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Media Trial and its Effects on Judiciary

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Media Trial and its Effects on Judiciary

ABSTRACT

Is judiciary actually an independent body and shouldn't be influenced by anything that's happening in the society in order to take a rationale decision. Our Indian judiciary as per Article 49 of the constitution has to be an independent body. The judiciary not only has the power to interpret the law that has been made by the legislature but also has the duty to check and balance the practices of the other two bodies-legislature and the executive. In order to fulfill this duty, the judiciary should stand alone apart from the other two body so that it would not have an influence upon judiciary. The law was clearly laid down mainly for this purpose. However, the unofficial fourth pillar of our constitution, the media has the tried to penetrate into the powers of judiciary.

KEYWORDS

Media Trial, Judicial Bias, Constitution, Legal Remedies.

INTRODUCTION

Media plays an important role in the Indian society. It can also be referred as the fourth pillar of the Indian constitution. Media is platform which acts medium where ideas and communication are being expressed in a society[1].

The legislature, executive and judiciary, the 3 organs are recognised by the Indian constitution. Similarly, media is also recognised in the wide concept that falls under Article 19(1)(a), freedom of speech and expression of the Indian constitution. Although, freedom of press is not expressly mentioned in article 19 but can be considered as a derivative under the provision. As all the freedoms are not absolute this freedom of speech and expression also have restrictions under article 19(2).

The criminal law and jurisprudence of the country is based on the doctrine that a person's guilt is to be charged by the court and based on the proof regarding the reasonable doubt. The person is assumed to be innocent until proven guilty. The criminal jurisprudence practiced in India gives an opportunity to any accused of free and fair trial. On the chase of exclusive coverage, the media goes to cover and publish the interviews of eye witnesses, victim's relatives, comments of legal fraternity etc. these acts of the media may cause a prejudice in trial proceedings particularly on the judicial mind. This also causes a negative

[1] Aasia Hassan, 'Media Trials: Investigative Journalism vs Right to Fair Trial'.

perception in the minds of the public as media has an impact in a huge mass[2].

Today media has a power to manipulate and build a public opinion as the words said is presumed to be true even without questioning its authenticity. Media ignores the core idea that governs the criminal jurisprudence which is "guilty beyond reasonable doubt" and "innocent until proven guilty". In order to increase the rate of viewers, the media ends up in slandering and tarnishing the image of mere suspects and tagging them as guilty without giving an opportunity of hearing his side of the story which ends up in interfering in his right to of a free and fair trial. Despite reasonable restrictions imposed under article 19(2) one can see the way how media interfere in the administration of justice which is also punishable under section 12 of the contempt of courts act, 1971.

The sensation of media coverage has often led to debates with regard to free and fair trial for an accused as its proclaimed by the judiciary. Media in high profile cases through the conduct of investigation and continuous reporting of the news can create so much hype on the sub jaundice matters that may result in prejudice and will affect the administration of justice and may lead to misconduct of justice[3].

Media activism has an indirect pressure on the adjudicating authorities to deliver justice to victims as well as may interfere with the chance of proving the innocence of the accused. A trial by media would have a noticeable negative impact on a person's reputation as it contains a perception of guilt regardless of the court verdict.

CONCEPT OF MEDIA TRIAL AND FREEDOM OF SPEECH AND EXPRESSION

Dr B.R. Ambedkar in the constituent Assembly Debates emphasized that the press should not that any unique rights beyond those of individual citizens. He argued that the press merely exercise, freedom of expression which is inherent to all citizens, hence a special mention for freedom of press is unnecessary in the Indian constitution. Therefore, the Constitution doesn't explicitly guarantee freedom of the press, it is implied within Article 19(1)(a) that guarantees freedom of speech and expression[4].However, this freedom as per Article 19(1)(a) is not absolute. It is subject to limitations that has been mentioned in Article 19(2) in order to protect the integrity and sovereignty of the nation, to protect reputation as well as privacy. Despite this, the freedom to speech is

[2] Ibid.
[3] Ibid.
[4] Dr. Ambedkar's Speech in Constituent Assembly Debates, VII, 980.

ultimately shaping public opinion on various matters.

The press is often regarded as the fourth pillar of democracy ad therefore plays a crucial role in disseminating information and upholding democratic values. The supreme court, in case of R. Rajagopal v. State of T.N[5], has discussed the importance of balancing press freedom with the right to privacy and defamation laws. However, with the advent of target rating point, competition among media houses has been intense and often leads to increase in pressure upon journalists. On order to regulate the media, the press council of India has established guidelines and norms. Overall, while press freedom is essential, it must be exercised responsibly within the bounds of law and democratic principles[6].

WHETHER A JUDGEMENT BE AFFECTED BY MEDIA TRIAL?

The impact of media trials on the judicial process is a subject that is debatable, with a far-reaching implication for fairness and impartiality of legal proceedings. In an adversarial system where the accused is presumed innocent until proven guilty, the role of media takes on particular importance. The Anglo-Saxon view states that, "judges at any rate may still be subconsciously influenced and members of the public may think that judges are influenced by such publications and such a situation it has been held attracts the principle that, justice may not only be done but must be seen to be done"[7].

Supreme court of India also have the same view as it can be found in the case of reliance *Petro chemical ltd v. Proprietors of Indian Express News Papers*[8]. The acceptance of Anglo-Saxon view can also be found in P.C. Sen[9], which held that, "no distinction is in our judgment warranted that comment on a pending case or abuse of a party may amount to contempt when the case is tri-able with the aid of a jury and not when it is triable by a judge or judges". This case was a case, where through a writ petition; a civil action that was pending in Calcutta High court. A radio broadcast was made by the Chief Minister of West Bengal regarding the west Bengal Milk products control order 1965, the High Court held the Chief Minister guilty of "contempt for justifying the control order" but did not award any punishment to him. The Supreme Court on appeal, agreed with the high court that, "the speech of the Chief Minister was ex facie calculated to interfere with the administration of justice". In the judgment, the Supreme Court held that, the action of the Chief Minister

[5] AIR 1994 6 SCC 632.
[6] Anjum Saxena, Dr. Mohd Imran, IMPACT OF MEDIA TRIAL ON JUDICIARY, IJCRT, 2023.
[7] Srivastava (n 2).
[8] 1989 AIR 190.
[9] P.C. Sen, A.I.R 1970 SC 1821, 1970, CriLJ 1525.

was likely to interfere with the administration of justice by influencing a judge or judges.

The Supreme Court in Reliance Petro Chemicals Ltd. referred to Article 19(1) (a), which deals with the freedom of speech and expression as well as the limitations/restrictions stated in Article 19(2). The court laid down that, "the American Constitution does not contain any provision for imposition of reasonable restrictions by law. It adverted to the absolute terms in which the U.S First Amendment dealing with the freedom of speech and expression is couched and to the theory of real and present danger which was evoked by the U.S Courts as the only inherent limitation on that right in that country". The Supreme Court stated that, "though the freedom of speech and expression is not limited in the American Constitution, the case of India with regard to the freedom of speech and expression is different in India because certain limitations are provided itself in the Constitution".

One concerning consequence is that these media trials can lead to potential witness tampering and intimidation, particularly in cases under intense media scrutiny. Witnesses may fear public exposure and backlash leading them to withhold the information and testify before the court, ultimately resulting in a hinderance of gathering evidence. Moreover, constant attention from the media and scrutiny can place immense pressure on judges and legal professionals involved in high profile cases. This pressure makes it challenging for them to make impartial decisions and maintain the appearance of fairness, ultimately impacting the direction and pace of legal proceedings[10].

In the era of 24-hr news cycles and pervasive digital media, individuals, including victims, witnesses, and defendants, may find their personal lives exposed to the public in distressing and harmful ways. While media serves as a crucial means of public information, the influence of them demands careful considerations. Finding a balance between the right to free speech and the right to a fair trial remains a pressing challenge. For instance, in the Aarushi Talwar case demonstrates the devasting consequence of media trials, where reputations are ruined, and lives are forever altered. The responsibility of journalists to adhere to ethical reporting standards and refrain from prejudging cases before court verdicts is paramount to upholding the principles of justice, ensuring that individuals are treated fairly, and preserving the integrity of the judicial process[11].

In *R.K Anand v Delhi*[12] High Court the important questions relating to

[10] Srivastava (n 2).
[11] Hassan (n 1).
[12] **(**2009) 8 SCC 10.

trial by media were examined by the Supreme Court. The case arose out of a sting operation carried out by a private television channel NDTC to expose the unholy nexus between the prosecution, its witness and defence in the favour BMW hit and run case which has resulted in death of six persons by speeding BMW car which was driven by the scion of an influential and wealthy family. At the pendency of the trial even after eight years of the incident, NDTC telecasted a sting operation to expose the manner in which a senior advocate appearing for the accused was negotiating with the help of special public prosecutor to sell out in favour of defence, the Delhi High Court which then initiated the Suo-moto contempt proceedings and held the special public prosecutor and the defence counsel guilty of contempt of court and they were debarred from appearing in Delhi High Court and its subordinate Courts for four months. Then the appeal was filed before the Supreme Court, which contended that NDTV was guilty of trial by media and it could have telecasted the sting only after obtaining the permission of the High Court. The Supreme Court of India rejected the contention holding that such a course would not be an exercise in journalism but in that case the media would be acting as some sort of special vigilance agency for the Court. The Court dismissed the appeal of R.K Anand and issued him a notice for the enhancement of punishment.

THE MEDIA REPORTING OF CRIME AND FAIR TRIAL

Trial by media starts much before the actual trial in court. In matters such as arrest, bail, confessional statements, interrogation matters the media conducts the parallel proceedings for increasing the movement of manipulating the justice. These actions by the media puts a prejudice in the minds of the public. The Court of Law while granting anticipatory bail to an accused in dowry death before the Kolkata Court, the Supreme Court has criticized the media who has published an article touching the facts of pending case; the article was based on the interview of the family of the deceased. While investigating it was found that the facts narrated by the media were on sides which might have been used in trial prejudicing the fair trial procedure.

Media has also played essential role in recent times and those efforts resulted in discover of truth and ultimately helped in delivery of justice in some of the cases which were pending for a long time was awaited in famous Jessica case, Nirbhaya case[13],Sanjeev Nanda case, Aarushi Talwar case.

The intervention of media in recent times has drawn appraisal as constant effort of media to discover truth has played a pivotal role in

[13] *Mukesh & Anr. vs State for NCT of Delhi & Ors*, 2017 (6) SCC 1.

delivering justice in the infamous Nirbhaya Case. In Jessica Lal murder case, there was a delay in justice as all the witnesses turned hostile and the accused Manu Sharma was acquitted then the media through justice for Jessica campaign and Tehalka played a crucial role in delivering the justice.

In Sanjeev NandaCase, Nanda, son of a businessman alleged with hit and run case killing over six people while driving his BMW in intoxication. Media intervened and case was sub-judice. NDTV news channel conducted a sting operation showing Nanda's lawyer bribing the witness, while the state prosecutor being complicit and helped in the discovery of the truth. In the case of Arushi Talwar media created frenzy.

In high profile cases media is often creating a wide spread public opinion, regardless of depriving the basic human right of accused. Sheena Bora Murder case has given rise to controversial aspect of reporting of trial proceedings of the accused as every aspect of her life was under public scrutiny which had nothing to do with the case or the general public.

In Nanavati case due to the reports of the media the jury got influenced and there was prejudice to the case which affected the administration of justice. The media can interfere with the administration of justice by the way of scandalizing the judges, interfering with witnesses, interfering with investigation procedure by tampering evidence and contentious publications in connection with the proceedings which are pending before the court. These interferences impose a threat to fair administration of justice and constitutional guarantee of fair trial.

In 2022, Aryan Khan, son of Bollywood star Shahrukh Khan, was arrested by NCB officers during a raid on a private cruise ship, triggering a harsh media trial labelling him as a negative influence on Indian youth. However, later in court, it was revealed that Aryan hadn't undergone any blood tests to confirm drug consumption; he was merely present where drugs were being used. His arrest was based solely on WhatsApp chats with a friend. Despite legal proceedings, Aryan's mental well-being suffered due to constant media scrutiny portraying him negatively. Ultimately, the court found no evidence implicating Aryan, granting him bail[14].

LEGAL REMEDIES FOR VICTIMS OF MEDIA TRIAL

1. Complaint can be filed before the Press Council of India against any publication or journalist for violations of journalistic ethics.

[14] Basu, D., 2022. MEDIA TRIAL: EMPHASIS ON ARYAN KHAN CASE. The AmikusQriae

The council would conduct inquiries and take necessary disciplinary actions against media entities if found guilty.

2. Victims can file lawsuit seeking injunction against media publications or broadcasts that defame or scandalize them, impair their reputation or violate their privacy or right of fair trail.
3. Affected parties can request trial courts for postponement orders to temporarily halt media reporting on court proceedings if it results in a risk of prejudicing the trial's outcome or fair administration of justice.
4. Victims can file lawsuits seeking compensation for the losses suffered due to media defamation, including material losses and damage to reputation.
5. Individuals can file defamation suits under Bharatiya Nyaya Sanhita against those responsible for publishing defamatory content, seeking imprisonment and fines as remedies.
6. Victims can petition the court through writ petitions to intervene and prevent the publication of offending material that may affect trial fairness or hinder justice administration. Courts may grant orders to restrain publication or identification of individuals if deemed necessary to safeguard justice. These legal remedies aim to protect individuals from the harmful consequences of media trials and ensure accountability for journalistic ethics breaches.

CONCLUSION

In the recent times, media reports some things even before the police has found about it. This investigative journalism is good in a participative democracy, but it should be kept in mind that the hindrance by media in the fair trials is more harmful for the sustenance of democracy. While media has a freedom of expression and investigation, the right to privacy and the right to fair trial of an individual should not be compromised. The essence of every democracy is the balancing of interest, so a balance must be maintained between the right to the media to investigative journalism and the right of the individual to fair trial.

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