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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **MEDIA TRIAL: ROLE OF MEDIA IN SHAPING PERCEPTION OF CRIME**

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## **ABSTRACT**

Indian democracy is supported by three main pillars: the legislature, the executive and the judiciary. *Lord Macaulay considered “Media” as the fourth pillar of democracy. It is important to always raise awareness and bring about change in the minds of the people. This is possible only when it is free and independent. Part III of the Indian Constitution does not explicitly provide for “freedom of the press”, but the Supreme Court has interpreted it to guarantee freedom under Article III. 19(1)(a) guarantees “freedom of speech and expression”. The media has reached a stage of development where people can access world events at their fingertips through the digital world. However, the media has been frequently criticized in recent years, especially when reporting on high-profile events. They sensationalize and distort facts to attract public attention. The media also bears an equal responsibility. The judicial system that protects justice and the two sides should never clash. The media interferes beyond the functions of the judiciary under the pretext of investigative reporting. This creates a big obstacle. This article examines how freedom of speech and expression, i.e. the right to the press, is being turned into trial by the press and affect the process of justice. “Freedom of the press” is sometimes referred to as “media trial”, which has a negative rather than positive effect on the judicial process.*

**KEY WORDS:** Media trial, freedom of speech & expression, Media & Judiciary, justice, Media, Democracy, Fair trial

## **HYPOTHESIS**

1. Media trial interferes with the administration of justice and the rights of the accused.
2. Requirement for reforms in the current regulatory mechanism is necessary and the influence of the media in criminal cases needs to be reduced.



## **OBJECTIVE OF THE STUDY**

- a) Study the evolution of media in India.
- b) Study the impact of media trials on the judicial system and the role of media in democracy.
- c) Examine the reality of media trials in courts regarding justice for victims.
- d) Strike a balance between two conflicting rights, namely the right to privacy of the accused and the right to a fair trial and the right to freedom of speech/press.

## **INTRODUCTION**

The concept of media as the fourth pillar of democracy, first formulated by Thomas Carlyle emphasizes its crucial role alongside the legislative, executive, and judicial branches. A responsible press Acts as a vital ally in the effective administration of justice. Beyond simply conveying information about cases and trials; rather, it scrutinizes all aspects of the judicial system, from law enforcement to the authorities, prosecutors, lawyers, judges, and courts. It is the center of public attention.<sup>1</sup> The press promotes public understanding through free and active reporting, criticism, and debate. It strengthens the rule of law and improves understanding of the judicial process. This open discourse not only promotes Transparency, but also serves as a catalyst for improving the quality of the judicial system. In India, the media has historically played a key role in exposing the realities of British colonial rule and mobilizing the people to fight. Newspapers became a powerful agent in promoting revolutionary movements.<sup>2</sup>

In colonial India, the press served as a beacon of truth, highlighting injustice and the British administration. Newspapers aroused nationalist sentiments through their reporting. They mobilized citizens to fight against colonial oppression. Fearless pursuit of truth and Public awareness became a tool for unity among Indians of all walks of life. It laid the foundation for a collective aspiration for freedom. This historical example highlights: The essential role of a free and independent press in safeguarding democracy and promoting social justice. It highlights the media's ability to hold those in power accountable, amplify the voices of the marginalized, and inspire the collective action for a common cause.<sup>3</sup>

Many judges' criticized media trial stems from concerns that such coverage may have an undue

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<sup>1</sup> State of Maharashtra v Rajendrajawanmal Gandhi., (1997) 8 SCC 386

<sup>2</sup> Shazia Shaikh, Law and Media Trial in India, J. NAT'L L. U. DELHI 76 (2020)

<sup>3</sup> Mona Mahecha, Media Trial: A Threat to Fair Trial, (2016)



impact on the judge's mind, potentially affecting their impartiality in passing judgments. While media trials can sometimes help gather evidence and reveal the truth of a case, such cases are rare. In India, the press enjoys wide freedom and various rules attempt to regulate its power, but they are limited. The extent of their influence is still difficult to gauge. Media trials can often shape public opinion before a case even reaches the courts. This can put pressure on judges and influence the course of a trial. It undermines the fair administration of justice. Judges, who are required to uphold the principles of fairness and objectivity, may find it difficult to avoid being influenced by the intense scrutiny and often sensational reporting of important cases. While efforts are being made to regulate the power of the media, their effectiveness in curbing its undue influence remains uncertain. Ultimately, the issue requires a careful approach that respects both freedom of expression and the integrity of the judicial process, so that justice is not eroded in the court of public opinion.

### **MEANING**

The press has always been regarded as the watchdog of society. It is essential to have a free and fair press in any form of government. In a large and diverse democracy like India, the media also functions as an opposition party, so it is essential that it functions without bias and prejudice. The media is the backbone of Indian democracy. The roots of mass media go back to the nationalist movement in India. Since then, the media has played a vital role in ensuring the rights and freedoms of citizens.

In addition to performing these important functions, the media has also emerged as an essential agent of social change. 'Media Trial' is a phrase that became popular in the late 20th and early 21st centuries to describe the impact of newspaper and television reports on an individual's reputation by creating a broad understanding of guilt, regardless of the verdict of the court.

The term "media trial" or "trial by media" has been used since the early 1980s to describe the impact of media coverage (print, electronic and now online) of ongoing trials on the sense of right and wrong in the minds of the people. We can make this clear through public outcry through the media. The official explanation for this phrase is the effect of television and newspaper coverage on the reputation of an individual institution by creating a widespread perception of guilt or innocence before the courts have handed down their verdict. Sometimes, media trials are held after the verdict is announced if the public is dissatisfied with the court's decision.

In 2008, 13-year-old Arushi Talwar was found dead in her bedroom<sup>4</sup>. The news caused a stir and sparked speculation in the media. The prime suspect, a missing domestic helper, was also found dead later that day. Various media channels have come up with their own theories and continued to squeeze out TRPs from the tragedy. In the 1999 Jessica Lal murder case<sup>5</sup>, a bartender was shot dead in New Delhi after he refused to serve her alcohol after the bar closed. This case too went through the media courts, with many names being named as the culprits. In the famous KM Nanavati case<sup>6</sup>, a naval commander was accused of murdering his friend Prem Ahuja. The case also found Nanavati's wife at the center of several salacious allegations after a wide-ranging media trial.

### **EVOLUTION OF MEDIA TRIAL**

Press regulation in India dates back to the colonial era. A period marked by important legislative milestones that shaped media governance. Press and Registration of Books Act 1867 was a turning point, with the aim of regulating printing presses and periodicals and preserving and recording copies of books. Subsequent developments such as the incorporation of sedition as an offense in the Indian Penal Code in 1870, and the enactment of the Dramatics Performances Act, 1876, and the Vernacular Press Act, 1878, reflected efforts by the colonial government to control public expressions that could provoke dissent.<sup>7</sup>

The introduction of telegraph technology in 1851 led to the enactment of the Indian Telegraph Act of 1885. The Newspaper (Incitement of Offences) Act of 1908 gave local authorities the power to take action against newspapers. The Press Act of 1910 further expanded government control by allowing: The authorities to require newspapers to be kept in secret. There are also laws such as the Copyright Act of 1957 and the Cinematograph Act of 1952 supplemented the regulatory framework. The passage of the Right to Information Act 2005 expanded freedom of press in India. The Indian Constitution does not explicitly mention freedom of the press, but it can be inferred from Article 19(1)(a) which guarantees freedom of speech and expression to citizens. It explains how media coverage can influence public perception of guilt or innocence before and after a judicial verdict.

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<sup>4</sup> Dr. Rajesh Talwar And Another V. Central Bureau Of Investigation, 2013 (82) ACC 303

<sup>5</sup> Siddharth Vashish @ Manu Sharma V. State NCT Delhi (2010) 6 SCC 1; (2010) 2 SCC ( cri) 1385

<sup>6</sup> 1961 AIR 112 1961 SCR (1) 497

<sup>7</sup> Honorable Mr. Judge G.S. Singhvi, TRIAL BY MEDIA: NEED TO REGULATE FREEDOM OF PRESS

In the late 20th and early 21st centuries, Notable Cases like cases of Priyadarshini Mattoo, Jessica Lal, Nitish Katara and Bijal Joshi highlight instances where media intervention helped deliver justice to the victims. However, media trials have also been criticized. They undermine the presumption of innocence and bias in judicial proceedings.<sup>8</sup>

The term 'media trial' is a recent term that is still controversial as it is used to refer to one aspect of media activity. It is generally defined as a national or regional news event in which the criminal justice system is adopted as a source of high drama and entertainment. In recent years, the reach and influence of the media have expanded with the growth of cable television, local radio, and newspapers it has increased significantly. This ever-increasing readership and viewership, which our news media planners provide, plays an unprecedented role in shaping public opinion and preferences.

An important component of any judicial system is that the accused should be given a fair trial. Justice Kurian Joseph of the Supreme Court of India addresses a meeting of the Bar Association of India on July 26, 2015, in Chennai, he spoke of the pressure on the judiciary in the Nirbhaya rape case and said that media trials in pending cases should be avoided to relieve the immense stress on judges. "Please stop trying (cases) in the media till a case is over. Never try a case in the media, it creates a lot of pressure on judges, they are also human beings." He recalled that the judge presiding over the case once said, "If he had not imposed this sentence, he would have been hanged." and "the media has already given the verdict, so this is what will happen." But he added: "He (the judge presiding over the Nirbhaya case) did it not because the press said so, but because he had his reasons."<sup>9</sup>

R. K. Anand v. Delhi High Court<sup>10</sup>, Hon'ble Supreme Court has interpreted that media trials have an impact. Television and newspapers create a widespread perception of guilt and report on an individual's reputation irrespective of the court verdict. In high-profile cases, the media is often accused of creating a public mood. After the trial, the accused is already guilty in the eyes of the public perception and therefore is condemned to live the rest of his life under intense public scrutiny. In cases involving celebrities, the media can have a significant impact on fans' of such influential celebrities. One such case is Rhea Chakraborty v. State of Bihar, 2020

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<sup>8</sup> Nikitha Suresh & Lucy Sara George, Trial by Media: An Overview

<sup>9</sup> SC row: Four dissenting judges appear before court, Bar Council says issue resolved

<sup>10</sup> AIR (2009) 9 SCC 106



(Sushant Singh Rajput death case), where the media played a significant role and the accused raised the issue of media trials.

## **RIGHT TO FREEDOM OF SPEECH AND EXPRESSION**

Article 19 of the Constitution of India guarantees freedom of speech and expression, trial by media or any of its principles that are not included in the Constitution. Freedom of the press is a part of freedom of speech and expression. The whole idea of freedom of expression revolves around the expression or sharing of ideas irrespective of the medium. However, this article has some limitations, so freedom is not right. The Constitution has the power to impose reasonable restrictions on how this right can be exercised<sup>11</sup>. Although freedom of the press is an essential part of democracy, when the media starts overstepping its limits and interfering with the work of other democratic governments, it must be curtailed.

In *Sakal Papers Ltd. v. Union of India*<sup>12</sup>, the Supreme Court ruled that it was unlawful for certain newspapers to increase prices to such an extent that their readership would decline. Article 19(2) guarantees freedom of speech and expression, including the right to publish and distribute these rights only for the reasons specified in Article 19(2). Situations motivated by pressure from the press, electronic media or public opinion can best be explained in law because they can lead to the failure of justice. In the view of the Supreme Court, judges must be aware of these pressures.

During the constitutional debate, B. R. Ambedkar said: "Press has no special rights which are not to be given or which are not to be exercised by the citizens in his individual capacity. The editor of a press or the manager is merely exercising the right of the expression, and therefore, no special mention is necessary of the freedom of the press."<sup>13</sup>

Freedom of expression is not absolute, and even libertarians agree that the right to freedom of expression is neither necessary nor unlimited, but they are not sure it should be stopped. Free Press does not grant a licence to publish and broadcast content without restriction. The media has a responsibility to ensure that the information reaching the public is accurate and does not

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<sup>11</sup> Manupatra. (n.d.). Manupatra. Articles. Retrieved August 1, 2022, from <https://articles.manupatra.com/article-details/MediaTrials-Misuse-of-Freedom-of-Speech-and-Deterrent-in-the-path-of-Justice>.

<sup>12</sup> 1962 AIR 305

<sup>13</sup> Speech by Dr. Ambedkar in the Constituent Assembly debates

infringe on the rights of others. Article 19(2) therefore provides grounds for restrictions on "freedom of expression".

Therefore, if the media resorts to slander or libel when criticizing someone, the media should be subject to the law for the crime. Similarly, using "freedom of speech and expression" as a "public" cover cannot violate personal privacy. Furthermore, the media cannot participate in parallel trials while the trial is ongoing in court. This would be "contempt of court".

The Supreme Court has reiterated that freedom of press is related to freedom of speech and expression, although it is not explicitly recognized as a fundamental right<sup>14</sup>. Freedom of press has always been a fundamental right in every democracy and press has been described as the fourth house of freedom. The fundamental duty of every court in the state is to protect this freedom and to make illegal or administrative anything that interferes with this freedom and is against the Constitutional law.

In *R. Rajagopal v. State of TN*<sup>15</sup> the Supreme Court of India has held that freedom of the press extends to engaging in uninhabited debate about the involvement of public figures in public issues and events. Competition is increasing, putting immense pressure on the journalism industry. Before the introduction of this TRP, journalists were working with courage, honesty and integrity. However, with the need to expand the TRP, the advertising war took a negative turn. To regulate the media, the Press Council of India has set some guidelines and standards.

### **RIGHT TO FREE AND FAIR TRIAL**

The established justice system is now succumbing to the new role of the media. The judges control the contest by mistake or deliberately give an unfair impression. The picture they paint of the defendant may differ from the truth that will only become clear after the main trial. Judges have difficulty judging the people. An example of its influence on judicial decisions is that the judges base their decisions on morality, using words such as "according to the unity of the people" and "voice of the society". The trial media, like the sensationalist media, can make judges reluctant to challenge the majority of public opinion. It is right to think. Another misconception about the trial media is that it changes public opinion and makes the public not

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<sup>14</sup> *Printers (Mysore) Ltd v. CTO* AIR 1994 2 SCC 434

<sup>15</sup> AIR 1994 6 SCC 632.

just a spectator of the case but also a participant in the case. Therefore, lawyers refuse to accept cases involving these people (this is mostly the case in criminal cases). As a result, defendants are deprived of the right to choose a lawyer and are forced to accept simple counsel.

### **COURTS VIEW ON MEDIA TRIAL**

Media personnel have the legal and constitutional right to report on cases and broadcast them to the audience without any controversy. This will increase public confidence in the judiciary<sup>16</sup>. However, this freedom sometimes arises when media studios run a campaign of accusations against the accused. To combat this issue, the matter was taken to the Supreme Court in *R.K. Anand v. Registrar*<sup>17</sup>, the Delhi High Court and the Supreme Court observed for the first time that the concurrent media test has no legal standing in our courts because it creates a conflict between the rights of “freedom of expression” and “right to a fair trial.” However, the Delhi High Court in a later decision clarified that in case of conflict between two laws, the former will prevail over the latter in the interest of greater public interest.

The Supreme Court has once again emphasised this point in the case of "*Shreya Singhal v. Union of India*"<sup>18</sup> and said that reasoned discussion or suggestion is possible even when it is not so, but when it proceeds unbridled, it is advisable to control it by law. In other words, what the court meant was that media hearing is lawful and fair when it is within the limits of conducting investigation and giving fair decision; but when it crosses the line and is broadcasted on radio to create a sensation easily and profit is made out of it, it should be prohibited by law.

Earlier, considering that there is no restriction on freedom of speech and expression when unlimited licence is granted, the Supreme Court in *Re.: Harijai Singh*<sup>19</sup> has come to the conclusion that freedom of press is not absolute or unlimited. In the absence of complete restrictions, even the slightest restrictions can lead to destruction and conflict.

In India, the judiciary and the media are the two pillars of a democratic society. They play an important role in upholding the laws and the provisions of the Constitution. More importantly,

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<sup>16</sup> *Sahara India Real Estate Corporation Ltd. and Ors. v Securities and Exchange Board of India and Anr.*, (2012) 10 SCC 603

<sup>17</sup> (2009) 8 SCC 106

<sup>18</sup> (2015) 5 SCC 1

<sup>19</sup> (1996) 6 SCC 466



both should complement each other rather than try to replace each other<sup>20</sup>.

On the other hand, the media also has the responsibility to report the situation; on the other hand, the accused has the right to defend himself during the criminal investigation. Both institutions are responsible for ensuring that information is received and shared with the public only after research, evaluation and analysis<sup>21</sup>. This is necessary because the situation is growing, has become popular in the public eye and poses a threat not only to the image of the defendant, but to his home, to all people. Although he was convicted after the trial in court, it was difficult for him and his family to live a good life.

It is important to note that the Supreme Court has not yet set a procedure for reviewing all cases that would lead to a ban on the publication/reporting of the facts of the case in print/TV or digital media. Only when there is truth and danger in circulation can a speech ban be issued. The Court warned that it is in the interest of society to follow the legal process, but that to do so, the outcome of the case should not be reversed or be affected too little by protests or other forms of public speech.

The famous public interest case "Nilesh Navalakha v. Union of India"<sup>22</sup> was the first time the court had laid down guidelines regarding media coverage and coordination for reporting of hearings.

The guidelines were as follows:

- i. The privacy and dignity of the victim should always be respected.
- ii. Important documents related to the case should not be made public.
- iii. No interviews with anyone related to the case are conducted while the case is pending.

It stated some other observations at the conclusion of the judgment such as the press must deliver news stories in their genuine and accurate form. It must include the account of the events as it was honestly recorded, without exaggeration or bias, and any form of distortion. The incidence should not be overemphasised for the sake of gaining more and more viewers.

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<sup>20</sup> Judge R.S. Chauhan, Trial by Media: An International Perspective

<sup>21</sup> Mother Dairy Foods & Processing Ltd v. Zee Telefilms Ltd., AIR 2005 Del 195.

<sup>22</sup> 2021 SCC Online Bom 56.

## **THE SUBCONSCIOUS EFFECT OF MEDIA TRIALS ON THE JUDGES**

Another disadvantage of media trial is the underlying arguments that guide the judge to decide on the issue or the relevant facts. In the United States, there is a strong belief that the media or cases have no influence or impact on the minds of judges and juries. India abolished the judiciary long ago and unlike America, in our country it is believed that judges will be influenced by the media. These subconscious values come into play when judges are pressured by social media and media users to make decisions on advertising.

Lord Denning, a celebrated judge of the 20th Century stated that other men might but judges cannot ever be influenced by the media reports and publicity. The House of Lords did not concur with this view. Justice Frankfurter held that a person competent to become a judge cannot be consciously influenced by what he sees or hears anywhere outside the court. The decisions made by the court are always based on the facts and contentions heard by the judge. However, irresponsible publications might tempt the judges and deviate them from the path of justice as they are only human and delivering justice is a delicate job.

The media's initiatives also positively affect the judiciary, such as judges and bar associations. The aggressive reporting and reporting of the media may cause the relevant party (i.e. the defendant) to feel guilty. In such cases, judges feel the burden of the media to make decisions according to the needs of the public and the needs of the media. If the judge rejects the request, it will cause more concern and discussion in the public. The news in the media may also affect the judge's thinking in the way presented in the media, which may affect fair presentation. The same thing happens in the defense case, the media trial continues to influence and influence the lawyers so that people who were considered guilty even before the trial due to information and words in the media do not have problems.

## **EFFECT ON THE VICTIM AND ACCUSED**

The media's trial affects both the victim and the defendant equally. Media initiatives may help the victim gain public support or attention. However, most of the media interference is for TRP and involves the victim in the process. Often, in sex crimes, people's emotions turn into the victim's emotions. Similarly, any false or misleading information in the media that does not reflect the truth and is not clearly stated as guilty, just for the purpose of obtaining TRP, violates the defendant's right to a fair trial, and also harms the defendant, and the defendant's reputation.

In some cases, despite a clear decision of the court or a clean criminal record of the court, the defendant still faces discrimination. Public opinion may also cause the defendant to commit an act such as suicide.

### **EFFECT ON WITNESSES AND EVIDENCES**

Since the media affects both the accused and the victim, since jantaadaalat is done due to media conflicts, it also affects the efforts of the witnesses involved in the process. Sometimes, in trials conducted by the media, the identity of the witness is also revealed to the media as a result of investigative articles and other tests, which can affect the justice system and even cost the witness his life risk. The public or others start to look at the incident from the media's perspective and believe it. The media interference also suppresses the evidence involved in the case by publishing it in the public record, which can lead to the identification of the real criminals. Events can sometimes lead to faulty evidence and unsuccessful decisions.

### **FAMOUS CASES ON MEDIA TRIAL IN INDIA**

**JESSICA\_LAL\_MURDER:** Former model Jessica Lal killed socialite Bina Ramani in Mehrauli, South Delhi, working as a bartender at a Congress restaurant and was killed by former Congress party son Manu Sharma. The case attracted immediate media attention, especially after Sharma was convicted by the court. However, after a public outcry and widespread media coverage, the court reconsidered the case. Although Sharma was initially acquitted in 2006, the Delhi High Court later sent him to jail after media reports sparked public outcry.<sup>23</sup>

**NIRBHAYA\_GANGRAPE\_CASE:** The brutal crime in Delhi has shocked the world. A 23-year-old woman was attacked, tortured and beaten up on a private bus with her friend. Six people on the bus attacked her and got into an argument with her friend. Although she was initially taken to a nearby hospital, she was later shifted to a hospital in Singapore where she sadly died due to her injuries 11 days later. The case became known as the 'Nirbhaya Case', meaning no fear, and became a symbol of women's struggle across the world. The incident has sparked widespread criticism, increasing public anger at the state and central government's failure to ensure women's safety.<sup>24</sup>

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<sup>23</sup> Siddhartha vashisht alias manushanna vs. State (NCT of Delhi) (2010) 6 SCC 1

<sup>24</sup> Mukesh and Anrs Vs. NCT of Delhi (2017) 6 SCC 1,



**SUSHANT SINGH RAJPUT CASE:** Bollywood actress Rhea Chakraborty was arrested by the National Crime Branch for allegedly supplying drugs to her boyfriend Sushant Singh Rajput. The media portrays her as part of the drug trade, leading to bias against her. She also faced intense scrutiny after her family accused her in a special WhatsApp chat broadcast on state television. She was wrongly labelled as a murderer, a witch and a gold digger. However, the Bombay High Court, after granting her bail on October 7, 2020, found no evidence that she was involved in drug dealing or supplying drugs for profit.<sup>25</sup>

**ARYAN KHAN DRUG CASE:** Bollywood star Shahrukh Khan's son Aryan Khan was arrested by NCB officers in a raid on a private boat in 2022, creating a media furore as it was said to have negatively affected the public relations of the Indian youth. However, it was later revealed in court that Aryan had not taken a blood test to confirm his drug use; his arrest was based entirely on a WhatsApp chat with a friend. Despite the law, Aryan's mental health continues to suffer due to the negative image in the media. In the end, the court found no evidence implicating Aryan, granting him bail.<sup>26</sup>

## **GUIDELINES PROVIDED 200TH LAW COMMISSION**

### **REPORT IN INDIA:**

In one side Supreme court refused to enumerate categories of publication which are prejudice to administration of justice, on the other Law commission report enumerate the list of publication which shall be banned for the welfare of the rule of law. These are following –

1. Publication concerning the character of accused or previous conclusions
2. Publication of confession
3. Publication which comment or reflect upon the merit of the case
4. Photographs
5. Police activities
6. Imputation of innocence
7. Creating an atmosphere of prejudice
8. Criticism of witnesses
9. Premature publication of evidence
10. Publication of interviews with witnesses.

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<sup>25</sup> Disgusting media trial of Rhea Chakraborty, the logical Indian

<sup>26</sup> MEDIA COURT: FOCUS ON ARIJAN KHAN CASE. AmikusQriae

The Law Commission has determined that these categories of disclosure will be prohibited administration of justice. The Law Commission provided justification for these categories in various ways landmark court precedents from UK and the USA. The NSW Law Commission in its discussion paper 2000 enumerates a long list of publications that may harm suspected or accused persons.

- (i) a photograph of the accused where there is likely to be an issue of identity, as in criminal cases;
- (ii) Suggestions that the accused have been previously convicted or have been charged with a crime felony and/or previously acquitted or involved in other criminal activity
- (iii) the allegation that the accused confessed to the commission of the crime in question;
- (iv) Implies that the accused is guilty of or involved in the offense with which he is charged or that the jury should convict or acquit the defendant;
- (v) Comments which evoke sympathy or antipathy towards the accused and/or which are disparaging prosecution or that mention favorably or unfavorably character or credibility accused or witness.

### **RECOMMENDATIONS GIVEN BY LAW COMMISSION OF INDIA**

1. The broader definition of the word "publication" used in section 2(c) of the Contempt of Courts Act The 1971 Act is essential to the definition of "publication", which includes publication and electronic media, radio broadcast and cable television and posting explanations on the world wide web.
2. The word "ongoing" used in section 3 (1), (2) and clauses (a) and (b) on various places must be replaced with the word "active" because the word "pending" gives the impression that the criminal case must actually be pending and the word "active" must refer not only to for the purposes of Section 3, but for the purposes of the entire Act.
3. Under Section 3(2) of the Contempt of Court Act, such publications would constitute contempt only if a criminal complaint has been filed. The commission proposed it the starting point of criminal proceedings should be from the arrest of the accused, not from the arrest of the accused time of filing the lawsuit. In the opinion of the Commission, such a change would prevent the media from prejudging or prejudging the case.
4. It was proposed to empower the High Court to control the press or electronic media delay the publication or televising of a criminal case and prevent the media resort to

such publication or telecast.

5. The Law Commission proposed Section 14B under which any breach of a stay order i.e. if the media publishes in violation of the suppression order, it will mean contempt of court for which the High Court may prosecute under the Act contempt. The Supreme Court granted the power to act under Article 215 of the Constitution of India.
6. The Law Commission suggested that media workers should be trained in certain aspects of law create awareness that media are not absolute and aspects of constitutional law, human rights, the protection of life and liberty, the law relating to defamation and contempt of court are also important from a media perspective. Therefore, various aspects of law should be included in the curriculum Journalism.
7. The 17th Law Commission recommended the Center to enact a law prevent the media from reporting anything that harms the rights of accused in criminal cases from arrest, during investigation and trial.

### **RECOMMENDATIONS**

It is generally accepted that legal proceedings must be conducted in a fair and neutral manner. In a situation where "out-of-court" proceedings continue, it is impossible for the guilt of the accused to be proven beyond reasonable doubt. This establishment is a very necessary condition of anyone's conviction. Without it, the conviction could never be upheld in the eyes of the law. As a result, the author would offer several suggestions on how to achieve this standard of "proof beyond a reasonable doubt" in order to conduct a actual trial even in highly publicized matters. These are the following:

- a) Guidelines of the 17th Law Commission in its 200th Report entitled "Trial by Media": Free speech and Fair Trial under Criminal Procedure Code, 1973.
- b) Important Acts like "Prasar Bharti Act, 1990" and "Cable Networks Act, 1995" need to be updated so that their provisions do not remain a mere formality in this digital era.
- c) The 'Press Council of India' and the 'Broadcasting Standards Authority' should make their regulations mandatory and not discretionary.
- d) The standard for the operation of digital media and online news must be consistently applied.
- e) The identity of the suspect, as well as the identity of the witness, must not be revealed at any point in the proceedings in prominent and emotionally charged cases. Its violation must result in a penalty.

In a democracy, the press acts as a watchdog to ensure that every process is conducted truthfully, openly and thoroughly. However, this watchdog often forgets its pious duty and goes astray. Sometimes he becomes a judge himself and presides over a kangaroo court to convict a suspect. For this, it is necessary that the press refrain from abusing its freedom and undermining the basic principles of criminal law. They must understand that this freedom is a duty that requires that the truth, and only the truth, be shared with the people. Only then would the media fulfill its original duty to the nation.

## **CONCLUSION**

To summarize the entire research study that media and judiciary are institutions and have separate areas of work and their functions do not overlap also. So one cannot and must not use the other to fulfill its functions, because counter-functions do not lead to the door of righteousness. The media may report or engage in mass media/journalism and not act as a special agency for the court or judiciary. In this context, due to the damaging nature of the right to freedom of speech and expression, media courts cannot bring about a fundamental change in the proceedings justice and the judicial process of the judicial power. Media trials influence public opinion for some time, fair trial, but justice cannot be challenged in court of the law through coverage of court proceedings or media bias.

It can be said that the media has acted as a catalyst in many cases like the Jessica Lal murder case in which the media played a huge role in bringing the culprit to justice through various sting operations. The media also played a major role in the administration of justice in the case of Priyadarshini Mattoo but these cases are rare cases where media intervention has played a positive role. The media almost forced the judiciary to pass the death sentence on the convicts in the Nirbhaya rape case, fuelling public with its reporting. Interference therefore often did more harm than good. The media will have a positive impact on them if they act as a catalyst and do not cross the domain of the judiciary by declaring one of the parties guilty before the court. The media should understand the difference between helping the court in the administration of justice and obstructing the process of administration of justice by interfering and crossing boundaries. The duty of the media is to inform about the facts and circumstances of the case, but the decision-making part rests exclusively with the judiciary.