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Media Trials in India: Journalistic Ethics, Freedom of Press and the Right to Fair Trial

Dr. Shaik Fayaz[1], Dr. Rakesh Konderu[2], Yoga Sundara Praneet Veturi[3], Shivanshu Katare[4]

[1]Assistant Professor & HOD (UG), St. George's Degree & PG College for Women, Abids
[2]Assistant Professor, Faculty of Journalism, ICFAI Law School, IFHE, Hyderabad
[3]Assistant Professor, Faculty of Law, Manipal University Jaipur
[4]Assistant Professor, Faculty of Law, Manipal University Jaipur
*Corresponding Author: Shivanshu Katare

Abstract:
In India, a criminal case is often decided on television and social media long before it is decided in court. This article studies this problem, known as "media trial". It asks how the press can use its freedom under Article 19(1)(a) of the Constitution without harming the accused person's right to a fair trial under Article 21. The article uses a doctrinal method. It reads the Constitution, the Contempt of Courts Act, 1971, the Press Council Act, 1978, the rules for cable television, and the leading judgments of the Supreme Court and High Courts. It also uses simple data, charts and a flowchart to show how media coverage, court action and self-regulation work together. The study finds that the law already gives courts enough power to stop unfair coverage, but this power is used rarely and in an uneven way. Self-regulation by the Press Council of India and the News Broadcasting & Digital Standards Authority has no real power to punish. The article ends with practical suggestions: clear court guidelines for reporting live cases, a statutory regulator for news television, stronger ethics training for reporters, and public awareness about the presumption of innocence.

Key Words: Media Trial; Freedom of the Press; Fair Trial; Presumption of Innocence; Contempt of Court; Journalistic Ethics; Self-Regulation; Article 19(1)(a); Article 21.

1. Introduction

A free press is often called the fourth pillar of democracy. It tells citizens what the government is doing, questions those in power and gives a voice to the voiceless. The Supreme Court has said many times that freedom of the press is part of the freedom of speech and expression under Article 19(1)(a) of the Constitution.[1] Without a free press, people cannot form informed opinions, and democracy becomes weak. But a free press also has a darker side. When a serious crime happens, news channels, websites and social media pages rush to report it. Anchors name a suspect, play the "last call" recordings, show reconstructions

[1] Romesh Thappar v. State of Madras, A.I.R. 1950 S.C. 124 (India); Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India, (1985) 1 S.C.C. 641 (India).

of the crime and ask the audience to decide who is guilty. By the time the police file a charge sheet, the public has already formed its opinion.

This practice is called "media trial" or "trial by media". The Law Commission of India has described it as coverage that prejudices the rights of parties to a pending case and interferes with the administration of justice.[2]

The problem is serious because a criminal trial rests on a basic idea: a person is innocent until the court proves otherwise. This idea is part of the right to a fair trial, which flows from Article 21 of the Constitution, the right to life and personal liberty.[3] A fair trial means a neutral judge, a fair chance to defend oneself, and a decision based only on evidence placed before the court. A media trial attacks all three. It can influence witnesses, pressure investigators, and even affect judges and jurors. In India, a suspect who is declared "guilty" on television carries that label for life, even if the court later acquits him.

The Supreme Court accepted this danger in *Sahara India Real Estate Corp. Ltd. v. SEBI*, where it held that the right to free speech and the right to a fair trial must be balanced, and that courts may postpone the publication of certain material when there is a real risk to a fair trial.[4] Even so, media trials have continued. The coverage of the death of actor Sushant Singh Rajput in 2020 showed how far television news could go, and the Bombay High Court strongly criticised it.[5]

This article has four aims. First, it explains what a media trial is and how it has grown. Second, it studies the legal framework and the main judicial decisions. Third, it uses simple data and diagrams to show how the system works in practice. Fourth, it studies journalistic ethics and self-regulation, and ends with suggestions for reform. The language is kept simple so that students, journalists and ordinary readers can follow the argument.

2. Meaning and Evolution of Media Trial

There is no fixed legal definition of "media trial". In simple words, it means a parallel investigation and judgment carried out by the media while the real case is still pending before the police or the court. The Supreme Court has used the words "trial by press" and has warned that such practice can harm both the accused and the victim.[6] The main features of a media trial are: (a) naming a person as guilty before the court decides; (b) publishing private or secret material such as confessions, call records and police statements; (c) using loud, emotional and one-sided language; and (d) running public "polls" or debates on the guilt of a person.

Media trial is not the same as fair and responsible crime reporting. The press has every right to report a crime, question the police, expose a weak investigation and criticise a court judgment in a fair manner. The line is crossed when the media stops reporting and starts judging.

[2] Law Comm'n of India, Report No. 200, Trial by Media: Free Speech and Fair Trial Under Criminal Procedure Code, 1973 (2006).

[3] India Const. art. 21; Maneka Gandhi v. Union of India, (1978) 1 S.C.C. 248 (India); Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 S.C.C. 158 (India).

[4] Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 S.C.C. 603 (India).

[5] Nilesh Navalakha v. Union of India, 2021 SCC OnLine Bom 56 (India).

[6] State of Maharashtra v. Rajendra Jawanmal Gandhi, (1997) 8 S.C.C. 386 (India).

How media trials grew in India

In the era of newspapers, reporters had limited space and a daily deadline, so coverage was slower and more careful. The picture changed with private television news in the 1990s and 24-hour news channels in the 2000s. Channels now compete for ratings, and a sensational crime story brings viewers and advertising money. The next big change came with social media in the 2010s, where any person can publish an opinion, a rumour or an edited video within seconds.

Stage	Period	Main medium	Main risk to fair trial
1	Before 1990s	Newspapers and radio	Slow reporting; limited reach; occasional prejudicial articles
2	1990s to 2000s	Private television channels	Live coverage; reconstructions; "breaking news" culture
3	2010s to present	24x7 news, social media, YouTube	Viral posts; hashtags; online mobs; no editor or gatekeeper

Well-known examples

Several cases show the pattern. In the *Jessica Lal* murder case, the Supreme Court noted that media attention and public pressure helped keep the case alive after the first acquittals, which shows that the media can also play a positive role.[7] But in the *Aarushi Talwar* case, the early coverage of the parents' character, with many unproved claims about the family, shaped public opinion for years, and the High Court later acquitted the parents.[8] During the 26/11 Mumbai attack trial, the Supreme Court strongly disapproved of the live coverage of the security operation, because it could have helped the terrorists and put lives at risk.[9] In 2020, television coverage of the death of Sushant Singh Rajput, including the arrest and public shaming of a woman accused in the case, led the Bombay High Court to criticise channels for breaking the Programme Code.[10]

These examples show that media trial is not one problem but several. Sometimes it harms the accused, sometimes the victim and witnesses, sometimes the investigation, and sometimes national security. The legal response must therefore be flexible.

[7] Sidhartha Vashisht v. State (NCT of Delhi), (2010) 6 S.C.C. 1 (India).
[8] Rajesh Talwar v. Cent. Bureau of Investigation, Crim. App. No. 293 of 2012 (All. High Ct. Oct. 12, 2017) (India).
[9] Mohd. Ajmal Amir Kasab v. State of Maharashtra, (2012) 9 S.C.C. 1 (India).
[10] Navalakha, 2021 SCC OnLine Bom 56.

3. Legal Framework

3.1 Constitutional provisions

The Constitution gives the press no separate right. Press freedom is read into Article 19(1)(a), the freedom of speech and expression. But this freedom is not absolute. Article 19(2) allows reasonable restrictions in the interest of, among other things, "contempt of court", defamation and incitement to an offence.[11] On the other side stands Article 21, which protects life and personal liberty and, as read by the Supreme Court, includes the right to a fair and speedy trial. Article 14 (equality before law) adds that every accused is entitled to the same fair procedure.

The Constitution also protects the courts. Articles 129 and 215 make the Supreme Court and the High Courts "courts of record" with the power to punish for their own contempt.[12] This power is the main tool against prejudicial reporting.

3.2 The Contempt of Courts Act, 1971

The Act divides contempt into civil and criminal. Criminal contempt includes publication of any matter that scandalises or lowers the authority of a court, prejudices or interferes with a judicial proceeding, or obstructs the administration of justice.[13] This is the clause that applies to media trials. The Act also protects the press in some ways. Innocent publication without reason to believe that a case is pending is not contempt, a fair and accurate report of a judicial proceeding is not contempt, and fair criticism of a final judgment is allowed.[14] An important limit is that the Act applies only to cases that are "pending", and the Act says a criminal case is pending from the time a charge sheet is filed or the court issues a summons or warrant. Much damage happens before that stage, during the police investigation, and the Act does not clearly cover it.

3.3 Regulation of the media

The media is regulated under different laws, depending on the platform.

Platform	Main law or body	Power to punish
Newspapers and magazines	Press Council of India under the Press Council Act, 1978	Can warn, admonish or censure only; no fine or jail[15]
Cable television channels	Cable Television Networks (Regulation) Act, 1995, and Programme Code under the 1994 Rules	Government can order apology, ban a programme or suspend a channel[16]

[11] India Const. art. 19(1)(a), 19(2).
[12] India Const. arts. 129, 215.
[13] Contempt of Courts Act, 1971, No. 70 of 1971, § 2(c) (India).
[14] Id. §§ 3–5.
[15] Press Council Act, 1978, No. 37 of 1978, §§ 13–15 (India).
[16] Cable Television Networks (Regulation) Act, 1995, No. 7 of 1995, §§ 5, 19–20 (India); Cable Television Networks Rules, 1994, r. 6 (India).

Platform	Main law or body	Power to punish
News channels (voluntary body)	News Broadcasting & Digital Standards Authority (NBDSA)	Can warn, fine up to a set limit and order an apology, but only for member channels
Online news and social media	Information Technology Act, 2000, and the 2021 Intermediary and Digital Media Ethics Code Rules	Takedown orders; three-tier grievance system[17]

3.4 Other protections

Other laws also limit what the media may publish. Section 72 of the Bharatiya Nyaya Sanhita, 2023, makes it an offence to print or publish the identity of a victim of sexual offences.[18] Special child-protection laws, such as the POCSO Act, 2012, bar disclosure of a child's identity. Defamation law, both civil and criminal, protects the reputation of a person who is wrongly named as guilty.

3.5 Weak points in the framework

Three gaps stand out. First, the Press Council can only advise and has no power over television or the internet. Second, the Programme Code is enforced by the government, which raises the fear of political misuse and censorship. Third, the self-regulatory bodies for television have no statutory backing, and channels can walk out of them. As a result, the strongest remedy is a contempt case before the court, and courts are careful to use it, as the next part shows.

4. Judicial Approach

4.1 The Sahara test

The most important decision on the topic is *Sahara India Real Estate Corp. Ltd. v. SEBI*. A Constitution Bench held that, to protect a fair trial, a court can pass a "postponement order", which delays the publication of certain material for a limited time. The Court said such an order is not a ban on speech but a preventive measure that is used only when there is a real and substantial risk of prejudice to the administration of justice, when no less harsh option is available, and when the order is proportionate and limited in time.[19] This is the first time the Supreme Court gave a clear test, and it treats Articles 19(1)(a) and 21 as rights of equal value that must be balanced, not ranked.

4.2 Other leading decisions

In *R.K. Anand v. Registrar, Delhi High Court*, the Supreme Court dealt with a television sting operation involving a senior lawyer and a witness in a high-profile criminal case. The Court held that media involvement in a pending trial in this way could obstruct justice, and that courts must take it seriously.[20]

[17] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E) (India).
[18] Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023, § 72 (India).
[19] Sahara, (2012) 10 S.C.C. 603.
[20] R.K. Anand v. Registrar, Delhi High Court, (2009) 8 S.C.C. 106 (India).

In *Zahira Habibulla H. Sheikh v. State of Gujarat*, the Court stressed that a fair trial is the heart of criminal justice and that a trial affected by outside pressure is not a fair trial.[21] In the Kasab case, the Court said that the live reporting of the 26/11 operation had crossed the limit and that the right to free speech does not cover coverage that endangers national security.[22] In 2021, the Bombay High Court held that coverage by certain channels in the Sushant Singh Rajput matter was contrary to the Programme Code and was likely to interfere with a fair investigation, though it chose to issue guidance and did not punish the channels.[23]

Case	Court	Main point
Sahara India Real Estate v. SEBI (2012)	Supreme Court (Constitution Bench)	Postponement orders allowed on the test of real risk, necessity and proportionality
R.K. Anand v. Registrar, Delhi High Court (2009)	Supreme Court	Sting operation on a trial held to obstruct justice
Zahira Habibulla H. Sheikh v. State of Gujarat (2004)	Supreme Court	Fair trial is the core of criminal justice
Mohd. Ajmal Kasab v. State of Maharashtra (2012)	Supreme Court	Live coverage of a terror attack went beyond free speech
Nilesh Navalakha v. Union of India (2021)	Bombay High Court	Channel coverage criticised; Programme Code violation noted

4.3 Lessons from other countries

Other legal systems face the same problem. In the United States, *Sheppard v. Maxwell* set aside a murder conviction because the press had turned the trial into a "carnival" and the judge had failed to control it. The Court said trial judges must take strong steps, such as moving the trial, controlling the courtroom and warning witnesses.[24] But in *Nebraska Press Ass'n v. Stuart*, the Court refused to allow a blanket gag order on the press, saying that such orders are the most serious and least tolerable limit on free expression.[25] In the United Kingdom, the Contempt of Court Act, 1981, applies a "strict liability" rule from the time a case becomes "active", for example from the time of arrest, and punishes publications that create a substantial risk of serious prejudice.[26] The European Court of Human Rights, in *The Sunday Times v. United Kingdom*,

[21] Zahira, (2004) 4 S.C.C. 158.
[22] Kasab, (2012) 9 S.C.C. 1.
[23] Navalakha, 2021 SCC OnLine Bom 56.
[24] Sheppard v. Maxwell, 384 U.S. 333 (1966).
[25] Neb. Press Ass'n v. Stuart, 427 U.S. 539 (1976).
[26] Contempt of Court Act 1981, c. 49, § 2 (U.K.).

also stressed that the public has a right to receive information on matters of public interest, so the balance must be careful.[27]

The main lesson is that the UK sets a clear, early starting point for restrictions, while the US relies on judges to manage the trial. India uses neither model fully. Its contempt law starts late, and its courts use postponement orders only occasionally.

4.4 How a case of media trial moves through the system

The flowchart below summarises the route that a complaint about prejudicial reporting can take in India today.Self-regulation and administrative bodies come first, but they act after the harm is done and cannot punish strongly. Only a High Court or the Supreme Court can stop a harmful publication in advance, and it must apply the *Sahara* test before doing so.

5. Empirical Analysis

5.1 Method and data

This part uses secondary data and a simple coding of court decisions. It does not use a fresh survey, so no numbers have been created for this study. Two sets of information are used: (a) the yearly rank of India in the World Press Freedom Index of Reporters Without Borders (RSF), and (b) the five court decisions studied in Part 4, each coded by what the court did. The RSF index is not a direct measure of media trial. It is used here only as a broad sign of the health of the press environment in which media trials happen.

5.2 India's press freedom rank

The chart shows that India stood at 133 in 2016 and then fell almost every year, reaching 161 in 2023, its lowest point in this period.[28] The rank improved to 159 in 2024 and 151 in 2025, but fell again to 157 in 2026.[29] RSF itself warned that the small rise in 2024 was misleading, because India's score fell and the rank improved only because other countries fell faster.[30]

The chart shows two things at once. Press freedom is under stress, and yet the media is also accused of misusing that freedom through trials on television. These are two sides of one problem. Pressure from outside and weak ethics inside can both lower the quality of journalism, and poor-quality journalism is the soil in which media trials grow. The Government of India has rejected the RSF findings, so the index is best read as one view among others, and not as proof.

5.3 What courts have actually done

Coding the decisions in Part 4 gives a clear pattern. Four of them deal directly with the media: *Sahara*, *R.K. Anand*, *Kasab* and *Navalakha*. Only *Sahara* lays down a binding test for future cases. In the other

[27] Sunday Times v. United Kingdom, 30 Eur. Ct. H.R. (ser. A) (1979).

[28] Why India Fell From 133 to 142 in the World Press Freedom Index in Five Years, IndiaSpend (2021), https://indiaspend.com/governance/why-india-fell-from-133-to-142-in-the-world-press-freedom-index-in-five-years-815880; India's Rank on World Press Freedom Index Slips, Morung Express (May 3, 2023), https://morungexpress.com/indias-rank-on-world-press-freedom-index-slips.

[29] India Is 157th out of 180 Countries on RSF's 2026 World Press Freedom Index, The Wire (Apr. 30, 2026), https://thewire.in/media/india-is-157th-out-of-180-countries-on-rsfs-2026-world-press-freedom-index.

[30] 'Unworthy of a Democracy': India Ranks 159 of 176 Countries on Press Freedom Index, The Wire (2024), https://m.thewire.in/article/media/unworthy-of-a-democracy-india-ranks-159-of-176-countries-on-press-freedom-index.

three, the court criticised media conduct or warned about its dangers, but did not set a general rule for the future. In none of the four did a court order a ban on all reporting. The fifth decision, *Zahira*, is about fair trial in general and is relevant because it explains why outside pressure on a trial is dangerous. This pattern shows that Indian courts prefer warnings and guidance to strong action, which fits with their respect for Article 19(1)(a).

5.4 Reading the results

Three findings stand out. First, the law is clear on principle but weak in practice, because there is one binding test and many warnings. Second, there is no single body that handles complaints across print, television and online platforms, so the same harmful story can go unchecked on one platform and be removed on another. Third, the damage of a media trial is mostly done in the first days of a case, before any court or regulator acts, and no data source currently measures that. Future empirical work could fill this gap through a survey of journalists, lawyers and judges, or by tracking the number of complaints and the time taken to decide them. The tables and flowchart in this article are meant to guide that work.

6. Journalistic Ethics and Self-Regulation

Law is only one safeguard. The first line of defence against a media trial is the ethics of the journalist and the editor. Indian journalism has written codes for this purpose, although they are not always followed.

The Press Council of India has issued Norms of Journalistic Conduct. These ask the press to publish accurate and fair news, not to give a verdict on guilt, to avoid publishing confessions and police statements as if they were proven facts, and to give the person concerned a fair chance to reply.[31] The Norms also warn the press against reporting that harms the reputation of a person without checking facts and against giving names and photographs of victims of sexual offences. On television, the News Broadcasting & Digital Standards Authority (NBDSA) has a Code of Ethics and Broadcasting Standards. It requires channels to protect the presumption of innocence, not to carry out their own investigation into pending matters, and to respect the privacy of those involved.[32]

Core ethical principles

Principle	What it means in a criminal case
Accuracy	Check facts before broadcasting; do not treat police leaks as proof
Fairness	Give the accused a chance to reply; show both sides
Presumption of innocence	Use words like "accused" and "alleged"; never announce guilt
Privacy and dignity	Protect victims, children and witnesses; respect the privacy of the accused[33]

[31] Press Council of India, Norms of Journalistic Conduct (latest ed.).
[32] News Broadcasting & Digital Standards Authority, Code of Ethics & Broadcasting Standards (as amended).
[33] Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 S.C.C. 1 (India).

Principle	What it means in a criminal case
Restraint	Avoid reconstructions, polls and "verdict" debates on pending cases

Why self-regulation often fails

There are four main reasons. First, the business model rewards speed and drama. A channel that is slow and careful loses viewers to a channel that is loud and quick, so even good editors feel pressure to follow. Second, the bodies have little power. The Press Council can only censure, and NBDSA works only through its members and its orders can be ignored by channels that leave it. Third, many cases are decided after the damage is done. A complaint may take weeks or months, but the harm of a media trial happens in days. Fourth, there is no clear line between news, opinion and entertainment. Many prime-time shows are loud debates where panellists argue about guilt, and these shows are treated as opinion and so escape the rules for news.

Sting operations raise a special ethical problem. A sting can expose real wrongdoing and serve the public interest, but when it targets witnesses or lawyers in a pending case, it can interfere with justice, as the Supreme Court observed in *R.K. Anand*.[34] Ethical journalism therefore asks for a strong public interest reason, no entrapment, and care not to disturb a pending trial.

The role of social media

Today a large part of media trial happens outside traditional newsrooms. Influencers, YouTube channels and anonymous accounts spread rumours, edited clips and "leaked" chats that can be seen by millions in hours. These sources have no editor, no ethics code and often no fear of contempt. This makes it more important to teach the public to question what they see online and to hold platforms responsible when they spread content that is clearly prejudicial.

7. Suggestions

The study points to a balanced set of reforms. None of them ban reporting. Each aims to make coverage fair and to protect the trial early.

1. **Start protection earlier.** The Law Commission recommended that the Contempt of Courts Act be amended so that a criminal case is treated as pending from the time of arrest, not from the time a charge sheet is filed.[35] Parliament should accept this, because most prejudicial coverage happens in the first days of a case.
2. **Court guidelines on live cases.** The Supreme Court should issue clear, binding guidelines on how pending criminal cases may be reported. The guidelines should build on the *Sahara* test. They should say what must not be published, such as confessions made to police, the identity of witnesses and victims, and "reconstructions" of the crime.
3. **Use postponement orders more clearly.** High Courts should use postponement orders in a short and reasoned manner when there is a real risk, and should publish the reasons, so that editors can understand the rule.

[34] R.K. Anand, (2009) 8 S.C.C. 106.
[35] Law Comm'n of India, supra note 2.

4. **One strong regulator for all media.** India needs a statutory, independent regulator for news broadcasters and digital news, with members from the judiciary, the press, civil society and the public. It should have the power to impose fines, order apologies and corrections, and publish its decisions. The government should not control it, to avoid fears of censorship.
5. **Faster complaint handling.** Complaints about prejudicial coverage should be decided in a short time, for example within two to three weeks, because delay makes the remedy useless. Orders should be published in plain language.
6. **Police media briefings.** Police should speak to the media through an authorised officer using a standard format. They should not leak statements, call records, or photographs, and they should not present the accused as guilty. This is important because many media trials begin with a police leak.
7. **Training and ethics in newsrooms.** Newsrooms and journalism schools should teach crime reporting, basic criminal law, contempt of court and the presumption of innocence. Every newsroom should have an ethics officer or an internal ombudsman.
8. **Responsibility of platforms and influencers.** Social media platforms should act quickly on court orders to remove prejudicial content. Influencers who report on pending cases should follow the same ethical standards as journalists.
9. **Right to reply and correction.** A person wrongly named as guilty should have a clear right to a prompt apology or correction that appears with the same prominence as the original story.
10. **Public awareness.** Schools, colleges and legal aid bodies should explain the presumption of innocence and the harm of sharing unverified content online.

Balancing the two rights

These suggestions respect Article 19(1)(a) because they restrict only coverage that creates a real risk to a fair trial. They do not stop criticism of the police, the courts or the government. They also respect Article 21, because they protect the accused, the victim and the witness from public judgment before the court has spoken.

8. Conclusion

Media trial is a clash between two valuable rights. A free press protects democracy by keeping the public informed, and a fair trial protects the individual from being punished without proof. Neither right can be allowed to swallow the other. The Constitution, the Contempt of Courts Act and the *Sahara* decision give India the tools to balance them, but these tools are used rarely and late.

This study found three main weaknesses. The first is timing: the law starts to protect a trial only after a charge sheet, while most harm is done in the first days of a case. The second is enforcement: regulators for print and television can mostly warn and advise, and no single body covers print, television and online media. The third is culture: commercial pressure, loud prime-time debates and unchecked social media posts push journalism away from its own ethics. The data on India's press freedom rank also shows that the press works under strain, and that strain makes poor-quality, sensational reporting more likely.

The answer is not to silence the press. India should strengthen the early protection of trials, create a strong and independent regulator, improve the quality of police communication, and invest in newsroom ethics and public awareness. The courts should keep using the *Sahara* test, with clear reasons, so that editors know where the line is. When the media reports facts fairly and leaves the verdict to the judge, press

freedom and the right to a fair trial support each other. A society that respects both has a better chance of reaching a verdict that is fair, and that people trust.