



ROLE OF MEDIA IN CRIMINAL JUSTICE SYSTEM SPECIAL EMPHASIS ON SUSHANT SINGH'S CASE

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1. Abstract

In influencing the view of society, media plays a crucial role and it is capable of shifting the entire perspective from which people interpret different events. It is important to condemn heinous crimes and the media will be justified in calling for prosecution of the offenders in compliance with the law. The media should not, however, usurp the judiciary's duties and deviate from impartial and balanced reporting. While a media shackled by government legislation is unhealthy for democracy, the repercussions of continued unaccountability are far more harmful. Steps need to be taken to avoid media trials from eroding citizens' civil rights, by giving the media a clearer understanding of their rights and responsibilities, and by giving the courts the power to prosecute those who flagrantly violate them.

2. Introduction

One of the four pillars of democracy is considered to be the media. In influencing the view of society, media plays a crucial role and it is capable of shifting the entire

perspective from which people interpret different events. It is possible to applaud the media for beginning a trend where the media plays an active role in hooking the accused. The emergence of cable television, local radio networks and the internet has greatly enhanced the scope and influence of the mass media, especially in the last two decades. As well as the numerous vernacular languages, the circulation of newspapers and magazines in English has also been steadily increasing in our country. In conjunction with the use of modern news gathering technology, this ever-expanding readership and viewership has provided media organisations an unparalleled role in shaping public opinions. Media freedom, however still requires a certain degree of liability.¹

In a democracy, the power and value of the media is well known. Article 19(1)(a) of the Indian Constitution, which grants freedom of speech and expression, covers freedom of the press within its scope. The existence of a free, independent and powerful media, especially in a highly mixed society like India, is the cornerstone of democracy. Not only is the media a forum for sharing one's thoughts, thoughts and opinions, but it is also responsible and influential in generating views and opinions on various regional, national and international agenda topics. The main function of the media is its ability to mobilise millions in the thought process. "In the words of Justice Learned Hand of the United States Supreme Court, the increased role of the media in today's globalised and

¹ <http://www.civilservicetimes.co.in/editorial-current-national-issues/416-trial-by-media-looking-beyond-the-pale-of-legality-.html> (last visited on 21/10/2014 at 00:08)



tech-savvy world was appropriately positioned when he said, "The hand that rules the news, the radio, the screen and the wide-spread magazine rules the country".²

Democracy, a structure which has three strong foundations, is the rule of the people. However as Indian society has become somewhat shaky on its three legs today: the executive, the legislature and the judiciary, the guarantee provided for in Article 19(1)(a) has given rise to a fourth pillar known as the media or press. It plays the crucial role of a conscious keeper, a watchdog of society's functionaries and seeks to fix the wrongs of our culture by bringing them to everyone's attention, hoping for correction. It is indisputable that the unprecedented media revolution has contributed to great gains for the general public in many ways. Even the judicial wing of the state has gained from the ethical and fearless journalism and taken suo-moto cognizance of the matters in different cases after depending on their findings and news highlighting gross violations of human rights.³

There are still two sides of a coin, however. The need for their transparency and professionalism in reportage cannot be adequately stressed with this increased position and significance attached to the media. In civil society, in all cases, no right to freedom, no matter how precious it may be, can be considered total, limitless, or unqualified. As any other right acknowledged under the Constitution, the freedom of the media has to be exercised within acceptable limits. Great responsibility arrives with great strength. Similarly, the

freedom provided for in point (a) of Article 19(1) is associated with the commitment not to break any statute.⁴

Media outlets often shift to the distortion of reality and sensationalisation in an increasingly competitive market to catch the interest of viewers and readers. The use of invasive newsgathering methods that aim to obstruct the privacy of the individuals subject to such coverage is often motivated by the pursuit of commercial interests. The problem seeks its worst expression when sub-judice problems are widely addressed by the media by reporting facts and views that are obviously adverse to the interests of the parties involved in litigation pending before the Courts.⁵

Sensationalized news stories circulated by the media, however have increasingly gnawed at the assurances of a right to a fair trial and posed a significant threat to the presumption of innocence. Moreover the omnipresent power of the press is gradually proving damaging to the judiciary's independent decision-making process. It is not possible to justify such news stories conveniently under the auspices of freedom of speech.⁶

Every institution is responsible for violence, and if left unbridled, every right has the tendency to become a licence that would lead to chaos and anarchy. That's the threshold we are standing on today. In an attempt to improve their Television Rating Point (TRP) ratings, television networks turn to sensationalised journalism in order to achieve a competitive advantage over others.⁷

² Right to Privacy in Sting Operations of Media

³ *Ibid*

⁴ *Id*

⁵ *Supra* note 2

⁶ *Ibid*

⁷ *Supra* note 3



There have been several cases in recent times in which the media has held an accused's trial and has passed the verdict well before the court passes its judgement. The *Priyadarshini Mattoo case*, *Jessica Lal case*, *Nitish Katara murder case* and *Bijal Joshi rape case* are some prominent crime cases that would have been unpunished but for media intervention. However the media drew flak in the reporting of Aarushi Talwar's murder when it pre-empted the court and claimed that her own father, Dr. Rajesh Talwar, and probably her mother, Nupur Talwar, were involved in her murder.

3. Impact of Media Trials

Media Trials v. Freedom of Speech And Expression

In the development of public opinion on social, political and economic issues, freedom of expression plays a crucial role. Similarly, people in power should be able to keep people aware about their policies and programmes, because freedom of speech can be said to be the mother of all other freedoms.⁸

Venkataramiah, J. Keeping this opinion in mind In **Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India**,⁹ the Supreme Court of India stated:

"freedom of press is the heart of social and political intercourse. The press has now assumed the function of public education to make formal and non-formal education possible on a large scale, particularly in the

developing world, where all parts of society do not yet have access to television and other forms of modern communication. The aim of the press is to promote the public interest by publishing facts and opinions that cannot be kept accountable by a democratic electorate [the government]. Newspapers that are sources of news and viewpoints that have an impact on public administration very frequently contain content that governments and other authorities may not like.

The above statement of the Supreme Court illustrates that the freedom of press is essential for the proper functioning of the democratic process, says India's Supreme Court.

The Supreme Court affirmed in **Printers (Mysore) Ltd. v. CTO**¹⁰ that while freedom of the press is not explicitly guaranteed as a constitutional right, freedom of speech and of expression is implied. In all democratic countries, freedom of the press has always been a cherished right and the press has been rightly defined as the fourth chamber of democracy.¹¹

The Supreme Court of India has held in **R. Rajagopal v. State of T.N**¹² that press freedom applies to an uninhabited discussion on the role of public figures in public issues and events. However as far as their private lives are concerned, in terms of the democratic way of life laid down in the Constitution, a careful balance of press freedom as well as the right to privacy and retained defamation must be carried out.

In view of the observations made by the Supreme Court in various judgments and the

⁸ Freedom of Press in India: Constitutional Perspective

⁹ (1985) 1 SCC 641 at p. 664, para 32.

¹⁰ (1994) 2 SCC 632

¹¹ Indian Express Newspapers (Bombay) (P) Ltd. V. UOI, (1985) 1 SCC

¹² (1994) 6 SCC 632



opinions expressed by different jurists, it is also clear that freedom of the press arises from the freedom of speech granted to all people by Article 19(1) of the Rules of Procedure (a). The press has no greater standing than any other person and does not assert any right as such (unless expressly granted by law), as distinct from that of any other citizen. No special restrictions which cannot be placed on any citizen of the country may be imposed on the press.

Media Trial v. Fair Trial

Freedom of the press stems from the right of the public in a democracy to be involved on the issues of the day, which affect them. The "Right to Fair Trial" is recognized as a basic tenet of justice in India. Journalists may be liable for contempt of Court if they publish anything which might prejudice a 'fair trial' The right to a 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. Right to a fair trial is absolute right of every individual within the territorial limits of India vide articles 14 and 20, 21 and 22 of the Constitution. The right to freedom of speech and expression is contained in article 19 of the constitution.¹³

4. International Conventions on Fair Trials

UN Basic Principles on the Independence of the Judiciary states that the judiciary is required to ensure that proceedings are conducted fairly. The ICCPR acknowledges that the right to a public trial is not absolute and that certain limitations on public access

are necessary. Freedom of expression is also a fundamental part of a democratic society. Under Article 10 of the European Convention on Human Rights, freedom of the press is paramount.¹⁴

POSITION IN USA:

In the case of **Billie Sol Estes**¹⁵, the U.S. Supreme Court set aside the conviction of a Texas financier. Court laid down a rule that televising of notorious criminal trials is indeed prohibited

In another case of **Dr.Samuel H.Sheppard**¹⁶, the Court held that prejudicial publicity had denied him a fair trial. Referring to the televised trials of Michael Jackson and O.J.Simpson, Justice Michael Kirby stated:

“The judiciary which becomes caught up in such entertainment, by the public televising of its process, will struggle (sometimes successfully, sometimes not) to maintain the dignity and justice that is the accused’s due. But these are not the media’s concerns. Jurists should be in no doubt that the media’s concerns are entertainment, money-making and, ultimately, the assertion of the media’s power.”¹⁷

POSITION IN UK:

In England, too, in the celebrated case of Attorney General v. British, the House of Lords

¹³ Supra note 2

¹⁴ As well as Article 10 of the European Convention on Human Rights (ECHR).

¹⁵ Estes v. Texas 381 US 532 (1965)

¹⁶ Sheppard v. Maxwell 346 F.2d 707 (1965)

¹⁷ Supra note 3



Broadcasting Corporation (BBC)¹⁸ acknowledged that, despite the assertion of judicial dominance over human frailty, media trials influence the judges and it was noted that a man would not be able to put out of his mind what he has seen, learned or read completely and that he may be subconsciously influenced by it. In order to deal with the cases, the Courts and Tribunals have been expressly set up and have experience to determine the issues according to the process defined by the statute. The trial of the media is much like the award of a sentence before the first instance of the verdict. The court held that it is necessary to understand that the roles of the courts in a democratic society cannot be usurped by any other authority.

POSITION IN INDIA:

Similarly, there have been a multitude of cases on the subject in India. Comments from the Delhi High Court in the case of **Bofors or Kartongen Kemi Och Forvaltning AB and Ors. Vs. State**¹⁹ via CBI is very critical, as the Court weighed in favour of the right of fair trial of the defendant when measuring the role of the media in streamlining the system of criminal justice:

It is said and to a great degree right that those who know about the incident will come forward with information through media attention, by putting witnesses under public gaze, it avoids perjury and decreases crime through the public expression of criticism of crime and last but not least, it encourages the public discourse of important issues. All this is achieved in the name of freedom of speech and the right to know, with little

consideration of the equally important right to a fair trial.

Such a right has been emphatically recognised by the European Court of Human Rights:

"Once again, it cannot be ruled out that becoming accustomed to the regular spectacle of pseudo-trials in the news media may have nefarious consequences for the acceptance of the courts as the appropriate forum for the settlement of legal disputes in the long run."²⁰

The ever-increasing propensity to use media when the matter is sub-judgment has been frowned down on many occasions by the courts, including the Supreme Court of India.

In **State of Maharashtra vs. Rajendra Jawanmal Gandhi**,²¹ the Supreme Court observed: "A trial by press, electronic media or public agitation is very antithesis of rule of law" The position was most aptly summed up in the words of Justice H.R.Khanna: – "Certain aspects of a case are so much highlighted by the press that the publicity gives rise to strong public emotions" The only way of orderly functioning is to maintain the delicate balance between the two, writes Ravi Agrawal. The country cannot function without two of the pillars its people trust the most, he adds

Media Trial v. Right to be Represented

Every person has a right to get himself represented by a lawyer of his choice and put his point before the adjudicating court. The media assumption of guilt clearly encroaches

¹⁸ (1981) AC 303

¹⁹ 2004 (72) DRJ 693

²⁰ Supra note 3

²¹ 1997 (8) SCC 386



upon the right to legal representation, a critical component of right to fair trial. Suspects and accused apart, even victims and witnesses suffer from excessive publicity and invasion of their privacy rights. Subconscious effect on the Judge as one of the major allegations upon 'media trial' is prejudicing the judges presiding over a particular case. The day after the report of crime is published; media says 'Police have no clue' There is always a chance judges may get influenced by the flowing air of remarks made upon a particular controversy.²²

5. Is Media Trials A Contempt of Court?

Trial by Media is Contempt of Court and needs to be punished. The Contempt of Court Act defines contempt by identifying it as civil²³ and criminal²⁴.

Criminal contempt has further been divided into three types:

- Scandalizing
- Prejudicing trial
- Hindering the administration of justice.

Prejudice or interference with the legal process: this clause owes its roots to the idea of natural justice; 'every defendant has the right to a fair trial,' clubbed with the maxim that 'justice should not only be done, it must also appear to be done.' There are different ways in which attempts to bias the trial are made. If such cases are permitted to proceed, the individuals will be accused of crimes they have not committed. In order to avoid such unequal and unfair proceedings, contempt of court has been implemented.²⁵ No

publication intended to poison the minds of jurors, harass witnesses or individuals, or create an environment in which it would be difficult or impossible for the administration of justice to take place, amounts to contempt. No editor has the right to assume the role of an investigator to try to prejudice the court against any individual. No editor has the right to assume the role of an investigator to try to prejudice the court against any individual.

The law as to interference with the due course of justice has been well stated by the chief Justice Gopal Rao Ekkbote of Andhra Pradesh High Court in the case of **Y.V. Hanumantha Rao v. K.R. Pattabhiram and Anr.** where in it was observed by the learned judge.

“ When litigation is pending before a Court, no one shall comment on it in such a way there is a real and substantial danger of prejudice to the trial of the action, as for instance by influence on the Judge, the witnesses or by prejudicing mankind in general against a party to the cause. Even if the person making the comment honestly believes it to be true, still it is a contempt of Court if he prejudices the truth before it is ascertained in the proceedings. To this general rule of fair trial one may add a further rule and that is that none shall, by misrepresentation or otherwise, bring unfair pressure to bear on one of the parties to a cause so as to force him to drop his complaint or defence. It is always regarded as of the first importance that the law which we have just stated should be maintained in its full integrity. But in so stating the law we must bear in mind that there must appear to be ‘a real and substantial danger of prejudice.’”

²² (2005) 6 SCC 109

²³ Section 2(b)

²⁴ Section 2 (a)

²⁵ AIR 1975 AP 30



Fair trial Parties have a constitutional right to have a fair trial in the court of law, by an impartial tribunal, uninfluenced by newspaper dictation or popular clamour.²⁶ What would happen to this right if the press may use such a language as to influence and control the judicial process? It is to be borne in mind that the democracy demands fair play and transparency, if these are curtailed on flimsiest of grounds then the very concept of democracy is at stake.

In **Saibal Kumar Gupta and Ors. v. B.K. Sen and Anr.**²⁷ It was held by the Supreme Court that:

“No doubt it would be mischievous for a newspaper to systematically conduct an independent investigation into a crime for which a man has been arrested and to publish the results of that investigation. This is because trial by newspapers, when a trial by one of the regular tribunals of the country is going on, must be prevented. The basis for this view is that such action on the part of a newspaper tends to interfere with the course of justice whether the investigation tends to prejudice the accused or the prosecution. There is no comparison between a trial by a newspaper and what has happened in this case.”

6. Regulatory Measures

As far as the restrictions imposed on the media are concerned, it is apparent from the above that a court which assesses the reasonableness of a restriction imposed on a fundamental right under Article 19 enjoys a great deal of discretion in the matter. It is the

constitutional duty of all courts to ensure that the restrictions imposed on the media by law are reasonable and relate to the purposes set out in Article 19 (2).

The Supreme Court has set out certain principles and guidelines in **Papnasam Labour Union v. Madura Coats Ltd**²⁸, which should be taken into account in assessing the constitutionality of a legislative provision imposing a restriction on fundamental rights guaranteed by Articles 19(1)(a) to (g) when challenged on the ground that the restriction imposed by it is arbitrary.

In **Arundati Roy, In re**²⁹ the Supreme Court has considered the view taken by **Frankfurter, J. in Pennekamp v. Florida**³⁰ in which Judge of the United States observed: (US p. 366) (US p. 366)

“If men, including judges and journalists, were angels, there would be no problem of contempt of court. Angelic judges would be undisturbed by extraneous influences and angelic journalists would not seek to influence them. The power to punish for contempt, as a means of safeguarding judges in deciding on behalf of the community as impartially as is given to the lot of men to decide, is not a privilege accorded to judges. The power to punish for contempt of court is a safeguard not for judges as persons but for the function which they exercise.”

In **Rajendra Sail v. M.P. High Court Bar Assn**³¹ the editor, printer and publisher and a reporter of a newspaper, along with the

²⁶ Cooper v. People (1889) 6 Lawyers Reports Annotated 430 (B)

²⁷ AIR 1961 SC 633

²⁸ (1995) 1 SCC 501

²⁹ (2002) 3 SCC 343

³⁰ 328 US 331; 90 L Ed 1295 (1946)

³¹ (2005) 6 SCC 109 per Y.K Sa



petitioner who was a labour union activist, were summarily punished and sent to suffer a six months imprisonment by the High Court. Their fault was that on the basis of a report filed by a trainee correspondent, they published disparaging remarks against the judges of a High Court made by a union activist at a rally of workers. The remarks were to the effect that the decision given by the High Court was rubbish and fit to be thrown into a dustbin. In appeal the Supreme Court upheld the contempt against them, but modified and reduced the sentence.

By the above observations and the judgement, it can be claimed that the restrictions imposed by Article 19(2) on freedom of speech and expression guaranteed by Article 19(1)(a), including freedom of the press, serve a dual purpose, namely freedom of speech and expression. They specify, on the one hand, that this freedom is not absolute but subject to control and on the other hand, they limit the power of a legislature to restrict this freedom of the press/media. However the right cannot be limited by the legislature beyond the provisions of Article 19(2), and any of those limitations must be fair and can be enforced only by or within the jurisdiction of a statute, not by executive action alone.

7. 200th Law Commission Report

Art. 19(1)(a) of the Constitution of India guarantees freedom of speech and expression. Contempt of Court Act, 1971 gives immunity to publications if they prejudicially interfere with course of justice in a criminal case.³² Such publications would be contempt only if a criminal proceeding is actually pending i.e. if charges are or shall

is filed or summons or warrant issued by the Court by the date of publication.

The Law Commission in its 200th report has recommended a law to debar the media from reporting anything prejudicial to the rights of the accused in criminal cases. It has suggested an amendment to the Contempt of Courts Act.³³ The high court could be empowered to direct a print or electronic medium to postpone publication or telecast pertaining to a criminal case.

In the US, the **O J Simpson case**³⁴ attracted a lot of pre-trial publicity. Yet, Simpson was acquitted. The judge was not prejudiced by media campaign or public opinion. The NHRC, in its special leave petition filed before the Supreme Court against acquittal of the accused in the Best Bakery case, contended that the concept of a fair trial is a constitutional imperative. It will be dangerous to gag the press in the name of contempt of court.

8. Constitutionality of Media Trials.

Freedom of Press

The right to freedom of speech and expression has been guaranteed under Article 19(1) (a) of the Constitution of India. Freedom of press is not a separately guaranteed right in India unlike the United States of America. Freedom of press recognized as essential prerequisite of a democratic form of government. Right under Art 19(1) (a) includes right to information and the right to disseminate through all types of media. Trial by press, electronic media or

³² Sec. 2 of the Contempt of Courts Act, 1971

³³ Section 3(2)

³⁴ Case no. BA097211



trial by way of a public agitation can lead to miscarriage of justice.³⁵

Immunity Under Contempt of Court Act, 1971 :

Under the Contempt of Court Act, 1971, pre-trial publications are sheltered against contempt proceedings. Media reportage, as seen during the Aarushi Talwar case, had literally gone berserk, speculating and pointing fingers even before any arrests were made. Due to such lacunas, the press has a free hand in printing colourful stories without any fear of consequences.

The Public's Right to Know:

The Supreme Court has expounded that the fundamental principle behind the freedom of press is people's right to know.³⁶ In the Bofors Case, the Supreme Court recounted the merits of media publicity. The Chief Justice of India has remarked that newspapers cannot read like an official gazette and must have a tinge of "sensationalism, entertainment and anxiety" Two important core elements of investigative journalism envisage that

- (a) the subject should be of public importance for the reader to know and
- (b) an attempt is being made to hide the truth from the people.³⁷

³⁵ Article 19 of the International Covenant on Civil and Political Rights, 1996

³⁶ A.G v. Times Newspaper, (1973) 3 All ER 54 ; *Express Publications (Madurai) Ltd. v. Union of India*, AIR 2004 SC 1950, para 29; Secretary, Ministry of Information and Broadcasting, Govt. of India v. Cricket Association of Bengal, AIR 1995 SC 1236, para 4

Public Participation

Without a free press, we will regress to the dark ages of the Star Chambers, when the judicial proceedings were conducted secretly. Only in proportion as publicity has place can any of the checks applicable to judicial injustice operate. Publicity is the very soul of justice. It keeps the judge himself while trying under trial."³⁸

9. Media Trials: A Necessary Evil?

We have a legacy of fiercely independent journalism that is rich. Many of the big scams were, in fact, busted by the press. The law enforcers were merely following up with them. The poorly paying journalist must be praised for collecting data that appeared unavailable to the country's top vigilance teams. That's how the headlines were struck by HDW(Howaldswerske) Marine Case and Bofors. That is how we found out that the Jharkhand Mukti Morcha MPs had been bribed by Narasimha Rao and the deal had been brokered by Satish Sharma and Buta Singh. At every position of our political juncture, the media made us proud. Public attention is growing and strong on the courts and the lawsuits brought therein. Now that the courts have come under the lens of the media, they will possibly stay there forever. A Positive is that more Indians are conscious of their fundamental rights than ever before as a result of reforms spurred by the media

³⁷ Supra note

³⁸ K.G. Balakrishnan, *The Constitution, The Media And The Courts*, The Fourth K.S. Rajamony Memorial Public Law Lecture, Kerala, www.supremecourtindia.nic.in/new_links/9%5B1%5D.8.08.rajamony.pdf



and resolved by the Courts. The media strongly opposes this sub-judice rule and complains that courts appear to interpret the sub-judice rule very narrowly during the course of a hearing to preclude any discussion of the issues before the Court, even though they are gaining public interest. There is, therefore, an immediate need to liberalise the law of the sub-judice, invoking it only in cases of a strong intention to affect the trial and not in any act that may have the remote chance of affecting it. The public interest is another big restraint on stings and media trials. The media loses its ground and invites the wrath of the court if public interest is lacking and self- or deceptive interests emerge.³⁹

10. Role of Media in Investigation, Focusing on Sushant Singh's Suicide Case

People have pursued justice and gained trust through the media to fight against the high officials, elite classes who have infinite wealth and are dominant in all senses. The case of Nirbhaya was introduced to the public and every relevant fact was reported by the media, which made the masses aware and implemented strict laws against rape. The so-called suicide case of Sushant Singh, in which the media portrayed the misunderstanding between the officials of two separate states to make people aware of the consequences.

Ignorant now often have easy access to the media, but the problem occurs only when confidence is established without verifying the source's veracity, thereby creating some conclusions that are highly likely to be incorrect.

³⁹ Supra 2

The vast masses therefore trust in the source given by the media and the media becomes obligated to behave responsibly without any fabrication. The exaggerated version of the media should be dismissed by both the public and the media themselves. Without any distortion, the argument should be addressed verbatim so that reality does not crumble.

“I would rather have completely free press, with all the dangers involved in the wrong use of that freedom than a suppressed or regulated press.”- Jawaharlal Nehru

10.1 Repercussion of Exaggerated Reports of Media

“If it were left on me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a movement to prefer the latter.” – Thomas Jefferson. There is no question that the press is an important means of mass communication and that the construction of a viable society plays a vital role. The intention behind press freedom is to make the ignorant aware of their surroundings. But in the new media age, how much these assertions can be understood when there is an endless medium for mass communication and what the source is to depend on such a report's very veracity.

The current situation is that the media has become a full show for business. Not for the ignorant people but for the profitable corporation, it runs the press. There are several examples that can be cited here just to illustrate that these exaggerated media stories have not only caused confusion, but have created mistrust among people for their own government.



India has been fighting battles with its own people for the past few years, right from the Kanhaiya Lal case to CAA and NRC, both of which contributed to the muddling of public order and morality. Both of these cases are merely the explanation for exaggerated media coverage and they are not prepared to take the blame.

At present not only India but the entire world is actually battling against COVID-19. In most nations, there are lockout conditions. The only media on which people rely are news outlets, social media, newspapers. But does the media behave responsibly? The response is no, it is still interviewing and reporting that raises concerns among people regarding whether or not the government is functioning effectively. Creating fear among people is the way the study is delivered.

Is that the responsible behaviour of our media? While freedom of the press is guaranteed under Article 19(1)(a) of the Indian Constitution, it is also supported by fair restrictions. But what is the reason why no action is taken against networks broadcasting such news, announcing social media and trending an inflated version of originality? The only explanation that one can come across is that the patronage of those in power funds these services, which can be easily seen from watching debates and listening to different reports. There is no definition of media neutrality any more.

The freedom afforded in accordance with Article 19(1) is not absolute. The fair limitations that exist pursuant to Article 19(2) are objected to (6). While subject to limitations, the media has taken unfair advantage of their independence. Moreover, the new media passes decisions instead of

keeping to its task of being an informer. Their decisions have shaped different lives.

The death of Sushant unleashed the reality, their bullying behaviour and non-acceptance of the elite personalities to an outsider. But the media was not liable for faking the news about the character of Sushant. Also responsible for his death are the biased and bribed media who fancifully pass the judgement on a person without any evidence of the rumours and gossips. As they are responsible for producing judgmental crowds, the media influences the individual psychologically and physically.

Social networking is a forum that is free. Without knowing the veracity of the event, the vulgarity and abusive nature of that medium is accessible to every single person and masses actively participate. Today, in the case of Sushant, although it was a greater loss, social media blamed the established faces and labelled nepotism as the root cause. The amount of violence and threats received by individuals influences the person psychologically. The tremendous confusion has been created by the lack of reason and the informer being the decision giver.

The media-official nexus has always witnessed the tussle. As an autonomous entity, the media fails to achieve a strong place in society and is still suppressed by authorities. The only question is that social media, press or newspaper magazines should behave appropriately because the whole population depends on the reports presented by the media.

There are occasions where the media have been threatened with the disgust of the court for public disclosure of the related records. In



the event of P.C. Sen,⁴⁰ All India Radio Station was accused of contempt of court as they formed a huddle in the court proceedings and published the confidential information about the defendant publicly.

The key issue is not that the media are ignorant people, which is greater in number and most depend on these skewed outlets. It takes an hour to find a solution to this prima facie question, as these inflated sources are only the creator of the problem in most instances.

11. Conclusion

Contempt of Court Act allows court to punish those who violate basic code of conduct. Contempt powers have been approved by the Supreme Court in a number of cases. Media cannot be allowed freedom of speech and expression to an extent as to prejudice the trial itself. Earlier, journalism was not under pressure to push up TRP ratings or sales. But now we are seeing a different self-acquired role of media in form of 'media trial'. The media ultra vires its legitimate jurisdiction and does what it must not do. The media trial has now moved on to media verdict and media punishment which is no doubt an illegitimate use of freedom.⁴¹

The media has to be properly regulated by the courts. Media cannot be granted a free hand in the court proceedings as they are not some sporting event, he says. Media has to play the role of a facilitator rather than tilting the scales in favour of one or the other party. The ideal proposal will be that the Indian press and the Indian people are not at present

democratic enough to allow the press to intrude in the judicial process.

The judiciary was critical of the media's overactive and prejudicial reporting. In the case of the Labour Liberation Front, Justice L. Narasimha Reddy regretted the "abysmal levels to which the standards of journalism have drifted." The Supreme Court warned the publisher, editor and journalist of a magazine in *M.P. Lohia v. State of West Bengal*⁴² that it had published the details of a case that was sub-judgment, thereby "interfering with the administration of justice."

The latest study entitled *Trial by Media: Free Speech vs. Fair Trial Under Criminal Procedure (Amendments to the Contempt of Court Act, 1971)* from the Indian Law Commission has made recommendations to resolve the damaging impact on the administration of justice of sensationalised news coverage. While the study has yet to be made public, news reports suggest that the Commission has recommended that anything that is prejudicial to the accused be prevented from being released, a restriction that will function from the moment of arrest. It also allegedly suggests that the High Court be allowed, in criminal cases, to delay the publication or telecast directly.

In informing and developing people, the media has played a significant role. The role of the media has been enormously significant from the conservative community to the open-minded one. People have pursued justice and gained trust through the media to fight against the high officials, elite classes who have infinite wealth and are dominant in all senses. The case of Nirbhaya was

⁴⁰ AIR 1970 SC 1821

⁴¹ *Id*

⁴² AIR 2005 SC 790



introduced to the public and every relevant fact was reported by the media, which made the masses aware and implemented strict laws against rape. The so-called suicide case of Sushant Singh, where the media portrayed the misunderstanding between the officials of two separate states to make people aware of it.

The vast masses therefore trust in the source given by the media and the media becomes obligated to behave responsibly without any fabrication. The exaggerated version of the media should be dismissed by both the public and the media themselves. Without any distortion, the argument should be addressed verbatim so that reality does not crumble.

