Media Trials in India : A Detailed Analysis

Ms Somlata Sharma
Assist Prof. UILMS, Gurgaon.

Media is regarded as one of the pillars of Democracy. Media has wide ranging roles in the society. 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 commenced for starting a trend where the media plays an active role in bringing the accused to hook.

Media is regarded as Fourth estate of democracy that checks the three estates of Legislature, Executive and Judiciary. Freedom of media is the freedom of people as they should be informed of public matters. It is thus needless to emphasis that a free and a healthy press is indispensable to the functioning of democracy. In a democratic set up there has to be active participation of people in all affairs of their community and the state. It is their right to be kept informed about the current political social, economic and cultural life as well as the burning topics and important issues of the day in order to enable them to consider forming broad opinion in which they are being managed, tackled and administered by the government and their functionaries. To achieve this objective people need a clear and truthful account of events, so that they may form their own opinion and offer their own comments and viewpoints on such matters and issues and select their future course of action. The right to freedom of speech and expression in contained in article 19 of the constitution. However the freedom is not absolute as it is bound by the sub clause (2) of the same article. However the right it freedom and speech and expression does not embrace the freedom to commit contempt of court.

In India, trial by media has assumed significant proportions. Some famous criminal cases that would have gone unpunished but for the intervention of media are Priyadarshini Mattoo case, Jessica Lal case, Nitish Katara murder case and Bijal Joshi rape case. The media however drew criticism in the reporting of murder of Aarushi Talwar, when it preempted the court and reported that her own father Dr. Rajesh Talwar, and possibly her mother Nupur Talwar were involved in her murder. The media has again come in focus in its role in Arushi Murder case. The concept of media trial is not a new concept. The role of
media was debated in the Priyadarshini Mattoo case, Jessica Lal Murder Case and likewise many other high profile cases. There have been numerous instances in which media has been accused of conducting the trial of the accused and passing the ‘verdict’ even before the court passes its judgment. Trial is essentially a process to be carried out by the courts. The trial by media is definitely an undue interference in the process of justice delivery. Before delving into the issue of justifiability of media trial it would be pertinent to first try to define what actually the ‘trial by media’ means. Trial is a word which is associated with the process of justice. It is the essential component on any judicial system that the accused should receive a fair trial.

**Media Trial vs 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 Fair Trial”, i.e., a trial uninfluenced by extraneous pressures is recognized as a basic tenet of justice in India. Provisions aimed at safeguarding this right are contained under the Contempt of Courts Act, 1971 and under Articles 129 and 215 (Contempt Jurisdiction-Power of Supreme Court and High Court to punish for Contempt of itself respectively) of the Constitution of India. Of particular concern to the media are restrictions which are imposed on the discussion or publication of matters relating to the merits of a case pending before a Court. A journalist may thus be liable for contempt of Court if he publishes anything which might prejudice a ‘fair trial’ or anything which impairs the impartiality of the Court to decide a cause on its merits, whether the proceedings before the Court be a criminal or civil proceeding.

The media exceeds its right by publications that are recognized as prejudicial to a suspect or accused like concerning the character of accused, publication of confessions, publications which comment or reflect upon the merits of the case, photographs, police activities, imputation of innocence, creating an atmosphere of prejudice, criticism of witnesses, the Indian criminal justice system. It encompasses several other rights including the right to be
presumed innocent until proven guilty, the guilt is to be proved beyond reasonable doubt and the law is governed by senses and not by emotions the right not to be compelled to be a witness against oneself, the right to a public trial, the right to legal representation, the right to speedy trial, the right to be present during trial and examine witnesses, etc.

In Zahira Habibullah Sheikh v. State of Gujarat, [(2004) 4 SCC 158] the Supreme Court explained that a “fair trial obviously would mean a trial before an impartial Judge, a fair prosecutor and atmosphere of judicial calm. Fair trial means a trial in which bias or prejudice for or against the accused, the witnesses, or the cause which is being tried is eliminated.”

Right to a fair trial is absolute right of every individual within the territorial limits of India vide articles 14 and 20, 21 and 22 of the Constitution. Needless to say right to a fair trial is more important as it is an absolute right which flows from Article 21 of the constitution to be read with Article 14. The right to freedom of speech and expression in contained in article 19 of the constitution. Article 19(1) (a) of the Constitution of India guarantees the fundamental right to freedom of speech and expression. In accordance with Article 19(2), this right can be restricted by law only in the “interests of the sovereignty and integrity of India, the security of the State, friendly relations with Foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.”

The observations of the Delhi High Court in Bofors Case or Kartongen Kemi Och Forvaltning AB and Ors. vs. State 2004 (72) DRJ 693 through CBI are very much relevant, as the Court weighed in favour of the accused’s right of fair trial while calculating the role of media in streamlining the criminal justice system:

“It is said and to great extent correctly that through media publicity those who know about the incident may come forward with information, it prevents perjury by placing witnesses under public gaze and it reduces crime through the public expression of disapproval for crime and last but not the least it promotes the public discussion of important issues. All this is done in the interest of freedom of communication and right of information little realizing that right to a fair trial is equally valuable.”
In *State of Maharashtra vs. Rajendra Jawanmal Gandhi*, 2010 AIR (SC) 1453 the Supreme Court observed: “There is procedure established by law governing the conduct of trial of a person accused of an offence. A trial by press, electronic media or public agitation is very antithesis of rule of law. It can well lead to miscarriage of justice. A judge has to guard himself against any such pressure and is to be guided strictly by rules of law. If he finds the person guilty of an offence he is then to address himself to the question of sentence to be awarded to him in accordance with the provisions of law.”

The Hon’ble Supreme Court in the case of *Rajendra Sail Vs. Madhya Pradesh High Court Bar Association and Others*, 2005 (2) LRC 156 (SC) observed that for rule of law and orderly society, a free responsible press and an independent judiciary are both indispensable and both have to be, therefore, protected. The aim and duty of both is to bring out the truth. And it is well known that the truth is often found in shades of grey. Therefore the role of both cannot be but emphasized enough, especially in a “new India”, where the public is becoming more aware and sensitive to its surroundings than ever before. The only way of orderly functioning is to maintain the delicate balance between the two. The country cannot function without two of the pillars its people trust the most.

Media is “eyes and ears of the general public”. It forms the backbone of our society. And a responsible media is expected to take into consideration the reliance entrusted on it by the general public and confidence and faith entrusted whereby the common man/public blindly accepts the truth of the news published by media. This actually calls for the existence of a responsible media. While acting as a responsible media, it should follow certain norms in reporting of a crime or any news related to the same.

- Accuracy of the case shall be maintained and verified before the same is reported/published and read of all.
- Every caution shall be undertaken to avoid any writing that is opinion based i.e. either favoring or defaming any person/party.
- Right to privacy should not be interfered with.
- Accuracy is of utmost importance while reporting court proceedings.
- Reports based on mere suspicion or personal opinion shall not be published.
- Appreciation of an act of violence shall be avoided always.
• The headings shall not be purposely made sensational or provocative, it must be apt for the matter printed under it.

• Rectification shall be published without any delay in cases of error.

Conclusion
Though media act as a watchdog and act as a platform to bring people voice to the notice of society and legislatures. But now days media is so much sensationalized and they just do for their salaries and TRP’s. there are few reporters those showing only those news for what they have been paid by political parties.

From the above account it becomes clear that the media had a more negative influence rather than a positive effect. The media has to be properly regulated by the court. The most suitable way to regulate the media will be to exercise the contempt jurisdiction of the court to punish those who violate the basic code of conduct. The use of contempt powers against the media channels and newspapers by courts have been approved by the Supreme Court in a number of cases as has been pointed out earlier. The media cannot be allowed freedom of speech and expression to an extent as to prejudice the trial itself. Certain cases are so hyped for a day or two, so much so that you switch to any channel, they all will be flashing the same story but then when the heat is over there is no following of the case. The news then jostles for space with other stories that are carrying the heat then. Media just sensationalized the case for few days and leave it as they find other “masala” news irrespective of how much importance earlier news was.

Any institution is liable to be abused whether it be legislature, executive or judiciary if it exceeds its legitimate jurisdiction and functions. Media trial is also an appreciable effort along with the revolutionary sting operations as it keeps a close watch over the investigations and activities of police administration and executive. But there must a reasonable self restriction over its arena and due emphasis should be given to fair trial and court trial must be respected with a sense of responsibility. Media should acknowledge the fact that whatever they publish has a great impact over spectator. Therefore it is their moral duty to show the truth and that too at a right time.
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