

Media Trial: Is it justice to the administration of Judiciary?

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Abstract- A media shackled by its government is an unhealthy thing; however, a media allowed to run its mouth in an unaccountable manner may prove to be even more dangerous. While there must be punishments for the heinous crimes committed every day, the process of punishment should not encroach on the right of the accused for a free and fair trial in a Court of law. The problem of media trials is becoming more and more prevalent today. This article enlightens on the problem of media trials by studying the various materials available on the topic, such as newspaper articles on the most famous media trials of India. There must be a certain restraint to prevent the media from encroaching on the sole jurisdiction of the Courts of law i.e., the administration of justice.

Keywords- Media Trial, Journalist, Broadcasting.

I. INTRODUCTION

The impact of globalization or the liberalization of the Indian economy in 1991 has had a vast impact on all spheres of our lives. But perhaps the most significant impact was felt on the media sector and also through the media sector. As soon as private players were allowed to enter into the industry, the scenario changed immensely, if not completely. The exposure through the 24x7 news and entertainment channels has made the citizens of the country, both residents and non-residents; more enlightened and confident about the contemporary scenario.

II. SIGNIFICANCE OF INDIAN MEDIA

Of late, the news coverage is more sensible than what it used to be at the beginning of the last decade. The contents of the fiction and nonfiction sections viz. the entertainment programmes and news sections respectively; are reflections of the various issues and consequences of real-life cars. Most importantly, wherever or whenever the administration of the country had failed to accomplish its duty, the media has intervened. Be it the reopening of a legal case for an impartial decision (Jessica Lal case) or follow up of the financial and political scandals & corruption (Fodder scam, 2G spectrum scam), or speeding up the lingering cases for final verdicts (Ajmal Kasab-26/11 convict case).

Thus, Indian media is successful in highlighting the facts and facets of to the common mass, majority of people or the 'hoi polloi' as acclaimed in Greek. It has also portrayed the wrath of the common public to such an extent, that, the government has often been compelled to step up or speed up the process. One of such more recent and effective methods is trial by media- a phenomenon not seen before the 20th century but has certainly grown into a colossal structured protest movement from a monstrous combine of public prosecution and judicial ignorance.

III. WHAT IS MEDIA TRIAL?

The term Media Trial or 'trials by media' has been in use since early 1980s to describe the impact of media coverage [electronic, print and now online too] on an ongoing legal trial and hence formulating the sense of right or wrong in the minds of the public. We could simplify it as 'public protests through media'. A more formal definition of the phrase would be:

“The impact of television and newspaper coverage on the reputation of a person/organization/institution by creating a widespread perception of guilt or innocence before the verdict is announced by a court of law. Sometimes media trials are held even after the verdict is announced when the public is not happy with the judgment.”

IV. BACKGROUND OF MEDIA TRIALS

Whether trials by media are essential or whether an ethical journalist should resist from such practices shall be discussed below. Let us move back to the days when such concepts of trials by media were in nascent stage and were yet to acquire the stupendous shape of today.

In the year 1982, a New Zealand born Australian lady, Lindy Chamberlain was convicted for killing her two months old baby by the Australian court. She served in the jail for three long years only to be proved innocent after eight years of stigma, sorrow and dismay filled life. This miracle was possible by the intervention of the media. This was probably the most dramatic public/media trial that the world had seen till then. Ever since then, the significance of media has been felt worldwide. But for India, then, the electronic media was only transmission through government controlled Doordarshan and the print media was trying to come out of the gags of national emergency and political turmoils. Hence, though not as early as the 1980s, but the Indian media industry has actively participated and inculcated the public in such trials since the last two decades.

V. MEDIA TRIAL'S ROLE IN INDIA

The impact of television and newspaper coverage on us have been tremendous, no doubt and hence no reasoning is being given. Thus, trials undertaken virtually by these forms of media also have become very effective and dominant in India, since the last decade. We are aware that it was solely due to some of the media personnel's dedication which aroused public unrest in the form of demonstrations and protest marches that were able to establish justice in the Jessica Lal murder case. Almost everybody knew who the murderer was but still scot free by virtue of the false statements given by eye witnesses.

Even the further delay in the final verdict of Kasab was hindered due to the various discussions, polls and reactions of people that were being transmitted to the government officials directly or circuitously through the media. The entire nation became frustrated when they read about the figures of money that were being spent to provide 'security' to a person who mercilessly shot and killed innocent people.

Probably the most significant incident that ought to be mentioned in this regard is the case of the terrible gang rape of a student (better known as Nirbhaya/Damini by the media fraternity, as a mark of respect to her courageous nature) in New Delhi in December, 2012. Unlike many other rape cases that have been pending in the courts for years, the police force, ministries and judiciary were impelled to give special importance to this case [Nirbhaya Rape case, as it is commonly known as] because of the huge upsurge of the public.

5.1 Why Unethical?

Now the incommensurate situation or the major question or doubt in this regard is whether such virtual trials, run by the media themselves without any formal permission, are a hamper to the nation's legal system or a violation of media ethics.

The fair side or the apotheosis behind such trials by the public through the means of the media is that wherever or whenever the judicial system fails to provide justice to the victim, the mass or the vox populi shall come forward to adjudicate and resolve the issue by either compelling the judiciary to punish the culprit or by contriving new ways of governance, laws and practice.

The darker side, however, is that, if we are to comment on the judgement given or the proceedings of the case etc., we will be amounting to contempt of court and defamation. Ideologically, too, it would be an unethical practice and to carry out such virtual trials by the media because the judge's credibility will be at stake. Do we wait for the 'fair' legal trial to be over before remarking then? The country doesn't allow us to opine or remark on a verdict. Remarkings or commenting negatively on a judgement might land up in contempt of court.

5.2 Justified Then?

Thus, an immediate reaction would be that media trials are an essential part of an authentic or truly justified democracy. However, as a matter of fact trials by media are seen as a violation to the international code of journalistic ethics and also grounds for defamation and contempt of court. This has been reiterated by law experts time and again. Even our Hon'ble Justice G.N. Ray, who was the Chairman of the Press Council of India in 2010, had said that the media all over the world has voluntarily accepted the following code of ethics:

- i. Duty to seek the views of the subject of any critical reportage in advance of publication;
- ii. Duty to correct factual errors;
- iii. Duty not to falsify pictures or to use them in a misleading fashion;
- iv. Duty to provide an opportunity to reply to critical opinions as well as to critical factual reportage;
- v. Appearance as well as reality of objectivity;
- vi. Some codes prohibit members of the press from receiving gifts.
- vii. Respect for privacy;
- viii. Duty to distinguish between facts and opinion;
- ix. Duty not to discriminate or to inflame hatred on such grounds as race, nationality, religion, or gender;
- x. Duty not to use dishonest means to obtain information;
- xi. Duty not to prejudge the guilt of an accused and to publish the dismissal of charges against or acquittal of anyone about whom the paper previously had reported that charges had been filed or that a trial had commenced.

5.3 Journalist's Role

It is undisputed that journalists should carry out fair reporting which means recording and publishing true facts and information to the public. But dissemination of fair and accurate information is not the only duty or responsibility of journalists. They should also make the public think. As the fourth pillar of democracy they are to bring in waves of thoughts and ideas.

If media trials are restrained to exist and all journalists refrain from writing or broadcasting any article or story which might influence the minds of people, how justice could be ever done to victims like Late Priyadarshini Mattoo and Late Jessica Lal. The court of law had acquitted the prime suspects in both these cases but finally, thanks to the media, the cases were opened again with public pressure from all corners of the country and the criminals were punished.

We already mentioned the infamous Delhi gang-rape case, where a hapless girl, in her early twenties, was mercilessly assaulted and raped in a moving bus by a group of men. She later, succumbed to her injuries in a Singapore hospital. The accused who were arrested were portrayed as mindless criminals by the media and people around the country demanded that no other punishment than death is what they are worth of. Protest marches were held all over the country. No other rape incident had generated a furor of such magnitude before. This was an unprecedented event in a country where the people had/have accepted that rape is almost part and parcel of their lives and that it is up to the women to protect themselves because it is only unnatural to expect the 'stronger sex' to show a gesture of modesty and not show off their 'strength'.

5.4 To Ponder Upon

Why was the rape case of Nirbhaya given a special status by courts of law? Why were even the ministries shaken to the extent, that, new laws were formulated, new departments of police were opened to cater women's need, new helpline numbers were opened for women safety? The reason is that the media's constant coverage of the incident elevated it to a high-profile act where the girl was made a 'symbol' of all the oppression that women face in the country. Journalists had in no way taken to unethical practice in order to earn 'brownie points' in the form of TRP. Never did any reporter take to any unethical option by citing the actual name of the girl till her death, lest it would harm her future life. The victim was referred to as Nirbhaya and sometimes, Damini, as a mark of deference towards the courage that cost her life. The incident sheerly proves that it is the media power which knit the country together to fight for one common cause. So, media is the power and means of democracy.

VI. IMPACT OF MEDIA TRIAL

The impact was so great, that, the government has been impelled to amend the present state of law and also formulate new regulations towards the safety and security of women in India. Thus, media trial is an imperative form of democracy. Doing away with media trials would actually mean limiting not only the journalists' but the entire nation's fundamental right; the right to freedom of speech and expression. It would also limit the role of the press/media as the fourth estate of our democracy.

The other side: On the other side of the coin, some law experts have narrated instances where the jury and the judge have been influenced by the media paraphernalia. Hence, their verdict/s might have been actuated by the journalists' reportage. This might have led to an unfair trial and unjust verdict, too. Sometimes the journalist himself may land up into defamation or contempt of court case, legal experts opine. However, this in no way should dampen the spirit of media trials. This is the era where the Indian media has taken to set the agenda for the society and the government.

VII. HOW FAIR IS A MEDIA TRAIL?

A free press does not always guarantee a transparent 'infolet' for a democratic society. Gatekeeping and agenda setting have evolved into a major force behind the running of various media houses worldwide. In their quest to grab the attention of the public in ways that will inadvertently influence their opinion of the happenings around the world, media has constantly tried to upgrade their methods of news broadcasting and such 'upgrades' have often degraded the news timbre. Thus, though the incidence of Nirbhaya's rape earned lot of wrath and rage of the public, the so-called 'suicide' of one of her alleged rapists, Ram Singh went almost unnoticed. The cries and hues of his family, that, the death of Ram Singh was murder or abetment of murder; did not earn any public sympathy. This shows that Indian media is still not free from bias. It takes an emotional stand and not a fair and just one.

Not far behind is the coverage of the various scams that were exposed in various parts of the country. The media frenzy behind the 2G scam, the CWG scam and similar other exposes made the public lose trust in the government to a large extent and calls were made for the ministry to resign. Even in the coverage of the 9/11 and 26/11 terrorist attacks the media in both the USA and India were severe in their tirade against the militants or jihadists as they are better known as. Subsequent investigations and trials had no bearing whatsoever on the mass hysterical outrage that the public of both the countries exhibited. To them the picture painted by the media was enough to blame the alleged perpetrators of the attacks. It may not be out of place to mention the verdict of Kasab's death sentence was probably delayed *by the media* and not actually quickened, as many of us might feel.

7.1 Decision?

Where are all these leading us to? In a world where a simple phone call can be a boon and a curse, where people are deprived of the ugly truth just because certain sections of the world are scared stiff by the potential backlash, where millions of money are stashed away in secret accounts, where democracy has become a challenge in itself to survive rather than to prosper, the media has grown into that massive watchdog which everyone fears. However even a dog has a master and, in this case, too, it is no different.

Regardless of countless opposition from esteemed judges to human rights activists, media trials are here to stay. If the basic economics of demand and supply are to be followed, the media and the public are always going to participate in this dangerous harmony of opinion making and identity scrutiny. Though through such virtual trials the media is able to remove ignorance from the minds of the people and inculcate a sense of unity and harmony across all sections of the society, but as some law experts opine, it is a gross wrong done to the legal process and can hence amount to defamation in certain cases. Therefore, media professionals need to be careful and give utmost attention and sincerity before turning a pending legal investigation into a media trial. However, we ought to keep in mind that justice delayed is justice denied.

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