephen Institution Mr. Valson Thampu alleges that the media has targeted his institution as they are minority institution and contented that they were the victim of Media Trial, in this case the professor of St. Stephen Institution was accused of molesting the student who showed audio clips as an evidence for the molestation, and the allegation on Mr. Thampu was he pressurized the student to withdraw the complaint against the teacher. Mr. Thampu claims that he was the victim of Media Trial and said that this was not the first time he is been targeted he's been targeted twice already and it was proved to be false and this is the third attack on him and Mr. Thampu alleges that he has been falsely implicated by the media and his institution has been targeted because the institution was minority institution the principal of the institution demanded for a probe by the Central Bureau of Investigation and offered to resign if he was found guilty.

#### **IV. INEFFECTIVE PROVISIONS GOVERNING JOURNALISM**

Media is an institution that is so greatly powerful that it requires certain checks and balances in place in order for it to function without arbitrariness. The purpose with which the Press Council Act, of 1978 was established was to “preserve the freedom of the Press and to maintain and improve the standards of newspapers and news agencies in India”.<sup>21</sup> One of the primary powers of the council is the power to censor. If it comes to the notice of the Council that any agency has engaged in any misconduct or breach, then the Council has the power to either furnish a warning or censor the newspaper on such account. The Council also has the power to direct the paper to “publish the contradiction of the complainant in its forthcoming issue”<sup>22</sup> It is vital to note that the Council can censor or direct for an apology only once the news has been published, that is the harm has been done, once news is published it is read by millions of people, a retraction in the next new cycle does not undo it, the people blindly follow the news. But what is noteworthy is that the punishments prescribed by the Council are not so harsh. As the council only has the power to warn admonish or censor newspapers and they even lack jurisdiction over electronic forms. They can only act on pending cases and not on pretrial reporting. Thus, as there is no harsh punishment, the reports fail to adhere to the ethics of journalism.

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<sup>21</sup> Press Council Act, 1978, Section 13(1)

<sup>22</sup> Section 14(1) of the Press Council Act, 1978

In the case, **Ajay Goswami v. Union of India**<sup>23</sup> the failure of the Press Council to bring about effective reforms and changes to regulate the media was brought to light. The Press Council lacks punitive powers and is unable to exercise any power or control over the materials published. However, a saving point to be noted is that the Press Council has suggested a code of conduct to be followed by journalists that focus on, honesty, fairness, and integrity and mandates the press should not involve itself in baseless accusations. Moreover, it clearly states that any critique-based publication on the judiciary must be strictly scrutinized before publishing such news. The press council still has bounds to cover in the area of regulating the media in the country

## **V. CONCLUSION AND SUGGESTIONS**

From the above Research, we have come to the conclusion that in this time and day media has more of a negative impact than a positive impact. It is imperative for the media to be regulated strictly by the courts. A government-controlled media is not the epitome of democracy, but the implications and the result of unaccounted publications are even more damaging to both public and judiciary. Another main constraint on stings and trials by media is the public interest. If public interest is missing and either self or manipulative interests surface, the media loses its ground and invites the rage of the court. Therefore, media trials have only served to help the people in only very few instances but that does not happen in all cases, thus it is necessary to have restrictions imposed on it.

### **Suggestions:**

While acting as a responsible media, it should follow certain norms in reporting of a crime or any news related to the same:

- i. The facts and accuracy of the case should be verified before the same is reported/published and read by all.
- ii. Caution should be undertaken to avoid any writing that is opinion based i.e. either favoring or defaming any person/party.
- iii. Right to privacy should not be interfered with.
- iv. Reporting of court proceedings must be done with sensitivity and accuracy.
- v. Reports based on mere suspicion or personal opinion should not be published.
- vi. Appreciation of acts of violence should be avoided

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<sup>23</sup> Ajay Goswami v. Union of India, (2007) 1 SCC 143

- vii. The headlines of newspaper should not be sensational or provocative.
- viii. In cases of error, rectification must be published as soon as possible<sup>24</sup>

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<sup>24</sup> Dr. S. Krishnan, Dr. Disha Bangarva, Ms Aditi Tiwari "**Trial by Media – A Threat to Our Judicial System?**", *International Journal of Trend in Scientific Research and Development*, Volume-6 | Issue-2, February 2022, pp.376-387