

# Media Trials

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## Abstract

The Media is the Fourth limb of a democratic system, the legislature, executive and judiciary being the other three. While legislature makes the law for the society and the executive takes steps for implementing them, the third stepping-stone is the judiciary, which has to ensure legality of all actions and decisions. Media has to operate within the framework of these statutes and constitutional provision to act in public and national interest. This is indicative of the fact that nobody is above law. When the Constitution of India guaranteed freedom of expression and speech to its citizens, it ensured that the freedom was not absolute and any expression, by way of words, speech or visual medium, did not violate any statutory provisions enacted by legislature and executed by the executive. If the media, electronic or print, exceeded its jurisdiction, the courts came forward. The media cannot assume the power of the judiciary by deviating from objective and unbiased reporting. A media shackled by government rules harms democracy, but continuous unaccountability can lead to worse consequences. To prevent media trials from undermining civil rights, steps should be taken to provide the media with clearer understanding of their rights and duties, and give courts the authority to penalize those who violate them.

**Keywords:** Media, Trial, Judiciary, Freedom of Speech, Contempt.

## Introduction

Media plays a vital role in molding the opinion of the society and it is capable of changing the whole viewpoint through which people perceive various events. The media can be commended for starting a trend where the media plays an active role in bringing the accused to hook. Media is not only a medium to express one's feelings, opinions and views, but it is also responsible and instrumental for building opinions and views on various topics of regional, national and international agenda. The role of the media is its ability to mobilize the thinking process of millions. The increased role of the media in today's globalized and technologically world was aptly put in the words of Justice Learned Hand of the United States Supreme Court when he said, "The hand that rules the press, the radio, the screen and the far spread magazine, rules the country".

Trial by Media is 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. There are different reasons why the media attention is particularly intense surrounding a legal case: the first is that the crime itself is in some way sensational, by being horrific or involving children; the second is that it involves a celebrity either as victim or accused. Although a recently coined phrase, the idea that popular media can have a strong influence on the legal process goes back certainly to the advent of the printing press and probably much beyond. This is not including the use of a state controlled press to criminalize political opponents, but in its commonly understood meaning covers all occasions where the reputation of a person has been

drastically affected by ostensibly non-political publications. The problem is more visible when the matters involve big names and celebrities. In such cases media reporting can swing popular sentiments either way.

### **Term of Media Trial**

The term "Media Trial" or "Trial by Media" originated in the United States of America during the nineteenth century and became known with the Indian judicial system in the renowned, or rather, well-known case of "**K.M Nanavati v. State of Maharashtra**".

No law or legal dictionary defines the term "media." Many legal luminaries have attempted to define this idea. However, the most appropriate definition comes from R. Surette, who said, "Media trials are defined as certain regional or national news 'events' in which the criminal justice system is co-opted by the media as a source of high drama and entertainment." In our nation, the Supreme Court defined it quickly as an informal trial where there is a "perception of being guilty" and whose conclusion would only jeopardize the probability of fair procedures and interfere with the right of accused to a just and impartial trial. It has the capacity to pronounce any innocent person guilty, or vice versa, in the eyes of the general public.

The term "Trial by Media" refers to when people and others engaged in judicial procedures or cases consider that media coverage and opinion have violated their right to a fair trial. This frequently involves the notion that information revealed in the media might influence the courts judgement and overturn a reasonable and fair decision process, thereby denying the individual the right to plead innocent until proven guilty. The power and relevance of the media in a democracy is well acknowledged. The Indian Constitution's Article 19(1) (a) guarantees freedom of speech and expression, which includes freedom of the press. The presence of a free, independent, and strong media is the foundation of a democracy, particularly in a highly diverse society.

### **Media Trials and Freedom of Expression**

Freedom of expression is critical to shaping public opinion on social, political, and economic issues. Similarly, those in power must be able to keep the public informed about their plans and goals; hence, freedom of expression is the mother of all rights. Keeping this view in mind Venkataramiah, J. of the Supreme Court of India in **Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India** has stated: "Freedom of Press is the heart of social and political intercourse. The press has now assumed the role of the public educator making formal and non-formal education possible in a large scale particularly in the developing world, where television and other kinds of modern communication are not still available for all sections of society. The purpose of the press is to advance the public interest by publishing facts and opinions without which a democratic electorate [Government] cannot make responsible judgments. Newspapers being purveyors of news and views having a bearing on public administration very often carry material which would not be palatable to Governments and other authorities."

The freedom of the press is essential to the smooth functioning of the process of democracy. Democracy means government of the people, by the people, and for the people; it is obvious that every citizen must have the right to participate in the democratic process, and in order for him to exercise his right to make an informed decision, free and open discussion of public issues is extremely important.

In **Printers (Mysore) Ltd. v. CTO** The Supreme Court has stated that, while freedom of the press is not explicitly protected as a fundamental right, it is inherent in freedom of speech and expression. Freedom

of the press has long been a valued right in all democratic countries, and it is rightfully referred to be the fourth limb of democracy.

In **R. Rajagopal v. State of T.N** The Supreme Court of India has ruled that freedom of the press includes engaging in open discussion regarding the participation of public personalities in public problems and events. However, in their private lives, a healthy balance of press freedom, privacy, and defamation must be maintained in accordance with the democratic way of life outlined in the Constitution.

Therefore, it is abundantly evident that the freedom of the press follows from the freedom of speech that is granted to all citizens by Article 19(1)(a) in light of the remarks made by the Supreme Court in various judgements and the opinions stated by various judges. The press has no more status than any other citizen and is not entitled to any privileges that set them apart from other citizens (unless granted expressly by law). No specific limitations that could not be placed on any citizen of the nation can be applied to the press.

In case of **Sahara India Real Estate Corporation Ltd. and Ors. v. Securities and Exchange Board of India and Anr.**, "it was held that there is no disagreement on the fact that the media personnel have a legal as well as constitutional right to cover the events that are happening in courts and disseminate that same to their audience. This will boost the trust of the public in the proceedings. However, this absolute freedom sometimes develops in a parallel criminal trial of the suspects in the news studios."

To counter it, this issue was raised before the Supreme Court in "**R.K. Anand v. Registrar, Delhi High Court**" and the Apex Court, for the very first time, observed that A simultaneous media trial has no legal basis in our court system since it conflicts with the right to "free speech and expression" and the "right to a fair trial". However, in a subsequent order, In the case of **Vijay Singhal and Ors. v. Govt. of NCT of Delhi and Anr.**, the Delhi High Court emphasised that if both of these rights came into conflict, the former would be granted preference over the other, acknowledging a larger public interest.

One such case has been **Rhea Chakraborty v. the State of Bihar, 2020** (Sushant Singh Rajput Death Case) where media played an critical role and in this case the accused raised the issue of media trials.

### **Media and Fair Trial**

Trial by media has created a "problem" because it involves a tug of war between two conflicting principles – free press and free trial, in both of which the public are vitally interested. The freedom of the press stems from the right of the public in a democracy to be involved on the issues of the day, which affect them. This is the justification for investigative and campaign journalism.

At the same time, the "Right to a Fair Trial," or a trial free of outside influences, is recognised as a fundamental principle of justice in India. The Contempt of Courts Act of 1971, as well as Articles 129 and 215 of the Indian Constitution, have provisions aimed at protecting this freedom. The media is particularly concerned about limits placed on the debate or publication of matters pertaining to the merits of a case currently before a court.

A journalist may be held in contempt of court if he publishes anything that might influence a 'fair trial' or damages the Court's fairness in deciding a cause on its merits, regardless of whether the proceedings before the Court are criminal or civil. The media goes beyond its rights for publications that are known to be prejudicial to a suspect or accused, such as materials regarding the character of the accused, confessions, publications that comment on or reflect on the merits of the case, photographs, police activities, imputation of innocence, creating a hostile environment, criticising witnesses, and the Indian criminal justice system.

## Legal Framework to Control Media Trial

The Media Trial is prejudicial to the judges presiding over a certain case. The American view appears to be that judges are not likely to be influenced by media publications, whereas the Anglo-Saxon view is that judges, at the very least, may be subconsciously (though not consciously) influenced, and members of the public may believe that judges are influenced by such publications in such circumstances. Therefore, Lord Denning stated in the Court of Appeal that Judges will not be influenced by the media publicity, a view which was not accepted in the House of Lords. Cardozo, one of the greatest Judges of the American Supreme Court, stated that:

“forces which enter into the conclusions of Judges” observed that “the great tides and currents. Which engulf the rest of men, do not turn aside in their course and pass the Judges by”.

### a. Contempt of Court Media Trials

Pretrial publications are protected from contempt charges under the Contempt of Court Act, 1971. A publication only becomes a contempt of court under the Act if it interferes with, obstructs, or tries to obstruct the course of justice in connection with a civil or criminal matter that is really "pending." As per clause (b) of clause (a) of Section 3(2), The accused's right to a fair trial may be impacted by specific actions, such as media reports made before the trial. These articles may discuss the accused's prior convictions, his personality in general, or his purported police confessions.

In Aarushi Talwar case, the press went literally crazy, speculating and pointing fingers even before any arrests were made, was given immunity despite the serious threat such publications represent to the administration of justice. Such publications may proceed unchecked if there is no legal involvement, such as broadening the term 'pending' to encompass 'from the time the arrest is made' under the Contempt of Court Act of 1971 or judicial control through gag orders, as used in the United States of America. Trial by media is contempt of court and should be penalised. The Contempt of Court Act defines the contempt as both civil and criminal. Criminal contempt is further classified into three types: Scandalization, Prejudiced trial, and Impeding the administration of justice.

### b. Press Council Act of 1978

**The Press Council of India (PCI)** was established to protect the freedom of the press and to promote news reporting standards in India. According to the Press Council Act of 1978, if someone believes that a news agency has committed any professional misconduct, the PCI can "warn, admonish, or condemn the newspaper" or direct the newspaper to "publish the complainant's contradiction in its forthcoming issue." Given that these procedures may only be used after news materials have been published and do not impose especially severe penalties, their efficacy in preventing the dissemination of prejudiced information appears to be limited.

Along with these authorities, the PCI has produced a set of proposed standards for journalistic behaviour. These standards emphasise the significance of accuracy and fairness, and they encourage journalists to "eschew publication of inaccurate, baseless, graceless, misleading, or distorted material." The standards state that any criticism of the courts should be published with extreme discretion. These rules also state that reporters should avoid drawing one-sided conclusions and strive to maintain an objective and serious tone at all times. However, because these rules cannot be legally enforced, they are frequently violated. Finally, the PCI has criminal contempt powers to prevent the dissemination of unfavorable media stories. However, the PCI can only use its contempt powers in relation to pending civil or criminal matters. This limitation fails to recognize the extent to which pre-trial reporting might influence the administration of justice.

**Prejudice or Interference with the Judicial Process:**

This owes its origin to the principle of natural justice; 'every accused has a right to a fair trial' clubbed with the principle that 'Justice may not only be done it must also seem to be done'. Prejudice trials can lead to unjust and unfair convictions, as successful cases may result in unjust convictions. Contempt of court was introduced to prevent such cases. Publication that poisons jurors, intimidates witnesses, or creates an impossible justice environment is not considered contempt. Commenting on pending cases or abuse of party is only considered contempt when a judge tries the case. Editors cannot assume investigators roles to prejudice the court against person.

**Media Constitutes Undue****Interference in Administration of Justice**

The media has presumed itself as a 'public court' (Janta Adalat) and has begun meddling with judicial procedures. It utterly ignores the critical distinction between an accused and a convict, putting at risk the golden concepts of 'presumption of innocence until proven guilty' and 'guilt beyond reasonable doubt'. Now, we have a media trial in which the media does its own investigation and forms public opinion against the accused even before the court takes notice of the matter. This affects the public and, in some cases, courts, and as a result, the accused, who should be deemed innocent, is presumed to be a criminal, with all of his rights and liberties unrestricted. If excessive media coverage of a suspect or accused before trial jeopardises a fair trial or portrays him as a person who committed the crime, it constitutes undue interference with the "administration of justice," necessitating contempt proceedings against the media. Unfortunately, standards intended to control journalistic practice are insufficient to avoid the violation of civil rights.

**Conclusion**

we can say that media has positive and negative aspects as well. The media must be adequately governed by courts. The media cannot be given full control in court hearings since they are not a sporting event. The law commission also has come up with a report on "Trial by Media: Free Speech vs. Fair Trial under Criminal Procedure" (Amendments to the Contempt of Court Act, 1971)' The court's contempt jurisdiction is the most effective way to regulate media, as it punishes those who violate the basic code of conduct. The Supreme Court has confirmed the use of contempt powers in several cases. However, media freedom must not be allowed to prejudice trials. The media's increasing power to divert public opinion leads to violence, unrest, hate sloganeering, and communal violence, dividing society into various subgroups. Therefore, courts should exercise contempt powers against media channels and newspapers. The judiciary, responsible for maintaining law and order among diverse cultures and religions, faces challenges in maintaining unity. Media can sometimes ruins this unity, and no freedom can be considered absolute. Press and media freedom is subject to restrictions to safeguard public interest. Unrestricted freedom can lead to misuse of institutions like the legislature, judiciary, and executive. Media and the judiciary must be able to serve as public service and representation, but not override their duties, preventing disbelief and ensuring they remain the ideal justice givers society believes in.

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