

MEDIA TRIAL IN INDIA: A CONTROVERSIAL FREEDOM

Devshree Mangal

Student, B.A.L.L.B.(Hons.), 5th Year, Law College Dehradun, Uttarakhand University, Dehradun-248007, Uttarakhand, India

Ayushi Chaudhary

Student, B.A.L.L.B.(Hons.), 5th Year, Law College Dehradun, Uttarakhand University, Dehradun-248007, Uttarakhand, India

Sachin Kumar

Assistant Professor, law College Dehradun, Uttarakhand University, Dehradun-248007, Uttarakhand, India

Ambar Srivastava

Assistant Professor, law College Dehradun, Uttarakhand University, Dehradun-248007, Uttarakhand, India

Kumar Ashutosh

Assistant Professor, law College Dehradun, Uttarakhand University, Dehradun-248007, Uttarakhand, India

Abstract

In India the expression “media trial” has acquired currency. A media trial is a news event in which the media acts as judge, jury, and executioner, announcing a trial before the court reaches its decision. A media trial is often undertaken alongside a police investigation. The killings of **Aarushi Talwar in 2008 and Sheena Bora in 2015** were both targeted by the death of Indian actor **Sushant Singh Rajput** has lately sparked a human rights debate. Privacy is critical. In recent months, the bulk of India’s press organizations have launched parallel investigations into the actor’s death. Regardless of their relation to inquiry, the media disclosed information such as the medical history, bank account data (including transaction), and a deluge of other people’s private messages, photographs, and videos. As a result, people’s private rights have been infringed as has the concept of innocent until proved guilty. This begs the issue of whether the Indian Constitution has granted the Media special permission to intrude into people’s private life in the name of press freedom. The fourth estate of democracy in India, the media, will be examined in connection to Right to Privacy and checks and balances given by the rule of law in this article.

Keywords : Media Trial, Freedom of Press, Article 19(1)(a), Right to privacy, Article 21

INTRODUCTION

Even before achieving independence, India ratified the 1948 Charter of Human Right by UN. It showed India’s long-term goals and commitments for a government by the people. Furthermore, after gaining independence its first aim had been its own charter of rules and regulation. India proclaimed itself a republican government in 1950, enforced the majority of Human Rights Charter Key concepts. The importance of media’s influence over the Indian people felt during the Satyagrah movement and boycott of foreign goods as the public supported unanimously. Even the British Government was terrified by the print media as it projected real power of Indians. Because our constitution makers realised the great influence of print media, they enshrined liberty to express and speak in the Fundamental Rights of our constitution. The press freedom is not directly mentioned in right to Freedom of Speech and Expression of the Indian Constitution. In the Case of (Romes Thapper v. State of Madras, 1950), the Apex Court decided that the freedom of press is an integral part of Right to Freedom of Speech and Expression. In this judgement the Apex Court expanded the limits of journalistic independence. The 1st Amendment Act of 1951 amended the Fundamental Right of Speech and Expression. According to the

Amendment Act, "Nothing in sub-clause (a) of clause (1) of Article 19 affects the enforcements of any prevailing laws or prevents the government from legislating any rules or regulations that imposes reasonable restrictions on the exercise of the right conferred by sub-clause in the interest of State Security, good relations with Foreign States, public order, dignity or virtue, or in connection with disdain, derogation, provoking to crime.

Asa Media serves public, Lawful, economic and cultural concern in the society. As the media is actively involved in judicial process. It has taken now the shape of public court. Now a days media completely ignores the crucial differences between the convicted and accused, as the media trials sometimes known as the secondary probe. It includes investigation along with moulding general point of view against the accused even before case reaches the courts. As a consequence, the general public is set to believe that the suspect is a culprit with no advantage.

Excessive media coverage of the accused prior to hearing in a judicature jeopardise a free an unbiased proceeding or portrays the suspect unquestionably committing the crime resulting in an improper meddling in the justice procedure.

News Channels, Newspapers and Websites provides the information demands of the public by publishing news, articles, etc that incorporates their own interpretation of the facts of the case which may or may not vary from the real facts. When a person sees or reads such a story or article, he forms a judgement exclusively based on it and he starts to perceive the person being judged as guilty or innocent based on what he sees.

FREE EXPRESSION AND EXPRESSION

In (Ramesh Thapper v. State of Madras, 1950) case, the Supreme Court interpreted free expression to encompass the press. The right to free expression encompasses the opportunity to express oneself vocally, in writing, or by audio-visual means according to (Sakal Papers V. Union of India, 1961) It also restricts the amount of circulation the media has right to appear before the court as a representative of the public to keep the public updated about the critical matters. As a result, the journalist has right to address the court sessions and print the accurate accounts. However, it is not absolute right important factors include the prohibition on publishing the identity of rape victims' children, teenagers and women. Considering fair justice, the judiciary may limit public disclosure of judicial procedure under the Section 151 of the Code of Civil Procedure, 1908. Journalistic freedom includes the liberty to report on legislative processes. The media is guaranteed access the trustworthy on legislative proceedings under the constitution.

The Supreme Court ruled in (Humdard Dawakhana (WAKF) Lalkuan, Delhi v. Union of India, 1959) that "Commercial advertising does not fall within the protection of free falls within the protection of free expression since it is commercial in nature."

In the (Tata Press Ltd v. Mahanagar Telephone Nigam Ltd, 1995), the Supreme Court, on the other hand, concluded that "advertising covers a significant percentage of the cost of delivering newspapers to the general public. As a result, advertising subsidies are required for a free press. The court went on to say that if there was no advertising, the resources available to speed on news reporting would be reduced, perhaps decreasing the quantity and quality of news.

The High Court in (Hindustan Times V. State of Uttar Pradesh, 2002) emphasized the significance of advertising and its link to print circulation.

MEDIA TRIALS

A trial is simplify a judicial proceedings designed to give justice to the harmed parties in a particular case. The petitioner who is the aggrieved party is represented, as is the defendant, who is the accused party.

This is a contentious stance, given the court has already decided that a statutory body of law is separate from its members, and the citizenship law expressly excludes artificial individual from citizenship benefits. As a consequence, it's a highly personal topic. The media regularly engages in what are known as media trials in order to acquire power for these disputed issues. Investigative reporting is used in a media trial to unearth the underlying facts about sensitive problems and provide your point of view to the wider public. This often results in the propagation of bogus news, which has the negative impact on the real judicial procedure of a case.

These media trials are more interested in gaining viewers than in serving the public interest. The **Priyadarshani Mattoo case** was the watershed moment in the history of fake media trials, but it was ineffective as a method for seeking justice, and it was swiftly forgotten as the protest faded. The use of electronic method by the state investigative arm to influence public opinion throughout the course of the inquiry fundamentally damages the investigation's impartiality, the court decided in the **Bhima-Koregaon Case**. Another example of media going too far was the case of **Dr. Rajesh Talwar V. Central Bureau of Investigation, 2012**. The media frequently violated the teen's privacy and disseminated false information and news about the case's facts. This demonstrates that the media place the greater emphasis on the audience than on the content's accuracy. The Contempt of Courts Act 1971's Section 2 talks about the definition of Contempt of court as the publication of any item that affects or interferes in any way with judicial process or its administration.

The **Bombay High Court** imposed regulations stating that the media should refrain from reporting on ongoing investigations and instead offer facts that are in the public interest rather than what the media thinks the public wants to hear about. In conclusion, the idealistic visions of the media's role in assisting democracy seems to be pretty legitimate; nevertheless, the media's real participation and whereabouts in regard to investigative journalism are both unethical and problematic. Although the media serves as a watchdog for democracy, they must exercise restraint when seeking an audience.

Right to Privacy

(Justice K.S.Puttaswamy v. Union Of India, 2017) is the case where Right to Privacy was proclaimed basic right under Part third of the Indian Constitution. It had been seen as important factor of the right to life and liberty. It protects individual from being examined by the government at home, for example, on their choice of spouse, eating habits, or movements. It also a constitutional right to be alone. However, an absolute right, since there are the following reasonable limitations;

- The existence of a legislation allowing for the invasion of the privacy.
- Pursuing a legitimate government goal guarantees that the law is not enforced arbitrarily.
- The legislature's techniques for achieving a proportionate goal that the law seeks to attain.

The media is democracy's armed wing. It acts as a watchdog to protect the public interest and increase public awareness about misconduct. However, it often fails to carry out its responsibilities and infringes on people's right to privacy.

When media seeks to investigate high-profile incidents, such as those involving Bollywood celebs, this is very prevalent. A media-driven trial not only contributes to the bias against the accused, but it also badly harms the person's reputation after he is acquitted. The **Uma Khurana** is a well-known example of this, since the sting operation was deemed to be false by the court. As a result, claims that the Uma Khurana was participating in a prostitution network severely damaged her image.

Fake covert operations may also lead to defamation accusations if they harm the supposed target's reputation. Uma Khurana had also launched a defamation action against the news stations; however, the issue was settled amicably between the two parties, and Uma Khurana's defamation complaint was dismissed.

MEDIA TRIALS AND COMMUNAL ISSUES IN INDIA

These days the Media Trials is focusing on some Communal issues;

The Ayodhya Dispute

The Ayodhya Dispute is India's very well-known case. Theological, Historical and political roots are all present in this instance. The dispute is over a plot of land near Ayodhya, Lord Rama's birth place. In this situation the most difficult problems occurs in between two different communities i.e. Hindus and Muslims that bordered the land which shared faith with both Hindus and Muslims populations. The iconic Babri Masjid, which is said to have been erected where a Ram Mandir earlier stood and lord Rama was horn, destroyed on December 6, 1992, by violent Hindu fanatics during a demonstration".(Mujtaba, 2018)

This act of vandalism provoked violent riots, leading the filing of a case for the title to the land in the Allahabad High Court. With time, the matter got more contentious, and the ultimate judgement arrived after 18 years. The

conclusion was taken with both the parties religious sensibilities in mind. The court decided to split the 2.77-acres Ayodhya property into three halves. The Sunni Waqf Board received one-third of the land, Hindu Mahasabha received another third for the Ram temple, and Nirmohi Akhara the other third (Hindu Religious group). For a long time, the media had been assessing this case, with little media conversations and consequential topics relating to the case acting just as a window into the difficulties that existed between the two parties throughout India”.

The Gyanvapi Mosque Dispute

The devotees of Swayambhu Lord Vishveshwar claimed that the Shiv temple was demolished in 1669 under the patronage of Mughal Emperor Aurangzeb and the Gyanvapi Mosque was constructed on its ruins. Now the devotees want the land to be reclaimed for the construction of the temple.(Gyanvapi mosque case Highlights: SC orders transfer of case to Varanasi district judge, 2022)

The Apex Court give control to the District Magistrate of Varanasi to ensure the area’s protection where a Shivling has been reportedly found. Also ordered the Muslims should not be restricted from offering the Namaz in the Mosque.

In this context the court has asked the commission to give the survey report by video graphing the Gyanvapi Complex. At the same time the Muslim side says that no decision can be given on the dispute under the Religious Places Act of 1991.

The Jahangir Puri Eviction Drive

Communal violence had broken out in the Jahangirpuri area on April 16 when Hanuman Jyanti Shobha Yatra clashed Muslim alongside the Mosque.

The demolition drive was initiated after the petition was given to North Delhi Municipal Corporation (NDMS) to demolish the illegal constructions of the rioters in Jahangirpuri.

Soon after the demolition started the Supreme Court in an urgent hearing ordered the “Status quo” be maintained until further orders.

The court said that a public authority undertakes any action in Jahangirpuri it should not only serves notice but also consult those, that seeks to evict.

The Jahangirpuri drive comes in the backdrop of the demolition drives carried out by the State Government in Khargone and Anand where bulldozers were used to encroached properties.

Consequences of Media Trials in Communal Issues

- Media trails play a vital role in spreading wrong news to the people that is very dangerous for the society.
- It disseminates the abundant of audio-visual proofs of violence.
- Delivering wrong messages to people which results in provoking of religious sentiments.
- The image of cruelty have not educed changed minds, alternately they have deepened prejudice and less likely to change.
- Instead of adhering to media ethics and impartiality, the majority of the media outlets have exhibited a preference for a specific political viewpoint, which has widened the societal divide.
- Media trials foster prejudice and bias in people who are unable to think for themselves, leading them to blindly follow ‘trends’ rather than being able to distinguish the good from bad.
- Media trials disrupt the cohesiveness in society, as its vote banks of ideologically allied political parties are strengthened and further creating social dissonance.
- Excessive publicity of a case and results in disdain of the suspect, it amounts to undue interference.
- Media trials promote negative campaigns, charge and inquisition which impacts the judicial proceedings immensely. They also containable the ethical and intellectual ecology of the nation it has the ability to cause a trial where public rely on information. It isn’t fair since they don’t have authority to intervene and force the people to form an opinion against an individual. The pre-trial interferes with the judiciary’s operation and mechanisms, which is illegal under any act or law.

The media has the responsibility and right to gather and disseminate information to the public, as well as to comment on the administration of justice, including cases before, during, and after trial, without jeopardising the presumption of innocence. They cannot, however, convict anyone or prejudge the subject or bias the trial.

MEDIA TRIALS AND MURDER CASES IN INDIA

Neeraj Grover Murder Case

“Since the situation was so horrible, it is received a lot of media attention. Neeraj, a Mumbai based production firm employee, was found dead in May 2008. Neeraj’s corpse was dismembered and stuffed into three rubbish bags before being transported to the desert and burned. Marua Susairaj, one of Neeraj acquaintances, reported him missing to the police, but Maria was subsequently proven to be implicated in the murder. Lt. M. L. J. Mathew who is Maria’s boyfriend, was revealed to be Neeraj murderer after accusing her of having relationship with him and murdering him in a fury. Murder and following trial received widespread media coverage in India, with villagers expressing indignation at the sentences handed down to the prisoners, who had disfigured and set fire to the corpse. One media site slammed the defendant’s defamation, saying he was “under a lot of stress.”(Neeraj Alias Kamal Grover v. State , 2015, 2017)

Yakub Memon Case

Yakub Abdul Razzaq Memom (July 30, 1962- July 30, 2015) a terrorist and was sentenced of part in the 1993 blast in Bombay on July 27, 2007 by the Terrorist and Disruptive Activities. Tiger Memon who is the brother of Yakub Memon, was a prime suspect in the assaults. His mercy request and appeal were refused, and he was hanged in the Nagpur Prison on July 30, 2015.

“In this case, the lawyer defending the defendant who was extensively criticized by the media, making it impossible for attorney to perform their moral responsibility to give legal help to the parties.”(Yakub Abdul Razak Memon v. State of Maharashtra, 2013)

Jessica Lal Murder Case

Vinod Sharma who was the Congress former Union Minister in the year of 1999, his son Manu Sharma, shot and murdered Jessica Lal who was model turned waiter in a restaurant owned by Bona Ramani in South Delhi, when she denied to offer him and his colleagues for liquor. The case attracted immediate national attention as the defendant was acquitted by the trial court immediately after the murder. This case got to the top of the trial court immediately after the murder. This case got to the top of the list after public and media pressure forced the judicial system to reconsider. Notwithstanding the fact is that the Manu Sharma was acquitted in 2006 because the police of Delhi was unable to explain their case due to popular indignation over the media’s exposure of the case, the Delhi High Court Sentenced him for life in prison.” ((Siddhart Vashish @ Manu Sharma v. State NCT Delhi, 2010)

CONCLUSION

Several times, media should be chastised and indict of conducting the indict trial by releasing a verdict prior to the judgement of Court. The court presides over the trial fairly than the media. The media trial is quite different, without a doubt, an unjustified intervention into the administration of justice. The legislature has a critical role in drafting laws that governs the media while preserving its independence. The media has that authority to debate on court’s decision, but they don’t have that much liberty to make decision on subject that are already under consideration.

It is apparent that the media’s impact was harmful rather than beneficial (with some exceptions). The media must be roughly regulated by the courts. The media should not be permitted full access to judicial hearings since they are not a sporting event. Contempt of Court is most effective method of regulating the media since it punishes the individuals who violates fundamental rules of conduct. The SC has empowered courts to use contempt powers against publications and media corporations on many occasions. The freedom of the press cannot be allowed to affect the trial itself.

REFERENCES

1. (Siddhart Vashish @ Manu Sharma v. State NCT Delhi, (2010) 6 SCC 1 (Supreme Court of India April 19, 2010).
2. *Gyanvapi mosque case Highlights: SC orders transfer of case to Varanasi district judge.* (2022, May 21). Retrieved from Indian Express: <https://indianexpress.com/article/cities/lucknow/gyanvapi-mosque-survey-live-updates-supreme-court-varanasi-7924909/>
3. Hindustan Times V. State of Uttar Pradesh, JT 2002 (9) SC 317 (Supreme Court of India November 01, 2002).
4. Humdard Dawakhana (WAKF) Lalkuan, Delhi v. Union of India, SCR 1960 (2) 671 (Supreme Court of India December 18, 1959).
5. Jha, R. S., Jain, V., & Chawla, C. (2019). Hate Speech & Mob Lynching: A Study Of Its Relations, Impacts & Regulating Laws. *THINK INDIA (Quarterly Journal)*, 22 (3), 1401-1441.
6. Justice K.S.Puttaswamy v. Union Of India, (2017) 10 SCC 1 (Supreme Court of India August 24, 2017).
7. Mujtaba, S. A. (2018, October 10). *Media Trial in Ayodhya Case Must be Carefully Watched.* Retrieved from <https://countercurrents.org/2018/10/media-trial-in-ayodhya-case-must-be-carefully-watched/>
8. Neeraj Alias Kamal Grover v. State , 2015, AIR 2017 SC 2161 (Supreme Court of India May 05, 2017).
9. Romesh Thapper v. State of Madras, IR 1950 SC 124 (Supreme Court of India May 26, 1950).
10. Sakal Papers V. Union of India, AIR 1962 SC 305 (Supreme Court of India September 25, 1961).
11. Tata Press Ltd v. Mahanagar Telephone Nigam Ltd, AIR 1995 SC 2438 (Supreme Court of India August 03, 1995).
12. Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 4 Scale 565 (Supreme Court of India March 21, 2013).