
MEDIA TRIALS IN INDIA: A CONTEMPORARY CONSTITUTIONAL ANALYSIS OF PRESS FREEDOM AND FAIR TRIAL RIGHTS

Ngahnunhoi Haokip, Christ University, Lavasa, Pune

ABSTRACT

A media in India occupies a Constitutionally significant position as the “fourth pillar of democracy”, entrusted with the responsibility of shaping public opinion, ensuring transparency, and holding the government accountable.¹ This Constitutional recognition flows from Article 19(1)(a) of the Constitution of India, which guarantees freedom of speech and expression and has And judicially interpret it to include freedom of the press.² However, this freedom is not absolute. Article 19 (2) empowers the state to impose reasonable restrictions in the interests of public order, decency, morality, contempt of court, and national security.³

The intersection of press freedom with the administration of criminal justice becomes particularly contentious in the phenomenon commonly referred to as “trial by media”.⁴ In such situations, the press assumes a quasi-judicial role by publicly debating and pronouncing upon the guilt or innocence of individuals before judicial determination.⁵ While media activism has come at times, corrected institutional failures and mobilised public conscience, unchecked reportage during ongoing investigations and trials risks undermining judicial impartiality and violating the accused Fundamental right to a fair trial under Article 21.⁶

This paper examines the Constitutional foundations, judicial developments, contemporary case studies, and recent Supreme Court and high court trends between 2022 and 2024, arguing that India must adopt a principled, proportionality-based regulatory framework to harmonise democratic transparency with procedural justice.⁷

¹ Rajeev Dhavan, *On the Law of the Press in India* (Oxford Univ. Press 2013).

² *Romesh Thappar v. State of Madras*, A.I.R. 1950 S.C. 124 (India).

³ INDIA CONST. art. 19(2).

⁴ Ratanlal & Dhirajlal, *The Law of Crimes* (27th ed., LexisNexis 2022).

⁵ Madhavi Goradia Divan, *Facets of Media Law* (EBC 2016).

⁶ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India); *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India).

⁷ *Modern Dental Coll. & Rsch. Ctr. v. State of M.P.*, (2016) 7 S.C.C. 353 (India) (proportionality doctrine); Gautam Bhatia, *Offend, Shock, or Disturb: Free Speech under the Indian Constitution* (Oxford Univ. Press 2016).

Introduction

In India, the freedom of the press derives Constitutional protection from Article 19(1)(a), which guarantees to all citizens the right to freedom of speech and expression.⁸ Though the Constitution does not explicitly mention “freedom of the press”, judicial interpretation since the early years of Constitutional adjudication has recognised that press liberty is implicit within this guarantee.⁹ The media, often described as the “fourth pillar of democracy”, functions as a watchdog, scrutinising governmental action, exposing corruption, and facilitating informed public discourse.¹⁰ In a vibrant democracy, the press plays a crucial role in shaping public consciousness and enabling citizens to participate meaningfully in governance.¹¹

However, the Constitutional promise of press freedom is circumscribed by Article 19(2), which permits reasonable restrictions in the interests of sovereignty, security, public order, decency, morality, defamation, incitement to an offence, and contempt of court.¹² These limitations become particularly significant when media reporting intersects with ongoing judicial proceedings.¹³ The right to Freedom of expression must be reconciled with the right to a fair trial under Article 21, which guarantees life and personal liberty and has been expansively interpreted by the Supreme Court to include the right to a fair and impartial hearing.¹⁴

The delicate balance between these rights has been increasingly tested in recent years, particularly in high profile criminal cases that attract extensive media coverage.¹⁵ The phenomenon of “media trial” refers to the situation where media outlets, through sensationalised reporting and speculative commentary, effectively conduct parallel adjudication outside the courtroom.¹⁶ Such reporting may influence public opinion, create reputational Damage, exert indirect pressure on investigating agencies, and potentially interfere with judicial neutrality.¹⁷

⁸ INDIA CONST. art. 19(1)(a).

⁹ Brij Bhushan v. State of Delhi, A.I.R. 1950 S.C. 129 (India); Express Newspapers (P) Ltd. v. Union of India, (1986) 1 S.C.C. 133 (India).

¹⁰ Rajeev Dhavan, *On the Law of the Press in India* (Oxford Univ. Press 2013).

¹¹ Soli J. Sorabjee, *Freedom of the Press in India*, 4 J. Indian L. Inst. 1 (1962).

¹² INDIA CONST. art. 19(2).

¹³ Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 S.C.C. 603 (India).

¹⁴ Maneka Gandhi v. Union of India, (1978) 1 S.C.C. 248 (India); Zahira Habibullah Sheikh v. State of Gujarat, (2004) 4 S.C.C. 158 (India).

¹⁵ Gautam Bhatia, *Offend, Shock, or Disturb: Free Speech under the Indian Constitution* (Oxford Univ. Press 2016).

¹⁶ Madhavi Goradia Divan, *Facets of Media Law* (EBC 2016).

¹⁷ R.K. Anand v. Registrar, Delhi High Court, (2009) 8 S.C.C. 106 (India).

Historical Context and Evolution of Media Freedom in India

The history of press freedom in India cannot be understood in isolation from the broader narrative of colonial domination and nationalist resistance.¹⁸ During British rule, the press was perceived not merely as a vehicle of information but as a potent instrument of political mobilisation.¹⁹ Nationalist newspapers and journals played a transformative role in shaping public consciousness, disseminating anti-colonial ideas, and unifying diverse linguistic and regional communities under a shared demand for self-governance.²⁰ Recognising this power, the colonial administration adopted a series of repressive legislative measures aimed at curbing dissent.²¹

One of the most significant enactments in this regard was the Press Act of 1910, which authorised the government to demand security deposits from publishers, forfeit publications deemed seditious, and seized printing presses suspected of promoting anti-government sentiment.²² This legislation operated alongside sedition laws and preventive censorship regimes, creating an environment in which journalistic expression was subject to pervasive surveillance and suppression.²³ The colonial state viewed the press as a destabilising force capable of undermining imperial authority. Consequently, freedom of expression during this period was not regarded as a civil liberty but as a privileged subject to administrative discretion.²⁴

The struggle for independence fundamentally altered this perception. The nationalist movement consistently emphasised the indispensability of a free press to democratic self-governance.²⁵ Leaders of the independence movement used newspapers as platforms for mobilisation, critique, and ideological development.²⁶ As a result, freedom of speech became symbolically and practically linked to political emancipation. When India attained independence in 1947 and subsequently adopted its Constitution in 1950, the framers consciously rejected the colonial model of restrictive governance.²⁷

¹⁸ Rajeev Dhavan, *On the Law of the Press in India* (Oxford Univ. Press 2013).

¹⁹ Sumit Sarkar, *Modern India 1885–1947* (Macmillan 1983).

²⁰ Bipan Chandra et al., *India's Struggle for Independence* (Penguin 1989).

²¹ Press Act, 1910 (India) (repealed).

²² *Id.*

²³ Indian Penal Code, 1860, § 124A (sedition) (as historically applied).

²⁴ Nandini Sundar, *The Rule of Law and the Colonial State*, 46 *Econ. & Pol. Wkly.* 35 (2011).

²⁵ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford Univ. Press 1966).

²⁶ Bipan Chandra et al., *India's Struggle for Independence* (Penguin 1989).

²⁷ *Id.*

Article 19(1)(a) of the Constitution guaranteed to all citizens the right to freedom of speech and expression.²⁸ Although the Constitution did not expressly mention “freedom of the press”, the constituent assembly debates and early judicial interpretation left little doubt that press liberty was subsumed within this guarantee.²⁹ The framers envisioned a democratic republic in which public discourse would function as a checkup on state power. The Constitutional text thus marked a decisive normative break from colonial repression and embraced a rights-based democratic framework grounded in accountability and transparency.³⁰

The Supreme Court’s early jurisprudence reinforced this foundational commitment. In *Romesh Thappar v. State of Madras*, the court invalidated a state order banning the circulation of a political journal.³¹ The court observed that “*freedom of speech and expression lies at the foundation of all democratic organisations*”, emphasising that without free political discussion, no public education or democratic participation could flourish.³² This decision established that restrictions on speech must fall squarely within the enumerated grounds of Article 19 (2) and cannot be justified by vague appeals to public interest.³³

Similarly, in *Brij Bhushan v. State of Delhi*, a Supreme Court struck down pre censorship orders imposed on a newspaper.³⁴ The court underscored that prior restraint on requiring approval before publication which was inherently suspect in a democratic framework.³⁵ By invalidating executive attempts to control the press, the court signalled that freedom of expression occupies a preferred position within constitutional structure.³⁶ These early Decisions constitutionalized press freedom and position the judiciary as its guardian against executive overreach.

However, it is important to note that these foundational cases primarily address direct governmental censorship rather than the internal ethical limits of media conduct.³⁷ The early jurisprudence was concerned with protecting the press from state interference, not with regulating the press to safeguard competing Constitutional rights.³⁸ The media landscape at

²⁸ INDIA CONST. art. 19(1)(a).

²⁹ Constituent Assembly Debates, Vol. VII (1948).

³⁰ Granville Austin, *Working a Democratic Constitution* (Oxford Univ. Press 1999).

³¹ *Romesh Thappar v. State of Madras*, A.I.R. 1950 S.C. 124 (India).

³² *Id.*

³³ *Id.*

³⁴ *Brij Bhushan v. State of Delhi*, A.I.R. 1950 S.C. 129 (India).

³⁵ *Id.*

³⁶ Rajeev Dhavan, *On the Law of the Press in India* (Oxford Univ. Press 2013).

³⁷ Gautam Bhatia, *Offend, Shock, or Disturb* (Oxford Univ. Press 2016).

³⁸ *Id.*

that time was relatively limited to print journalism, with slower dissemination of information and fewer Technological amplifications

As India progressed through the latter half of the 20th century, the expansion of radio, television, and eventually digital media transformed the scale and speed of information dissemination.³⁹ Liberalisation of the economy in the 1990s led to an explosion of private news channels, creating intense competition for viewership.⁴⁰ Sensationalism, live courtroom commentary, and real time investigative reporting became defining features of Contemporary journalism.⁴¹ The shift from print to electronic and digital platforms introduced new complexities that the framers of the Constitution could scarcely have anticipated.⁴²

It was in this transformed media environment that the judiciary began confronting a different Constitutional dilemma: not how to protect the press from the state, but how to protect the administration of Justice from excessive media influence.⁴³ The challenge evolved from resisting executive censorship to reconciling press freedom with the right to a fair trial under Article 21.⁴⁴ Unlike colonial restrictions, which suppressed dissent, contemporary judicial Interventions aim to preserve procedural fairness and institutional integrity.⁴⁵

Thus, the evolution of media freedom in India reflects a dynamic constitutional journey. It began as a struggle against authoritarian censorship, matured into a robust protection of expressive liberty, and has now entered a phase requiring calibrated balancing between co-equal fundamental rights.⁴⁶ The judiciary's task has shifted from shielding the press against the state to harmonising the press with other Constitutional guarantees, particularly the Presumption of innocence and the right to fair adjudication.⁴⁷ This historical trajectory underscores that media freedom in India is not static; it continues to evolve in response to technological change, Democratic demands, and the imperatives of Justice.⁴⁸

³⁹ Ministry of Information & Broadcasting, Broadcasting in India: Policy Developments (Gov't of India).

⁴⁰ TRAI, Consultation Paper on Media Ownership (2014).

⁴¹ Sevanti Ninan, *Headlines from the Heartland* (Sage 2007).

⁴² *Id.*

⁴³ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India).

⁴⁴ *Zahira Habibullah Sheikh v. State of Gujarat*, (2004) 4 S.C.C. 158 (India).

⁴⁵ *R.K. Anand v. Registrar, Delhi High Court*, (2009) 8 S.C.C. 106 (India).

⁴⁶ Gautam Bhatia, *Offend, Shock, or Disturb* (Oxford Univ. Press 2016).

⁴⁷ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India).

⁴⁸ Madhavi Goradia Divan, *Facets of Media Law* (EBC 2016).

Article 19(1)(a) and the Scope of Free Speech in Media Trials

Article 19(1)(a) of the Constitution of India forms the Constitutional bedrock of media freedom.⁴⁹ Though the Constitution does not expressly mention “freedom of the press”, the Supreme Court has consistently interpreted the guarantee of freedom of speech and expression to include the Liberty of the press as an essential democratic institution.⁵⁰ The press performs multiple democratic functions: it disseminates information, scrutinises state action, facilitates public debate, and acts as a conduit between the citizenry and institutions of governance.⁵¹ In a pluralistic society such as India, or democratic accountability relies heavily on public discourse, the media occupies a position of immense Constitutional significance.⁵²

The scope of Article 19(1)(a) extends beyond mere reporting of fact; it includes investigative journalism, editorial commentary, criticism of governmental institutions, and dissemination of information on matters of public importance.⁵³ Criminal trials, particularly those involving public figures or heinous offences, undoubtedly fall within the domain of public interest.⁵⁴ The public has a legitimate stake in understanding how justice is administered, how investigative agencies function, and whether the rule of law is being upheld. Consequently, reporting on criminal proceedings is not only constitutionally protected but democratically desirable.⁵⁵

However, Article 19(1)(a) does not confer an unfettered right. Article 19(2) authorises the state to impose reasonable restrictions on speech in the interests of sovereignty, public order, decency, morality, defamation, incitement to offence, and crucially, contempt of court.⁵⁶ The inclusion of contempt of court as a ground of restriction reflects a conscious constitutional design to protect the administration of justice from external interference.⁵⁷ The framers of the Constitution recognised that free expression must coexist with institutional integrity.⁵⁸

Media trials frequently involve the publication of confessional statements allegedly made to the police, leaked charge sheets, speculative motives, psychological profiling of the accused,

⁴⁹ INDIA CONST. art. 19(1)(a).

⁵⁰ *Express Newspapers (P) Ltd. v. Union of India*, (1986) 1 S.C.C. 133 (India).

⁵¹ Rajeev Dhavan, *On the Law of the Press in India* (Oxford Univ. Press 2013).

⁵² Gautam Bhatia, *Offend, Shock, or Disturb: Free Speech under the Indian Constitution* (Oxford Univ. Press 2016).

⁵³ *Bennett Coleman & Co. v. Union of India*, (1973) 2 S.C.C. 788 (India).

⁵⁴ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India).

⁵⁵ Madhavi Goradia Divan, *Facets of Media Law* (EBC 2016).

⁵⁶ INDIA CONST. art. 19(2).

⁵⁷ Contempt of Courts Act, 1971, No. 70 of 1971, India Code.

⁵⁸ Constituent Assembly Debates, Vol. VII (1948).

an aggressive panel discussions that implicitly or explicitly pronounce guilt.⁵⁹ Such reporting risks constructing a parallel narrative outside the courtroom, one that may solidify public perception before judicial scrutiny has commenced.⁶⁰ Even though India no longer follows a jury System, judges are not entirely insulated from social realities. Courts function within society, and sustained media narratives can create a broader environment of expectation, outrage, or moral condemnation.⁶¹

Furthermore, reputational harm resulting from media trials may be irreparable. Even if an accused is ultimately acquitted, the social stigma attached to prolonged public suspicion may persist indefinitely.⁶² In this sense, media trials do not merely threaten procedural fairness; they implicate the Constitutional protection of dignity and reputation embedded within Article 21.⁶³

The doctrine of reasonable restrictions under Article 19(2) therefore becomes central in evaluating media conduct. Restrictions must satisfy the Constitutional test of proportionality, which requires that any limitation on speech be:

- a. imposed for a legitimate aim,
- b. necessary in a democratic society,
- c. A least restrictive measure available, and
- d. proportionate in balancing competing rights.⁶⁴

The Supreme Court's modern Constitutional jurisprudence increasingly applies proportionality as the guiding standard when reconciling Articles 19 and 21.⁶⁵ Thus, the issue is not whether media freedom may be restricted, but whether such restriction is justified, narrowly tailored, and essential to protect fair trial rights.⁶⁶

⁵⁹ R.K. Anand v. Registrar, Delhi High Court, (2009) 8 S.C.C. 106 (India).

⁶⁰ Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 S.C.C. 603 (India).

⁶¹ Gautam Bhatia, *Offend, Shock, or Disturb* (Oxford Univ. Press 2016).

⁶² Subramanian Swamy v. Union of India, (2016) 7 S.C.C. 221 (India).

⁶³ K.S. Puttaswamy v. Union of India, (2017) 10 S.C.C. 1 (India).

⁶⁴ Modern Dental Coll. & Rsch. Ctr. v. State of M.P., (2016) 7 S.C.C. 353 (India).

⁶⁵ *Id.*

⁶⁶ Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 S.C.C. 603 (India).

Right to Fair Trial under Article 21

Article 21 provides that no person shall be deprived of life or personal liberty except according to procedure established by law.⁶⁷ Over decades of constitutional interpretation, this provision has evolved into a reservoir of substantive and procedural guarantees.⁶⁸ The Supreme Court has expanded its scope to include the right to dignity, privacy, speedy trial, legal aid, and most importantly, the right to a fair trial.⁶⁹ A fair trial constitutes the moral and institutional foundation of criminal justice. It ensures that guilt or innocence is determined solely on the basis of admissible evidence tested through judicial process.⁷⁰

The presumption of innocence is an integral aspect of Article 21.⁷¹ Every accused person enters the courtroom cloaked in innocence, and the burden lies upon the prosecution to establish guilt beyond reasonable doubt.⁷² Media trials challenge this foundational principle by publicly framing individuals as culpable long before the evidentiary process unfolds.⁷³ When the media repeatedly labels a suspect as a “mastermind”, “criminal”, or “conspirator”, it risks undermining the Constitutional presumption.⁷⁴

The Supreme Court, in *Sahara India Real Estate Corp. Ltd. v. SEBI*, confronted the question of whether courts possess the authority to temporarily postpone publication of certain material in order to prevent prejudice to ongoing proceedings.⁷⁵ Recognising the real and substantial risk that unrestrained media reporting could compromise trial fairness, the court affirmed the power of courts to issue postponement orders.⁷⁶ Importantly, the court clarified that such orders must be temporary, case-specific, and proportionate.⁷⁷ The judgement reflects a Constitutional balancing exercise rather than a preference for one right over another.⁷⁸

⁶⁷ INDIA CONST. art. 21.

⁶⁸ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India).

⁶⁹ *Zahira Habibullah Sheikh v. State of Gujarat*, (2004) 4 S.C.C. 158 (India); *Hussainara Khatoon v. State of Bihar*, (1980) 1 S.C.C. 81 (India); *K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1 (India).

⁷⁰ *A.R. Antulay v. R.S. Nayak*, (1992) 1 S.C.C. 225 (India).

⁷¹ *Noor Aga v. State of Punjab*, (2008) 16 S.C.C. 417 (India).

⁷² *Woolmington v. Dir. of Pub. Prosecutions*, [1935] A.C. 462 (H.L.) (principle recognised in Indian criminal jurisprudence).

⁷³ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India).

⁷⁴ *R.K. Anand v. Registrar, Delhi High Court*, (2009) 8 S.C.C. 106 (India).

⁷⁵ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India).

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Gautam Bhatia, Offend, Shock, or Disturb: Free Speech under the Indian Constitution* (Oxford Univ. Press 2016).

Similarly, in *R.K. Anand v. Registrar, Delhi High Court*, the court examined the implications of a sting operation that allegedly interfered with an ongoing criminal case.⁷⁹ The court acknowledged the vital role of investigative journalism but warned that media activism cannot obstruct justice or supplant judicial processes.⁸⁰ It emphasised that while the press has a right to expose wrongdoing, it cannot assume the function of adjudication.⁸¹

These decisions collectively illustrate that Article 21 imposes a constitutional duty upon courts to safeguard the integrity of the judicial process.⁸² Where media conduct threatens to prejudice proceedings, courts are empowered and indeed obligated to intervene in a manner consistent with proportionality.⁸³

Case studies: Media Trials in Contemporary India

a. Jessica Lal Case

The Jessica Lal murder case stands as one of the earliest and most cited examples of the transformative impact of media activism in post-liberalisation India.⁸⁴ In 1999, Jessica Lal was shot dead at a social gathering in Delhi.⁸⁵ The trial initially resulted in the acquittal of the accused due to evidentiary lapses, hostile witnesses, and prosecutorial weaknesses.⁸⁶ The acquittal sparked widespread public dissatisfaction, and the media played the central role in galvanising public opinion.⁸⁷ Continuous television campaigns, investigative segments, and public debates question the integrity of the investigation and the fairness of the trial process.⁸⁸

The sustained media engagement created a climate of accountability. Civil society mobilisation and media scrutiny led to renewed prosecutorial efforts, culminating in the conviction of the accused by the Delhi High Court⁸⁹. This sequence of events was widely perceived as a moment when media intervention corrected systemic failure and revitalised public confidence in the

⁷⁹ *R.K. Anand v. Registrar, Delhi High Court*, (2009) 8 S.C.C. 106 (India).

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Zahira Habibullah Sheikh v. State of Gujarat*, (2004) 4 S.C.C. 158 (India).

⁸³ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India).

⁸⁴ *Manu Sharma v. State (NCT of Delhi)*, (2010) 6 S.C.C. 1 (India).

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ Sevanti Ninan, *Headlines from the Heartland* (Sage 2007).

⁸⁸ *Id.*

⁸⁹ *Manu Sharma v. State (NCT of Delhi)*, (2010) 6 S.C.C. 1 (India).

justice system.⁹⁰ It demonstrated that investigative journalism can expose procedural lapses and act as a catalyst for institutional reform.⁹¹

However, the case also presents complex constitutional concerns. The retrial occurred within a context of intense public sentiment shaped largely by media discourse.⁹² While courts maintained that their decision rested solely on evidence and legal reasoning, the broader environment was undeniably charged.⁹³ The critical Constitutional question arises: when does legitimate journalistic criticism evolve into populist pressure capable of influencing judicial Independence?⁹⁴ The Jessica Lal case reveals the dual-edged nature of media power.⁹⁵ It affirms the media's capacity to strengthen democracy by demanding accountability, get it simultaneously exposes the risk that public outrage which is amplified through broadcast platforms and may encroach upon the neutrality of adjudication.⁹⁶ The case thus represents both the promise and the peril of media activism.⁹⁷

b. Aarushi Talwar Case

In stark contrast to the Jessica Lal case, the Aarushi Talwar-Hemraj double murder case demonstrates the destructive potential of sensationalised media reporting.⁹⁸ From the earliest stages of investigation, speculative narratives dominated news coverage.⁹⁹ Media outlets broadcast theories regarding family dynamics, alleged motives, and personal character assessments without conclusive evidentiary backing.¹⁰⁰ The parents of the deceased were portraying morally charged and often prejudicial terms, effectively transforming them into subjects of public suspicion long before judicial determination.¹⁰¹

The case evolved over several years, with conflicting investigative findings and judicial conclusions.¹⁰² Ultimately, the Allahabad High Court acquitted the accused due to lack of conclusive evidence, emphasising that suspicion, however grave, cannot substitute proof

⁹⁰ Rajeev Dhavan, *On the Law of the Press in India* (Oxford Univ. Press 2013).

⁹¹ *Id.*

⁹² Gautam Bhatia, *Offend, Shock, or Disturb* (Oxford Univ. Press 2016).

⁹³ *Manu Sharma v. State (NCT of Delhi)*, (2010) 6 S.C.C. 1 (India).

⁹⁴ Madhavi Goradia Divan, *Facets of Media Law* (EBC 2016).

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Rajesh Talwar v. CBI*, Crim. Appeal No. 88 of 2017 (All. H.C. Oct. 12, 2017).

⁹⁹ Sevanti Ninan, *Headlines from the Heartland* (Sage 2007).

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Rajesh Talwar v. CBI*, Crim. Appeal No. 88 of 2017 (All. H.C.).

beyond reasonable doubt.¹⁰³ By the time of acquittal, however, the reputational and psychological harm inflicted through years of intense media scrutiny had already become entrenched.¹⁰⁴ Social Stigma, public speculation, and digital archives ensure that the narrative persisted beyond the courtroom.¹⁰⁵

This case foregrounds the constitutional dimension of dignity, which forms part of Article 21's protection of life and personal liberty.¹⁰⁶ The right to reputation has been recognised as an intrinsic component of dignity.¹⁰⁷ Media trials, particularly when grounded in conjecture rather than verified facts, risk violating this Constitutional guarantee.¹⁰⁸ Unlike the Jessica Lal case, or media activism arguably corrected injustice, the Aarushi Talwar case illustrates how media intervention may produce irreversible harm, even when judicial exoneration eventually occurs.¹⁰⁹ It serves as a cautionary example of the need for restraint, ethical responsibility, and adherence to Constitutional values.¹¹⁰

c. Nirbhaya Case

The Nirbhaya case of 2012 marked a watershed moment in India's criminal justice discourse.¹¹¹ The brutal gang rape and murder of a young woman in Delhi generated unprecedented national outrage.¹¹² Media coverage was continuous, emotionally charged, and mobilising.¹¹³ Public protests filled the streets, demanding accountability and reform.¹¹⁴ Legislative changes followed swiftly, including significant amendments to criminal law relating to sexual offences.¹¹⁵

From a constitutional perspective, the Nirbhaya case presents a nuanced dynamic. On one hand, media reporting performed a democratic function by highlighting systemic deficiencies, amplifying victims' voices, and catalysing reform.¹¹⁶ On the other hand, the extraordinary

¹⁰³ Id.

¹⁰⁴ Gautam Bhatia, *Offend, Shock, or Disturb* (Oxford Univ. Press 2016).

¹⁰⁵ Id.

¹⁰⁶ INDIA CONST. art. 21.

¹⁰⁷ *Subramanian Swamy v. Union of India*, (2016) 7 S.C.C. 221 (India).

¹⁰⁸ Id.

¹⁰⁹ Madhavi Goradia Divan, *Facets of Media Law* (EBC 2016).

¹¹⁰ Id.

¹¹¹ *Mukesh v. State (NCT of Delhi)*, (2017) 6 S.C.C. 1 (India).

¹¹² Id.

¹¹³ Sevanti Ninan, *Headlines from the Heartland* (Sage 2007).

¹¹⁴ Justice J.S. Verma Committee Report (2013).

¹¹⁵ Criminal Law (Amendment) Act, 2013.

¹¹⁶ Justice J.S. Verma Committee Report (2013).

intensity of public sentiment created a highly charged environment in which judicial independence was tested.¹¹⁷ The Supreme Court, in affirming the convictions and upholding the death penalty, grounded its reasoning firmly in evidentiary and legal principles.¹¹⁸ Yet the broader social context underscores the inherent tension between public mobilisation and adjudicative neutrality.¹¹⁹

The Nirbhaya case demonstrates that media coverage can operate as a force for progressive change. However, it also reveals the delicate Constitutional balance the courts must maintain. Judicial reasoning must remain insulated from emotional fervour, even when public outrage is morally compelling.¹²⁰ The Constitutional system requires courts to act neither as instruments of populist will nor as detached entities indifferent to social realities.¹²¹ Rather, they must interpret and apply law within a framework of principled independence.¹²²

d. Sushant Singh Rajput Case

The death of actor Sushant Singh Rajput in 2020 marked a turning point in the intensity and scale of media trials in India.¹²³ Unlike earlier cases confined largely to television coverage, this episode unfolded in a fully digitalized ecosystem characterised by 24 hour news cycles, social media amplification, and algorithm-driven narratives.¹²⁴ Competing investigative agencies, including state police, Central agencies, and narcotics authorities, have become subjects of continuous public scrutiny.¹²⁵ The media aired allegations ranging from conspiracy to abetment, financial irregularities, and drug syndicates, often before investigative findings were finalised.¹²⁶

Individuals associated with the deceased were publicly accused and subjected to sustained reputational attack. Television debates frequently adopted accusatory tones, blurring the distinction between reporting and adjudication.¹²⁷ Social media platforms magnified

¹¹⁷ Gautam Bhatia, *Offend, Shock, or Disturb* (Oxford Univ. Press 2016).

¹¹⁸ *Mukesh v. State (NCT of Delhi)*, (2017) 6 S.C.C. 1 (India).

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ Rajeev Dhavan, *On the Law of the Press in India* (Oxford Univ. Press 2013).

¹²² *Id.*

¹²³ *Rhea Chakraborty v. State of Bihar*, (2020) 19 S.C.C. 361 (India).

¹²⁴ Tarleton Gillespie, *Custodians of the Internet: Platforms, Content Moderation, and the Hidden Decisions That Shape Social Media* (Yale Univ. Press 2018).

¹²⁵ *Rhea Chakraborty v. State of Bihar*, (2020) 19 S.C.C. 361 (India).

¹²⁶ Sevanti Ninan, *Headlines from the Heartland* (Sage 2007).

¹²⁷ Madhavi Goradia Divan, *Facets of Media Law* (EBC 2016).

speculation, transforming unverified claims into viral narratives.¹²⁸ The speed and permanence of digital dissemination ensured that once a theory gained traction, it became difficult to contain or correct.¹²⁹

Judicial proceedings arising out of related petitions prompted courts to caution against speculative reporting. Observations emphasise that freedom of expression does not licence obstruction of investigation or character assassination.¹³⁰ The case exposed the regulatory inadequacies of existing frameworks, particularly in addressing digital misinformation.¹³¹ Unlike print media, which operates under established editorial protocols, digital platforms operate within decentralised and often opaque regulatory structures.¹³²

The Sushant Singh Rajput case thus represents a paradigmatic example of the modern media trial was transcending traditional boundaries and revealing the challenges of regulating speech in the digital era.¹³³ It underscores the Constitutional urgency of reconciling free expression with institutional integrity in an age of instantaneous communication.¹³⁴

e. Aryan Khan Case

The Aryan Khan narcotics case further illustrates how media narratives can outpace judicial scrutiny.¹³⁵ Following the arrest of Aryan Khan in a high profile narcotics investigation, media outlets broadcast allegations suggesting involvement in international drug conspiracies.¹³⁶ Panel discussions frequently framed the accused as culpable before evidence was examined in court.¹³⁷ The atmosphere surrounding the case was characterised by intense speculation and moral condemnation.¹³⁸

When the Bombay High Court granted bail, it emphasised the absence of substantive evidence linking the accused to criminal conspiracy.¹³⁹ The court's reasoning highlighted the importance

¹²⁸ Tarleton Gillespie, *Custodians of the Internet* (Yale Univ. Press 2018).

¹²⁹ *Id.*

¹³⁰ *Rhea Chakraborty v. State of Bihar*, (2020) 19 S.C.C. 361 (India).

¹³¹ Gautam Bhatia, *Offend, Shock, or Disturb* (Oxford Univ. Press 2016).

¹³² Information Technology Act, 2000; Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

¹³³ *Id.*

¹³⁴ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India).

¹³⁵ *Aryan Khan v. Union of India*, Bail Order, Crim. Bail Appl. No. 3803 of 2021 (Bom. H.C. Oct. 28, 2021).

¹³⁶ *Id.*

¹³⁷ Madhavi Goradia Divan, *Facets of Media Law* (EBC 2016).

¹³⁸ Gautam Bhatia, *Offend, Shock, or Disturb* (Oxford Univ. Press 2016).

¹³⁹ *Aryan Khan v. Union of India*, Bail Order, Crim. Bail Appl. No. 3803 of 2021 (Bom. H.C.).

of evidentiary standards and the presumption of innocence.¹⁴⁰ Subsequent developments, including scrutiny of investigative conduct, reinforced concerns regarding premature media conclusions.¹⁴¹

This case exemplifies how media coverage may shape public perception independently of judicial findings.¹⁴² The Constitutional implications extend beyond trial fairness to encompass reputational integrity and due process.¹⁴³ It demonstrates that even temporary allegations, when amplified through mass media, can produce long-lasting social consequences.¹⁴⁴

2022 – 2024 for Judicial Developments

Recent judicial developments reflect an increasing awareness of media overreach and its Constitutional implications.¹⁴⁵ The Supreme Court, in proceedings concerning inflammatory broadcasts and hate speech, has reiterated that televised debates must not interfere with investigations or prejudice ongoing trials.¹⁴⁶ Observations from the bench have emphasised that media houses bear a responsibility to avoid disseminating unverified allegations, particularly in sub judice matters.¹⁴⁷

High courts across jurisdictions have similarly cautioned against the publication of confessional statements, leaked investigative documents, or character assessments of accused persons during pending proceedings.¹⁴⁸ Courts have reiterated that such reporting may amount to interference with the administration of justice and could attract contempt jurisdiction.¹⁴⁹ The judiciary has increasingly framed these concerns within the language of Constitutional balance, emphasising that Articles 19 and 21 must coexist harmoniously.¹⁵⁰

In 2023 and 2024, the Supreme Court expressed reservations regarding the effectiveness of existing self regulatory mechanisms governing electronic media.¹⁵¹ The court acknowledged

¹⁴⁰ Noor Aga v. State of Punjab, (2008) 16 S.C.C. 417 (India).

¹⁴¹ Id.

¹⁴² Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 S.C.C. 603 (India).

¹⁴³ Subramanian Swamy v. Union of India, (2016) 7 S.C.C. 221 (India).

¹⁴⁴ Id.

¹⁴⁵ Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 S.C.C. 603 (India) (framework applied in later proceedings).

¹⁴⁶ In re: Distribution of Essential Supplies and Services During Pandemic, (2021) 7 S.C.C. 772 (India).

¹⁴⁷ Id.

¹⁴⁸ R.K. Anand v. Registrar, Delhi High Court, (2009) 8 S.C.C. 106 (India).

¹⁴⁹ Contempt of Courts Act, 1971, No. 70 of 1971, India Code.

¹⁵⁰ Modern Dental Coll. & Rsch. Ctr. v. State of M.P., (2016) 7 S.C.C. 353 (India).

¹⁵¹ Amish Devgan v. Union of India, (2021) 1 S.C.C. 1 (India).

that while freedom of speech remains foundational, self regulation alone may be insufficient to prevent prejudicial reportage.¹⁵² Discussions before the court have indicated openness to clearer guidelines that reconcile expressive freedom with judicial integrity.¹⁵³ Although no sweeping censorship regime has been endorsed, the court has signalled that structured regulatory reform may be necessary.¹⁵⁴

These judicial trends suggest an emerging consensus: censorship is neither desirable nor constitutionally sustainable, yet unregulated sensationalism poses tangible risks to fair trial rights.¹⁵⁵ The judiciary appears increasingly committed to applying proportionality as the governing standard is intervening only where reporting creates a real and substantial risk to justice.¹⁵⁶

The evolving jurisprudence reflects a maturation of constitutional understanding. Early cases focused on protecting the press from state interference; contemporary cases focus on protecting the justice system from prejudicial publicity.¹⁵⁷ Together, these developments underscore that freedom of expression and fair trial rights are not adversarial absolutes a co-equal constitutional commitments requiring careful harmonisation.¹⁵⁸

Regulatory Challenges and Institutional Reform

The regulatory framework governing media conduct in India reflects a fragmented and often inadequate institutional architecture that has struggled to keep pace with technological and commercial transformation.¹⁵⁹ The Press Council of India (PCI), established under the Press Council Act, 1978, was envisioned as a statutory body to preserve the freedom of the press while maintaining and improving standards of journalism.¹⁶⁰ However, its powers remain largely advisory and admonitory.¹⁶¹ The council may censure, warn, or express disapproval, but it lacks binding enforcement authority or the power to impose substantive sanctions.¹⁶² As

¹⁵² Id.

¹⁵³ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

¹⁵⁴ Id.

¹⁵⁵ Gautam Bhatia, *Offend, Shock, or Disturb: Free Speech under the Indian Constitution* (Oxford Univ. Press 2016).

¹⁵⁶ *Modern Dental Coll. & Rsch. Ctr. v. State of M.P.*, (2016) 7 S.C.C. 353 (India).

¹⁵⁷ Rajeev Dhavan, *On the Law of the Press in India* (Oxford Univ. Press 2013).

¹⁵⁸ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India).

¹⁵⁹ Madhavi Goradia Divan, *Facets of Media Law* (EBC 2016).

¹⁶⁰ Press Council Act, 1978, No. 37 of 1978, India Code.

¹⁶¹ Id.

¹⁶² Id.

a result, its deterrent capacity is significantly limited.¹⁶³ In an era where media houses operate within highly competitive commercial ecosystems driven by ratings and digital engagement metrics, moral censure alone often proves insufficient to prevent sensationalist reporting.¹⁶⁴

The regulatory landscape becomes even more complex when considering electronic and broadcast media. Unlike print media, television news channels operate under a combination of statutory provisions and self-regulatory codes framed by industry bodies.¹⁶⁵ While these self-regulatory mechanisms articulate standards regarding impartiality, sub judice reporting, and ethical journalism, enforcement remains inconsistent.¹⁶⁶ The absence uniform and binding regulatory framework creates uneven accountability across media formats.¹⁶⁷ In high-profile criminal cases, the incentives for sensational coverage frequently outweigh the risks of reputational admonition.¹⁶⁸

The advent of digital media has further complicated regulatory oversight. Online news portals, independent content creators, and social media platforms operate in decentralised and transnational spaces.¹⁶⁹ Algorithmic amplification prioritises content that generates engagement has often favouring controversy, emotional intensity, and speculative narratives.¹⁷⁰ Once disseminated, digital content can be replicated, archived, and circulated globally, rendering corrective measures difficult.¹⁷¹ Unlike traditional print publications, which pass through identifiable editorial structures, digital content frequently emerges through fragmented and opaque channels.¹⁷² This structural transformation poses profound challenges for enforcement of sub judice norms and ethical standards.¹⁷³

Moreover, jurisdictional complexities arise when content originates outside national borders but is accessible within India. Cross-border dissemination reduces the practical efficacy of domestic regulatory bodies.¹⁷⁴ The speed of digital publication also means that prejudicial

¹⁶³ Rajeev Dhavan, *On the Law of the Press in India* (Oxford Univ. Press 2013).

¹⁶⁴ Sevanti Ninan, *Headlines from the Heartland* (Sage 2007).

¹⁶⁵ Cable Television Networks (Regulation) Act, 1995.

¹⁶⁶ News Broadcasters & Digital Ass'n, Code of Ethics and Broadcasting Standards.

¹⁶⁷ Gautam Bhatia, *Offend, Shock, or Disturb* (Oxford Univ. Press 2016).

¹⁶⁸ *Id.*

¹⁶⁹ Information Technology Act, 2000.

¹⁷⁰ Tarleton Gillespie, *Custodians of the Internet* (Yale Univ. Press 2018).

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

¹⁷⁴ *Id.*

narratives may spread widely before judicial intervention can occur.¹⁷⁵ Consequently, existing regulatory institutions are often reactive rather than preventive.¹⁷⁶

Against this backdrop, reform proposals have gained prominence. One suggestion involves strengthening the quasi-judicial authority of the Press Council of India or establishing a unified independent media standards authority with binding enforcement powers.¹⁷⁷ Such a body could be empowered to impose graduated sanctions, including monetary penalties or mandatory corrections, in cases of prejudicial reporting.¹⁷⁸ Another proposal calls for clearer statutory standards regarding sub judice reporting, defining permissible commentary and establishing structured guidelines for high profile criminal cases.¹⁷⁹

Additionally, mandatory ethical training for journalists, particularly regarding ongoing criminal investigations which has been proposed as a preventive measure.¹⁸⁰ Journalistic education could emphasise constitutional principles such as presumption of innocence, dignity, and fair trial rights.¹⁸¹ Strengthening internal newsroom compliance mechanisms may reduce reliance on external sanctions.¹⁸²

However, regulatory reform must itself conform to Constitutional scrutiny. Article 19(2) permits reasonable restrictions, but such restrictions must satisfy the test of proportionality.¹⁸³ Overbroad, vague, or discretionary regulatory frameworks risk chilling legitimate investigative journalism.¹⁸⁴ A regime that unduly restricts commentary on judicial proceedings may undermine democratic transparency and accountability.¹⁸⁵ Therefore, reform must be carefully calibrated, ensuring that measures are narrowly tailored to prevent actual prejudice rather than suppressed dissent.¹⁸⁶

The challenge lies in crafting regulatory mechanisms that protect trial integrity without

¹⁷⁵ Id.

¹⁷⁶ Rajeev Dhavan, *On the Law of the Press in India* (Oxford Univ. Press 2013).

¹⁷⁷ Law Comm'n of India, *Consultation Paper on Media Regulation and Fair Trial* (reform proposals discussed in academic literature).

¹⁷⁸ Id.

¹⁷⁹ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India).

¹⁸⁰ Press Council of India, *Norms of Journalistic Conduct*.

¹⁸¹ *Zahira Habibullah Sheikh v. State of Gujarat*, (2004) 4 S.C.C. 158 (India).

¹⁸² Madhavi Goradia Divan, *Facets of Media Law* (EBC 2016).

¹⁸³ *Modern Dental Coll. & Rsch. Ctr. v. State of M.P.*, (2016) 7 S.C.C. 353 (India).

¹⁸⁴ *Shreya Singhal v. Union of India*, (2015) 5 S.C.C. 1 (India).

¹⁸⁵ *Rajagopal v. State of Tamil Nadu*, (1994) 6 S.C.C. 632 (India).

¹⁸⁶ *Modern Dental Coll. & Rsch. Ctr. v. State of M.P.*, (2016) 7 S.C.C. 353 (India).

resurrecting forms of censorship reminiscent of colonial controls.¹⁸⁷ Institutional reform must strike a delicate balance: safeguarding Constitutional values while preserving the vibrancy of democratic discourse.¹⁸⁸ The objective is not to discipline the press into silence but to align media practises with Constitutional responsibility.¹⁸⁹

Conclusion

Media trials in India present one of the most intricate Constitutional dilemmas of the contemporary era.¹⁹⁰ On one hand, the press functions as an indispensable democratic institution, fostering transparency, exposing institutional lapses, and mobilising public consciousness.¹⁹¹ Article 19(1)(a) protects this expressive freedom as a cornerstone of participatory governance.¹⁹² On the other hand, Article 21 guarantees the right to life and personal liberty, which encompasses the presumption of innocence, dignity, and the right to a fair trial.¹⁹³ When media coverage transforms into adjudicatory commentary, the equilibrium between these rights is disrupted.¹⁹⁴

Contemporary jurisprudence demonstrates that courts have increasingly embraced proportionality as the guiding constitutional principle.¹⁹⁵ Rather than prioritising one right categorically over another, the judiciary has sought to harmonise competing guarantees.¹⁹⁶ Decisions recognising postponement orders, contempt jurisdiction, and responsible reporting reflect a nuanced approach grounded in Constitutional balance rather than absolutism.¹⁹⁷

The digital age intensifies these challenges. The speed, permanence, and reach of online media amplified both democratic potential and constitutional risk.¹⁹⁸ Sensational narratives can spread rapidly, shaping public perception before judicial processes unfold.¹⁹⁹ Yet attempts at

¹⁸⁷ Press Act, 1910 (India) (historical comparison).

¹⁸⁸ Gautam Bhatia, *Offend, Shock, or Disturb* (Oxford Univ. Press 2016).

¹⁸⁹ Rajeev Dhavan, *On the Law of the Press in India* (Oxford Univ. Press 2013).

¹⁹⁰ Gautam Bhatia, *Offend, Shock, or Disturb: Free Speech under the Indian Constitution* (Oxford Univ. Press 2016).

¹⁹¹ Rajeev Dhavan, *On the Law of the Press in India* (Oxford Univ. Press 2013).

¹⁹² INDIA CONST. art. 19(1)(a).

¹⁹³ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India); *Noor Aga v. State of Punjab*, (2008) 16 S.C.C. 417 (India).

¹⁹⁴ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India).

¹⁹⁵ *Modern Dental Coll. & Rsch. Ctr. v. State of M.P.*, (2016) 7 S.C.C. 353 (India).

¹⁹⁶ *Id.*

¹⁹⁷ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India); *Contempt of Courts Act, 1971*.

¹⁹⁸ Tarleton Gillespie, *Custodians of the Internet* (Yale Univ. Press 2018).

¹⁹⁹ *Id.*

sweeping regulation may erode the very freedoms that sustain democracy.²⁰⁰

The future of media law in India therefore lies not in censorship but in Constitutional equilibrium.²⁰¹ Democratic vitality demands a free and vigilant press; justice demands impartial and evidence-based adjudication.²⁰² These values are not mutually exclusive but interdependent. A responsible press strengthens judicial legitimacy by fostering informed debate; an independent judiciary safeguards the credibility of democratic institutions.²⁰³

Ultimately, justice must be delivered in courtrooms governed by law, not in studios animated by speculation.²⁰⁴ As India navigates the complexities of a rapidly evolving media ecosystem, preserving both press freedom and fair trial guarantees will determine the strength and resilience of its constitutional democracy.²⁰⁵ The task before lawmakers, courts, and media institutions alike is to cultivate a culture of constitutional responsibility where one that honours both the power of expression and the sanctity of Justice.²⁰⁶

²⁰⁰ *Shreya Singhal v. Union of India*, (2015) 5 S.C.C. 1 (India).

²⁰¹ *Rajagopal v. State of Tamil Nadu*, (1994) 6 S.C.C. 632 (India).

²⁰² *Zahira Habibullah Sheikh v. State of Gujarat*, (2004) 4 S.C.C. 158 (India).

²⁰³ Rajeev Dhavan, *On the Law of the Press in India* (Oxford Univ. Press 2013).

²⁰⁴ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India).

²⁰⁵ Gautam Bhatia, *Offend, Shock, or Disturb* (Oxford Univ. Press 2016).

²⁰⁶ Madhavi Goradia Divan, *Facets of Media Law* (EBC 2016).