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## Media Houses: Misuse of Press Freedom and its Effects

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*The Article deals with the significant aspect of press freedom how it has been misusing and its related issues. Media is a very important part of our democracy and it has been considered as the fourth pillar of our democracy. The right of press freedom has been provided to the media by our constitution in order to perform their duties freely and without any governmental interference. This right is very essential because the media is the only bridge between the government and its citizens. However, today some media houses have largely been misusing the right of freedom of the press which unduly affects the privacy of individuals and sometimes gives rise to defamation i.e infringement of the reputation of an individual. The article also deals with the concept of media trial and its ill effects and how it affects the individual right to a fair trial. Further, the article discusses the intricate problems with the regulation system followed in India which is largely based around the principles of self-regulation. Primarily, the article intends to provide a comprehensive knowledge of the misuse of press freedom and its negative consequences, which obstruct justice.*

**Keywords:** *media houses, freedom of press, privacy infringement, defamation.*

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### INTRODUCTION

Media forms an integral part of our democracy; They are very essential and keep check and balance on the government so that the government should not turn or behave arbitrarily and indirectly protects the right of every citizen. They act as a watchdog in a democracy. Media

houses are one of the main communicators of knowledge, information, news, and promotional messages among others. They play a very prominent role in the sustenance of democracy. As the supreme court has declared in many decisions, Article 19 of the Indian Constitution grants the fundamental rights of freedom of speech and expression, which include freedom of the press. It was indeed, needed because the media should be free from any constraints or regulations in order to perform their duty in the best way possible. The media should disseminate facts and information to its viewers and it should act as a bridge between the government and people. We have seen in many cases how media have played a crucial role in getting parties involved in the matter, true justice, for instance in *The Ruchika Girhotra case*<sup>1</sup>, where a 14-year-old girl was molested by the Inspector General of Police. After she made a complaint, her family, friends, and relatives were systematically harassed by the police and Ruchika eventually committed suicide. The accused was held guilty after 19 years and it was the role of the media that led to the conviction of the victim. Yet in another case of *Priyadarshini Mattoo*<sup>2</sup>, a law student was brutally raped By the Inspector General of Police Santosh Kumar Singh and afterward murdered in her house. The accused had been acquitted by the court due to a lack of facts and evidence, it was the media that brought fresh evidence which eventually led to the conviction of the accused of such heinous crime after a gap of almost eleven years after the acquittal, However, today, some media houses are largely been misusing this right of freedom of the press, rather than disseminating news they are spreading controversies and running fake propaganda in order to gain more and more TRP. The harmful effects of such misuse of press freedom can lead to infringement of privacy or the reputation of an individual, which have been discussed in this article in detail. There is no doubt the media houses help us to keep checks and balances on the government so that the government should not turn or behave arbitrarily and indirectly protects the right of every citizen, But the media which helps us to get justice can itself become a clot or destructor of our rights and freedom? The media, which provide knowledge, information can itself become a wrecker of cognitive reasoning or fair trial and justice?

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<sup>1</sup> Sudhanshu Ranjan, 'Media and Judiciary: Revitalization of Democracy' (2015) 57/3 JILI <[HTTPS://WWW.JSTOR.ORG/STABLE/44782789](https://www.jstor.org/stable/44782789)> accessed 10 December 2021

<sup>2</sup> *Ibid*

## MISUSE OF RIGHT OF PRESS FREEDOM

Freedom of the press is the fundamental principle of promoting expressions and voicing of the media without any undue interference from the government. The right to freedom of the press or media is a cornerstone of our democracy. The right is considered as very essential because the media is the organization that acts as a bridge between the government and its citizen, if the government is allowed to interfere unduly then it can hamper the very ethos of constitutional democracy. The media have to have the right to freedom of the press so that it can unbiasedly disseminate the information among the masses. Because of the role that media plays it owes a lot of responsibility towards the general public. This freedom is very prominent and if utilized properly can garner very fruitful results. Sadly, today, the media has largely been misusing this freedom to spread hate speeches and misinformation to get more and more TRP. This is very vulnerable especially for minority groups in our country, who generally fall prey to such hate speeches and can do great harm to our secular morals. In a very recent case of Sudarshan news which telecasted a very controversial program ' Bindas Bol- UPSC Jihad' on the intrusion of Muslim candidates in the UPSC exam. The Supreme Court has debarred the channel from telecasting such programs which have the potential to vilify a particular community or religion<sup>3</sup>. There have been many such instances in the recent past where this right has been largely misused by the media to increase TRP ratings, because of which under some circumstances the media, which provides us with knowledge and information becomes the wrecker of justice and fairness. The media have enormous power and sometimes it is utilized to get an undue advantage over their competitor or to fulfill their political motive which sometimes leads to unjust media trials which are solely done to gain TRP and get ahead of their competitor which is a clear violation of the right of freedom of the press. The Press or Media do have a right to freedom of the press but this right cannot be used arbitrarily or unjustly.

## INFRINGEMENT OF PRIVACY AND MEDIA HOUSES

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<sup>3</sup> Rais Shaikh, 'Sudarshan TV's 'UPSC Jihad' Episode Is An Assault Not Just On Muslims But On The UPSC Too' (*The Wire*, 15 september 2020) <<https://thewire.in/COMMUNALISM/SUDARSHAN-TV-UPSC-JIHAD-MUSLIMS-CIVIL-SERVICES>> accessed 15 November 2021

Article 19 of the Indian Constitution guarantees citizens the fundamental rights of freedom of speech and expression, as well as freedom of the press, which is a very important right in our constitution. Just like any other right the right to freedom of the press is also not absolute and reasonable restriction can be imposed on it in the interest of the general public. In *Indian Express Pvt Ltd vs Union of India*<sup>4</sup>, it was stated that there could not be any restriction on the freedom of the press however reasonable restriction can be imposed on the media in the interest of society. Privacy is a very important aspect of our human society. It is an integral part of individualism which needs to be protected by the state. The right of privacy has often been infringed by the media houses without any reasonable cause, for instance, In a very recent case of *Sushant Singh Rajput*, we have seen how media channels have leaked the WhatsApp chats, back A/c details of the accused, some private videos and images of the accused, several other confidential and key details like CCTV footage of accused visiting her flat and other such entry detail were leaked by the news channel, such act by media not only infringe with the privacy of the individual but also demean the very basic tenet of our criminal sphere I.e., the right of the accused of being innocent unless proven guilty.

Our Right to life and liberty is guaranteed by our constitution under Article 21 and such a right cannot be utilized if our privacy is not preserved. In many instances, we have seen how the Supreme Court has recapitulated the importance of privacy and upheld the notion of the right of privacy as an integral part of the right to live and liberty. For instance, in *R. Rajagopal state of Tamil Nadu, Auto Shankar, who was sentenced to death for six murders, detailed his relationships with a few police officers in his memoirs*<sup>5</sup>. The Supreme Court held that Article 21 has an element of privacy, and the right to privacy is an integral part of the right to life and liberty. Everyone has a right to protect their privacy and other personal details and undue publication of such details can lead to infringement of privacy, however, it can be done in the public interest, but under the ambit of public interest, one should not violate the basic ethics of journalism. In many cases we have seen how media has violated the right of privacy to gain more and more TRP, unreasonably leaking someone's bank details or personal information

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<sup>4</sup> *Indian Express Pvt Ltd v Union of India* 1985 SCR (2) 287

<sup>5</sup> *R Rajagopal v State of Tamil Nadu* 1994 SCC (6) 632

won't serve any public interest. Nowadays media houses have become an imminent danger to the privacy of an individual. Such infringement not only poses a threat to the privacy of the individuals or the impugned one but even of the innocent victims who must suffer a lot because of such widespread broadcast.

## **MEDIA TRIALS**

'Media trial' is a term which was popularized in the late 20th century, which means 'When mediates a case in their hand and the directly or indirectly declare accused as guilty or victim all by its own based on few or distorted evidence given by investigating officers or by police even before the court announce its verdict can be called as media trial,' or we can simply put it as a parallel trial or investigation by media on an ongoing case. Media trials generally, take place in high-profile cases, and this is one of the reasons why many people have criticized the media trials as a dirty game of TRP and nothing else. One of the important questions which we have to deal with is that "Whether media should be allowed to promulgate their proposition or opinion?" It is a well-settled position that 19(a) includes freedom of the press. No doubt media has the right to free speech and expression under Article 19(a) of the constitution, but one needs to understand that this right is not unlimited or absolute, no doubt media have a free hand in deciphering or discovering the facts in the investigation stage of any trial, but whether such right even includes the right of media to promulgate an opinion which itself becomes conclusion before the consummating of any trial in a courtroom? To put it simply, whether the media have a right to issue any verdict against the individuals involved in the matter before the court's verdict?

A trial starts with an investigation and discovering facts and ends up with a court verdict. The media have a free hand in the investigation stage where it plays an important role to unearth facts, But the problem arises when the media start assimilating opinion based on the few pieces of evidence whose authenticity is yet to be proved. A media should understand its role and restrict itself with the first stage of the investigation, i.e., discovering the facts, and should not overreach its contours by giving and forming an opinion on the issue at hand. In *Jasleen*

*Kaur v Sarojet Singh*<sup>6</sup>, the petitioner accused the respondent of sexual harassment on a Facebook post, soon the post went viral which was then followed by a media trial who labeled the respondent with terms like a pervert and Delhi ke Darinde. After four years, the Delhi HC held the respondent innocent and acquitted him of all the charges. But by the time he was acquitted of all the charges he lost his job, his social status and couldn't find any alternative income source due to such harmful media coverage. So, we can see how such promulgation and formation of opinion can have such a deleterious effect on anyone's life and his right to a fair trial, in many cases we have seen a person even after being acquitted from the case still finds it hard to get back their reputation and his/her social status. In another case of *Sunanda Puskar*, the late wife of Mr. Shashi Tharoor after the death of Sunanda Puskar, media houses engaged themselves in nothing more than sensationalism, disrupting individual's cognitive skills, false claims, and deterioration of journalistic standards. Delhi High Court even warned Mr. Arnab Goswami of calling the accused a criminal when neither Delhi police nor Trial Court has invoked any murder charged sheet against him and The Delhi HC asked the channel to bring down the rhetoric<sup>7</sup>. In another case of, the Sushant Singh's death case, where the late actor was found dead in the house and the cause of the death was shown as death by suicide, The media single handily started claiming that this is not a suicide but a murder and some of the journalists even claim to have evidence which can prove it is a murder, such half-truth evidence creates a proposition in the mind of people which obstructs the administration of true justice, as, The Bombay HC, on Sushant Singh media coverage, has said, That trial by media in any case or investigation violets the program code under the Cable TV Network Regulation and also impacts the probe. Such trials by media can interfere in the administration of justice. Judges are also humans who can be influenced by what is happening outside the court and hence, such sensationalism, the promulgation of opinions, and media verdict impairs the justice system and leads to obstruction to the administration of justice.

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<sup>6</sup> Stela Dey, 'Delhi Biker, Accused Of Molestation In 2015 At Signal, Gets Clean Chit' (*NDTV.com*, 30 October 2019) <<https://www.ndtv.com/delhi-news/sarvjeet-singh-bedi-accused-of-molestation-in-2015-by-jasleen-kaur-at-traffic-signal-acquitted-2124784>> accessed 19 November 2021

<sup>7</sup> Sofi Ahsan, 'Sunanda Pushkar Case: Can't Have Parallel Probe By Media, HC Tells Arnab Goswami' (*The Indian Express*, 15 december 2021) <<https://indianexpress.com/article/india/arnab-goswami-sunanda-pushkar-case-delhi-court-6590901/>> accessed 16 November 2021

## **MEDIA HOUSES AND DEFAMATION**

Every person has a right to preserve his reputation. The right to reputation is a very prominent right that every individual persists in despite their status, religion, and class. It is considered as a right in rem and therefore every individual has to protect this right. The right to reputation has been considered as an intrinsic part of Article 21, right to live with dignity, dignity, and reputation are correlated and cannot be separated in any case and therefore it forms an inviolable part of our lives. However, this right is not an absolute right and the state can impose reasonable restrictions on the same. The media has been considered an integral part of our democracy, and it is in the interest of the general public that media should have free speech and expression because they play a very vital role in the sustenance of democracy. The law of Defamation like many other laws provides for balancing of interest, the contending interest that must be balanced against a person's interest in his or her reputation is everyone's interest in freedom of speech. The law of defamation preserves or protects the individual's reputation while on the other hand, its defenses like truth statements and privileges protect the right of free speech and expression. Balancing the interest between these two rights is very necessary for democracy to persist because without the proper balance it will hamper the basis of democracy. The media has to spread knowledge and information through their medium and it cannot be used to defame someone or to curtail his reputation, however, a leeway has been given to media that in the interest of the general public, they can make use of some statement which though in the ordinary case would hold to be defamation can still be allowed, but it must be in the public interest. However, as we have seen in multiple cases the media houses use defamatory language in disguise of public interest to gain more popularity and TRP. As we have seen in the Shashi Tharoor case, where the politician has been termed as a murderer even without the final verdict of the court is one such incident where the media has made use of defamatory language. Being the fourth pillar of democracy is a position of responsibility and using such defamatory language shouldn't be allowed unless it is truly for and in the interest of public policy.

## **A NEED FOR REASONABLE REGULATIONS**

In India, Media houses have largely been self-regulatory, They are regulated by the News Broadcasting Association (N.B.A) and like bodies and consist of a code of ethics which ideally, they should follow i.e., every news channel should follow things like ensuring neutrality by not giving one-sided and bias opinions, ensuring the privacy of the individual shouldn't be infringed and abhorring sex & nudity among others. However, if any news channel breaks this code there is no such provision where punitive actions can be imposed on news media by these regulatory bodies. These regulations are in the nature of guidelines that news channel often breaks. We have seen how media houses are misusing the right to freedom of the press and how they are infringing our fundamental right of privacy and right to reputation among others. However, We live in a democracy where the freedom of the press is of paramount significance, imposing harsh restrictions or stricter kind of government regulations would not serve any fruitful purpose, it would do more harm than good, However, on the other we cannot allow such lawless reporting on media channels, If we make some statutory bodies, it will involve the presence of the government which is not good for a democracy like ours. But the self-regulating system which is pre-dominant in India has also failed miserably. This is the high time where we should find a way out which can serve the interest of both the end, the reasonable restriction should be imposed on the media, however one should keep in mind that such restriction should not in any way obstruct the freedom of media. The freedom of the press is of paramount importance which in any circumstances cannot be abrogated, however reasonable restriction for the better interest of society should be imposed on media.

## **CONCLUSION**

Media has been regarded as the fourth pillar of democracy, it is an integral element of it, and it is difficult to envision democracy surviving without it. The media has complete freedom in spreading facts, information, and their own opinions in a fair way; nevertheless, this freedom cannot be used arbitrarily, to invade an individual's privacy, or to malign someone without justification. The media have certain duties to follow first to unearth facts, second to provide an unbiased floor for discussion on important topics, third to check the authenticity of the



news, and last but not the least to spread awareness among others. The media should confine or limit itself to these responsibilities simply because the problem is that the media sees these fact-finding missions as a chance to obtain more and more TRP and make more money. Now they bother less on the authenticity of the source rather they try to polarize or sensationalize the whole matter and many a time we have seen news channels runs the news on their channel without even verifying the source, for nothing but to earn more TRP and more viewers. Nowadays, we are seeing Media Houses turning into public courts where the public becomes its innocent speculators, it is a type of verdict where there is a disruption of individual's cognitive reasoning and the speculators starts believing in the verdict or the decision passed by the media rather than taking into consideration the true reality of the fact, because as George Orwell said *“the people will believe what the media tells them they believe”*

This becomes even worse when such media verdicts overshadow the reality because even if the reality would be something else it would be difficult to get vindicated from chains of bias presumption which was created in the mind of society by the media, therefore, it is important to limit media to its duties rather than letting it overreaching its contours. In as much as the media will limit itself to the role and duties, it is supposed to follow while conducting its role, it will be considered as a boon to our society as we have seen how the media had played an important role in many cases as we had discussed. Whenever media will try to overreach its power and assimilate opinions it will inevitably become a curse for society. The media should understand its roles and duties and should abide by them. A reasonable restriction should be imposed on the media, however, while doing the same one should keep in mind while imposing such restrictions should not intervene in the freedom of the press in any unreasonable manner. Such restriction can only be imposed for the betterment of society and in the public interest.