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MEDIA TRIAL IN INDIA

AUTHORED BY - SUNITA CHOUDHARY

ABSTRACT

In the 21st century, media plays a vital role in the general public's day-to-day life. In India, media derives their rights from Article 19(1)(a) of the Indian Constitution and they take up the responsibility of making people aware of the things happening at the national as well as the international level. But what happens when in the process of spreading awareness, media affects the lives of people and creates hurdles in the delivery of justice? Media creates complexities when they conduct 'trials' through their television and newspaper coverage even before a person is proven innocent or guilty. This act of media not only affect the reputation of the individual but also hampers the fair trial by the judiciary. In recent times, there have been numerous cases where the media trial has been conducted, passing their verdict before the court gave the judgement. In light of all these media trials taking place across the country, this paper intends to bring out from where the media derives their power to conduct these trials. The paper aims at showcasing the effect of media trials on different entities of society. The stand of the judiciary as well as a few of the recent cases which underwent the process a of media trial will also be discussed in this work.

Keywords: Constitution, Article 19(1)(a), media trial, delivery of justice, fair trial, judiciary.

HYPOTHESIS

In a democratic country like India, media acts as the fourth pillar after legislative, executive and judiciary. However, at times the media conducts trial which acts as hurdles in the process of fair trial.

RESEARCH QUESTIONS

- Does trial by media creates interference in the fair trial?
- What is the international perspective when it comes to trial by media?

RESEARCH METHODOLOGY

This research work reflects a descriptive and analytical approach throughout the research paper as it talks about how media trial takes place and analyses the consequences that follow such trials. The doctrinal methodology is used for the doing the research work. The data used in this research paper is collected from secondary sources like books, journals, and the internet.

LITERATURE REVIEW

- **Sukumar Muralidharan, “Media Follies and Supreme Infallibility”, Volume 47, pp. 10-13, 2012.¹**

In this article, the author gives a small glimpse of how prior to 2012, the judiciary has failed to curb the ills of the media trials and how it plays a role when it comes to public awareness. The article is concluded with the idea that the judiciary is more concerned how its image is portrayed in the media rather than taking measures to curb media’s excess freedom. In the course of maintaining its image, the judiciary is giving more and more freedom to the media.

The author however, fails to bring out the instances and judgements where the judiciary clearly states that media has to follow the guidelines when they are exercising their Freedom of Speech and Expressions. The Supreme Court in the case of State of Maharashtra v. Rajendra Jawanmal Gandhi held that the trial held by media is against the rule of law and may lead to miscarriage of justice.

- **Mallika Atul Bhaskar, “Media Trials v. Freedom of Press”, Volume 3, 2021.²**

The author magnificently brings out the harm that media trial often causes to the Indian democracy. The article highlights numerous harmful effects that takes place due to media trials. However, the author misses out on few of the very important points like instigating hate and violence, invasion of the privacy of the individual, etc. Often fake news circulated by the media during the trial can lead to instigation of hatred in the minds of general public against the accused or the victim. Also, publishing personal information of the victims and accused during trial by the media is a clear violation of their privacy.

¹ https://www.jstor.org/stable/23214815?seq=4#metadata_info_tab_contents

² <https://articles.manupatra.com/article-details/MEDIA-TRIALS-V-FREEDOM-OF-PRESS>

- **Devesh Tripathi, “ Trial by Media Prejudicing, the Sub-Judice”³**

The article very precisely depicts the consequences of the media trials which are more often negative than positive. The author talks about the media’s resentment against *sub judice* and suggests that this concept should be liberalized by only revoking it in the cases where there is an obvious intent to influence the general public.

However, the author fails to recognise the problem that it is not possible in every case to find whether the intent to influence was really there or not. Even when the strict interpretation of *sub judice* is present, the media trials are uncontrollable then what will be the scenario if the concept is liberalised.

- **T.N. Suraj vs. State of Kerala & Ors⁴**

In this case, the Kerala High Court held that there are certain fields like ongoing investigations, court proceeding and criminal trials in which the media cannot be given freedom to speculate. Such speculations and trials by media results in derogation of the Indian justice system. The High Court states how the reports and telecast by the media creates a prejudice against the parties and the court, resulting hampering the course of justice.

Even though the court correctly points out the harm media trial is causing, it fails to provide any remedy for stopping such trials. The court only observes the fact that interference is being caused in the course of justice but does not expressly anything to stop the same thus, not making any strong impact against the practice of trials by media.

- **Dr. Jasneet Kaur Walia & Parvinder Kaur, “Media Trail in India: Negative and Positive Aspects”, Law & Media, pp.144-155, 2019.**

In this article, the author traces the history of media trial in India, starting from the British era till the 21st century. The article talks about the international as well as the national safeguards available against the media trial. There are several Articles under UN Basic Principles on the Independence of the Judiciary and International Covenant on Civil and Political Rights, which provides rights like fair judicial proceedings, fair and public hearing by impartial tribunals and

³ http://www.rmlnlju.ac.in/webj/devesh_article.pdf

⁴ T.N. Suraj v. State of Kerala, WP (CrL.) No. 346 of 2022 (S).

freedom of expression. When it comes to India, apart from Constitution there are several Acts like Law of Contempt, Copyright Act, Official Secrets Act, etc. which have several provisions which implicates the freedom of press. The positive and the negative aspects of the media trail in a country like India is also listed in the article.

The author explains the whole concept of the media trail with the help of numerous case laws. However, the chapter fails to cover regarding how the such trails by media creates a pressure and subconscious influence on the judges. Another loophole in the chapter is that it only speaks from one point of view, completely disregarding what are media's contentions on the topic.

- **Dr Charanjiv Singh & Rajit Kaur, “Impact of Media on the Proactive Role of Judiciary”, Law & Media, pp. 62-69, 2019.**

The author starts off the article by highlighting how the media at present, has become such an important part of the general public's day to day life. The media helps in bringing justice to deprived and the poor as well as at times creates problems in imparting the justice. The author has pointed out both the negative and the positive role played by the media in relation to the justice delivery system in India. Throughout the article, numerous cases are cited in which the media has played a vital role in bringing the issue in light. Often due to the media coverage, it might happen that the judges get subconsciously influenced as acknowledged by the Apex Court in the case of *Reliance Petrochemicals v. Proprietor of Indian Express*⁵. The article is then concluded by recognizing the Constitutional provisions from where the media derives its freedom to press.

- **Madhavi Goradia Divan, “Trial by Media”, Facts of Media Law, pp. 465-483, 2018.**

In this article, the author talks about the impact of the media trails on the ongoing cases. The article takes up famous cases in which the media either helped in delivery justice by bringing out certain situations in light or which created problem in parting impartial justice.

The article cites famous cases like Jessica Lal Murder case, where the media brought into light the manipulation of the trial through political influence which was going on in the case and helped in the conviction of the accused. On the other hand, cases like Aarushi Talwar case are also

⁵ 1988(4) SCC 592.

discussed where the media pried into the personal lives of Aarushi and her parents.

- **Mona Goel & Rattandeep Kaur, “Integrity of Media in Trials in India: A Critique”, pp. 167-174, 2019.**

The author in the concerned article, mainly talks about the legal provisions related to the media trial. The Constitution of India, provides freedom of press under Article 19(1). It also provides the Law Commission Report on Trial by Media, 2006 which highlighted the advantages and disadvantages of media trial in the contemporary India.

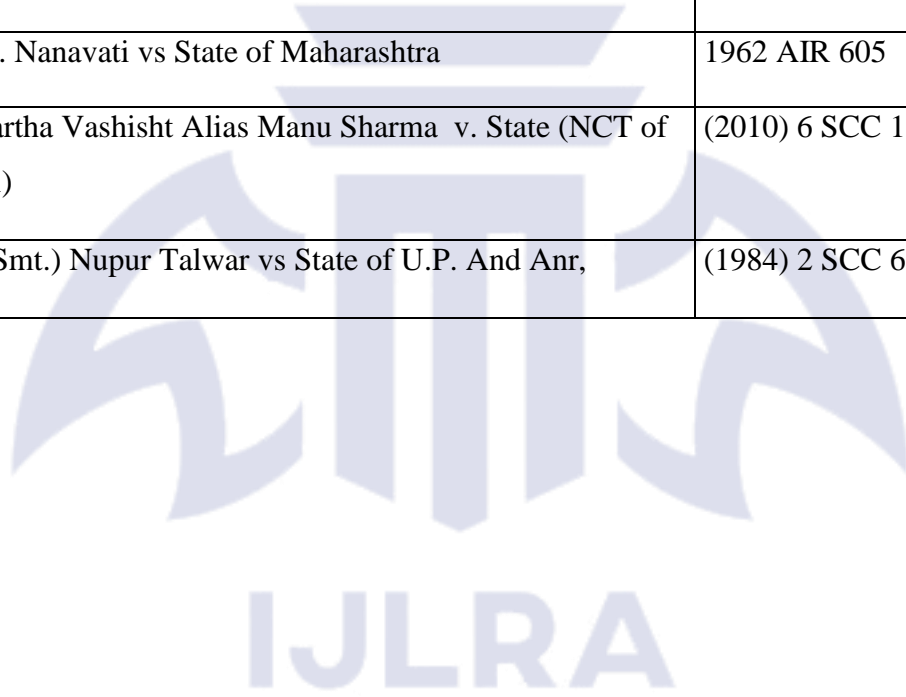
The author concludes the article by sowing the inter-relation between Right to Privacy and Freedom of Press and points out how media trail acts as a peril when it comes to dispensation of justice.

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CHAPTER-1

INTRODUCTION

In India, the influence and importance of media have increased tremendously in the last few decades. The reason behind the significant growth being the minimal restrictions and regulations imposed on them. They do not have any express provision regarding their rights in the Indian Constitution but derive them from Article 19(1)(a) which talks about freedom of expression and speech.

The rise of media and its importance has increased to the stage that now it has been considered the fourth pillar of democracy after legislature, executive and judiciary. The media takes up the responsibility of making people aware of the things happening on the national as well as international platforms. They act as watch dog of the functionaries of the society and make sure that everything comes into the light for the public to be aware. At present, there are hundreds of news channels and millions of newspapers being circulated in the country, which ensures that each nook and corner of the country is conscious of the happening around them. However, this is the good side of the media and there's always two sides to a coin. The media plays a vital role in moulding and influencing public opinion. It has the power of changing and manipulating the general public's opinion about various events taking place in the country.

Over the past few years, the media has been overstepping its boundaries and trying to invade the domain of the judiciary by conducting parallel trials with the court. They have taken up the job of conducting public court where they fail to recognise the concept of 'innocent until proven guilty'. The media starts their trial even before the actual trial takes place in the courtroom. They investigate the matter and broadcast on their own which leads to the forming of public opinion only based upon that broadcast. Soon, they give out their verdict even long before the court comes out with their judgement. The media business is competitive and they care a lot about television rating points. In order to achieve that and stay ahead in the business, they often cross all the limits. This usually takes place in high-profile cases where celebrities or politicians are involved.

It's undeniable that there are certain cases where justice was served just because of how actively the media worked. But, this cannot be used to justify all the other cases where the media has also traumatised the involved in the case by conducting their own media trial.

CHAPTER 2

EFFECT OF MEDIA TRIAL

When a media trial takes place, it affects not just a particular individual's life but touches upon the lives of everyone involved in the case. This leaves an unforgettable mark on the lives of people irrespective of the fact how exactly they were related to the case.

2.1 On the Judiciary

It is the duty of the judiciary to find out who is guilty and who is not. However, often the media forgets this fact and takes up the matter into their own hand by conducting a media trial. The judiciary is primarily responsible for delivering justice without any bias. When the trial by media takes place, it hampers this primary responsibility of the judiciary.

When a high-profile or bizarre case trial takes place in the court, the media swiftly starts collecting data regarding the case. In the process of doing so, they not only create hurdles in conducting fair trial but also leads to hampering of the evidence. The media creates immense pressure on the judiciary by influencing public opinion during the actual trial taking place on the court.

Just like any other normal human being, the judges also may get subconsciously influenced by what is being portrayed by the media. This may happen because of the mental pressure the judges are subjected to and the general public manipulation that happens due to the media trial. If the judge does not give the verdict in the favour of the publications, it leads to unnecessary public outrage against the presiding judge and if he ends up giving the verdict in their favour, some people come up calling it a bias judgement.

The Indian courts have realised and acknowledged the danger of media trials in recent times. The former Chief Justice of India C V Ramana, in one of his speeches, while addressing the high court judges, judicial officers and law students spoke about the dangers of media trials to the health of democracy. He pointed out how especially the electronic media is affecting the independence of the judiciary. There are numerous cases where the courts have expressly recognised the excessive involvement of the media in the trials. The Supreme Court in the case of *Manu Sharma v. State (NCT of Delhi)*⁶, acknowledged and spoke about the dangers of a media trial. It was observed that

⁶ (2010) 6 SCC 1

if the media exercised unrestricted freedom of carrying out a parallel trial to that of the court, it will cause serious prejudice. Again, in the case of *R.K. Anand v. Delhi High Court*⁷, the Supreme Court held that the media and judiciary have separate spheres of functioning which do not overlap. In *Sahara India Real Estate Corpn. Ltd. v. SEBI*⁸, the court discussed judicial orders restraining the media from reporting regarding certain matters to ensure the proper administration of justice and fairness of the trial.

2.2 On the Accused

Once the case comes into the eyes of the media and they identify the potential or the apparent accused, the media trial starts. Even before the alleged accused gets a chance of availing a fair trial in the actual courtroom, he/she gets subjected to the scrutiny of the media and the general public. The media starts manipulating public opinion and makes the life of the alleged accused unbearable. They start their own investigation parallel to the court and bring all the personal information of the person in from the world regardless of the fact whether it's related to the case in any manner or not. They make the person go through immense mental trauma and hardship even before it is proven whether he is guilty of the offence or not.

There are several cases where the media ruined the lives of people by conducting media trials only in the end to find out that they were innocent all along. In the *Uma Khurana case*⁹, a sting operation was conducted by India Live TV claiming a school teacher named Uma Khurana was running a sex racket of students. After the news broke out, an angry mob descended on the school attacking the teacher and even ripping her clothes. Later, it was proved and decided by the court that the sting operation was fake.

In the Rohtak sisters' case, a video went viral of two sisters beating boys with belts who allegedly harassed them. the sisters were acclaimed for their actions while the boys were shamed on TV. After some time, another video surfaced of them kicking young boys' post which many people came forward claiming harassment by the sisters. Not only young boys but many young girls also came forward and testified being witnesses of young men being assaulted by the two sisters for no fault of theirs. The boys were declared to be innocent by the court after four years of the incident however, it was too late as their career was already ruined by then.

⁷ (2009) 8 SCC 106

⁸ (2012) 10 SCC 603

⁹ *Court On Its Own Motion vs State* 146 (2008) DLT 429.

Another such case took place in the month of August 2012 when a journalist named Muthi-ur-Rehman Siddiqui was arrested on terror charges with six others. They allegedly were planning to target BJP politicians along with some other right-wing organizations. Later in February 2013 all the charges were absolved by the NIA court. By the time the verdict came out, he and his family were labelled as terrorists by the media.

One of the most hyped media controversies was the *Jasleen Kaur- Saravjeet Singh case*¹⁰ of 2015. In this case, Jasleen Kaur, a student in Delhi accused Saravjeet Singh of sexually harassing her and posted his photo on her Facebook page in West Delhi along with the narration of the whole harassment narration. The case became a big controversial point regarding women's safety in Delhi. Even the Chief Minister of Delhi, Arvind Kejriwal has praised the girl for her bravery. Soon, media channels started shaming and slamming Saravjeet publicly even after his continuous denial of charges levied against him. Later on, he was arrested by the Delhi police. In 2019, after almost four years of the incident, the charges against Saravjeet were absolved by the Delhi court. By the time the verdict came out, Jasleen Kaur had moved to Canada leading an unaffected life whereas Saravjeet's life was ruined because of the media.

The above-mentioned are a few of the many cases where media trials wreaked havoc in people's lives. In these cases, the media ruined the lives of innocent people just because they did not wait for the court's verdict.

2.3 On the Victim

The media often tries to take the advantage of the victim's situation to increase their television rating point and viewership. They fabricate the incident to manipulate the public's opinion to provoke their sentiments and gain sympathy for the victim. They completely lay down the victim's life and story in front of the public to irk their sentiments in favour of the victim.

As soon as the incident or case comes to light, several media channels try to take exclusive interviews with the victim to increase their channel value. During the interview, they often tend to ask scandalous questions to the victim which may be completely irrelevant to the case. Just to

¹⁰ *Sarvjeet Singh v State (NCT of Delhi) and Anr.*

create eye-catching headlines, they ask the victim for sensitive details pertaining to the case which may lead to anxiety and affect their mental health severely. Numerous news channels continue to force the victims to interview and ask them to repeat the incident again and again which leads to continued victimization. This is also a clear infringement of the victim's privacy.

CHAPTER -3

PROMINENT CASES OF MEDIA TRIAL

3.1 The Nanavati Case¹¹

This was the first-ever trial by the media in India. In this case, Kawas Nanavati, a Naval commander, entered into an expensive Bombay flat and shot three bullets into his wife's lover Prem Ahuja. Prem Ahuja died on spot.

K M Nanavati had to frequently stay away from home due to his official duty and while he was away, his wife Sylvia fell in love with Prem Ahuja. They started soon developed an illicit relationship. Soon, on being asked whether she was faithful by Nanavati, she shook her head indicating that she was not. Later on, Sylvia confessed to him having an affair with Prem Ahuja which led to Nanavati storming out of the house with his revolver. He then drove to Prem Ahuja's home and shot him dead. After this, he went and surrendered himself.

The case first went to the session court where the jury trial took place and he was held not guilty of murder by a majority of 8:1. Later, the case was referred to the division bench of the Bombay High Court. The High Court observed that there was no presence of any grave provocation on the part of Sylvia's confession and Ahuja's statement and Nanavati was held guilty of murder. He was punished with life imprisonment. An appeal was then made to the Supreme Court which stated that the murder was intentional and predetermined. The Apex Court upheld the decision of the High Court and the appeal was then dismissed, holding Nanavati guilty was murder. This case was the last one to have a jury trial as after this the hurry system was abolished in India.

During the time of the trial, a journalist and editor named Rustom Khurshedji Karanjia founded the 'Blitz', a Mumbai-based weekly newspaper. He published whatever news attracted the public's attention. He followed the method of investigating the news and then making it dramatic

¹¹ *K. M. Nanavati v. State of Maharashtra* , 1962 AIR 605.

and sensationalised. He saw a great opportunity of making his newspaper famous in the Nanavati case and published the story in the paper, praising Nanavati's character. Through the story, he portrayed Nanavati as a hero, Sylvia as a beautiful wife and Prem Ahuja as a playboy. This drew a lot of public attention towards the trial. Soon, a huge crowd of people started gathering outside the court during the trial to show their support for Nanavati. The Blitz was created for influencing the jury for giving out the not guilty verdict.

This case showed how the print media influenced the opinion of the public and manipulated them by portraying Nanavati as a hero. The media not only influenced the public but also the jury members who were hearing the case.

3.2 Jessica Lal Murder Case¹²

In April 1999, a model named Jessica Lal was shot dead when she was working as a bartender at a restaurant in Delhi. One of her friends, who was an actor named Shayan Munshi was also working with her. On the night of the murder, Manu Sharma, the son of Minister Vinod Sharma ordered a drink which Jessica refused. He then offered to pay Rs. 1000 for a single drink, which she again refused to serve. After being refused twice, Manu Sharma took out a revolver firing first at the ceiling and then at her. Immediately after being shot, she was taken to the hospital but she died due to excess blood loss. Manu Sharma after the whole incident left the bar and went into hiding with the help of his friends and also got rid of the revolver which was the prime evidence. The biggest shock came when the trial started in August 1999 and the main witness Shayan Munshi became hostile. One by one all the other witnesses also refused to have witnessed the murder and the trial court released Manu Sharma as the police were unable to recover the murder weapon.

After the release of Manu Sharma, the media actively started publishing the matter and fearlessly claimed that Manu Sharma's father was influencing the case by misusing his power. Meanwhile, a newspaper called 'TEHELKA' conducted a sting operation which revealed that Vinod Sharma bribed the prime witness Shayan Munshi to not open his mouth in the court. Not only this, but the channels also encouraged the general public to send texts and emails with their views about the whole matter and started the media trial. Finally, in April 2010, the Supreme Court approved the sentence in the case and held Manu Sharma guilty.

¹² *Sidhartha Vashisht Alias Manu Sharma v. State (NCT of Delhi)*, (2010) 6 SCC 1.

The Court held that in this case even though the media trial was conducted but it did not affect the accused as such. However, the role of media should be regulated and restricted so that they do not cause hindrances to a fair investigation.

3.3 Noida Double Murder Case¹³

This high-profile case took place in 2008 and till date remains an unsolved murder mystery. In this case, a 14-year-old girl, Aarushi Talwar and a 45-year-old house help Hemraj Baanjade was murdered.

It attracted a lot of media coverage, both print as well as electronic. Every newspaper, newspaper, and e-news was all flooded with news of Aarushi Talwar's murder. Aarushi's dead body was found by her parents Rajesh and Nupur Talwar and the main accused of the murder Hemraj was missing. However, on the next day Hemraj's was found dead on the terrace. Then the police accused Rajesh Talwar as the prime suspect on the suspicion that he has killed both of them after discovering them in a 'compromising' position. Soon, the case was transferred to CBI, who initially declared the parents innocent and suspected Krishna Thadarai and another domestic help but they were also released due to lack of evidence.

Later on, again Rajesh Talwar was held as the sole suspect behind the event based on circumstantial evidence and was declared guilty along with his wife by the CBI Court, sentencing them to life imprisonment. In 2017, the couple was acquitted by the Allahabad High Court on the benefit of doubt.

Even long before the court gave out the verdict, the media started portraying Rajesh Talwar as the murderer. The media started reporting the incident and started the dramatizations in several channels objectifying and defaming a dead minor girl and showed simulating objectionable scenes of Aarushi and Hemraj together and Rajesh coming with a golf club and hitting them.¹⁴ Not only this, even many people started speaking ill about the character of Aarushi, who was already dead. The media completely ruined the life of Aarushi, her parents and every other person whose name was even remotely connected to the case.

¹³ *Dr. (Smt.) Nupur Talwar v. State of U.P. And Anr.*, (1984) 2 SCC 627.

¹⁴ Prapti Bhattacharya, "Judicial Approach on Freedom of Media and Media Trial" (*Legal Desire* May 31, 2021) <<https://legaldesire.com/judicial-approach-on-freedom-of-media-and-media-trial/>> accessed February 6, 2023.

Later, aggrieved by the role played by the media in the case, Dr Surat Singh, an advocate filed a PIL in court. The Supreme Court took the matter seriously and reprimanded the media for not overstepping their boundaries as they were meddling with the course of the trial.

3.4 Sushant Singh Rajput Case

One of the most recent examples media trials is the alleged death by suicide case of actor Sushant Singh Rajput. Sushant Singh Rajput, the Bollywood actor, passed away on 14th June 2020 in his residence in Mumbai. The case was first investigated by the Mumbai police who concluded that the cause of the death was suicide. The post-mortem conducted at Cooper hospital confirmed that the cause of death was asphyxia due to hanging.

There were several allegations made that the actor's death was linked to his former assistant Disha Salian, who died last year. Even theories that the duo was murdered also started circulating. K K Singh, the father of the late actor had lodged a complaint with the Patna police against Rhea Chakraborty, her family and the house helps working at Sushant's residence in Mumbai. He also accused Rhea of taking out crores from the actor's bank account. So far, none of the charges has been proven and around 35 people have been arrested in connection with the case.

The Supreme Court has directed the CBI to investigate the case. Rhea Chakraborty and her family member were interrogated by the CBI where their link to drug suppliers was discovered which led to another investigation by the NCB.

From the day of Sushant Singh Rajput's murder till today, the trial by media is going on. The media has been actively writing and publishing the news about the case. The majority of the media houses have already declared Rhea Chakraborty guilty of the actor's death. The has also involved big names like Salman Khan, Karan Johar, and Mahesh Bhatt in the case, claiming that they are running a 'Bollywood mafia' and are responsible for the actor's death.

The media is continuously coming up with new theories like Rhea was giving Sushant drugs and heavily addictive depression pills. She is believed to have been murdered because he was planning to quit the acting industry and was thinking of moving back to his hometown Bihar. Even after two years of Sushant's death, till today #justiceforsushant continues to trend on Twitter.

CHAPTER -4

CONCLUSION

From the above-stated cases and incidents, it's clear that the media trial has a more negative influence on society rather than the positive one. As a matter of fact, it cannot be denied that there are a few exceptions where the media has helped in bringing due justice to the victim. However, as said they are exceptions and not generality.

The importance of the media cannot be denied and undermined as it keeps the public well informed and educated by making all the information available to them via newspaper, news channels, radio and social media. But, them acting as a public court and creating hindrances in the proceeding of the court cannot be accepted. Keeping the general public aware is one thing and then creating problems in the delivery of justice is another thing. Both the acts can exist independently. They can make the public well aware of the day-to-day event without hampering the judicial proceedings.

Despite all the importance attached to the media, they cannot be left without being regulated. No freedom can be absolute and needs to be subjected to certain restrictions to make sure that no misuse takes place. Although the efforts made by the media to keep up with the police investigation and conduct sting operations to reveal the problem is commendable, it is recommended that they create a boundary for themselves to ensure no encroachment in the field of judiciary takes place.

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