

MEDIA TRIAL- A PREJUDICE TO THE JUSTICE SYSTEM

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ABSTRACT

Media has conducted several media trials in which the case is still pending to be decided by the court but media portray the accused of such cases in public in the way that they are the actual culprits due to which the right of the accused of a fair trial vide Article 14, 20, 21 and 22 of constitution of India is jeopardized. Media announces the accused in such cases to be a criminal in which the judgement is yet to be announced by the court. Attempts have been made by the Legislature and the judiciary to draw a line between each other so the judiciary and the media could work with each other in the best way possible and in the best interests of the Justice. Through this paper an attempt is made to put light on the events when the media has made attempts to jeopardize the justice system and draw attention on the measures available to stop such attempts.

Key words: Media, accused, Fair trial, Freedom of Press

i. INTRODUCTION

A common universally recognised principle of law is that the judges at the time of conducting their judicial responsibility must be free from all fear, pressures, and favours, the jurisprudence of this principle is that hundred guilty escape from the justice but one innocent should not suffer and not only the innocent accused will suffer but with the innocent accused the family and his dependants will also have to suffer.

Court after making inquires and investigations collect and examine and cross examine the evidence and only after critically analyzing all the facts and circumstances of the case announce their judgements whereas the media reporters and the journalists in order to increase the TRP of their channels and Newspapers to keep their bosses happy, publish such statements that the opinion towards the accused gets effected. The media should understand that with the bigger power comes bigger responsibility so they should not misuse their rights given to them by our Constitution of India as the freedom of speech and expression under Article 19 (1) (a) to degenerate the image of the litigants, the press should understand that such public statements form a public opinion and also such statement subconsciously pressurize the judiciary to take decision against the accused and even if after analyzing the circumstances the judgement is given in favour of the accused, his reputation is destroyed in the society due to which the accused face consequences .

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Media, in cases of public importance, and in the high profile matters in order to increase TRP and Sales of the electronic and print media channels conduct private inquiries in the subject matter and publish such statements that effect the concerned persons and a public opinion is formed.

In case of **R.K Anand Vs. Delhi High Court**³ the Supreme Court said “the impact of television and newspaper coverage on a person’s reputation by creating a widespread perception of guilt regardless of any verdict in a court of law. During high publicity court cases, the media are often accused of provoking an atmosphere of public hysteria akin to a lynch mob which not only makes a fair trial nearly impossible but means that regardless of the result of the trial, In public perception the accused is already held guilty and would not be able to live the rest of their life without intense public scrutiny..”

Presumption of innocence is a legal principal that means every accused is to be presumed as innocent until his guilt is proved, the said principle should not be destroyed at the very threshold by the media and too when the investigation is pending, in such case of violations of the very basic rules of law it is clear violation of the fundamental right of the accused guaranteed under Article 21 of the Constitution of India.

In case **Zahira Habibullah Shiekh v. State of Gujarat**⁴ the Supreme Court explained that a ‘Fair Trial obviously means a trial before an impartial judge, a fair prosecutor and atmosphere of judicial claim. 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. The media print or electronic is a very important part of a democracy, as media is the fourth pillar of democracy, on media relies the responsibility to inform people and keep them knowledgeable so to make them enable to be a part in the development of the nation.

“Chief Justice Misra while handling the defamation case of Jay Shah, son of BJP President Amit Shah said “I don’t want to name any particular electronic media, but the way things have been vilified, it is not responsible journalism” He did not name the offender but referred to it while hearing the petition. The Chief Justice observed, “The electronic media and websites require being extremely careful. However, question of gagging the media does not come at all. I have myself rebuffed all attempts to gag the media, but we do expect the media, especially electronic media, to become more responsible journalism, they cannot publish anything only because they have some websites.” He added “it is not the culture of journalism to write anything and get away with it only because it is published on a website, Are they free to write anything? What they write sometimes is sheer contempt of court. You cannot reproduce anything that comes to your heart and mind. There has to be some basis.”⁵

IMPACT OF MEDIA TRIAL

A lot of times the question regarding the trial conducted by media have been raised before the courts for consideration whether this action of media is legally valid or not?

³ 2009 (8) SCC 106 at page 198

⁴ 2006 3 SCC 374

⁵ Article ‘Media and the Judiciary’ published on www.frontline.thehindu.com

In the case of **State of Maharashtra v. Rajendra Jawanmal Gandhi**⁶ the Supreme Court held that a trial by press, electronic media or public agitation is very antithesis of rule of law. It can well lead to miscarriage of justice. Whereas in the case of **Indian Express Newspapers (Bombay) (p) Ltd vs. Union of India**⁷ It therefore received a generous support from all those who believe in the free and flow of the information and participation of the people in the administration; it is the primary duty of all national courts to uphold this freedom and invalidate all laws or administrative actions where interfere with this freedom, are contrary to the constitutional mandate.

Separation of the judiciary, executive and the administrative has been always a feature of our Constitution of India which prohibits any interference with the judiciary, . In the case of

D.C Saxena vs. Hon'ble Chief Justice of India⁸ it was held that the Protection of Articles 124 [1], 121, 211, the judicial Officers Protection Act, and the Judges (Protection) Act are to ensure the independence to the judiciary. Threat to judicial process is a challenge to the authority of the court or majesty of the justice. It would be ex party contumacious conduct.

DOES THE MEDIA TRIAL AFFECT JUDGES CONCIIOUSLY OR SUBCONCIIOUSLY?

55. This fact that the judges too are subconsciously influence by several forces was recently recognised by the Delhi High Court in the case relating to ban on documentary 'India's Daughter' The Hon'ble Judges while dealing with the case relating to airing of controversial documentary on December 2016 Gang Rape observed that Media Trial tends to influence judges by subconsciously creating a pressure. The bench of Justices B.D Ahmed and Sanjeev Sachdeva had observed that although they were prima facie not opposed to airing of the documentary but it should be released after, the Supreme Court decides the appeals of the convicts in the matter. They Observed "Media trials do tend to influence judges. Subconsciously a pressure is created and it does have an effect on the sentencing of the accused/convict."⁹

MEASURES TO PROTECT JUSTICE SYSTEM

A) Freedom of Press and Freedom of Speech and Expression

The judiciary is a very important organ that is responsible for the implementation of the law of the nation where as media is a powerful organ and works as a information delivery system, the electronic and print media has been provided with the protection of freedom of speech and expression as a fundamental right under Article 19(1) (a) of the Indian Constitution¹⁰. Freedom of press is a well settled part of the freedom of speech and expression under Article 19 (1) (a) therefore freedom of press is also a part of the basic structure of the constitution. Freedom of Press is considered to be of utmost importance without which a Democracy could not survive. Without free and independent opinions, discussions, debate, and thoughts there is no meaning to a democracy. The fundamental right of Freedom of press is not absolute and is subject to certain restrictions under Art 19 (2) of the constitution of India. in the interest of the

⁶ 1997 (8) SCC 386

⁷ 1985 1 SCC 632

⁸ 1996 5 SCC 216

⁹ Ashok Sigh Rana vs. M/S Zee Television Ltd on 23 January, 2016

¹⁰ Article 19, Constitution of India

Sovereignty, Integrity of India, the security of the State, friendly relations with states or public order, decency, morality, or in relation to contempt of court, defamation or incitement to an offence” reasonable restriction can be imposed on the press.

B) Contempt of Court

A need for safeguarding the status and dignity of courts and interest of administration of justice was felt and the Contempt of Court Act, 1971 was passed and received the President’s assent on 24th December 1971. The existing law on the contempt was somewhat uncertain, unsatisfactory due to which the aforesaid Act was passed. The Present law on Contempt. In case of **Brahma Prakash Sharma and ors. Vs. State of Uttar Pradesh**¹¹ it was observed that the object of contempt proceedings is not to afford protection to judges personally from imputations to which they may be exposed as individuals, but is intended to be a protection to the public whose interest would be very much affected if, by the act or conduct of any party, the authority of the court is lowered and the sense of confidence which the people have in the administration of justice by it is weakened. When the court itself is attacked, the summary jurisdiction by way of contempt proceedings must be exercised with scrupulous care and only when the case is clear and beyond reasonable doubt.

C) 200TH Report On Trial By Media Free Speech and Fair Trial Under CrPC, 1973.

The 200th Law commission report mainly focused on the impact of the media both electronic and print on the suspects, accused, witnesses, judges and on administration of justice. The contempt of the criminal proceedings under Crpc and the criminal contempt have been scrutinized, The reference of the Report of the Sanjay Committee was made, The report recommended to add human rights, Constitutional Law, law of contempt to be added in the syllabus of journalism and also for the training of the journalist on the Right of freedom of speech and expression and the restrictions which can be laid down under Art 19 (2) of COI, The report was divided into 10 chapters in which the purpose and importance for implementation for Human rights, The Madrid Principles on the Relationship Between the Media and Judicial Independence (1994), Importance of Freedom of Justice, Importance of Free and Fair Trial were explained. An attempt to provide remedy for the interference with justice system was made and an amendment of the contempt of court (amendment) Act, 2006 was introduced.

D) CONCLUSION

In this era of electronic and print media, a safeguard for the protection of independence of judiciary and fair trial is the need of the hour. There must be proper training guidelines and code of conduct for the media so; it can be restrained to put the Right of fair trial of the accused in jeopardy. “Any wrongful message published in the media, regarding the court proceedings and judge’s opinion, will certainly decrease the credibility of the judiciary in the society and hence the media should not be permitted to publish the court proceedings and judges opinion regarding the pending cases in their own interpretation and if the media wants to publish the court proceedings and judge’s opinion in a pending case, there must be some procedures to be followed.”¹²

¹¹ 1954 SCR 1169

¹² Venjaramoodu M. Ziyad vs. Union of India on 7 April, 2011