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## Media trails: From progression to regression

**Zainab Gazala Sheikh and Sunita**

### Abstract

“A responsible media is the handmaiden of effective judicial administration”. The media has an impact on the lives and thoughts of people all around the world. It has significantly impacted people’s thought process of interpreting the world in different light and molding the opinion of people. It’s quite bizarre that with evident growth of mass media in past two decades, media has play a vital role in changing viewpoints and perceptions in fraction of seconds. It acts as instrument for not only sharing viewpoints but also building opinions on various issues of national or international matters.

In India, democracy has three strong pillars but with progressive growth of Media, it has become the fourth one. The unprecedented growth of Media has revolutionized and it has been proved fruitful in various spheres, Judiciary being one of them. Indian Constitution has recognized freedom of press under the ambit of “Art 19(1)(a)”<sup>1</sup> but also imposes reasonable restrictions by limiting the freedom of speech and expression if its violating someone’s reputation, Privacy or contempt of court. Media and Judiciary go hand in hand. Judiciary being the backbone of the democracy cannot be hampered or tampered. But, lately media tends to pierce itself through judiciary in the name of freedom of speech and expression, sometimes leading to distort reality by presenting “what public is interested in” instead of “what’s in public interest” to catch public attention.

**Keywords:** Building opinions, judiciary, tampered

### Introduction

Media plays pivotal role in administration of justice. Fair trail and providing justice are of paramount importance. Indian constitution provides right to every accused for fair trail where he is presumed to be innocent, unless proven guilty. But on other hand it also guarantees freedom of press, which sometimes becomes contradictory and conflicting while administrating justice.

Media while exercising its duties sometimes exceeds its boundaries by intervening in judicial proceeding. Media starts a parallel investigation, form and moulds public opinion even before the proceeding start, thus affecting court trails. This situation where media converts itself to “public courts” and “Janta Adalat” is known as MEDIA TRAIL. It starts even before the actual court takes cognizance of the case. Sometimes proves to be beneficial, as it puts pressure for ensuring effective administration of justice and speedy trail. But, it also makes it difficult for courts by influencing the proceeding and interfering with rights of the accused in a particular trail. Sometimes, sensitive information is brought in public eye, due to which evidences and witnesses are tampered. Media sometimes scandalizes and sensationalize the case by twisting the facts, sometimes declaring convict guilty, even before the court gives its final verdict. Although, media aims to provide impartial, authentic information to people but unfortunately it has deviated towards prejudice, reprobate and mis-leading information for financial gains. Apart from it, it exhausts the meaning of privacy, especially in cases of survivors whose identity is being revealed despite being forbidden by law. Media is proven to be extremely powerful and fearless tool in imparting justice in many cases by highlighting and bringing up the matters and cases in public eye, demanding justice and speedy trails for e.g. KATHUA RAPE CASE. Media trails plays a positive role in unearthing huge scams and bring in light cases of corruption but it goes beyond its domain by acting as a judge which effects it credibility and actual purpose.

“From fanciful words to powerful speeches, it can enhance and denigrate the perception of a person simultaneously”.

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<sup>1</sup> Constitution of India

False apprehension and pinpointing fingers on anyone can apprehend danger on dignity of a person, thus taking away the true essence of life. The most problematic area is when matters which are Sub Judice are extensively covered and thrown in people eye and already declare person as guilty even before the proceeding is over. Trail by media amounts to contempt of court is punishable under law, if anyone tries to interfere, obstruct or prejudice proceeding of court.

Social media and unprecedented growth of internet has spiked up the process of media trails. This leads to forming of opinions and views based on messages and advertisement rather than opinion of judiciary, hence adversely affecting the administration of justice. Most recent example is “Shushant Singh Rajput case”, in which people declared accused guilty without any conclusive proof. It evidently lead to virtual character assassination and infringement of privacy.

### **From Progression to eventually towards regression of media trails in India**

The concept of Media trails can be traced backed since 20<sup>th</sup> century with famous case of “Roscoe Fatty Arbuckle 1921”<sup>[2]</sup> Case to actual media trail in “O.J Simpson (1995)”<sup>[3]</sup> case. However in India, freedom of press was miscued to a great extend but there are numerous incidences which have been proven fruitful in imparting justice by pressurizing government for re trail or re judging the case.

Media played a significant role in highlighting the issues and cases in which accused where set free without proper investigation of the case. Media has coerced the government to serve justice by challenging the verdicts of Supreme Court and bringing accused to hook.

“Jessica Lal’s murder case, 2010”<sup>[4]</sup> was one of the cases in which media trail got justice to the victim by exposing the underlined factors that denied justice to the victim. In “Bijaj Joshi rape case,2005”<sup>[5]</sup> and “Nitish Katara” murder case, medical media played impeccable role by intervening in the course of trails and helped serving justice to the victim.

Media’s relentless campaigning via protest, rallies highlighted the injustice and raised the voices to demand justice to these burning issues. “Priyadarshani Matto Case<sup>[6]</sup>” was one of the most talked about case, in which media was credited for awakening the judiciary which was underlying in cold storage for many years by giving justice the victim as justice was delayed but definitely not denied.

“Nirbhaya Rape case”<sup>[7]</sup> was one of the most heart wrenching cases but it also revotionized the rape laws in India, Media played a prominent role in delivering justice to the victim who lost her life.

More recently “Unnoa Rape case” and “Kathua rape case” created a stir as the matter was brought in light by media on national as well as international platforms resulting in innumerable protests and debates, resulting in convicting all the accused with punishment of life imprisonment.

Despite having such great impact and influence in delivering justice, media most of the time when ahead of its

set boundaries. From moving towards the progressive side, it is deviated towards regression as “new media presumes guilt and victim must prove his or her innocence”. Standards of reasonable doubt is by far substituted with presumption of guilt without setting any bench mark of standard.

There are plethora of cases which indicates the outrage of media in presuming the guilt even before the actual judgment. From “Nupur Talawar vs CBI”<sup>[8]</sup> famously known as ARUSHI TALAWAR CASE, where media already declared parents of victim as murderers but parents instead of being accused were instead a prey of tabloid journalism. Similarly in “Sunanda pushkar case”<sup>[9]</sup>, where Poilitician Shashi Tharoor, also got under the clutches of media who declared him as culprit without any fatal evidence.

Apart from these “Sheena Bhora murder case”, media interceded in the investigation and instead of focusing on the facts,it emphasized on her personal life which surely infringes the right of privacy.

The most recent “Sushant Singh Rajput” case was the biggest media trail witnessed in India. Media disrupted its credibility by sensationalizing the death of the actor Sushant Singh Rajput. Media become polarized and self regulatory and hence declared Reha chokarborty as guilty and apart from that relentlessly violating right to privacy and all other rules and regulations set for media trails.

Apart from these there are n number of instances and cases where media intervened and obstructed not only the course of justice but the shackled the principles of natural justice.

Trail by media, where media over cedes its limit by hindering the administration of justice is contempt of court. They are regulated by politics parties and have become a puppet in hands of rich, powerful and influential leaders.

### **Reason for Media intervention hindering Justice and rights of the people**

It’s a well-known fact that media is one of the most powerful tool in a democracy for delivering justice. But, in today’s time the power of media is misused to an extend that it has apparently became a dangerous weapon in the name of freedom of speech and expression. The process of Media trails where privacy and infringement of right has become common under the name of transparency is apprehending danger to world’s largest democracy

The actual work of Media is unearthing facts, criminal activites and lending voices to unheard people.But media has surpass its limits and itself has become the “public court” who declares the verdict even before the actual trail.

Increasing Privatization, commercialization and advertisements in media one of the biggest reasons in sensationalizing the news without any evidence to gain monetary benefits and TRPs. PCI (Press Council of India) being the quasi-judicial body do not hold the effective legal powers to regulate Mass as well as other forms of media. All these factors along with many other factors like increase usage of social media has completely disrupted the actual working of media as medium of imparting impartial and unbiased news to people. Instead it turns and twists the actual facts and gives cooked facts the shape of reality,

<sup>2</sup> <http://www.encyclopedia.com>

<sup>3</sup> OJ Simpson, case no.BA097211

<sup>4</sup> AIR 2010 SC 2352

<sup>5</sup> Bijal Revashanker Joshi vs State Of Gujarat (1997) 2 GLR 1147

<sup>6</sup> Santosh Kumar Singh vs State (Thr CBI) 2007 CriLJ 964, 133 (2006) DLT 393

<sup>7</sup> Mukesh and Another v. State (NCT of Delhi) (2017) 6 SCC 1

<sup>8</sup> Nupur Talwar vs. Central Bureau of Investigation and Another (AIR 2012 SC 1921)

<sup>9</sup> Dr. Shashi Tharoor vs Arnab Goswami And Anr CS(OS) 253/2017

hence leading people to deviate from relying on justice driven by courts to media courts.

### Way forward

There is a dire need to make Amendments to regulate Media trails. Several amendments could be made in “Contempt of Court Act,1971”<sup>10</sup> and “Data Protection Bill” that makes it mandatory for media to show “what’s in public interest” instead of “what public is interested in”.

Apart from this PCI should be served with eminent power to discourage media trails, by having adjudicatory mechanism which could penalize the offender separate Code of Conduct can also be formulated by council for online journalists.

Separate Tribunal should be made for cases of defamation to provide justice to victims whose image is tarnished as a result of media trails.

In addition to this, Media should its refrain itself from hindering the administration of justice and rather limit itself to discovery of crimes or issues.

### Conclusion

As in today’s era people entrust media and rely on it for relevant information, it is the cardinal duty of media to escalate true and unbiased facts and information, so as to retrain the trust. As a responsible media, it shall not interfere with right to privacy of people and not purposely incite violence or hatred amongst people. Moreover, it should not dance to the tunes of government and rather give accurate court reporting without mincing words.

Media trails and its intervention has both constructive as well as destructive. If some changes are brought up in system, Media trails can actually aid the process of administrating justice by pressurizing the government to speed up the process. And if Media trails didn’t stop interfering in the process ultimately, “the court of law will believe more what’s happening outside the court rather what is dispensing inside the court” as media has the power of turning villain into hero and vice –versa.

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<sup>10</sup> <http://www.indiacode.nic.in>