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BALANCING MEDIA LIBERTY WITH THE RIGHT TO A FAIR TRIAL: PROTECTING THE RIGHTS OF THE PARTIES

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ABSTRACT:

India, the world's largest democracy, intertwines freedom and diversity. Democracy here is not merely a system but a way of life. The Constitution of India ensures that justice is imparted fairly to every citizen and anyone tried within its territory. The media, as the fourth pillar of democracy, has increasingly taken on the role of a public court, investigating cases independently and broadcasting their findings to shape public opinion. This practice is often criticized for distorting facts to attract public attention and sensationalize cases.

This qualitative research paper examines the tension between media trials and the right to a fair trial, highlighting the need for a balanced approach and arguing that the media's freedom of speech must be reconciled with the accused's right to a fair trial. It covers case studies and judicial pronouncements in India where media coverage has led to prejudice, bias, and misrepresentation of the facts, as sensationalist media coverage often diverts public attention from pressing real-world problems.

The paper addresses the challenges of protecting the rights of the parties affected by media trials, which frequently violate fundamental principles of the justice system, such as the presumption of innocence and much more. The focus is on how sensationalist media coverage can distort justice and impact the legal process, emphasizing the need for a more balanced approach.

The paper recommends the establishment of a comprehensive legal framework to strengthen the regulations on media reporting during trials and to mitigate the psychological

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impact of media trials on all parties involved, including the aftermath of court verdicts, as a means of upholding their right to life and personal liberty under Article 21, which safeguards them from emotional distress.

Keywords: Media Trials, Right to a fair trial, Sensationalism, Psychological impacts, Legal Framework

INTRODUCTION:

In the vibrant democratic landscape of India, where freedom of speech and expression are constitutionally enshrined, the role of the media as the fourth pillar of democracy is both profound and influential. Media is not only a restricted platform to express one's feelings rather it helps to mobilize the thinking process of the millions who are encountering it. It has evolved into a formidable force that shapes public perception and influences societal discourse.

However, this expansive role has not been without its challenges, particularly in the realm of legal proceedings. As media outlets increasingly engage in investigative reporting and broadcasting of ongoing trials, their role often shifts from mere reporting to active commentary, sometimes crossing the line into sensationalism. This shift can have serious repercussions on the integrity of the judicial process and the fundamental right to a fair trial. The Constitution of India guarantees that every individual is entitled to a fair trial, a principle that is jeopardized when media coverage skews public opinion and prejudices the legal process. High-profile cases have demonstrated how media trials can distort facts, generate bias, and erode the presumption of innocence, thus impacting the administration of justice. The paper by using conceptual and theoretical frameworks to explore the rights of the parties affected by media trials, relying on the existing legal literature judicial pronouncements, and several case studies will argue for the need to reconcile media liberties with legal rights, advocating for a robust legal framework to regulate media reporting and protect the rights of all parties involved. By examining the consequences of sensationalist media practices, underscores the necessity of preserving the integrity of the judicial process and ensuring that the media's role does not compromise the fundamental principles of natural justice.

RESEARCH METHODOLOGY:

The research methodology involves a qualitative analysis of key case studies examining the media's influence on public perception and judicial processes. It also includes a comparative

review of Indian legal frameworks on media trials, supplemented with scholarly articles, court judgments, and existing legal provisions to assess the balance between media freedoms and the right to a fair trial.

SCOPE OF THE STUDY:

This research paper explores the complex relationship between media freedom and the right to a fair trial, focusing on how media trials impact the rights of both the accused and the victims. The study will involve an in-depth analysis of high-profile cases such as the Aarushi Talwar murder case, the Nirbhaya case, the Sushant Singh Rajput case, and the Gujarat riots, to understand the role media plays in shaping public perception and influencing judicial proceedings.

Through these case studies, the paper aims to Examine Media Influence, Evaluate Legal Frameworks, Impact on the Rights of the Accused and Victims, Judicial Precedents, and Recommendations for Reform. By addressing these issues, the paper will contribute to ongoing discussions on how to harmonize the liberties of the media with the fundamental right to a fair and impartial trial.

OBJECTIVES OF THE STUDY:

1. To explore the delicate balance between media freedom and the right to a fair trial.
2. To analyze the case studies where media coverage has undermined the justice system to sensationalize it.
3. To safeguard the dignity and reputations of the parties involved in the trial and also of the witnesses.
4. To evaluate the effectiveness of existing legal guidelines on media reporting during trials
5. To Investigate the feasibility of establishing exclusive regulations for media publications to protect individuals' rights in media trials and propose recommendations.
6. To explore international best practices in balancing media freedom with the right to a fair trial.

FREEDOM OF PRESS UNDER OF FREEDOM OF SPEECH AND EXPRESSION:

Media has always been a source to approach people and spread information. This right to report and publish news by the media was identified as one of the inclusive rights under Art-19(1)(a) in many cases right before the development of modern social media. The right to publish and circulate news by the press was understood and interpreted by the Supreme Court under Freedom of speech and expression in *Romesh Thappar. v. State of Madras*³ in 1950. The SC observed that the freedom of speech and freedom of the press lays the foundation of all democratic organizations because, without free political discussions, no public education which is so essential for the proper functioning of the process of government is possible.

The SC in the case of *Indian Express Bombay Newspapers Pvt. Ltd. v. Union of India*⁴ observed freedom of the press as the heart of social and political intercourse and in the case of *Printers (Mysore) Ltd. v. CTO*⁵, SC reiterated that the thought the freedom of the press is not expressly granted as a fundamental right, it is implicit in the Freedom of speech and expression.

Though the freedom of the press is interpreted as a fundamental right, it is always subject to the right of privacy of an individual and defamation laws. There has to be a proper balance between them. The right to privacy was granted as the fundamental right after the ruling of the *K. S. Puttaswamy* case in 2017⁶. Anything published with malafide intent to damage the reputation of a person is an offense under section 356 of the BNS.

Today's Media has gone overboard with its right to express by involving in the private lives of the people and making them the content for their views and publicity. It has to be addressed sincerely. Indian courts do not disagree on the fact that the media personnel have a legal as well as constitutional right to cover the events happening in the world and narrate it to the audience but they are subjected to some restrictions given under Art- 19(2) which expressly states decency and defamation as the ground of restriction as clarified in the case of *R.Rajagoapl.v. State of Tamilnadu*.⁷

³ *Romesh Thappar v. State of Madras*, AIR 1950 SC 124

⁴ *Indian Express Bombay Newspapers Pvt. Ltd. v. Union of India*, AIR 1986 SC 515

⁵ *Printers (Mysore) Ltd. v. Chief Commissioner of Commercial Taxes*, AIR 1979 SC 1901

⁶ *K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1

⁷ *R. Rajagopal v. State of Tamil Nadu*, AIR 1995 SC 264

MEDIA TRIAL:

Trials are typically conducted by judicial bodies to resolve specific cases. Similarly, when the media conducts its investigations and coverage of a case before the court's verdict, it is known as a media trial. In most of the cases, the media often portrays the accused as guilty, which infringes upon legal principles. Under-trial individuals should not be deemed guilty until proven otherwise which is the principle of presumption of innocence. Media trials are common when high-profile figures, such as celebrities, are involved or in serious cases like murder or rape.

The term "Media Trial" or "Trial by Media" originated in the United States during the 19th century and gained prominence in India during the high-profile case of "K.M. Nanavati v. State of Maharashtra."⁸ Though the term is not a legal one and not defined in any of the statutes, many legal experts try to define it. Essentially, it refers to the influence of the media on public perception and the judicial process, often leading to a prejudgment of a case before it reaches the courtroom.

In the Nirbhaya Rape case, while the media turned the incident into a public cause, some outlets questioned the victim's character. Such media behaviour is problematic, as it undermines the responsibility of the media and can discourage other victims from speaking out against similar crimes.

MEDIA TRIAL V FAIR TRIAL:

The Media's tendency to manipulate facts for increased viewership often compromises the judicial process, deviating from the pursuit of justice. This encroachment on the judiciary's domain infringes upon the right to a fair trial, prejudicing facts and violating citizens' rights. It is crucial to strike a balance between the media's freedom of speech and the citizens' right to a fair trial, ensuring that the pursuit of ratings does not undermine the integrity of the justice system.

In *State of Maharashtra v. Rajendra Jawanmal Gandhi*⁹, while dealing with a case of alleged attempt to rape a minor, the Apex Court observed: "A trial by press, electronic media or public agitation is the very antithesis of the rule of law. It can well lead to miscarriage of

⁸ K.M. Nanavati v. State of Maharashtra, AIR 1962 SC 605.

⁹ State of Maharashtra v. Rajendra Jawanmal Gandhi, (2004) 8 SCC 99.

justice. A Judge has to guard himself against any such pressure and he is to be guided strictly by the rules of law.” In the case of *M.P. Lohia v St of West Bengal*¹⁰, the Supreme Court addressed a situation where a trial concerning a dowry death was ongoing, and during this time, an article titled "Doomed by Dowry" was published in the magazine *Saga*. The article was based on an interview with the deceased's family, presenting their perspective on the incident and including detailed quotes from the deceased's father regarding his version of the events. The Apex Court observed: “We have no hesitation that these type of articles appearing in the media would certainly interfere with the administration of justice. We deprecate this practice and caution the publisher, editor and the journalist who were responsible for the said article against indulging in such trial by media when the issue is sub judice.” In the case of *Anukul Chandra Pradhan. v. Union of India*¹¹, Presumption of innocence of an accused is a legal presumption and should not be destroyed at the very threshold through the process of media trial and that too when the investigation is pending. In that event, it [would] be opposed to the very basic rule of law and would impinge upon the protection granted to an accused under Article 21 of the Constitution.

The effects on various factors of this trial by media include,

Effect on Independence of Judiciary and Judges:

Independence of the Judiciary in India is seen through the adoption of Montesquie’s Separation of powers in the system which separates the Judiciary from the other two organs of the government, the procedure followed for the appointment of judges through the collegium system, the Judicial review mechanism available at the hands of the Judiciary. This independence is now threatened due to interference of the media especially social media, through its own way of investigating cases even before it is brought before the court for its trial. Even though the spread of news through media helps the vulnerable to get to know the world about their claims, this often takes up the job of the judiciary as the media not only report news they themselves conduct an investigation process. There is a reason for the separate existence of the Judiciary for the Administration of Justice, Involvement of others in decision-making may lead to biased results because nowadays most of the media has either political influence or the influence of any other high profiles in society, and in some cases even the media is held by them as owners. The most influential people the content creators in social media publish their perspectives of their cases on their platforms, but these subjective thoughts

¹⁰ *M.P. Lohia v. State of West Bengal*, (2005) 5 SCC 123

¹¹ *Anukul Chandra Pradhan v. Union of India*, (1997) 6 SCC 1

of them are believed to be the facts by many of their viewers. These publications or media reporting may also influence the opinions of the judges and their perspectives in judging their cases and giving judicial pronouncements. Article 6 of the UN Basic Principles on the Independence of the Judiciary emphasizes that the judiciary must ensure fair conduct of judicial proceedings and respect for the rights of all parties involved. Likewise, the International Covenant on Civil and Political Rights (ICCPR) affirms that everyone has the right to a fair and public hearing by a competent, independent, and impartial tribunal, particularly in criminal cases and legal disputes. These principles underscore the importance of maintaining fairness and impartiality in the judicial process to uphold justice.

In some phenomenon, the opinions and theories given by media even affect the opinions of the Judges in deciding the cases, it may subconsciously affect the views of the judges and may lead to the outcome as predicted by the media.

Effect on the parties:

The influence of the media trial on the parties involved is the huge impact of the media trial and mostly this is the area which is left unaddressed by the law. when someone is subjected to intense media scrutiny, they are often portrayed as guilty or innocent before the court has rendered a decision. This not only jeopardizes the accused's right to a fair trial but also tarnishes their reputation, which may have long-lasting consequences even if they are later acquitted.

The principle of "innocent until proven guilty" is a cornerstone of justice, and it is primarily the judiciary's role to determine guilt or innocence based on the evidence presented. When the media takes on this role, it undermines the rule of law, distorts public perception, and puts undue pressure on the courts.

The courts have a responsibility to shield individuals from this kind of external influence, and as noted, they must be more vigilant and proactive in preventing the media from playing the role of judge and jury. Although this may add to the burden on an already slow-moving criminal justice system, it is essential to safeguard the rights of individuals.

Courts can issue injunctions against media outlets to prevent prejudicial coverage during ongoing cases and can also award damages for defamation. However, such remedies are rarely sought due to the complex legal and social dynamics in India.

Sometimes, even the witnesses involved are affected which even went to the limit of changing sides during the trial. This may sometimes even lead to the extent of life threats to the parties. In some cases, the reputation and mental stability of the parties are affected too.

AAURSHI TALWAR MURDER CASE:¹²

For instance, in the case of Aarushi Talwar murder who was a 14-year-old teenager, was believed by the public that she was murdered by her parents the Talwars for having improperly found her or compromising position with Hemraj. This case was reported even of small of its findings through media. But often, in this case, False news was circulated to influence public opinion. For example, once Hindustan Times reported that the CBI said the Killer wore gloves while committing the murder, but it was not mentioned in the CBI report and Times of India had reported that one of the parents could be the murderer and such reports and news were continuously published till the Rajesh Talwar was acquitted by the Supreme court due to the lack of evidence in the prosecution side. The involvement of the Supreme Court in the investigation of the murder of teenager Arushi Talwar highlights the issues arising from the police's tendency to share incomplete information with the media, which often leads to sensationalized reporting. This situation complicates the pursuit of truth and raises important questions about how information is disclosed, the rights of the victims' families, journalistic ethics, and the responsibilities of both the police and media regarding potential defamation. Additionally, it underscores the public's right to access information. Even public interest litigation was filed for the affected rights of the victim and to restrain the reporting of the wide allegations made by the Noida police which first investigated the Aarushi Talwar case. In this PIL, the SC restrained the publication of the materials involved in the investigation process of the case. The Supreme Court clarified that while information can be published, it should not interfere with investigations, harm reputations, or prejudice the accused. The press plays a vital role in a democracy, but it must practice self-restraint. If it fails to do so, what can be done? Reporting is allowed, but it should be done in a way that protects the reputations of all parties involved, particularly that of a young girl. Sensitivity in reporting is crucial. Additionally, although Rajesh Talwar was acquitted, the damage to his home during the incident and the lingering stigma of being labelled a murderer have not been addressed. These issues of damaging the reputation of the parties and framing the accused as the offender may not be seen as a big issue in the media trial but these irresponsible media reporters take this advantage and come up with another dramatic investigation of the case which boosts their views and used as content till another sensitized case comes in that place. But to the parties involved it is a trauma till the end of their life and they cannot switch it like the media does. Whether they are the real offenders or not they have to carry this tag for their lifetime. And on the side of the victims,

¹² Aarushi Talwar & Anr. v. State of Uttar Pradesh, (2014) 3 SCC 182

that's another kind of suffering.

Revealing the identities of the victims:

Revealing the identities of the victims of sensitive cases has often been another form of violating the rights of the parties, especially in cases related to sexual offenses it has always been insisted by the Supreme Court not to reveal the identity of the rape victims. But through media often their names and backgrounds are shown. In the case of *Manu Sharma v. State (NCT of Delhi)*¹³, the Supreme Court expressed significant concerns about the dangers of media trials. It noted that there is a serious risk of prejudice if the media operates without restrictions, such as publishing photos of suspects or accused individuals before identification parades take place, or making statements that declare the accused guilty before any official ruling has been made.

For instance, in the Nirbhaya case of 2013¹⁴, even the victim was referred to as "Nirbhaya" Her real name, background, and photos were content in the media for several days. Though the offenders were convicted for their offenses, the trauma faced by the victim's family is non-compoundable. Media reporting becomes one of the main reasons for their sufferings and in some other cases, victims fear reporting their sufferings as their identities may be misused or sensitized by the media.

The rights of the dead person:

The rights of the dead people are also protected by our constitution. The sharing of the dead person's pictures and misusing their names in the case can also come under the purview of protection of the rights. In the case of *R. Rajagopal v. State of Tamilnadu*,¹⁵ the SC held that the right to privacy extends to the deceased also. In the case of *Tata Press Ltd v Mahanagar Telephone Nigam Ltd*, the court emphasized the need to protect the reputation of the deceased in some cases when the highly reputed or a person of high status in society is involved in the case.

A psychological perspective on the parties:

Media trials, especially in India, often have profound psychological effects on both the accused and the victims. When the media sensationalizes cases, reveals personal identities, or

¹³ *Manu Sharma v. State (NCT of Delhi)*, (2010) 6 SCC 1

¹⁴ *Mukesh & Anr v. State for Nct of Delhi* (2017)6 SCC 1

¹⁵ *R. Rajagopal v. State of Tamil Nadu* is 1994 (6) SCC 632

provides biased narratives, it intensifies the trauma experienced by all parties involved. Some key psychological effects include:

For the Accused:

The accused often face immense public scrutiny, which can lead to social ostracism, loss of reputation, and disruption in their professional and personal lives. Even if proven innocent later, the stigma from a media trial can persist for years. Continuous media coverage can cause anxiety, depression, and feelings of helplessness. The accused may also experience a sense of being judged prematurely, leading to feelings of isolation. The constant fear of being publicly harassed or threatened can result in post-traumatic stress disorder (PTSD), nightmares, and intrusive thoughts related to the trial.

For the Victims:

Re-Victimization-The revelation of a victim's identity, especially in sensitive cases like sexual assault, often leads to re-victimization. Victims may feel exposed and unsafe, experiencing additional psychological harm from the public's judgment and opinions. Once their identity is revealed, victims lose their anonymity and privacy, which are crucial for their healing process. Being thrust into the public eye often aggravates their emotional wounds. Sensationalized media coverage can reopen emotional scars and amplify trauma, making it difficult for victims to recover and move on from the incident.

Aftermath Trauma:

Due to Persistent Social Judgment, Even after the case is over, individuals involved in high-profile media trials may continue to face societal judgment. This can result in ongoing stress, difficulty reintegrating into society, and damaged relationships. The long-term stigma can make it challenging for the accused to rebuild their lives, while victims may find it hard to resume their normal routines due to lingering emotional trauma.

Effect on the Society:

The news and reports of the media are as it is believed by the public and people do not go into the question of whether what is telecasted is the actual truth or not. So the media must act with responsibility and Accountability as the media treats the accused and the victim or any other person involved in the case the same as the media projects regardless of the judgment of the case in the courts.

POSITION OF MEDIA TRIAL IN US:

Several rulings by the U.S. Supreme Court highlight the potentially harmful effects media coverage can have on trials. In the case of Billie Sol Estes, the Court overturned the conviction of a Texas businessman, ruling that his right to due process had been violated because of excessive and intrusive television coverage during pre-trial proceedings. The Court established that broadcasting high-profile criminal trials is prohibited under the "Due Process of Law" clause in the Fourteenth Amendment.

In another case involving Dr. Samuel H. Sheppard, the Court found that prejudicial media coverage had deprived him of a fair trial. Justice Michael Kirby, referencing the televised trials of Michael Jackson and O.J. Simpson, remarked that the judiciary, when entangled with media entertainment, may struggle—sometimes succeeding, sometimes not—to uphold the dignity and justice owed to the accused. However, he pointed out that these are not the concerns of the media, whose interests lie in entertainment, profit, and exerting their influence.

POSITION OF MEDIA TRIAL IN UK:

In England, the House of Lords, in the notable case of Attorney General vs. British Broadcasting Corporation (BBC), acknowledged that media trials can influence judges, despite assertions of judicial objectivity. It was noted that individuals may struggle to completely disregard information they have seen, heard, or read, and such exposure may subconsciously impact their decisions. Courts and Tribunals have been specifically established to handle these cases, benefiting from their specialized expertise.

SENSITIZATION OF CASES:

Sensitization of the case by the media has been often done in High-profile cases or especially in sexually related crimes. Recently, in the Kolkatta rape case also, there is a risk of sensitizing and misuse of the name of the victim due to the sensitiveness involved.

NIRBHAYA CASE:

In the Nirbhaya case, the news and stories published regarding that case were more than 15 thousand. This was reported on front pages mostly and more columns were allocated for reporting these cases. Daily at least a single fresh news regarding this case would be published in the newspapers and mostly pictorial representations were used to trigger the emotions of the

public. It was seen as a significant development in the Indian Criminal Justice System. But more than that the case was a debate topic and a continuous discussion in every part of the country. Media coverage of rape cases significantly influences public opinion. It often leads readers to view sexual assault as a horrifying crime and fosters sympathy for survivors of sexual violence. The Delhi gang rape case received widespread media attention. Terms like "fight," "struggle," and "battle" were commonly used to describe the victim's journey, and names such as Nirbhaya (fearless), Amanat (treasure), Damini (lightning), and Jagriti (awareness) were used to create a positive public image of the victim. The case was thoroughly covered, including follow-up reports, and was framed in a way that sparked a social movement. This extensive coverage led to a shift in how the general public perceives rape, with the media serving as a key player in shaping public opinion on the Delhi rape case.

However, this level of attention is not given to all rape cases. The media often chooses to extensively cover only those stories that contain dramatic elements, using these aspects to captivate readers. The reporting patterns also reveal that rape is a largely underreported crime. When rape cases are less noticeable, the media tends to provide only superficial, incident-based coverage, without delving deeper into the root causes or potential solutions from a gender justice standpoint. The Indian press must reassess how it covers sexual violence to uphold higher journalistic standards. They should also recognize that sustained coverage of rape cases is crucial to maintaining public attention, as such coverage can significantly alter societal attitudes and opinions. A crime is a crime even though it is committed in a busy city or a rural area, in a more sensational way or the opposite, it has to be reported more truthfully and naturally like how it was committed. Exaggerating the facts and events of the case has to be avoided and the ethics of journalism must be followed. A crime must be approached only in the way of giving justice to the affected parties and it must not be used as a source of content to increase their views by the media.

GUJARAT RIOT CASE:

Another important area widely being the victim of the sensitization is the problems involving communal insights. It is often erupted because in our nation communal feelings of the people are used by the third hand for their personal use. One such fine example is Gujarat Riot. The Gujarat riots refer to the violent communal clashes that erupted in Gujarat, India, in 2002, following the Godhra train burning incident. This violence primarily targeted Muslims, leading to substantial loss of life, widespread destruction, and displacement of communities.

Reports suggest that political and social tensions were exacerbated by mass media influence. Since the BJP returned to power in Gujarat in 1998, the major newspapers Sandesh and Gujarat Samachar have adopted a distinctly communal stance. The government's support for these publications raises concerns about their role as government mouthpieces. During the recent violence, Sandesh's actions were particularly troubling, while smaller publications like Gujarat Today, Sadhbhav, and Gujarat Mitra acted more responsibly.

These two newspapers, heavily dependent on state funding, amplified the unfounded official claim that a 'foreign hand' was responsible for the Godhra tragedy. The riots followed just 3-4 weeks after these articles were published. On February 28, the day after the Godhra incident, Sandesh released images of the burning Sabarmati Express coach with the headline, "Fifty Hindus burnt alive," prominently displayed. This issue also featured graphic images of the Godhra victims, representing a serious violation of media ethics and law. Witnesses testified that copies of this edition were widely photocopied and circulated by members of the RSS, VHP, and BD in rural areas, inciting anger and encouraging ordinary people to engage in the violence that followed.

In the same issue, a front-page headline claimed, "Two dead bodies of Hindu girls found near Kalol in mutilated state among those abducted from the Sabarmati Express." This article suggested the girls had been raped and killed, further heightening tensions in the state. The inflammatory headline was likely intended to provoke the Hindu community against Muslims. However, police later investigated and found the report to be completely false. Sandesh continued to portray Muslims as murderers and traitors, publishing a report on March 1 alleging that a mosque incited a crowd to attack surviving Ram sevas with the call, "Slay the non-believers... Islam is in danger." This story was also fabricated. On March 7, Sandesh published another provocative article suggesting that Indian Muslims returning from the Haj pilgrimage could pose a potential 'terrorist' threat to Hindus, titled, "Hindus in danger! Possibility of attack with terrorists' support! Frightening scheme of attack by returning Hajis!" The incendiary content circulated by local print media significantly fueled the eruption of the Gujarat riots in 2002. Mass media played a significant role in these events. In this context, the role of mass media in shaping narratives around communal identities highlights the potential for media to act as a catalyst in societal conflicts, reinforcing the need for responsible journalism in politically charged environments.

SUSHANT SINGH RAJPUT SUICIDE CASE:

The Sushant Singh Rajput case stands as the largest media trial in the history of Indian broadcast media, receiving uninterrupted coverage for several days. It attracted global attention and media focus. The case sparked a wave of bizarre and unconventional conspiracy theories, which were extensively played out on Indian news channels, social media platforms, newspapers, and even in international politics. In the aftermath of the incident, news channels engaged in relentless live coverage, broadcasting hour after hour, day after day, week after week, while neglecting other significant issues that required attention. In the case of Sushant Singh Rajput's suicide, he was found dead in his house where he was living with his friends on June 14th, 2020. His death shocked his fans and the whole of India as the stories given by the media on his death were unbelievable. So, people showed more interest in these investigational reports of media. His death was framed to be murder and news such as it was preplanned and all such things were circulating in the media every individual who has been following this news came up with their own stories on many social media platforms like Facebook, WhatsApp, twitter, etc.... On 3rd October, Dr. Sudir Gupta of AIIMS confirmed Sushant's death to be of suicide and ruled out the allegations of murder. Some reported him to be under depression and not in a good mental state as he was under some medications and consulting psychiatrists. The TV experts failed to address the key question: "How would Sushant Singh Rajput's 'reputation and standing' be harmed by considering the possibility that he may have suffered from depression?" Instead of providing a clear response, they skirted the issue, seemingly teetering on the edge of stigmatizing both depression and those who suffer from it, all while maintaining their stance of denial. It's deeply disheartening to see how Indian television seems indifferent to taking a thoughtful approach, instead drawing conclusions tainted by the stigma surrounding suicide. They appear more focused on distinguishing between suicides that boost TRPs and those that don't, rather than confronting the real issue. Most of the media accused Rhea Chakraborty, a Bollywood actress who was in a living relationship with Sushant after the allegations made by Sushant's father Rajput. Media has confirmed her to be the offender and most of the reports and news published were of in a misogynist way. The channels while reporting most often used question marks as a way to show their claims to be verified and Indian media used the tendency of the viewers and often projected the accused as a villain in all possible ways. Now as a student who has known all these pre-judice approaches of the media towards the case, it is very hard to believe any news reported by them in sensitive cases and anyone who is the accused even has the right to a fair trial in the court. This must not be compromised. This case was sensitized to a great extent

mainly because of the hashtags used in the cases by the media like #sushantsinghrajput, #justiceforssr, etc... These kinds of acts in the media made people more emotionally connected and in this case, even the politicians pushed it to be the case of murder and gave additional support to the allegations of the media. All four major English-language news channels – Republic, Times Now, CNN-News18, and India Today – posted an overwhelming number of tweets about Sushant Singh Rajput, showing that they all recognized and exploited the value of the story. Channels like Aaj Tak, Zee News, News 24, and India TV were ordered by the non-governmental NBSA on October 23rd to broadcast an apology for their insensitive reporting and sensationalizing of Rajput's death. Another important aspect of this suicide was the case of Nilesh Navalakha & Ors. V. Union of India. The judgment addressed four separate petitions concerning media coverage by certain news channels related to actor Sushant Singh Rajput's suicide case, which resulted in a media trial that infringed on the rights of the accused and tarnished the reputation of the Mumbai Police. The petitioners included individuals such as Prerna Arora, Asim Sarode, Nilesh Navalakha, and others; Mahesh Narayan Singh (a former IPS officer) and other retired civil servants, as well as an NGO named In Pursuit of Justice. The petitions presented before the Supreme Court raised concerns regarding the TV channels' coverage of the SSR case, pointing out that some of these channels aired headlines that effectively mocked the actor for dying by suicide and questioned whether he was involved in drug use. The pleas emphasized the insensitivity of these channels, noting that the headlines and questions were directed at someone who could never respond or defend themselves. This resulted in the Guidelines for the media publications and reporting. The SSR case highlights the flaws and missteps of Indian journalism in many ways. This excessive coverage and sensationalist analysis has contributed to the rise of degraded journalism.

LEGAL FRAMEWORKS GOVERNING MEDIA PUBLICATIONS AND ITS REPORTINGS: CONCERNING MEDIA TRIAL:

The Contempt of Courts Act, 1971:

Article 19(1)(a) of the Indian Constitution grants the right to freedom of speech and expression, while Article 19(2) allows for reasonable limitations on this right through laws, including for 'Contempt of Court.' Although Article 19(2) does not specifically mention 'administration of justice,' interference with justice is recognized as criminal contempt under the Contempt of Courts Act, 1971. Section 3 of the Act treats any action that disrupts or could disrupt the administration of justice as criminal contempt. Therefore, if this law places

reasonable restrictions on freedom of speech to prevent such interference, these restrictions are considered valid under the Constitution.

The provisions of the Cable Television Networks (Regulation) Act, 1995, are directly relevant to the issue of media trials in several ways:

1. Program Code (Section 5): The Act prohibits broadcasting content that promotes communal violence or is otherwise objectionable. In the context of media trials, this provision can be invoked to argue against sensationalist coverage that misrepresents facts or incites public outrage, thereby potentially jeopardizing fair trials.
2. Prohibition of Certain Programs (Section 19): This section's ban on programs that could lead to communal disharmony highlights the need for responsible reporting, especially in high-profile cases. Media trials often escalate tensions, and adherence to this provision could mitigate such risks by ensuring balanced and fair reporting.
3. Advertising Code (Section 6): The regulation of misleading advertisements also relates to media trials, as sensationalist media coverage can sometimes serve as a form of indirect advertisement for particular narratives. This can skew public perception and influence judicial processes.
4. License Requirement (Section 4): The licensing of cable operators emphasizes accountability. Media outlets engaging in irresponsible reporting during trials could face scrutiny, leading to potential sanctions or revocation of licenses if they violate established codes.

By reinforcing responsible media practices, the Act aims to protect the integrity of the judicial process and public discourse, countering the negative implications of media trials.

Press Council of India

It was established in the year 1966. It provides norms and guidelines on the press media and regulates its activities. Relating to the trial by media Norms on Journalists conduct provides guidelines on it. The recent guidelines is for the year 2022 and they provides mainly on,

- Avoid Sensationalism: Refrain from sensationalizing trials to prevent influencing public opinion and compromising the fairness of the trial.
- Maintain Objectivity: Report facts accurately, without bias or speculation.
- Protect Privacy: Respect the privacy of individuals involved in the trial.
- Avoid Prejudgment: Refrain from making assumptions or conclusions before the trial's outcome.

If these norms are not followed, the Press Council of India can take action. However, the council's powers are limited to censure, admonition, or advice. For stronger enforcement, individuals can approach the courts, citing the norms as guidelines for responsible journalism.

NBSA Guidelines:

In the context of media trials, the guidelines established by the News Broadcasters Association (NBA) are essential for ensuring responsible journalism and protecting the rights of all parties involved. The following key areas outline the NBA's self-regulation efforts:

1. **Impartiality and Objectivity in Reporting:** Accuracy is fundamental to news television. Channels must prioritize accuracy and balance over speed. If errors occur, they should be corrected transparently and promptly, ensuring that no defamatory or libelous content is broadcast. Truth serves as a defense when public interest is at stake, and all parties involved should have an opportunity to present their viewpoints.
2. **Ensuring Neutrality:** Broadcasters must maintain neutrality by allowing all affected parties to express their perspectives.
3. **Reporting on Crime and Safeguards:** Given the significant impact of television news, channels must exercise restraint to avoid glorifying or inciting violence. Reporting should not desensitize viewers or glamorize violent acts, especially regarding sensitive topics. Care must be taken to avoid visuals that could be prejudicial or inflammatory.
4. **Depiction of Violence Against Women and Children:** Channels must protect the identities of victims of sexual violence and child abuse, ensuring that personal details are not disclosed without proper concealment. This approach is critical to maintaining the dignity and privacy of vulnerable individuals.
5. **Sex and Nudity:** The guidelines prohibit the airing of nudity, explicit sexual content, or any sexually suggestive material. This restriction upholds community standards and respects viewer sensitivities.
6. **Privacy:** Intrusion into individuals' private lives is generally prohibited unless a clear public interest justifies it. News channels should avoid salacious motives and seek consent when involving minors in any broadcast that affects their privacy.
7. **Endangering National Security:** News channels must adhere to legal guidelines regarding the portrayal of India and its strategic interests.
8. **Sting Operations:** These operations should be a last resort and must align with ethical standards. They should not involve sensationalism or illegal activities and should aim solely to expose wrongdoing without misrepresenting the truth.

9. Corrigendum: Channels must acknowledge and correct significant mistakes immediately on-air, ensuring that corrections are visible to viewers.

These principles reinforce the commitment to accuracy and integrity in broadcasting.

Guidelines after Nilesh Navalakha & Ors. V. Union of India (Sushant Singh Rajput case)¹⁶

1. In cases of death by suicide, portraying the deceased as having weak character or violating their privacy in any way must not be done.
2. Causing prejudice to an ongoing investigation by any of this ways is impermissible
 - Discussing the character of either the accused or the victim, thereby creating bias against either party;
 - Conducting and broadcasting interviews with the victim, witnesses, or their family members;
 - Analyzing statements from witnesses whose testimony could be crucial during trial;
 - Publishing confessions allegedly made to a police officer by the accused and suggesting to the public that such confessions are valid evidence without clarifying the provisions of the Evidence Act, 1872;
 - Releasing photographs of the accused, thereby aiding their identification;
 - Criticizing investigative agencies based on incomplete or poorly researched information;
 - Offering opinions on the case's merits, including pre-judging the guilt or innocence of the accused or others not yet implicated;
 - Recreating or depicting the crime scene and suggesting how the accused may have committed the crime;
 - Speculating on future investigative actions or recommending steps to complete the investigation;
 - Leaking confidential or sensitive information gathered by investigators.
 - Acting in ways that violate the Programme Code under section 5 of the Cable Television Networks Act (CTVN) and rule 6 of the CTVN Rules, potentially leading to contempt of court; and engaging in character assassination, damaging someone's reputation.

¹⁶ Nilesh Navalakha & Ors. v. Union of India 2021 (2) TMI 138

The court held that these guidelines are directive and not indicative.

RECOMMENDATIONS FOR THE WAY FORWARD:

Reforms in the Contempt of Courts Act of 1971 as the prejudice by the media can be regulated only by the courts in an effective way,

- As per the 17th Law Commission 200th Report, the word ‘Pending’ in section 3(2) of the Act includes only the case that has been filed in its Chargesheet rather than the cases from its time of arrest must be included. This reformation must come into effect as soon as possible.
- As per the 17th Law Commission 200th report the High courts must be given the directory powers to postpone the publication of the investigations by the media. To implement this a separate section that grants power to the high court to postpone the publication with the mentioning of the words ‘Substantive prejudice’, so that the test of substantive prejudice must be done by the courts before passing the orders. This must be included as a mandatory provision.
- Even if there is no act to the contempt of court, the High Court has the power under Art-215 as constitutional power but these directions specified by these acts can enforce laws as per the purpose of the statute
- The Contempt of Courts Act, of 1971 must define ‘Publication’, as it has always been a confusion whether it includes only press media publications or it includes electronic media also.
- The Contempt of Courts Act, 1971 must widen its scope so that the interference or obstruction of publication in the course of justice extends to the adding up of words, ‘Confidentiality’ and ‘Sensitivity’ to include the privacy rights of the parties also within the ambit.

Press Council of India:

It must be amended so that the programming codes and the advertising codes must be decided and kept consistent with the publication methods by an Independent Regulatory Body so that any politics do not influence the code. The Press Council of India often regulates only printed media, the scope has to be widened to include electronic media also. This Press Council of India deals with the complaints from the right to reply right of the public or affected parties. The way to approach courts must be simplified to directly approach them.

Media Social responsibility:

It must be implemented in the form of guidelines as their responsibility towards society contributes to ensuring a fair trial. The Concept of MSR must be promoted to create responsible Journalism Practices. The guidelines may include important features like,

- **Restricted Reporting Period:** Media organizations shall refrain from publishing speculative or prejudicial content during the Restricted reporting period.
- **Establishment of a Media ombudsman for Legal Reporting**
 - a. Monitor media coverage of legal matters and ensure compliance with these guidelines.
 - b. Investigate complaints of biased or irresponsible media trials.
 - c. Levy fines or other penalties on media organizations for violations of these guidelines.
- **Inclusion of the Appointment of Legal Experts** to verify the reports of the media before it is published whether it has any legal complications and to verify whether it follows all the orders of the courts in revealing information about the individual
- **MSR Certification for Journalists:** Establish training and certification in Media Social Responsibility, emphasizing ethical journalism and privacy protection.
- **Media Literacy Campaigns:** Promote media outlets to educate the public on media literacy and citizens' rights to critically evaluate content.
- **Community Engagement Initiatives:** Encourage media outlets to support community programs that foster responsible journalism and legal awareness.
- **Victim Rehabilitation Programs:** Part of their MSR could involve contributing to programs that provide counseling, mental health support, and professional rehabilitation for individuals whose lives have been negatively impacted by media trials.
- **Public Apology Requirement:** In the event of false or damaging reporting, media outlets should be required to issue public apologies and corrections with the same prominence as the original damaging reports. As the media is the one that publicizes the news of crime it must also publish the news of the actual judgment of the case and if the accused is acquitted it must be done with the same intensity.

Special Adherence to the UN's Instrument on Justice and Support for Victims of Crime and Abuse of Power:

In this Convention, Article 5 says about the rights of the victim's access to justice and

fair treatment and Article 6 says about the protection of the victims, witnesses, and experts. These Articles will be violated if the Practice of Media trial goes on. So Victim protection mannerisms adhering to this Convention must be introduced in the Indian Justice System.

A suggestion to reduce the psychological effects on the accused and victims is to stop revealing their identities.

The government may take steps to list the kind of cases under which identities should not be revealed under a Guideline.

CONCLUSION:

Balancing media liberty with the right to a fair trial is a complex issue requiring careful consideration of all parties' rights. This paper explored various subtopics, emphasizing the distinction between media trials and fair trials, particularly in high-profile cases like the Aarushi Talwar murder and Sushant Singh Rajput's suicide. These cases illustrate how media coverage can influence public perception and undermine the judicial process.

Legal frameworks, including the Contempt of Courts Act, of 1971, and guidelines from the Press Council of India and the News Broadcasters Association, highlight the need for regulatory measures to reconcile these competing interests. To protect the rights of both the accused and the deceased, reforms are essential to address media prejudice effectively. This paper advocates for dialogue among media professionals, legal practitioners, and policymakers to establish a framework that respects media freedom while ensuring judicial integrity. Pursuing these recommendations can foster a more equitable system honoring freedom of expression and fair trial principles.

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