

ISSN 2582 - 211X

LEX RESEARCH HUB JOURNAL

ON LAW & MULTIDISCIPLINARY ISSUES

VOLUME I, ISSUE IV

JULY, 2020

Website - journal.lexresearchhub.com

Email - journal@lexresearchhub.com



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MEDIA TRIALS- ATTEMPTING TO OVERRIDE THE INDIAN JUDICIARY

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ABSTRACT

The article tries to understand the role of media organisations in the society and tries to evaluate whether it is supposed to transgress the jurisdiction of the Courts, to assume their authority and to conduct 'public trials' just in the name of public opinion. It ponders upon a very novel hypothesis considering the media to be a 'Judge' and then understands how it even violates the principles of natural justice!

Keywords - *Media Trial, Authority, Judge, Trial, Media*

INTRODUCTION

Before we move on to the main content, let us understand some ground rules.

1. Media's job is to report neutrally, not to influence the public.
2. Trials are the proceedings conducted in the Courts of Law.
3. Judges are the officers of the Courts of Law.
4. Privacy is to be maintained at all stages while a case is still pending.

Now that we have understood the ground rules, let us now move on to the main topic, that is, whether this 'new addition' to the Indian Judiciary, i.e. 'Media Trial', is really appropriate or not? It is worth noting that such an important organisation, which should be focussed on effective reporting, resorts to such incriminating and undemocratic conducts. One thing must be remembered by media organisations.

'The pen is mightier than the sword'.

A bit cliché, but that is the truth. They wield the pen. So, whatever they write or speak or publicise can have many adversities. Hence, they should exercise their powers carefully.

UNDERSTANDING ‘MEDIA’ AND ‘TRIAL’

As per the Merriam-Webster’s dictionary, the term ‘mass media’ is defined as¹-

‘A medium of communication (such as newspapers, radio, or television) that is designed to reach the mass of the people.’

Also, the Merriam-Webster’s dictionary defines the term ‘trial’ as²-

‘The formal examination before a competent tribunal of the matter in issue in a civil or criminal cause in order to determine such issue.’

Now that we have seen the definitions of the two terms, isn’t it obvious for the readers to think that these two terms can’t be associated with one another? But, the readers, although right theoretically, are wrong practically. A recent trend has developed where the mass media, particularly the news channels have assumed the jobs of the Courts of Law and have started to conduct ‘public trials’ in order to analyse the evidence pertaining to a particular case or the facts related thereto and even try to influence the mentality of the general public by making strong claims, which may turn out to be frivolous, as we will see later. So, how come to these mass media organizations, whose role in the society is to report in an unbiased and impartial manner, conduct such decisive ‘proceedings’? But alas, the addiction to T.R.P.s has made the mass media organisations delve into such activities which are not only disturbing for the ones who face the music due to such trials but, also are highly manipulative and misleading in their approach.

We all know about the Sushant Singh Rajput ‘supposed suicide’ case regarding which international reactions are being observed. The funniest part is that although the people of India have not learnt what is their Fundamental Rights completely, everyone has understood that the two essentials elements of the crime are *Mens Rhea* and *Actus Rhea*. How shocking! Let us play a small game.

Fill in the blank-

The _____ conducted the trial.

¹ Definition of mass media, *available at*: <https://www.merriam-webster.com/dictionary/mass%20media> (last visited on August 30, 2020)

² Definition of trial, *available at*: <https://www.merriam-webster.com/dictionary/trial> (last visited on August 30, 2020)

If we think about the above sentence, then the first name that comes to our mind is that of a Court. Then, how come has the media assumed such an important authority? It is neither a judicial, nor a quasi-judicial, nor an authoritative entity to do so. Its job is to report as per Rule number 1, i.e., reporting should be neutral, which has definitely been violated by this agency. Let us now look at a hypothesis.

LET'S CONSIDER THAT THE MEDIA IS A JUDGE

Hypothetically speaking, if we consider that the media indeed has the Right to conduct such trials, then, it must be remembered that every proceeding must be conducted on the basis of the two most important principles of natural justice-

1. *Audi altarem partem*, meaning that both sides should be heard equally.
2. *Nemo debet esse judex in re propria causa*, meaning that no one can be a Judge in his own cause.

Sadly, the news reporters, while conducting such trials, provide the people with only 10 to 15 seconds to say whatever they have to and moreover, try to influence their thoughts with their biased approaches. This indeed is violative of the first principle. If anyone says anything against the media or ignores them, then they simply adjudicate the person to be an absconder and hold him to be guilty of some charges which are yet to be proved by the real Courts.

Privacy is supposed to be maintained at all times when a particular proceeding is pending before a Court. Once a judgement has been passed then that is available for the public to look at. However, before that happens, no one should disclose or discuss hypothetically any evidence related to a particular trial which is still under the process of being examined. One small question to the readers. Today, if the same thing would have happened in a village about which a report even would have been given to the public, would the media conduct a trial? No, they simply won't. Moreover, they would go to the victims to take a small interview, for the sake of it and not even provide them with any help which they may require. For example, a news reporter going to interview a displaced labourer during the lockdown period, who is going back to his village on foot through the highway, but not providing him with any lift or food or anything else. **Why this example was mentioned because if the media claims to have the authority to conduct a trial**

like a Court, then it should also have the responsibility to provide the victim with relief just like a Court.

SOME AUDACIOUS EXAMPLES OF MEDIA TRIALS

Let us not go into the ongoing ones as everyone will know about them. Remember the Arushi Talwar double murder case? Remember the pictures of the crime scene and the various evidence which were being showcased impeccably by the news channels? The various hypotheses regarding the way in which Arushi could have been murdered by her parents and the dubious ways in which the same could have been executed? Well, what happened at the end? They got acquitted by the Supreme Court through an appeal and were released. But, the bias developed against them by the public due to such disgraceful ‘trials’ never went and still, they may be facing the consequences of the same.

Another example is that of television programmes where the interviewers portray as if they are cross-examining counsels and thereby, ‘conduct the proceedings’ accordingly. Such programmes derogate the dignity of the Judiciary and signify that whosoever can come up and start examining any individual in the name of freedom and thus, affect his dignity and popularity as a result thereof. This is something which needs to be checked. When we use the terms like ‘Judge’, ‘trials’, ‘charges’, it must be always remembered that they have the meaning as per the official Laws of the country. For example, ‘Judge’ means³-

‘Every person who is officially empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgement, or a judgement which, if not appealed against, would be definitive, or a judgement which, if confirmed by some other authority, would be definitive or who is one of a body of persons, which body of persons is empowered by law to give such a judgement.’
So,

Media = Trial (as per the popular notion)

Trial = Judge (as per the Law)

Thus, Media = Judge

³ Indian Penal Code, 1860 (Act 45 of 1860), s. 19.

as per simple similarity analysis. It is for the readers to decide whether this really should be the case or not.

CONCLUSION

The media, holding a very important position of disseminating information, should act in an unbiased manner and refrain from such ‘trials’, because this derogates the authority of Courts and permanently scathes the lives of the people who are ‘tried’, even though they may get acquitted later. A popular, yet undemocratic practice. In such ways, only in the name of T.R.P. and popular opinions, the media scathes the lives of the ‘accused’ permanently, even though they get acquitted by a competent Court of Law. It is imperative to see that to some extent such trials also help in making people aware of their rights and also, the realities which are tried to be curbed by the authorities. However, they (the media) should realise where to stop. Because unhindered criticism and accusations may even incriminate an innocent man in the minds of the public, which is against the famous saying,

‘Let a hundred guilty be acquitted, but one innocent should not be convicted’.

Moreover, it should be seen that effective reporting is not being achieved by the media presently. So, it should focus on its primary job of reporting rather than intervening in the investigations procedures and influence the minds of the public.