



ILE

CONSTITUTIONAL LAW REVIEW

VOLUME 3 AND ISSUE 1 OF 2024

INSTITUTE OF LEGAL EDUCATION



ILE CONSTITUTIONAL REVIEW

[APIS – 3920 – 0006 | ISSN – 2583-7168]

(Free Publication and Open Access Journal)

Journal's Home Page – <https://cr.iledu.in/>

Journal's Editorial Page – <https://cr.iledu.in/editorial-board/>

Volume 3 and Issue 1 (Access Full Issue on – <https://cr.iledu.in/category/volume-3-and-issue-1-of-2024/>)

Publisher

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Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

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MEDIA TRAIL – A CRITICAL ANALYSIS

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BEST CITATION – REVANT KUMAR SINGH, MEDIA TRAIL – A CRITICAL ANALYSIS, *ILE CONSTITUTIONAL REVIEW*, 3 (1) of 2024, Pg. 12-14, APIS – 3920 – 0006 | ISSN – 2583-7168.

INTRODUCTION

Media is considered to be the fourth pillar of our democracy. It plays many important roles in the society. The media has the power to manipulate the thinking of the society.

Both Journalism and Media can be considered as a mirror maze in which there are many images & stories behind a single person or entity. The more you go deeper, the more the chance of getting trapped.

The Ministry of Information and Broadcasting & Prasar Bharti regulates the media in India. The bodies which regulate the media are enshrined in the Cable Networks Act, of 1995 & the Prasar Bharti Act, of 1990. The four bodies which regulated media are:

1. Press Council of India
2. News Broadcasting Standards Authority
3. Broadcasting Content Complaints Council
4. News Broadcasters Federation

"Every citizen may express his thoughts in words or written documents and publish them on paper, without liability for the censure, but shall be liable for abuses which they may perpetrate in the exercise of the Constitution of India." The Constitution of India Bill, 1895

MEDIA & PRESS – THE DIFFERENCE

Media is a broader term whereas Press is a narrower term. The Press is more specific term than Media, which is more general. Newspapers, magazines and other print media are typically considered part of the press, as are television, the internet, radio and other media but both are strictly tied to the news.

Media refers to news channel broadcasting and Reporters but Press refers to articles, news printings and Journalists.

MEDIA TRIAL

The literal meaning of a media trial is a trial conducted outside the court of law by the media. There are many instances seen in the past where the media has conducted the trial and passed the judgment even before the completion of the trial in the court of law.

Hence it can be said that a media trial is a trial conducted by media through exaggeration of news on television and in newspapers for TRPs.

CONSTITUTIONAL VALIDITY OF MEDIA TRIAL

Freedom of Press

Freedom of the Press is a part of the Right to Freedom of Speech & Expression given under Article 19(1) of the Constitution of India. It is an absolute right. In the case **Romesh Thapar vs. State of Madras**⁶⁰, the SC stated that the right under Art. 19(1) (a) includes the right to information and the right to disseminate through all types of media whether in the form of print, electronic or audio-visual means.

Media & Press are supposed to act as an informer between the government or authority

⁶⁰ Romesh Thapar vs. State of Madras 1950 SCR 5944

and the People. Also, the Art. 19(2) imposes reasonable restrictions on the right conferred under clause (1) of Art. 19 in the interest of integrity & sovereignty of India, contempt of court, defamation, incitement of an offense, maintaining public order, etc. However, during an emergency in the country, this right remains suspended.

According to Article 19 of the International Covenant on Civil and Political Rights, 1966 states that, "Everyone shall have the right to hold opinions without interference" and the "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in the form of art, or through any other media of his choice."

Public's Right to Know

The Supreme Court propounded that the Public's Right to Know is the fundamental principle behind the Freedom of the Press.⁶¹

In *Rajendra Sail vs. Madhya Pradesh High Court Bar Association and Others*⁶², it was stated that an independent judiciary and the press which has been given the right to freedom of speech and expression are inseparable from each other and they must aim to find the truth for the best interest of the people.

Law Commission 200th Report

The topic of media trial has been dealt with in the 200th Report of the Law Commission entitled 'Trial by Media: Free Speech vs. Fair Trial under Criminal Procedure (Amendments to the Contempt of Court Act, 1971).

The Report recommended addressing the deteriorating effect of sensational news over the administration of Justice. The Commission also recommended prohibiting the publication of anything prejudicial towards the accused.

⁶¹ A.G. v. Times Newspaper, (1973) 3 All ER 54

⁶² *Rajendra Sail vs. Madhya Pradesh High Court Bar Association and Ors.* (2005) 6 SCC 109

CASES THAT INVOLVE MEDIA TRIAL

The Delhi Rape Case

A physiotherapy intern was brutally raped by the bus driver and six other men while traveling in a private bus on the night of 16th December 2012.

According to the laws of India, the name of a rape victim shall not be disclosed in public by any authority or media. The victim of this case was named 'Nirbhaya' meaning the one who can overcome fear or the brave. This name was recognized all over the country and worldwide due to the huge coverage by the media.

After such coverage, there were many protests all over the country including several candle marches, and the government was highly criticized for failing to provide proper security to a woman.

Media played an important role which resulted in multiple amendments in the laws including the Juvenile Justice Act 2015 in which the age of juvenile was reduced to 16 years from 18 years.

Sunanda Pushkar Case

Sunanda Pushkar was the wife of the former Union Minister Shashi Tharoor. She was found dead under highly mysterious circumstances. The police stated that she had been poisoned. But due to the lack of evidence and suspicion, no one was arrested.

Here the media suspected Shashi Tharoor to be the murderer of his wife. After this, he has to face many controversies which resulted in defamation. Later on, he filed a suit for defamation against the media which the Hon'ble Delhi HC ordered to stop running media trials.⁶³

Jessica Lal Murder Case

In the case of **Manu Sharma vs. Delhi**⁶⁴, which is also known as the Jessica Lal Murder Case. It was related to the murder of a young woman in

⁶³ *Dr Shashi Tharoor vs Arnab Goswami and Anr.* CS (OS) 253/2017

⁶⁴ *Manu Sharma vs. Delhi* AIR 2010 SC 2352

1999 in Delhi who was a bartender. The main accused was the son of a strong politician. In 2006, Delhi Trial Court discharged all the accused and this raised a considerable public disappointment. The media showed this news as a war against corruption because of the political connection of the accused. After receiving a huge reaction from the public, the Hon'ble Delhi High Court ordered a suo-moto re-examination of the case.

Aarushi Talwar Case⁶⁵

A 14 year old girl was found dead in her room. The suspicion was raised upon the servant whose body was later on discovered on the terrace of the house. The case soon gained the attention of the country due to the large and active coverage by the media which highlighted many elements such as adultery, honour killing, affair, and mystery. The family was being held responsible for the murder of the servant and the girl. The father of the girl has to face many controversies due to this coverage.

CONCLUSION

Media in India assumed the power of judges and police by collecting evidence, doing investigations and, passing judgments.

Media trial also influences the witnesses involved in a particular case. The principle of fair trial gets undervalued due to trial by the media. Also, the principle of assumption of being innocent until proven guilty tends to be defeated and it also affects the criminal justice system. It acts as a barrier to justice delivery and also it may mislead the case.

There should be a proper punishment for non-compliance with the rules and regulations regarding the broadcasting of news as the warning is not enough.

SOLUTIONS:

1. Because the majority of news channel are owned by wealthy individuals or

influential investors and businessmen, the government may decide to nationalize them. This would insure that only accurate news is transmitted. For instance, DD News.

2. Awareness of media laws must be spread to the people and to the individual who is joining a news channel.

⁶⁵ Nupur Talwar vs. Central Bureau of Investigation AIR 2012 SC 1921