



ILE

LAW AND JURISPRUDENCE

VOLUME 1 AND ISSUE 1 OF 2023

INSTITUTE OF LEGAL EDUCATION



## ILE LAW AND JURISPRUDENCE

APIS – 3920 – 0044 | ISBN – 978-81-964391-3-2

(Free Publication and Open Access Journal)

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

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

Volume 1 and Issue 1 (Access Full Issue on – <https://ij.iledu.in/category/volume-1-and-issue-1-of-2023/>)

### Publisher

Prasanna S,

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

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

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## CONSTITUTIONAL VALIDITY OF MEDIA TRIALS IN INDIA WITH AN COMPREHENSIVE STUDY OF IT'S IMPACT ON INDIAN JUDICIAL SYSTEM

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**Best Citation** – NAFIZ NASRIN, CONSTITUTIONAL VALIDITY OF MEDIA TRIALS IN INDIA WITH AN COMPREHENSIVE STUDY OF IT'S IMPACT ON INDIAN JUDICIAL SYSTEM, *ILE LAW AND JURISPRUDENCE (ILE LJ)*, 1 (1) of 2023, Pg. 22-26, APIS – 3920 – 0044 | ISBN – 978-81-964391-3-2.

### **ABSTRACT**

*Media is the fourth pillar of democracy. In democratic country the right to freedom of press guaranteed by the Indian constitution, media considered as a Janta Adalats or public court every step of media impact the societal structure where every publication of media every media coverage influence a large audience. Media act as a medium where every aspect is discussed in front of the audience but now a days media try to sensational news for catching the public attention they start publishing their own interpretation of facts and opinion and give their parallel decision in any cases this media trial hampered the judicial proceedings and investigation procedure and authorities. Hence this media coverage via television and newspapers on an individual it creates a perception of innocent or guilty even before the court of law announced the judgement it's called media trail or trail by media. Although Article 19(1)(a) guaranteed the right to freedom of speech and expression and freedom of press fall within the ambit of this article but on the same hand Article 21 guarantees Right to fair trail to every citizen of India and fair trial is a basic tenant of Justice system. Right to freedom of press and the right to fair trail both are the essential rights in a democratic country, this two rights need to be balance and maintain by the law. Media has the right to published news and questioning to any injustice occur but the media should know their limits and according article 19(2) this right can be restrained by law only in the interests of sovereignty and integrity of India. No rights can not be used as an absolutely in nature if the rights hampered the interest of the state.*

**Keyword** – Article 19, Article 21, Freedom of Press, Right to Fair trail, Constitution, Media Trial.

### **INTRODUCTION**

Media refers to various means of communication, the word 'Media' derived from the word medium, it's signifying mode or carrier. The role of media is to address a large target group or audience. Previously the word media was used in respect of books and newspapers. But with the advent growth of technology media now encompasses television, movies, radio and internet. In today's generation media plays an essential factor and becomes an important part of our daily needs. Media act as an public interest against malpractice and create awareness amongst public. The essence of

media in a democratic society plays an significant role. Media consider as a fourth pillar of democracy. Media acts as a watchdog over the government, reporting all It's action to the public, the real sovereign. However, with time, the cut-throat competition houses has changed the very paradigm of information dissemination. Now media houses are reported or produce untrue news for catching the public attention the media selling sensational news which might as well be modified to appear sensational and not on true reportage. Media trails, It's a form of unethical journalism. Trial is an essential process to be carried out by the courts but the trail by media definitely an undue



interference in the process of Justice delivery. Trial is an essential component on any judicial system that the accused should received a fair trail. India is a democratic country here people are getting curious to know about the sensational and high profile cases, people try to collecting information by through of media and in this process media by publishing their own various of facts in the source of newspaper, news Websites, and news channel pour water on the people thirst for these sensational cases and this process known as investigative journalism It's is permissible in India but the power of influence and revolutionizing the mass or the audience in creating perception against a guilty or innocent mind is known media trial. This media trial create huge problem not legally but also in political scenario it converted the layman from legal track. The freedom of the press is a part of democracy in any country but at the same time the right have fair trail it is a basic right given to every accused and the victim it is a basic pillar of Justice.

### **HISTORY OF MEDIA TRIALS**

If we talk about the history of media trials we need to goes back to the 20<sup>th</sup> country. In the case Roscoe fatty Arbuckle 1921 in this case because of media trial he lost his job and all his reputation due to media declared him guilty. Also in O.J. Simpson case where media influenced the mind of the audience much above the status of the court. Another interesting case we found Rodney King incident where subsequent trials of the police officers involved and once again an acquittal was challenged by media reporting here particularly important is the fact that the video footage which provided the key evidence of perceived guilt. Even where a criminal court finds somebody guilty but the media can still appear to sit in judgement over their sentence.

All the coverage made by media always impact on the audience and the viewers and any untrue information by media destroy anybody's life. Media should come up with true and genuine facts for the betterment of the society

It's a duty of media to promote true news to the audience.

### **CONSTITUTIONALITY OF MEDIA TRIALS**

In constitutional aspect the freedom of speech and expression also right to fair trail guaranteed by the Indian constitution.

#### **Freedom of press**

Article 19 of the Indian constitution gives the right to freedom of speech and expression according to article 19(1) every citizen have the right to frames an opinion, beliefs of society on social political and economic matters. Therefore freedom of speech and expression it's a principle of all liberties as it permits to place his opinion. In India there is no separate recognition of freedom of press unlike other countries such as United States of America but the freedom of press this right us covered under the freedom of speech and expression which is guaranteed by the article 19 of the Indian constitution.

In the case Indian Express Newspaper Ltd. v. Union of India, in this case supreme court held that freedom of press act as a heart of social and political intercourse. The press plays an important role as a public educator by providing formal and non formal education on a large scale in a developing country. The purpose of the press to act as an public interest by providing facts and opinion, the fair reporting by media plays an important role without which a government can not make reasonable judgement.

Another statement of the Supreme court in the case R. Rajgopal v. State of T.N where court stated that the freedom of press extended to cases where public figures, public issue, events are involved but there should be proper balancing the freedom of press and right to privacy of people.

In various judgment made by the Supreme court it can be said that freedom of press follows the freedom of expression which is



guaranteed by article 19(1)(a) of the Indian constitution.

### **MEDIA TRIAL VS FAIR TRIAL**

Media trials always given rise to problem and creates tug of war between two different principle which are the free trial and free press in both of which the public are interested. The freedom of press it is an democratic right in country this justification given to investigative journalism. But on the same time the right to fair trial it is a basic right in a justice system this right given it every accused and victim and it is a basic tenant of justice.

Media rights recognized as one of the fundamental right in the view of article 19(1)(a) of Indian constitution and also in the view of article 21 of the constitution the defendant is subjected to counterclaim against the fundamental right to continue free and fair trial. And both this right should be balanced and court should came up with appropriate guidelines for media reporting. Article 129 and Article 125 of constitution and the Competent Courts Act, 1971 aims to safeguards the right to fair trail. There is a need to maintain a balance between article 19 and article 21 because these rights contents equal weight. The restriction imposed on media regarding the discussion and publications of matter which are still pending before the court.

In the case *Zahira Habibullah Sheikh v. State of Gujrat* where the Supreme explained that fair trail means a trial before an impartial judge right to fair trial is an absolute right of every individuals within the territorial limits of India through Article 14, 20, 21 and 22 of the Indian constitution. Right to fair trial is more important because it is an absolute right which is guaranteed by article 21 read with article 14. Although the fundamental right to freedom of speech and expression guaranteed the article 19(1)(a) but in accordance with article 19(2) this right can be restrained by law only in the interests of sovereignty and integrity of India.

### **MEDIA TRIAL FALLS WITHIN THE AMBIT OF CONTEMPT COURT**

The right to fair trial always need to uninfluenced by any newspaper, publication or even the headlines of the news but the news channel sometimes goes against the ethical code of contempt by making untrue and fact less news against the victim and destroy their career and they portray him an evil introns of large audience by producing their news or by reporting their news. The media should be fair and transparent in front of people and they should came with factual opinion but because of such act of media the concept of democracy is at stake they attempt to sabotage other pillar of democracy. That's why media trial falls within the ambit of contempt of court. Thus it should be made punishable.

*M.P.Lohia v. State of West Bengal*, in this case media published one sided article and infringing with the administration of Justice and this articles touching the merit of the cases pending in the courts. When a case has reached the court then no one is allowed to publish their own various of facts about the case and violation of this rule amounts to contempt of court. Now many discussion arise that whether this approach of law is inconsistent with the constitutionally guaranteed right to freedom of speech and expression. But we can in constitution article 19(2) expressly save the operation of law of contempt of court. According to section 2(c) of the contempt of court, 1971 criminal contempt is punishable by imprisonment of up to 6 months and also it stated that publication of any matter which lowers the authority of any court or obstruct any judicial proceedings it's punishable and fall within the ambit of contempt of court.

### **IMPACT OF MEDIA TRAILS ON JUDICIARY SYSTEM**

There's right or no power given to the media to try a case, when case formerly going on in the court at certain case intelligencer portrays a pre – decided image of an indicted thereby it



ultimately affected the indicted character as well as the judgement. In India there have been several cases where media taken the case into their own hands and they declared judgement against an indicted and contrary to fair trails in court. This media trail hampered the judicial proceedings. lately we show the sensational case of the Bollywood actor Sushant Singh Rajput the media has recited the entire case or story of the late actor's death in similar manner to induce the general public to believe of the complexity of the person indicated. Media has published information grounded on bare hypotheticals and dubitation about the line of disquisition by the officer's agencies and similar reporting has brought an overdue pressure in the course of fair disquisition and trial. The media conducting their resemblant disquisition and trial by their own and creating o pressure on the disquisition agencies. In this case the court asked if the current media was enough to maintain a balance between the right to freedom of speech and expression and the right to fair trial and character in this environment the court stated that in the present case of Sushant Singh Rajput substantial damage has been caused to the character of the person so called involved in the case. Media trial on an ongoing proceeding, when a media sensationalizes a case this give rice to the substantiation a trouble to his life also this media trial infringed the right to sequestration guaranteed under composition 21 by the constitution also this media trails to have an impact on the functioning of the adjudging authority in the case of K M Nanavati where the media had overemphasized the story portrayed the indicted as the victim rather and this recited by media had impact the jury members and which led them to decide in favor of the indicted.

### **LAWS GOVERNING MEDIA TRIALS**

#### **PCI ACT**

Section 13 of The Press Council of India give regulation to maintain and ameliorate the standard of Indian review, according to this

section Indian review reporting should review any material which is reported by any review.

#### **CTVN Act, 1995 and Rules 1994**

This act regulates which type of programs should be broadcasted and under section 19 and 20 of this act enjoin prohibits certain programs which hampered the public interest and TV network altogether to maintain public decency and morality.

#### **Sections 124A, 499 and 505 of IPC**

Media trials can be regulated in cases where the publications fall under section 124A of the IPC also committing any offence of felonious vilification through any publication it's punishable under section 499 of IPC and according to section 505 where any publication with intend to beget any person of fortified forces to fall his duties or inseminate fear in public to commit acts against the state or public tranquility this offence fall within the dimension of this section.

#### **Article 14 and 21 of the Constitution**

Article 14 empowers the equivalency before the law and equal protection of the law and composition 21 provides the right to life

### **CASE LAWS OF MEDIA TRIALS**

#### **Sheena Bohra Murder case:**

In this case Indrani Mukherjee was arrested for the murder of Sheena Bora in the time of 2002 but according to Indrani Mukherjee, Sheena was the son not the family, but the media stressed the case and said that indeed after the arrest of Indrani Mukherjee she noway accepted that she had two children and also media claiming Sheena as her family and also the murder brought into light the murky fiscal dealings of indra Mukherjee and her hubby petter Mukerjee they successfully manipulated data and there was no trail initiated against them. A fresh debate were conducted in the murder trail issue of the indicted.



### **Jessica Lal Murder Case:**

Jessica Lal who was working in a eatery which was possessed by swell Bona Ramani in Mehrauli in south Delhi, Jessica Lal was shot dead by Manu Sharma who's the son of congress former union Minister and this case catch media attention and this case got the public attention and came one of the top cases where the public pressure and media impelled the Justice system to take a alternate to look at the case.

### **Mukesh v. State (NCT of Delhi):**

This is a veritably notorious case where a 23 time old girl being severely ravished and was tortured and beaten in a private machine in which she was travelling with her manly musketeers. Including the motorist and six men on the machine who ravished her and beat her friend, since the laws in India don't permit the press to reveal the name of the victim due to so important outrage in the media multiple emendations made in the laws including the juvenile Justice act.

### **CONCLUSION**

There have been various instance where media has been blamed and accused of the trail of the accused before the judgment is passed by the court. Media trial hampered the judicial system by way of publishing reports news and making their own parallel decision impact on the investigation process and authorities. The media influence have the positive and negative impact on the society publishing untrue news and giving their own decision divert the audience and creating pressure on the jury which lead to wrong judgement. The courts should not grant free hand to the media in the court proceedings as they are not same event of the spot.