

# Media Trials in India: Glare or Gloom

Babitha B. S.,

Assistant Professor, Department of Management,  
Center for Management Studies, JAIN (Deemed-to-be University), Bangalore, India  
Email Id: babitha@cms.ac.in

**ABSTRACT:** *This paper initially begins with discussing the concept of the term, “media trial” or “trial by media”. Trial is majorly conducted by the lawmakers or the judicial system within the premises of the court of law. But, “trial by media” is an unwanted or unsolicited interference or intrusion during the course of carriage of justice by media personnel, surely hampers the judicial system causing miscarriage of justice. Moreover, sometimes trial by media or publishing and circulating their version or style of the particulars of the case, can lead against the court, resulting into the situation of contempt or hatred against the court. Further, the paper concludes on discussing the issue that media trial somewhere causes and lowers down the chances of accused or victim right of fair trial within the Indian legal system, and it also does bring the disparity amongst the free practice of press; unbiased hearing and liberation of the judicial system.*

**KEYWORDS:** *Court, Contempt, India, Justice, Miscarriage, Media, Trial.*

## INTRODUCTION

Media plays an important role and creates an influential impact on the lives of the population at large. It has also made everyone totally reliant on the media sector, in order to keep oneself updated and active with respect to the ongoing current events in the society and community. There exist three pillars to democracy, but nowadays, the media sector itself has evolved so much, that it has been declared as the fourth pillar to the democracy of India.

But every existing sector or tool has its own pros and cons, one of the major demerit of existence of media sector at a large scale in today’s era, is that, it is creating a lot of gap between the fair proceedings or trial by the court or judiciary system of India, which sometimes results in the miscarriage of justice, and has made the chaos and joke of judiciary system in the eyes of the public at large[1].

Trial is majorly conducted by the lawmakers or the judiciary system within the premises of the court of law. But, “trial by media” is an unwanted or unsolicited interference or intrusion during the course of carriage of justice by media personnel, surely hampers the judicial system causing miscarriage of justice. Moreover, sometimes trial by media or publishing and circulating their version or style of the particulars of the case, can lead against the court, resulting into the situation of contempt or hatred against the court[1].

Moreover, sometimes trial by media or publishing and circulating their version or style of the particulars of the case, can lead against the court, resulting into the situation of contempt or hatred against the court. Media trial somewhere causes and lowers down the chances of accused or victim right of fair trial within the Indian legal system, and it also does bring the disparity amongst the free practice of press; unbiased hearing; liberation of the judiciary system and destruction of the right to confidentiality and freedom of speech[1].

Article 19(1)(a) of the Constitution of India, provides freedom with respect to expression and speech which also includes and give powers to the press, for freely expressing their views and perspectives with respect to the particulars of the case, but this also includes some sort of restrictions, which are to be adhered in order to avoid from hampering the carriage of justice. Media sector is not only responsible for keeping the community or society updated with the current ongoing events and incidents, but it is also responsible for making or changing the views or opinions or feelings of general public with respect to various different agendas or hot topics[2].

The media sector or pillar of the democracy, plays a vital role in mobilizing the process of thinking of the large mas of the society and community, with respect to the views or opinion on the topics related to the agenda of international or national or regional topics. Hence, the prevalence of media globally all over the world, bears some sort of responsibility on the population of the country, so that they can practice their profession without violating Article 19 of the Constitution of India and within the restrictions of the same[2].

Practice in the field or industry of media, is often witnessed with the misuse of powers or imbalance of powers or freedom, with respect to the violation or hatred of court, infringing the decency or morality of the public, resulting in defamation, and going against the security of the state or integrity and sovereignty of India or building friendly relations with the foreign states[2].

Article 19 of the Indian Constitution provides freedom of expression and speech to the media industry, but the clause 2 of the discussed article of the Indian Constitution, lays down some sort of restrictions with respect to free practice with regard to speech and expression by the media sector is to be adhered in order to protect the democracy of India[2].

If the particulars of any case, news, events or incidents are obscene in nature, and which results in the infringement or violation of decency and morality of the public at large, then sharing of such particulars or views and opinions by the media personnel is totally restricted and prohibited under the Constitution of India and punishable under Indian Penal Code[2].

Moreover, on the other hand, if the particulars of any case, news, events or incidents leads to the degrading of the concerned person reputation or image, then then sharing of such particulars or views and opinions by the media personnel is totally restricted and prohibited under the Constitution of India and punishable under Indian Penal Code, as it amounts to an act of defamation[2].

Sometimes, sharing of views and opinions over any case, news, events or incidents leads towards the hatred or contempt of court, which is totally not allowed by the law of the land, as going against the court of law, is prohibited and restricted for free expression and press[2].

In order to save and protect the veracity and autonomy of India, press or media personnel are often restricted to freely practice or express their views and opinions. Hence, the restrictions imposed in the Article 19(2) of the Constitution of India, with this respect should be adhered to in order to maintain the law and order. Media personnel while expressing their opinion with respect to international matters, should also keep in mind the relation with the concerned country with India, in order to maintain the healthy inter-continent relations, and should not adversely impact on their relations[2].

With respect to the cases of great profile, the undue intervention or interference by the media personnel, is prevalence at increasing rate, which somehow, influences on the decision of the court, with respect to the same. Nowadays, it has become the regular course of routine in the current society, which overpowers the decision making authority of the judges of court of law, and compels them to take the decision based on the opinion or views expressed by the media personnel. Such an act of interference and overpowering of the decision taken by the court of law, surely infringes and violates the right of free trial of the offender or victims in the case, and surely turn the table upside down[3].

Based on the interference by the media personnel in the trial of some particular case within the court, surely impacts the opinion of the public too. Hence, in order for the smooth, healthy and free functioning or operations of the democracy of the country, the media cooperation and not interference is highly required and demanded. But, on the other hand, the practice of free speech and expression through media personnel is revolved around the restriction clause of Article 19(2) of the Constitution of India[3].

Sometimes it is quite witnessed that media and its practice or profession, talks about variety of concern topics in the society, which raised the quotient and mind-set of the public at large, and which also contributes in bringing a drastic change in the community, but on the other hand, it is sometimes witnessed that media publish some sort of news or incidents in order to make money and increase their TRPs, which totally goes against the morality of the public at large and security, integrity and sovereignty of the state resulting in the miscarriage of the justice served, infringing the right of free and fair trial of the parties involved in the matter or case[3].

Hearing or trial or court martial, is basically a procedure to be conceded out by the court of law. The hearing by mass media is absolutely an unwarranted intervention in the procedure of carriage of justice. Court-martial is a term which is related with the course of integrity. It is the vital constituent of any legal arrangement that the suspect should be given an opportunity of impartial hearing[3].

Liberty of communication permits the masses of population to share or express their opinions or views pertaining to some delicate issues of the case, by the mode of broadcasting industry. Broadcasting & Reporting is acknowledged and has existed to figure public's estimation in the past. Reporters select what

to display and how to display or demonstrate it; they use diverse approaches and behaviours to express their views and opinions on any material or particulars of the case.

Naturally broadcasting the honest or real content or story is the occupation or work profile of the mass media. But, in practicing such profession, they often tend to work for money making business, in order to increase their TRPs and has also begin professing 'media trial' which denotes to analysing or discussing the facts of the case and expressing their views or opinions while debating about the same topic, and are generous enough to express their stand or verdict of the case in hand, earlier than the court of law.

Sometimes, sharing of views and opinions over any case, news, events or incidents leads towards the hatred or contempt of court, which is totally not allowed by the law of the land, as going against the court of law, is prohibited and restricted for free expression by press.

### *Research Question*

- What do you mean by the term, "Media Trial" or "Trial by Media"?
- What are the consequences of "Media Trial" upon the judiciary system of India?

## **DISCUSSION**

Within the ambit of Article 19(1) (a) of the Constitution of India, which discusses in detail the wider meaning of speech and expression and the freedom associated with the same. Such terms must be viewed and discussed broadly, because such sort of leverage and practice by the media personnel can influence their decision of trial on the judiciary and which can create a dreadful impact on the parties involved during the trial, as it infringes the fair trial provision or right of the parties{Formatting Citation}.

The concerned Article of the Constitution of India, needs some regulatory provision, as it provides different media of communication, be it, newspaper; radio; social media or television to express their views on the concerned topic, without any restrictions, as there is no one to keep an eye on them, and they are free to do the same, which majority of the times, hampers the judiciary system, as it sometimes over power their views and decision on the judiciary leg of democrac.

Hence, some sort of imposition is highly required in the form of clause 2 of Article 19 of the Constitution of India, as it gives liberty to ordinary masses of population to express their views, through any media of communication, but the discussed clause 2 provides some sort of restrictions on the free expression of views and decisions, because if the free expression causes or goes against the integrity or security of India and disturb its relationship with foreign countries and results in defamation of the image of the renowned person or violates the morality of the citizens. Therefore, such sort of practices be prohibited.

Trial is majorly conducted by the lawmakers or the judiciary system within the premises of the court of law. But, "trial by media" is an unwanted or unsolicited interference or intrusion during the course of carriage of justice by media personnel, surely hampers the judicial system causing miscarriage of justice. Moreover, sometimes trial by media or publishing and circulating their version or style of the particulars of the case, can lead against the court, resulting into the situation of contempt or hatred against the court.

Trial by media majorly deals in the result of contempt of court, as it goes against the views expressed by the court on the particular decision and impact a lot on the dignity and fairness of the court trial. Therefore, by the introduction of a rule, that no one is allowed to express their views and opinions on the on-going cases in the court, through any media of publication, the free practice of media personnel is highly prohibited, and violation or breaking of this rule is going against the court, resulting in the contempt of court.

Disdain of court functions on a considerably diverse level. The supreme deliberations here are self-esteem of the court and equality of hearing. Hence it monitors that when a situation has grasped the court, no one is permissible to circulate his own varieties of actualities. Abuse of this regulation aggregates to disdain of court. The law changed prudently which is complemented by superior constitutional requirements, which forbid the publication even of certain critical matters or issues essentially taking place in progression of hearing.

Now the request ascend is whether this destructive attitude of regulation is varying with the constitutionally definite right of liberty of communication and expression. In this link it may be keen out that the constitution in Article19(2) explicitly bar the procedure of rule of disdain of court. While judiciary

is the third support of the democracy, media is reflected to be an essential part of it. Media cross the defining track of control which stemmed assault on occupations of other structures of equality particularly judiciary.

Partial and imprecise recording of undecided cases harmfully disturbs the illegal justice management in India. The medication in contradiction of such an action is the Section 2 of Contempt of Court Act 1972. The Contempt of Court Act defines disdain or contempt as both civil and criminal. In *M.P. Lohia V. State of West Bengal* the Supreme Court powerfully denounced the broadcasting for snooping with the management of reasonableness by printing biased articles poignant on qualities of cases awaiting in the Court of law.

The regulation of contempt or disdain of court is one of the reason for rational restraints under Article 19(2) to the liberty of communication and appearance. Contempt or disdain of the court in civil matters, denotes to the wilful noncompliance to any ruling or command of a court of law and on the other hand, contempt of court in criminal matters, is a wrongdoing under Section 2(c) of the Contempt of Courts Act, 1971, and is carrying a punishment of a custody up to six months. It is well-defined as the issuance of any case which sinks the power of any court of law, or outrages or inclines to outrage, preconceptions or inclines to preconception, or hinders or inclines to hinder any legal reports, or the management of integrity{Formatting Citation}.

In India, the court of law has the authority to permit an injunction or restraint order on the pre-publication of the matters or cases which are yet to be heard by the court of law. The test of inevitability and proportionateness has to be fulfilled afore ordering delay of publication. Furthermore, the restriction order must only be delivered if rational substitute approaches or procedures would not avert the supposed danger. Beforehand aeration any section of the story relating to the complainant, the perpetrators shall provide the complainant an inscribed notice, by electrical mode, requesting for his description. If the complainant declines or make sure of not answering within a rational period, he will not be forced to express and the story or particulars of the case will be exposed, by the media personnel, in altogether different manner, with the revelation that the complainant has rejected to express to shield or protect his or her rights.

Mass media acquires liberty of press under Article 19(1) (a) of the constitution of India which offers for liberty of communication and expression ,by the quality of this liberty mass media goes on broadcasting the bulletin and publication of the articles centered or revolves around the discussion or interaction with the eyewitnesses and other related or concerned parties concerning the matters of the case which are impending in front of the court of law and by doing this, the mass media can cause intervention of undue or unwanted nature to the case and disturb the management of integrity which directly leads to the lapse or failure of justice.

Mass media in some of the delicate issues or cases, by way of leading the investigations or examinations and constant broadcasting of the bulletin can generate so much of publicity of the concerned matters or case in hand, that can surely be the reason behind the preconception or assumption and cause the management of justice which will result into to failure of justice, hence, it is advisable that, the magistrate must be unbiased or neutral and shall pass the decision or judgment only on the basis of the realities and the proof presented in front of the court of law, but the publicity generated by mass media plays with the mind of magistrates and can create an influencing impact, which may compel or force the magistrate to declare the decision contrary to the defendant even though the defendant is guiltless.

The hearing by mass media will have outcome on magistrates if the declaration or broadcasting of bulletin information by mass media are erroneous which can bring partiality in the notice or thoughts of magistrates and that may result to failure of integrity, intrude or intervene with management of integrity and result in the conventionality of magistrates.

Trial by media, surely creates an influential impact on the accused. If the mass media targets a suspicious person involved in any illegal act or the suspects adjudging that whether he or she has committed an offence and pronounced him guilty before the verdict of the court, violating his right of free trial, such sort of an act can cause a dreadful impact on the life of an innocent victim.

Even if eventually the individual is innocent or cleared from all charges framed against him or her after the due procedure or course of hearing of matter in the court of law, such a discharge or release would not

benefit the suspect to recreate his ruined image or appearance in the society. Excessive or exaggerating advertising or promotion in the mass media or broadcasting industry portraying him as an individual who certainly performed an illegal act or crime, amounts to or results in unwarranted intrusion with the “management of integrity”, vocation for proceeding for disdain of court of law in contrast to the mass media.

Trial by media, surely creates an influential impact on the Witnesses too. If the individuality of eyewitnesses is distributed or circulated amongst the community of crime, there surely exist the danger or life threat upon the eye witnesses, they also face pressure and threat from the police authorities too, in order to take back their complaint, in order to leave the culprit empty-handed. Such sort of pressure or threat is sometimes not tolerated by them and they often tend to take back their complaint. Hence, at that sort of time, protection and safety of the eye witnesses becomes the top most priority. Moreover, such sort of an action, during the trial in front of the court often tends to result in the increase in the numbers of hostile witnesses, which ultimately leads to miscarriage of justice, which all together goes against the victim and in favour of the offender, which gives them window to often commit the crimes freely without any fear of judicial system.

Trial by media, surely creates an influential impact on the magistrates and the court of law. Magistrates are not protected or safe from criticism or disapproval. But it is for concern when criticisms of them are ill-informed or entirely without foundation, and may have a tendency to undermine public confidence in judicial institutions. A Magistrate is to act as a protector of himself contrary to such burdens and pressures. A mass media publication or broadcasting of the news can unintentionally create an impact or can influence Magistrates or Adjudicators and whether Magistrates, as human beings are not vulnerable or inclined to such unforeseen or unpredictable impacts and influences.

### CONCLUSION & IMPLICATION

As discussed above, there are four different pillars of democracy, having individual duties and responsibilities, and they must support each other and perform their functions while complimenting each other, but do not interfere between each other, otherwise democracy will tend to fall, if its pillars do not function properly.

Out of the four major pillars of democracy, i.e. judiciary; executive; legislature and media, the pillar of judiciary and media, plays a vital role in handling the Indian democracy, and these pillars should perform their duty independently, while complimenting each other, and should not act as or cause any sort of hindrance or barrier between each other.

Each and every single pillar of the democracy, has their own functions and duties to perform. The democracy will remain intact in its position, when these two vital pillars of the democracy will work simultaneously and not together. The judicial pillar of the democracy should not get influenced or get carried away by the vision of media, and vice-versa, the media pillar should not get inclined by the decision of judiciary.

Liberty of communication and manifestation is an imperious right in every egalitarian society. Mass media also appreciates the similar right in an extensive standpoint, they use the same for the improvement of the civilization. In a reasonable atmosphere, the members in the mass media business attempt their level best to entice more spectators and bibliophiles. They go outside sheer or plain particulars of the case and declarations and use many advanced methods.

Exaggerating bulletin is not a novel occurrence but presumptuous themselves in the part of police force and magistrates by inquiry, gathering the proof and building a pronouncement is a main fear. When a lawbreaking act is dedicated it is apprehended that something has been done which is causing a major concern to the society and henceforth state comes straightaway as the appellant and continues with the matter or case in front the court of law.

### REFERENCES

- [1] S. Singh, “MEDIA TRIAL AND THE FREEDOM OF SPEECH AND EXPRESSION UNDER INDIAN CONSTITUTION: A STUDY,” *Int. J. Inf. Mov.*, vol. 1, no. 5, 2016.
- [2] A. Ray and A. Dutta, “Media Glare or Media Trial,” *Online J. Commun. Media Technol.*, vol. 5, no. 2, 2015.
- [3] D. Singh and Shashank Singh, “Media Trial: Freedom of Speech VS. Fair Trail,” *J. Humanit. Soc. Sci.*, vol. 20, no. 5, 2015.