



Misuse of Freedom of Expression in Media Trials

Pooran Chandra Pande

Research Scholar of Law, Maharishi University of Information Technology, Lucknow, U.P.

Email: advocatepooranpande@gmail.com

Dr. K.B. Asthana

Dean, Faculty of law, Maharishi University of Information Technology, Lucknow, U.P.

Email: kb.asthana@muit.in

ARTICLE DETAILS

Research Paper

Keywords :

Constitutional Rights, Freedom of speech, Media Trail, Misuse public opinion, Indian judicial system

ABSTRACT

Any democracy that purports to be 'of the people, by the people, and for the people' cannot exist in the absence of the constitutionally protected right to free speech. Freedom of the press, or media freedom, is the belief that public communication through print, television, and these days the Internet should be unconstrained by government surveillance. The media has an obligation to report stories and facts that influence public opinion and enable the nation's residents to exercise their rights. The term "media trial" refers to the way the public perception of an individual's guilt or innocence is shaped by media coverage, either prior to or following a legal verdict. Currently of electronic media, media regulation is a challenging and complex undertaking. The Indian government does not put any regulations on the media. To preserve its power, it is capable of reporting anything and manipulating any truth, including outright lies. able to influence public opinion, which it ought to mold. Regretfully, the news media depends on viewership to make money, and it has repeatedly shown that it will go beyond many moral boundaries in order to obtain both. The relationship between a "media trial" and the abuse of free speech is examined in this essay. The impact of media trials on the abuse of the Indian legal system is the main topic of this research.

Introduction

The press's freedom is the key component of democracy. The press cannot operate at its best if it is not free. Press freedom entails freedom from governmental meddling. The idea that public communication via print, television, and these days the Internet should be unrestricted by government monitoring is known as freedom of the press or media. Press freedom is essential to preserving democracy and elevating the public voice in a democracy. Ensuring openness and holding people in authority responsible for their policies and actions are the duties of the media. Since the media and judicial system both serve as checks and balances on the government, their functions complement one another. It is the duty of both.

It is the duty of the press to present information in a way that aids the judiciary in rendering fair rulings that could have a significant impact on a country's destiny. It is the responsibility of the courts to guarantee that the media can report on national affairs and bring significant concerns to the attention of the public without hindrance. Article 19(1)(a) of the Constitutional Rights protects freedom of speech and expression. Press freedom is a part of this. Within a democracy, the people are seen as the ultimate source of authority. Four tangible elements are required for a democracy to function: free and fair elections, the defense of citizens' human rights, public involvement, and rule of law

Since it is seen as a component of the right to life and liberty, Article 21 of the Constitutional Rights ensures the right to a fair trial. The essential idea behind the "right to fair trial" is that the outcome of a trial should not be influenced by outside factors, and this is acknowledged as a cornerstone of Indian justice. This freedom is protected by laws found in the Contempt of Courts Act, 1971 and Articles 129 and 215 of the Indian Constitution. Our nation's legal system, known as the "presumption of innocence," holds that an individual is innocent unless and until they are proven guilty by a court of competent jurisdiction. Since it is regarded as a component of the right, Article 21 of the Constitutional Rights ensures the right to a fair trial.

The media is free to discuss ongoing cases these days to sway courts and public opinion. The organization is losing a great deal because of this and could correctly choose their representatives. Citizens are the backbone of a democracy, and as such, they ought to be knowledgeable enough to make political judgments.

In *Sushil Sharma vs. State (Delhi Administration)*,¹ The Delhi High Court ruled that facts that have been entered into the record should serve as the foundation for any conviction rather than rumors from the media. It is thought that the judge hearing the case ought to have objectivity. The petitioner would insist on the denial of a fair trial if the decision is based on widely acknowledged news reports since it would create an expectation that the judge should not be impartial. If there is little or no report available, the charge should still be made using the information that is on file.

The Supreme Court ruled that the basic right to freedom of the press is part of the right to freedom of speech and expression. It was determined in the *Brij Bhushan v. State of Delhi*² case that the freedom of speech and expression guaranteed by Article 19(1)(a) of the Indian Constitution will formally affect the press's ability to publish in print and electronic media as well as to engage in other activities. Since the media reflects society, sponsored news from any political party or organization can easily derail them from their actual objective and transform them into a puppet in the hands of the powerful.

The Supreme Court ruled in the *State of Maharashtra*³ case that using press, electronic media, or public agitation for a trial violates the rule of law and may result in an injustice. The rule of law is opposed to popular agitation and electronic media trials. A judge must thus safeguard himself against such pressure and adhere faithfully to the law.

The incident that happened in Mumbai on November 26 is the ideal illustration of this circumstance. More than fifty channels were prepared to deliver real-time updates minute by minute as the Taj Hotel and the Oberoi Trident were surrounded by the Rapid Action Force, Marine commandos, and National Security Guards. The terrorists were able to plan their defences because they were aware of what was happening outside.

The challenge facing the commandos became more difficult as they tried to neutralize the terrorists and liberate the hostage. The Supreme Court ruled after the fact that the media had endangered the lives of the rescuers as well as the hostages by acting with extreme negligence. to boost their ratings. Several TV stations abused public sentiment, ignored common sense, and negligently and repeatedly published updates that helped terrorists and obstructed law enforcement.

An accused person in India is entitled to a fair trial and is deemed innocent unless and until they are proven guilty in a court of law. So, it is not acceptable for someone to be biased or prejudiced in their case? Reporting facts is not the only aspect of responsible journalism. The handmaiden of efficient

judicial administration is a responsible press⁴. The Supreme Court ruled in *Romesh Thapar v. State of Madras*⁵ that press freedom is fundamental to democratic organizations because without political discourse, public education cannot occur, which is necessary for popular government to function effectively.

Another warning was issued by the Supreme Court in *Satish Bhushan Bariyar v. State of Maharashtra*⁶, stating that punishment by the media cannot be completely ruled out in the event of a media trial. One cannot and ought not to use the other to carry out its duties.

Well-known Indian Media Trial Cases

In recent times, there have been multiple cases when the accused has been tried by the media, and the verdict has been announced before the court has. In numerous cases, the accused has been put on trial by the media, which has rendered a verdict on them even before the judiciary has. This page lists several cases: Sheena Bohra, Aarushi Talwar, Nitish Katara, Jessica Lal, Priyadarshini Mattoo, Sanjay Dutt, Delhi Rape, Sunanda Pushkar, Neeraj Grover, Pramod Mahajan, Nithari, and Ayodhya.

Sheena Bohra Murder Case

The primary culprit in the Sheena Bohra murder case, Indirani Mukherjee, has been heavily implicated by the media, and this has drawn attention to her personal life. The harsh scrutiny of the media penetrating Indrani Mukerjea's private life opened the door for a fresh discussion about the accused's murder trial. Sheena Bora was murdered in 2012, and when Indrani Mukerjea was caught, it was stunning to learn that Sheena was Sheena's daughter, not her sister as Indrani Mukerjea had claimed. Because of the public attention given to the issue, Indrani refused to acknowledge having two children and persisted in her claim that Sheena was her sister, even after her imprisonment. Once more, journalistic ethics come.

Aarushi Talwar Murder Case

In May of 2008, Aarushi and her domestic assistant Hemraj were killed. The murder case of Aarushi Talwar garnered significant media attention. Her parents, Rajesh, and Nupur Talwar, were the ones who carried out the murder; although Aarushi was innocent, the media was able to establish her guilt. Serious accusations were made against Aarushi and the suspects in the dramatic media coverage, which many saw as a media trial. Despite the lack of proof, the media questioned Aarushi's character for allegedly having an affair with Hemraj. The parents received a life sentence after being found guilty of murder in

November 2013. In 2017, the Allahabad High Court overturned Talwar's verdict, giving him the benefit of the doubt and dismissing the evidence as insufficient.

Nitish Katara Murder Case

Vikas Yadav, the renowned politician DP Yadav's son, brutally killed Nitish Katara. Bharti Yadav, the sister of Vikas Yadav, and Nitish had an affair, however Vikas disapproved of their relationship. Vikas took advantage of the situation during a mutual friend's wedding and killed Nitish. The autopsy report stated that Vikas had injured Nitish's digestive system so severely that a DNA test was conducted to determine his identity. Vikas received a life sentence in jail. In certain cases, the guilty in media tribunals does not even receive the just punishment.

Jessica Lal murder Case

The son of former Congress Union minister Vinod Sharma, Manu Sharma (also known as Siddharth Vashisht) married model Jessica Lal (after a barmaid) in 1999 after Jessica had turned him down. Jessica was murdered and killed while working at a restaurant owned by socialite Bona Ramani in Mehrauli, South Delhi. The case gained national attention when the trial court decided to acquit the accused soon after the murder. This was one of the most well-known cases where the judicial system was compelled to reevaluate the situation due to pressure from the public and media. Despite the Delhi Police's inability to prove their case in the face of public uproar and media attention, Manu Sharma was found not guilty in 2006; nonetheless, the Delhi High Court ruled them not guilty and sentenced them to life in jail.

Priyadarshini Mattoo

Priyadarshini Mattoo was a law student residing in New Delhi. At first, Santosh Kumar Singh, her senior, was thought to be the primary accused as he had been following and intimidating her for years. Subsequently, it was discovered that the primary defendant was Santosh's son, an IPS officer. He strangled her by around his neck with an electric wire. The conviction and death penalty were the consequence of an appeal to the High Court that was prompted by a persistent public uproar and a media campaign against the acquittal. The Delhi High Court upheld the death penalty on October 30, 2006, and the Supreme Court subsequently commuted it to life in prison.

Sanjay Dutt

Sanjay Dutt was required to serve his five-year prison sentence after the Supreme Court found him guilty of his role in the 1993 Mumbai serial explosions. After 11 years, the Terrorist and Disruptive Activities (Prevention) Act (TADA) court clears Sanjay Dutt of all charges, stating that he was not a terrorist and that he had obtained firearms for self-defense. Dutt was prosecuted and arrested under

TADA in 1987. As an actor, he had to deal with a lot of issues and humiliations following this episode, and his career was destroyed.

Nirbhaya Delhi rape

The 23-year-old intern was traveling with her male buddy in a private bus when she was viciously gang-raped, tormented, and thrashed on December 16, 2012. She was raped by six individuals, including the driver. After thirteen days in the hospital, she passed away. The victim, a girl named Nirbhaya, which means "fearless," is well known since Indian rules forbid the media from revealing the identity of sports victims. The girl's battle against the atrocity and her eventual death have come to represent female resilience worldwide. Widespread national and international coverage was generated by the tragedy. Both internationally and in India, the episode drew heavy criticism. As a result, there were several demonstrations against the Central and State governments' inadequate protection of women across the nation. The overwhelming outrage in the media led to the amendment of several laws, including the Juvenile Justice Act, which decreased the age of punishment for serious crimes from eighteen to sixteen.

Criticism of media trail

It is imperative that the trial be run by the legal system rather than the press. There is little doubt that media litigation interferes excessively with the administration of justice. The legislative bears a heavy burden of making sure that media freedom is not restricted while crafting laws pertaining to the industry. In several rulings, the upper courts have denounced the media's trial of subjudice cases as unfair to the judge's or jury's conclusion in those cases. Additionally, the Press Council of India included the Norms of Journalistic Conduct in its 2010 version. To steer clear of sensationalist journalism, there have been cases where the media has been accused of conducting the accused's trial by rendering a "verdict" based on their findings prior to the court's announcement of the verdict. It was noted that the media should not function as the court's exclusive agent, but rather should only carry out journalistic duties. This includes the freedom to use print or other media to spread one's opinions. The Supreme Court declared: Any attempt to restrict, stifle, or abolish the freedom to freely express one's opinions would be tantamount to the downfall of democracy and the emergence of autocracy or dictatorship.

It was also emphasized that the inadmissibility of freedom of speech and expression because of some media coverage's bias amounted to meddling in the administration of justice⁷. In *LIC v. Manubhai Shah*⁸, the Supreme Court upheld the notion that the freedom of expression encompasses the unrestricted

ability to voice one's thoughts verbally, in writing, or through media that is meant to be taken into consideration.

The Supreme Court ruled in *Saibal Kumar Gupta and Ors. V.B.K. Sen and AR*, 1961,⁹ Since it is unlawful for a newspaper to become involved in a criminal investigation, carry out a separate investigation for which the accused or suspect is being held, and then publish the results would be regarded as cunning. This is impolite because it should be illegal for newspapers to cover a trial conducted by a national regular tribunal. The courts ought to appropriately control the media.

The Delhi High Court ruled in *Sushil Sharma v. State (Delhi Administration) and others*, 1996¹⁰ that facts that have been entered into record should serve as the foundation for any conviction rather than rumors from the press. It is thought that the judge hearing the case ought to have objectivity. The petitioner would insist on the denial of a fair trial if the decision is based on widely acknowledged news reports since it would create an expectation that the judge should not be impartial.

The growing prevalence of media trials is a matter that the Supreme Court should consider. Even if the trial is still ongoing, the accused is publicly denounced as a result of the evidence presented by the police and prosecution. While the trial is still proceeding in court and the legislation has not yet been passed, the media should not allow a parallel trial process. In the end, the media's objective has changed with time. Usually, the media does more than just publish the case's facts; they also get involved in the legal system. Sensationalist news has been successful in feeding the public's bias.

In the case of *Zaheera Habibullah Shaikh*, 2006,¹¹ The Supreme Court ruled that this is mirrored in a few procedures and guidelines, and that a fair trial is unquestionably one that is held in front of a judge who is neutral and fair as well as a prosecutor in a peaceful setting. A trial that is fair is one in which there is no bias or prejudice toward the accused, the witnesses, or the cause being tried. A fair trial, according to the Supreme Court, is unquestionably one that is held before a judge who is an unbiased and fair peace prosecutor in the context of, and that this is represented in several practices and rules. A trial that is fair is one in which there is no bias or prejudice toward the accused, the witnesses, or the cause being tried.

Media Influence

If a suspect or accused individual has been depicted in the media as guilty before going on trial in a legal environment, there may be significant bias against them should the court decide to acquit them after due process. As a result, even if the accused is declared not guilty, he might not be able to improve

his standing in society. The media should be sued for contempt of court for unfairly drawing attention to the case and exercising influence over the "administration of justice" by portraying the defendant as guilty even if the verdict is still pending. Witness protection is essential in a situation such as this.

Judges are also open to criticism, which can focus on their actions as judges or only on their personal lives. The public's trust in the courts may be weakened when criticism of judges is unfounded or based on incomplete information. A judge must defend himself against pressure from the media. It is evident that the accused's right to have his preferred attorney represent him in court has been violated because of the media's recent calls for attorneys to drop their cases. The media trial is thereby undermining the principles of natural justice. In a similar vein, Prashant Bhushan, the counsel representing Yakub Memon, encountered resistance. Lawyers are unable to carry out their moral obligation to assist clients in criminal cases when their safety is in jeopardy. Trials by the media impact natural justice rights.

Since the media's job is to distribute news objectively, they should refrain from making judgments on any subject and instead focus only on reporting what is published factually. Today's media are engulfed in an unquenchable rivalry for viewership and TRP (television rating points). The Indian Press Council directs the media not to divulge any classified information to disrupt or undermine the investigation process, not to give the victim, accused, or witnesses' undue publicity.

Additionally, since witnesses are more likely to become hostile, it is imperative that the media avoid identifying any of the witnesses. Furthermore, the media should refrain from staging a parallel trial of the case, which would place excessive pressure on the judge or jury that will decide the case. Media trial is considered contempt of court and is subject to disciplinary action. The Contempt of Courts Act recognizes contempt as both criminal and civil offenses.

As a basic right, a free trial is in line with the notion that "justice not only can be done, but must also be done." There are several ways to manipulate an exam. Any news report that is spread with the goal to taint the minds of the accused, witnesses, or juries, or to create an environment that would make the administration of justice more challenging or impossible, is held in contempt. Contempt of court was implemented to put an end to these unfair and unjust trials.

Conclusion

Despite being the largest democracy in the world, India is seeing a deterioration in press freedom. India is ranked quite low in terms of press freedom. As per the 2022 World Press Freedom Index, India

is now positioned 150th out of 180 countries. India's highest rating, at number 80, was achieved in 2002. The index's publisher, Reporters without Borders, blamed growing intolerance, and journalist murders for the drop. There is always a spike in public interest whenever a delicate case is brought before a court of law. The media, which includes newspapers, television shows, news websites, and others, is always on the lookout for dramatic news and quickly publishes their version of the facts. We refer to this as investigative journalism.

The media has entirely disregarded the important distinction between guilty and accused, putting the fundamental ideas of "guilt beyond a reasonable doubt" and "presumption of innocence until proven guilty" at jeopardy. Prior to the court taking up the case, public opinion must be formed against the suspect or accused in addition to the investigation. The public suffers as a result of prejudice, which makes an innocent person who is accused of a crime appear guilty even while their rights and liberties are not completely curtailed. The image can be made or broken by social media. Social media has changed contemporary interpersonal connections and progressively eroded human interaction.

It is evident from a comprehensive analysis of the Supreme Court of India's rulings regarding media trials that there is a genuine risk associated with them. The media should not violate any laws unnecessarily, but the state should be on the lookout for any censorship or punitive measures against them. The administration of justice can be impacted by media trials at any point, including the investigation, trial, and sentencing phases. Although the factual statement is safe in and of itself, the media's overreaction is evident when it treats guilt or innocence in a pre-settlement manner in the absence of an official indictment.

References

- [1] Sushil Sharma v. State (Delhi Administration) and others, 1996
- [2] Brij Bhushan v. State of Delhi AIR 1950 SC129
- [3] *State of Maharashtra v. RajendraJawanmal Gandhi; (1997) 8 SCC*
- [4] *State of Maharashtra v/s RajendraJawanmal Gandhi., (1997) 8 SCC 386*
- [5] Romesh Thapar v. State of Madras AIR 1950 SC 124
- [6] Satish bhushan Bariyar v. State of Maharashtra; (2009) 6 SCC 498

[7] *R.K. Anand v. Delhi High Court*; (2009) 8 SCC 106

[8] *LIC v. Manubhai Shah* (1992) 3 SCC 637.

[9] *Saibal Kumar Gupta & Ors vs. B. K. Sen & ANR* [1961] INSC 12

[10] *Sushil Sharma vs. the State (Delhi Administration and Ors, 1996* CriLJ 3944

[11] *Zaheera Habibullah Shaikh v. State of Gujarat*, 2006

Website:

<https://www.quora.com/What-are-the-5-famous-crime-case-in-India>

<https://www.lawctopus.com/academike/media-trials-india/>

<https://blog.ipleaders.in/famous-cases-media-trials-india/>