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Media Trial - Highlighting the sub-judice issues

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Among the pillars of democracy, media stands as the fourth pillar. It highlights various problems of the country. But it has to comply with the statutes contained in the Constitution of India. Previously standing as a boon to society, nowadays, media has now become Janta Adalats. In some of the high-hype cases, the media's intervention has made the accused set free. The media has started intervening in the court's proceedings which ultimately leads to unfair trials by the exceeding court. Trial by media hinders the administration of justice which is a contempt of court for which punishment is required. Every pillar of the republic needs to act without intervening in the others' boundary line. This article sheds light on the sub-judice issues created by media trials within the Indian boundary.

Keywords: *media, media trial, contempt of court, janta Adalats.*

INTRODUCTION

Media stands as the fourth pillar of the republic. Media plays an essential part in putrefying society's perception and it has the power of transforming the entire standpoint through which individuals perceive colourful activities. The media can be blamed for starting a pattern in which they actively assist in putting the accused on trial. In notably the previous 20 years, the advent of cable TV, original radio networks, and the influence and reach of traditional media have

considerably increased thanks to the internet. In addition to the many conversational languages, our nation has also seen steady growth in the number of English-language newspapers and journals. Because of the constantly growing publication and audience as well as the use of cutting-edge technologies for collecting headlines, media organisations now play an unknown role in influencing public opinion. But there is also a responsibility attached to media independence. Media stories frequently turn to sensationalising and fact-bending in an ever-increasing competition for capturing the focus of observers and compendiums. The furtherance of lucrative desires also drives to employ overbearing news-gathering techniques, which generally tamper the seclusion of people who are the focus of similar information.

There have been numerous instances in recent years where an accused person's trial has been presided over by the media, which has reached a decision ahead of the court. A few well-known criminal instances that may have long since gone unpunished if it weren't for media intervention include the rape of Bijal Joshi, the murder of Nitish Katara, the Jessica Lal case, and the Priyadarshini Mattoo case. The media came under fire for its reporting on Aarushi Talwar's murder case, which was before the court, and suggested that her biological father, Dr. Rajesh Talwar, and maybe her mother, Nupur Talwar, were involved. However, the Central Bureau of Investigation ultimately found that Rajesh was not the murderer. Media trials are common names for this phenomenon. A person's reputation can be negatively impacted by media coverage by giving the impression that they are guilty, independent of the results of any legal processes, according to the concept of trial by media.

CONCEPT OF TRIAL BY MEDIA

Even the term "trial by media" is misleading. The C.P.C. or the Code of Civil Procedure, 1908[1] , and the Cr.P.C., or the Code of Criminal Procedure,[2] which are the primary statutes controlling the hearing of civil and felony cases utilizing the appropriate courts in India, no longer both define the term "trial." Black's Law Dictionary (9th Edition) gives the word "trial" the subsequent meaning:- "a formal judicial examination of evidence and determination of legal

[1] Code of Civil Procedure 1908
[2] Code of Criminal Procedure 1973

claims in an adversary proceeding". Sec. 2(7) of the Bankers' Books Evidence Act, 1891[3] defines the word "trial" as: "trial means any hearing before the Court at which evidence is taken". Thus, "trial" logically refers to a legal proceeding. If so, using the media as a means of outreach is not an option. But the above-noted words are frequently used to show a media exercise that effectively absorbs the role of a court, an activity that has been designated by the country's laws as such.

India's Apex Court has had an event to observe the impact of "trial through media" within the next few phrases:- "The impact of TV and newspaper coverage on a person's character by creating a wide perception of guilt no matter any verdict in an exceeding court of law. During high hype cases, the media are often accused of provoking an environment of public hysteria cherishing a rabblement which not only makes a good trial insolvable but means no matter the results of the trial, public perception of the accused is already held shamefaced and wouldn't be suitable to live the remainder of their life without violent public scrutiny". [4]

Media freedom is the right of people to access information on public issues. Thus, it is unnecessary to reiterate how crucial a strong and vibrant publication is to the operation of a republic. A truly democratic foundation should encourage individual participation in all aspects of local and national affairs. They have a right to be kept up to date on current events in politics, society, economy, and culture as well as hot subjects and significant relevant contemporary concerns to think about creating a broad view while being controlled, divested, and government-run administration and their bureaucrats. People require a transparent and accurate explanation of what happened to achieve these goals since it will enable them to form their own opinions, provide their commentary on related topics, and decide on their future course of action. Article 19 of the Constitution of India[5] contains the right to freedom of speech and expression. The liberty is constrained by sub-clause (2) of Article 19,[6] though, thus it isn't

[3] Bankers' Books Evidence Act 1891, s 2(7)
[4] *RK Anand v Delhi High Court* (2009) 8 SCC 106
[5] Constitution of India, art 19
[6] Constitution of India, art 19(2)

unrestricted. However, the ability to disregard the law is not included in the right to free speech and expression.

The conception of trial by media isn't a replacement one. Now that it has transformed into a "public court" (Janta Adalat), the media is prying into court procedures. It completely ignores the critical distinction between an accused person and a fraud while still upholding the fundamental legal precepts of both guilt and innocence being established beyond a reasonable doubt. Now, we witness a trial by media where the media itself performs a separate inquiry and fosters suspicion against the suspect well before the court takes the matter under consideration. Because of this, the indicted, who is supposed to be presumed not guilty, is treated as a felon, so preserving all of his entitlements. This influences the general public and occasionally even judges. Overwhelming journalism of an accused before prosecution that taints the results of a public hearing or portrays him as Being guilty of the crime itself is a hindrance to the "administration of justice," which calls for court action to discredit the media. Regrettably, laws intended to control media behaviour are reluctant to assist in the erosion of civil liberties.

EXAMPLE OF TRIAL BY MEDIA IN THE SHEENA BORA CASE:

The prosecution claims that Sheena was murdered on April 24, 2012, but the crime was only discovered in August 2015, following Rai's arrest in connection with another case. Sheena, Indrani's daughter from a previous relationship, who was 24 years old, was allegedly strangled inside a car by crucial indicted Indrani, Khanna, and Rai. Sheena's body was found in a very forest in Raigad. This case was allegedly linked to certain fiscal dealings. The saga's twists and turns gave media outlets, in particular, especially TV news networks, like nothing else in living memory, fuel. News alert per ½ hour, tense studio discussions on what would have possibly motivated the well-known wife of media mogul Peter Mukerjee to reportedly murder her daughter and dump the body in a sacred grove close to Mumbai. To make matters worst, go three years pretending to be normal. The murder was without a doubt the "mother of murders," as some have called it, and it merited widespread press coverage because it was associated with a famous person. There were also many Hitchcockian plots and subplots, starting with the

revelation that the adolescent woman who was killed was Indrani's daughter, not her sister as the public had been led to believe.

The fact that it is against the law to reveal the identity of a sexual crime victim simply didn't matter in the heat and muck brought on by the issue. According to certain sources, when Indrani was only 15 years old, she fled with a man. since sensationalism knew no bounds. There was no regard for the fact that she was a minor when the claimed assault occurred. There was also no regard for Sheena's right to privacy when rumours about her father abounded. It seems that Love, conflict, and breaking news are all just. The criminal justice system will be in charge of punishing those responsible for Sheena Bora's murder. A free-for-all mass media mock trial, however, is not only unethical and against the law, but it verges on nemesis. The media's importance cannot be disputed in highlighting how justice was trampled in incidents compared to the murder of Jessica Lal, but that doesn't give it the right to transgress the bounds of appropriateness in this case.

HIGHLIGHTING THE SUB-JUDICE ISSUES

1. In the Jessica Lal Murder Case: 'Miscarriage Of Justice

In ***the Jessica Lal murder case***,[7] On April 29, 1999, Manu Sharma, the son of Haryana political leader Venod Sharma, murdered Jessica because she wouldn't provide him with alcohol inside the restaurant where she was working. Due to a lack of evidence against any of the indicted individuals, the case was dismissed and all of them were found not guilty by the trial court. But after a media and public uproar, the case was reopened, and Sharma was found guilty. During a sting operation on the case's substantiations on September 9th, 2006, the news magazine Tehelka exposed that Venod Sharma had bought the substantiations with large sums of money from plutocrats to appear hostile in court.[8]

2. In the Priyadarshini Mattoo Case[9]: Justice Delayed Not Denied

[7] *Siddharth Vashish @ Manu Sharma v State NCT Delhi* (2010) 6 SCC 1
[8] *Ibid*
[9] *State (Through Cbi) v Santosh Kumar Singh* 2007 CriLJ 964

Santosh Kumar, an IPS officer's son, offered to date Priyadarshini Mattoo, a law aspirant, but she declined, so he ravished and killed her in 1996. The accused's father was the Joint Commissioner of Police in Delhi, the actual megacity where the heinous incident was perpetrated, for the length of the trial. Santosh was granted immunity by a sessions court since there was insufficient evidence to support his conviction, giving him the upper hand. The populace roared in outrage at the judgment in this case, and the media criticized it harshly. Once again, the media stepped up to the plate and focused on the fact that Singh was able to leave jail free and clear of all charges despite significant evidence that could have changed the outcome.[10] The CBI was under intense pressure as it filed a new appeal against the District Court's ruling in the High Court of Delhi as a result of violent media content by vibrant news outlets and newspapers. Santosh Kumar Singh was subsequently declared shamefaced by the High Court of Delhi as a result of the matter receiving intense and increasing public scrutiny.

3. Arushi Murder case[11]: Overzealous media lost their grammar skills

The notorious Arushi-Hemraj binary murder case is a famous example of how press disturbance was both praised and blamed. One of the victims was a student at a prestigious institution, and the suspects were her well-respected doctor's parents. This case, like those of Jessica Lal and Priyadarshini Mattoo, was distinguished by a timid disquisition before coming under intense public scrutiny.

Without the media's involvement, it would have remained an unresolved case in police stations' file cabinets. On the other hand, the previous puzzle surrounding the identifications and motivation of the murderer(s) ensured that press reporting about this matter kept getting captions and was broadcast like TV diurnals. The way and format of the content ignited a heated discussion about where the media should draw the line.[12]

[10] *Ibid*
[11] *Dr (Smt) Nupur Talwar v State of UP & Anr* Criminal Appeal No 293 of 2014
[12] *Ibid*

The media was prohibited from reporting on the Aarushi-Hemraj killings in a sensational or defamatory manner after the Supreme Court issued a restraining order with Justice Altamas Kabir saying,

"No one wants to gag the press. But someone can gag irresponsible media reporting. We are asking the press not to sensationalize something which affects reputations."

The reportage also sparked a discussion about the intricacies of media tone regulation, including dos and don'ts, as well as a change of direction to equalize the alphabet of reporting.

4. Nitish Katara case[13]: Rewarded for press' efforts

In the wee hours of February 17, 2002, Nitish Katara, a 25-year-old business executive in Delhi, was bamboozled by Vikas Yadav, the son of prominent felonious politician D.P. Yadav v Bharti Yadav, the sister of Nitish's classmate Vikas, had captured Nitish's heart. The legal system determined that Nitish's death was an honour killing because their relationship had not been approved by the family. On May 30, 2008, the trial court ultimately humiliated Vikas and the other indicted and gave them life sentences.

Due to the indicted's father's position of influence, the substantiations in the six-year trial became hostile. The four and a half years long battle to ascertain the witness's testimony who moved to London to pursue her studies attracted a lot of media attention. The media's involvement once more paid off when an accused person met their fate and had a chance to narrowly avoid court rashness and timid interrogation.[14]

200th LAW COMMISSION REPORT

The Supreme Court noted that materials that are unfavourable to suspect or accused may influence magistrates unconsciously in its 200th report of the Law Commission, entitled Trial by Media: Free Speech v Fair Trial under Criminal Procedure (Amendments to the Contempt of

[13] *Vikas Yadav v State of UP* (2016) 9 SCC 541
[14] *Ibid*

Court Act, 1971[15]). Currently, such disclosures would only be considered contempt under Section 3 (2) of the Contempt of Court Act,[16] if a criminal case's charge sheet had been submitted. However, to lessen the negative impact of exaggerated news or media coverage on the process of justice administration, restrictions that will take effect when the person is arrested were sought in the commission report.

CONCLUSION

Press judgment and press punishment are the new progressions of trial by media which is improper access to freedom and a violation of the careful distinction of legal limits. It is evident from the story above that the media had more of a negative impact than a favourable one. The courts ought to properly control the media. The mass media or the press cannot receive a free pass as the court proceedings are not an entertainment event. If an institution goes beyond its licit governance and functions, whether it be the legislative, executive, judiciary, or bureaucracy, it runs the risk of being abused. As it closely monitors the inquiries and activities of the state administration and executive, media trial is also a noticeable problem alongside the innovative sting operations. However, there must be an appropriate tone limit or some other form of rule over its domain, and proper focus must be placed on a fair trial and respectable judicial proceedings. The media should understand that every article they publish has a big effect on the audience. Thus, the ultimate responsibility of the media is to present the fact and that too at the appropriate moment. The most effective way to control the media is to use the court's contempt governance authority to punish offenders of the fundamental code of conduct. The Apex Court has permitted the application of contempt powers by courts against news organizations and publications in a significant number of cases when it had previously been rejected. The media cannot be given full freedom of speech or expression if doing so could influence the outcome of the proceedings. A strong defence would be that press meddling in the judicial system is now prohibited since neither the Indian media nor Indian citizens as a whole are democratic enough to do so.

[15] Contempt of Court Act 1971
[16] Contempt of Court Act 1971, s 3(2)