
INNOCENT UNTIL TRENDING GUILTY: THE CONSTITUTIONAL CRISIS OF SOCIAL MEDIA TRIALS IN INDIA

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ABSTRACT

While the presumption of innocence is a cornerstone of criminal jurisprudence, one could say that in our digital age guilt is being declared as much outside the courtroom as within it. It is no longer confined to legal proceedings but is put on display by way of trending hashtags, viral footage, the selective leak of information and the kind of outrage that algorithms are only too happy to amplify. In this respect, social media has given rise to a form of public adjudication of its own, where an accusation can stand in for evidence and a reputation be ruined as punishment well in advance of any judicial verdict.

This article sets out to determine if the constitutional protections afforded under Article 21 of the Constitution of India be they for fair trial, privacy, dignity or personal liberty can hold up against the phenomenon of the social media trial and digital mob justice. The argument put forward here is that these have become more than a matter of prejudicial publicity; they are a separate brand of extra-judicial digital retribution with the power to do lasting damage to one's professional and economic standing, all without the benefit of procedural safeguards or a proper appeal.

We also look at the friction between the rights of an accused and the freedom of speech enshrined in Article 19(1)(a), and how online fervour and manipulated digital evidence serve to harden premature public opinion. A review of Indian constitutional law and the regulatory voids that exist will inform a proposed framework for a digital presumption of innocence founded on proportionality and contextual integrity. For when punishment has made its way into the digital public sphere, it is untenable to think that constitutional protection should be left to the four walls of a court.

Keywords: Social Media Trials; Presumption of Innocence; Digital Mob Justice; Fair Trial; Criminal Jurisprudence.

I. INTRODUCTION: WHEN ACCUSATION BECOMES VERDICT

Where a criminal court might require years to arrive at a verdict on guilt, the internet is often done in minutes. There is a paradox here that is driving an incipient constitutional crisis: the stately presumption of innocence is coming into ever more frequent conflict with the swift judgments of the digital public sphere.

By design, the criminal justice system relies on procedural safeguards and impartial adjudication to establish guilt; it demands evidence put to the test by cross-examination, reasoned judgment and the possibility of appeal.¹ Social media operates on an altogether different set of rules, one dictated by algorithmic amplification, emotion and the need for engagement and virality. In such an environment the line between an allegation and proof can be all but erased, and through sheer repetition the public will have formed its own version of the truth well before the courts have seen the evidence.

In effect, social media has given rise to a “digital courtroom”, a decentralised space where the narrative of guilt is built up by everyone from anonymous users and influencers to the algorithms themselves. The pattern is predictable enough to be unsettling: an allegation goes viral, hashtags are mobilised, a public sense of guilt is engendered and, ultimately, reputational retribution follows. Yet Indian criminal jurisprudence holds the presumption of innocence to be a bedrock principle, insisting that guilt be proven by law and not by the fickle nature of public opinion.² The Supreme Court has been clear that Article 21 of the Constitution guarantees life and personal liberty which includes the right to a fair trial.³

None of this is to call for censorship or to stifle legitimate journalism, victim advocacy or public censure. It is true that social media has provided victims with a means to break institutional silence and hold people to account. The constitutional problem is when conversation becomes a form of adjudication and suspicion hardens into conviction. Under Article 19(1)(a) the freedom of speech must find a way to coexist with the rights of the accused to dignity, privacy and a fair trial as enshrined in Article 21.⁴

The question the article poses is whether the constitutional promise of a fair trial can endure in

¹ Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 SCC 158.

² Kali Ram v. State of Himachal Pradesh, (1973) 2 SCC 808; Noor Aga v. State of Punjab, (2008) 16 SCC 417.

³ Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 SCC 158; The Constitution of India, art. 21.

⁴ The Constitution of India, arts. 19(1)(a), 21; Subramanian Swamy v. Union of India, (2016) 7 SCC 221; Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

an age where guilt is so readily manufactured by online mobs, selective digital evidence and influencer commentary. The argument made here is that what we see on social media should not be dismissed as simple prejudicial publicity. These are trials in all but name, an extra-judicial form of digital punishment that can leave a person with a permanent stigma and professional ruin, all without the benefit of judicially tested evidence or any real recourse to appeal.

II. FROM COURTROOM TO TIMELINE: THE ANATOMY OF SOCIAL MEDIA TRIALS

A. Defining Social Media Trials

One can think of a social media trial as the public's way of collectively passing judgment on an individual's guilt or innocence via digital means, whether that is before, in the course of, or apart from any formal judicial process. There are no procedural safeguards to be had here, no impartial arbiter, no rules of evidence and no avenue for appeal as one would find in a court of law. The Supreme Court of India has been at pains to point out in no uncertain terms that the media and the public should not see it as their role to determine guilt; to do so is to prejudice the matter and compromise the fairness of criminal proceedings.⁵

Whereas a traditional media trial is run through the institutional channels of newspapers and television with identifiable editors and publishers, social media has put an end to that kind of order. It is a decentralised affair. In this space, anyone from an anonymous account to an influencer or self-styled expert can act as investigator, prosecutor and judge all at once. The result is a form of digital prejudgment quite unlike conventional publicity: information is instantly duplicated and amplified across platforms, often without context and well beyond the publisher's control.⁶

B. The Anatomy of a Viral Verdict

There is a certain pattern to the way these trials unfold: an allegation gives way to selective content, which stokes viral outrage and is then put to use by influencers, leading to polarisation, a presumption of guilt and, ultimately, some form of digital punishment.

⁵ Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1.

⁶ Shreya Singhal v. Union of India, (2015) 5 SCC 1.

The initial claim might come by way of a leaked FIR, an unverified testimony, a private WhatsApp exchange or a video that has been edited for effect. As these fragments make the rounds, they are put under a microscope by amateur digital investigators and content creators who have no access to the full record. Repetition lends them an air of credibility and emotional certainty takes the place of proper scrutiny. A court will test evidence against legal standards and require authenticity; social media simply goes with the most persuasive story. The Supreme Court has noted that when publicity over a pending case becomes too heavy-handed, it puts the accused's right to a fair trial in tension with freedom of expression.⁷

C. Digital Activism versus Digital Mob Justice

Any sound constitutional analysis has to draw a line between legitimate activism and the excesses of a digital mob. Under Article 19(1)(a), there is protection for robust debate, within the bounds set by Article 19(2).⁸ And it is true that social media has given voice to victims and forced accountability where institutions have been quiet.

The difficulty lies in the moment when advocacy turns into adjudication and suspicion hardens into conviction. The task is not to put a damper on the digital public sphere but to ensure its influence does not obliterate the difference between an allegation requiring investigation and guilt proven in law.

III. INNOCENT UNTIL PROVEN GUILTY: THE CONSTITUTIONAL FOUNDATION

A. Presumption of Innocence in Indian Criminal Jurisprudence

One could say the presumption of innocence is at the very heart of criminal jurisprudence. It is a foundational rule to the effect that an accused party is not put to the task of proving his or her innocence on the strength of an allegation alone; rather, it is for the prosecution to make out a case of guilt as the law requires. In doing so, the principle honours individual liberty by making clear that being accused, investigated, arrested or even prosecuted is no substitute for a conviction. The Supreme Court made this plain in *Kali Ram v. State of Himachal Pradesh*, holding that if the evidence can be viewed in two ways, the one that favours the accused should

⁷ *Sahara India Real Estate Corporation Ltd. v. Securities and Exchange Board of India*, (2012) 10 SCC 603.

⁸ The Constitution of India, arts. 19(1)(a), 19(2).

normally be taken, for the fundamental position is that an accused is innocent until the contrary is proved.⁹

Noor Aga v. State of Punjab saw the constitutional weight of the matter further explored. There the Supreme Court treated the presumption of innocence as a human right, though with the caveat that statutory exceptions can place a reverse burden on the accused only within narrowly drawn legal limits.¹⁰ So even where the law makes for exceptional presumptions, they cannot be predicated on popular outrage, public suspicion or the sheer number of accusations.

In practice, however, social media trials have shown how vulnerable this principle can be. Inside the courtroom the law will presume innocence, but outside it the accused may be assumed guilty. A combination of viral hashtags, edited video and selective leaks can bring about a public verdict of sorts before any evidence is properly tested. It is a contradiction of some concern: the presumption of innocence endures as a rule for adjudication but is in danger of losing all meaning in social terms.

B. Article 21 and the Right to a Fair Trial

Article 21 of the Constitution of India provides the bedrock for fair criminal procedure. The Supreme Court gave new life to the interpretation of Article 21 in *Maneka Gandhi v. Union of India*, deciding that no procedure touching on personal liberty or life can be arbitrary or oppressive; it has to be right, just and fair.¹¹ That fairness is a constitutional imperative, not something dispensed at judicial discretion.

For criminal proceedings this is of singular importance. In *Zahira Habibulla H. Sheikh v. State of Gujarat* the Court underscored that a fair trial is essential to the administration of justice and must be extended to the victim, the accused and society alike.¹² If a trial is warped by prejudice, intimidation or any circumstance hostile to impartiality, it fails its constitutional function.

This leaves one to ask whether a trial can be truly fair when the accused walks in having already been found wanting by the digital court of public opinion. While Indian judges are expected to be guided by the law and not sentiment, the problem is wider than direct judicial influence.

⁹ *Kali Ram v. State of Himachal Pradesh*, (1973) 2 SCC 808.

¹⁰ *Noor Aga v. State of Punjab*, (2008) 16 SCC 417.

¹¹ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

¹² *Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 SCC 158.

Prejudgment in the digital sphere can have an impact on witnesses, the conduct of the prosecution, investigative priorities and the institutions themselves.

C. Dignity, Reputation, and Privacy

The damage done by a social media trial is not confined to the fairness of the process; it also strikes at matters of dignity and autonomy. In *Subramanian Swamy v. Union of India* the Supreme Court was clear that reputation is part of the right to life under Article 21 and that another's freedom of expression does not give licence to trample on a person's constitutional interest in his or her standing.¹³

Privacy too is a protected right, tied inextricably to dignity and liberty, as the nine-judge bench in *Justice K.S. Puttaswamy (Retd.) v. Union of India* confirmed.¹⁴ This becomes pressing when unverified claims, screenshots or private photographs are wrenched from context and put under the microscope of mass scrutiny. An accusation does not amount to civil death in the eyes of the Constitution. Until guilt is established in due course, the accused retains his or her procedural rights and personhood.

D. The Horizontal Constitutional Problem

Then there is the question of where the punishment comes from. Fundamental rights were conceived largely as a shield against the State, but social media trials are frequently the work of anonymous users, influencers and private platforms. And the toll can be severe: professional ruin, harassment, threats and a lasting digital stigma.

It presents an inescapable dilemma. The State is barred from punishing without due process, but what is the constitutional answer when millions of private actors can mete out social and reputational punishment without a hearing or charge? The law has to come to terms with this horizontal dimension. It is not enough to mechanically apply rights to every private speaker; what is needed are proportionate remedies and duties for platforms and the judiciary that will keep free expression intact but ensure that digital virality does not stand in for lawful adjudication.

¹³ *Subramanian Swamy v. Union of India*, (2016) 7 SCC 221.

¹⁴ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

IV. THE DIGITAL MOB AS JUDGE, JURY AND EXECUTIONER

A. From Public Opinion to Extra-Judicial Digital Punishment

While public opinion has been a constant in criminal proceedings, social media has put an entirely new spin on it, altering its scope, velocity and the permanence of its punitive effect. One need only look at the fallout from a viral accusation to see that the damage can go well past mere censure: there is the ruin of one's reputation, the loss of a job, being shut out professionally, harassment and threats aimed at the individual or his family, economic hardship and a digital stain that does not fade. The constitutional weight of such injury is underlined by the Supreme Court, which has made clear that reputation is part and parcel of the right to life and dignity as enshrined in Article 21.¹⁵

In this way, what happens on social media puts the very notion of punishment to the test. Proper punishment is meted out by lawful authority and only after conviction and due process. Digital punishment asks for none of that. It can be levied en masse by millions of users with no duty to listen to the accused and no full picture of the evidence, the moment an allegation is made. Reputational death is punishment enough in the modern era; by the time a witness is called to the stand, an individual may have already been stripped of his professional standing, his security and his means of livelihood.

B. When Accusation Becomes Conviction

The law is precise in drawing a line between a suspect, an undertrial and a convict, since the legal ramifications are not the same. Social media has a habit of blurring those lines. An FIR is taken for a judgment, a screenshot for evidence, silence for an admission and an arrest for proof of guilt. None of these amount to legal guilt, however.

The Supreme Court has been explicit that an FIR is not substantive evidence and cannot be regarded as proof of what it alleges.¹⁶ Nor is an arrest a judicial finding of guilt but simply the lawful use of coercive power. The digital arena inverts this constitutional order. Rather than the prosecution having to make its case, the accused is put on the spot to disprove an endlessly repeated narrative.

¹⁵ Supra note 13.

¹⁶ Hasib v. State of Bihar, (1972) 4 SCC 773.

C. Selected Indian Case Studies

Take the online discourse in the wake of Sushant Singh Rajput's death. Long before any legal determination was made, there was a good deal of public adjudication in the form of viral hashtags, amateur theorising and accusations levelled at those involved in the case. The Bombay High Court had occasion to note in the matter that such media trials can be prejudicial to both the investigation and the rights of the accused, and that interference with criminal investigations could be held as contempt of court.¹⁷

Then there is the matter of Jasleen Kaur and Sarvjeet Singh. A charge of harassment on social media was enough to bring about swift public condemnation and reputational harm. It was only years down the line, when the complainant would not show up for examination, that the trial court entered an acquittal for Mr. Singh – a stark reminder of the chasm that can exist between a viral verdict and the final say of the law.¹⁸

We do not cite these cases to pass moral judgment on the individuals concerned. They are relevant because they show how digital narratives will draw conclusions while the courts are still in the process of hearing witnesses and testing evidence.

D. No Appeal from the Viral Verdict

A constitutional court offers procedure, reasoned judgment and the possibility of appeal or review. The internet has no such structure. An accusation will garner millions of views; an exoneration or a closure report will be lucky to get a fraction of that notice.

And the digital record is unforgiving. Algorithms will link an identity to an old allegation long after the facts have changed; archived material is always at hand; a repost will outlive the original post. The Supreme Court has noted that technology allows for the storage and dissemination of personal data on a scale never seen before.¹⁹

Consequently, the harm does not stop with the legal process. One can be acquitted in court and yet remain an accused person in the public memory and in search results. This is the great

¹⁷ Niles Navalakha v. Union of India, 2021 SCC OnLine Bom 56.

¹⁸ Press Trust of India, "Delhi Court Acquits Man in 2015 Harassment Case after Complainant Fails to Appear" *The Indian Express*, Oct. 25, 2019, available at: <https://indianexpress.com/article/cities/delhi/delhi-court-acquits-man-in-2015-harassment-case-after-complainant-fails-to-appear-6086933/>

¹⁹ Supra note 14.

injustice of the viral verdict: the accusation is a spectacle and easily reproduced, but any correction is apt to be technical, delayed and ultimately forgotten. In short, a court's acquittal is no guarantee of one from the internet.

V. TRIAL BY ALGORITHM: HOW PLATFORMS MANUFACTURE PUBLIC GUILT

A. The Myth of Neutral Virality

One should not view social media as nothing more than a passive notice board for the independent exchange of information. The very architecture of these platforms is an active force in deciding what content is put before a wider public, what is recommended and what is given priority. Recommendation engines are built to curate visibility on the basis of engagement, interaction patterns and predicted relevance. Studies of online information ecosystems show that falsehoods have a way of travelling deeper, faster and more broadly than the truth, especially when novelty or an emotional response drives circulation.²⁰ In matters of criminal controversy this presents a distinct hazard: a provocative claim or a dramatic piece of purported evidence will often draw the eye more readily than any measured legal analysis or later correction.

It follows that virality cannot be considered neutral. While a platform may not be the source of an original accusation, its technology can make the difference between an isolated comment and a national digital event. The constitutional issue is what happens when systems designed to maximise engagement end up giving short shrift to nuance and restraint in favour of certainty and outrage.

B. The Algorithmic Cycle of Guilt

The course of a trial by social media can be understood as a cycle: from accusation to engagement, then to algorithmic amplification and greater visibility, which in turn confers a sense of credibility and spurs further engagement.

Repetition does not make an allegation true. But there is an illusory truth effect at work; as international research into digital misinformation has found, constant exposure to a claim can

²⁰ Soroush Vosoughi, Deb Roy and Sinan Aral, "The Spread of True and False News Online" 359 Science 1146-1151 (2018).

make it seem more accurate.²¹ When numerous users and influencers are repeating the same thing, it gains an appearance of credibility. In such an environment, popularity can all too easily stand in for proof. A claim is seen as credible not because it has withstood judicial scrutiny but because an algorithm has put it in front of millions. Visibility is taken for verification and engagement for evidentiary weight.

C. Selective Evidence and Context Collapse

The digital courtroom is a place of fragments. There are edited videos, cropped screenshots, partial CCTV, anonymous charges and deepfakes, along with statements wrenched from their context. Taken on their own they might look conclusive, though a full review of the record would tell a different story. With the advent of AI and synthetic media, telling authentic material from the fabricated has become a serious problem for public trust and information integrity.²² A well made forgery can be enough to incite mass condemnation long before any forensic authentication can be done.

There is a fundamental divide here. Courts have a framework for admissibility, cross-examination and the burden of proof. The digital public has no such luxury and is left to judge fragments without the complete picture.

D. The Constitutional Question of Platform Power

The crux of the constitutional matter is the extent to which private platforms must answer for recommendation systems that amplify content prejudging a criminal case. It is too simple to argue that they are either wholly neutral or the final word on online truth. The Supreme Court has been clear on the internet's democratic value for free speech but has also noted the regulatory concerns peculiar to the medium.²³

What is needed is to bring Article 19(1)(a) into line with the fair trial and personal liberty protections of Article 21. This is not a call for blanket censorship, nor for platforms to act as private courts. Rather, it calls for a proportionate accountability from algorithms: transparency

²¹ Lisa K. Fazio, Nadia M. Brashier, B. Keith Payne and Elizabeth J. Marsh, "Knowledge Does Not Protect Against Illusory Truth" 144 *Journal of Experimental Psychology: General* 993-1002 (2015).

²² UNESCO, "Guidelines for the Governance of Digital Platforms: Safeguarding Freedom of Expression and Access to Information through a Multistakeholder Approach" (2023), available at: <https://unesdoc.unesco.org/ark:/48223/pf0000387339>

²³ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

in how they operate, safeguards on high profile content tied to pending proceedings, and a willingness to correct the record. The aim is to prevent untested accusations from being turned into a form of public guilt by design, without putting an end to public discourse.

VI. INDIAN JUDICIAL RESPONSE: BETWEEN FREE SPEECH AND FAIR TRIAL

A. Article 19(1)(a) and Public Discussion

One cannot have a constitutional response to the phenomenon of social media trials without first recognising that freedom of speech is vital to democratic accountability. The Constitution, in Article 19(1)(a), makes this guarantee, while Article 19(2) allows for only those reasonable restrictions on its exercise that are expressly provided for.²⁴ Within this framework there is ample room for public debate, for investigative journalism and criticism of the authorities, for advocacy on behalf of victims and for an open discussion of how the criminal justice system operates. It would be wrong to use the presumption of innocence as a convenient means of stifling uncomfortable reporting or of putting investigative agencies beyond the reach of public view.

The difficulty is one of balance. While free expression is the means by which the public holds power to account, an accused has an interest in his dignity, privacy and liberty, as well as in a fair trial. One right does not cancel out the other. What the judiciary must do is draw the line where public discussion ceases to be legitimate and becomes a form of public adjudication.

B. Sahara India Real Estate Corp. Ltd. v. SEBI

In the matter of Sahara India Real Estate Corp. Ltd. v. SEBI the Supreme Court put this tension to the test. It was held that a postponement order could be used to hold back prejudicial material if there is a genuine risk to the integrity of judicial proceedings.²⁵ Such an order is meant to be preventive and proportionate, not punitive.

What is instructive about Sahara India is the way it declined to see free speech and a fair trial as absolutes at odds with one another. But the case has its limits in the age of social media. A court can easily put a newspaper or broadcaster on notice. The digital world is different: it is populated by anonymous accounts, influencers and automated recommendations, some from

²⁴ The Constitution of India, arts. 19(1)(a), 19(2).

²⁵ Supra note 7.

outside Indian jurisdiction. By the time the law steps in, the offending material may have been remixed, translated and seen by millions.

C. R.K. Anand v. Registrar, Delhi High Court

The question of where media ends and the administration of justice begins was considered in *R.K. Anand v. Registrar, Delhi High Court*. This followed a sting operation on television over the BMW hit-and-run case. The Supreme Court made clear that while responsible media has a part to play in unearthing wrongdoing in the judicial process, it is not to act as a court of its own.²⁶

For the purposes of this article the case is telling. There is a fine line between the kind of scrutiny that serves justice by revealing institutional failure and publicity that takes the place of adjudication. Journalism is legitimate when it informs and exposes; it is not there to declare criminal guilt outside of proper procedure.

D. Manu Sharma v. State (NCT of Delhi)

The Supreme Court was more blunt in *Manu Sharma v. State (NCT of Delhi)* about the perils of prejudicial publicity. The Court warned against media trials and insisted that all possible measures be taken to keep a criminal trial free from the pressure of the public or any parallel finding of guilt.²⁷

It is a basic principle that courts alone will find guilt, and only on the basis of admissible evidence. But today the worry is not simply whether a judge is swayed by what he reads. Viral opinion can have an effect on witnesses, on the accused's family and employers, and on the social climate around him. A courtroom may be impartial in form but it cannot undo the damage of a digital sentence already passed.

E. Why Traditional Doctrine Is No Longer Enough

Indian jurisprudence has put in place sound safeguards to reconcile the rights of free speech with those of a fair trial. Yet much of this was worked out in a time when one could point to a particular newspaper or TV station. Social media has changed the nature of both the speaker

²⁶ *R.K. Anand v. Registrar, Delhi High Court*, (2009) 8 SCC 106.

²⁷ *Supra* note 5.

and the medium.

There is no editor to rein in and no single source for the narrative. The law is better equipped to deal with a headline than with a viral ecosystem of cross-platform reposts and algorithms. In this sense traditional doctrine is at odds with the structure of things. The challenge now is not just unlawful speech from an identifiable publisher but the aggregate of decentralised speech that technology can amplify. Any new legal framework will have to allow for vigorous public discourse even as it accepts that algorithmic virality can amount to collective punishment before the verdict is in.

VII. THE LEGAL VACUUM: WHY EXISTING LAW IS NOT ENOUGH

There are a number of remedies in Indian law for dealing with harmful speech and prejudicial publicity, but they fall short when it comes to the cumulative nature of a social media trial. One might look to defamation law, which offers both civil and criminal redress to safeguard reputation; indeed, the Supreme Court has made clear that reputation is part and parcel of the right to life under Article 21.²⁸ The problem is that such proceedings are by their nature reactive. They get underway only after publication and can be protracted in terms of time and resources, whereas a viral charge can do irreparable harm to one's standing in a matter of hours.

Then there is contempt of court, meant to deal with publications that stand in the way of or prejudice the administration of justice.²⁹ But its institutional concern is the integrity of the courts. It is not a comprehensive solution for the kind of professional, economic or social punishment an accused may face at the hands of digital condemnation.

Privacy law is hampered by its own structural constraints. While the Supreme Court has constitutionally enshrined privacy as essential to dignity and autonomy under Article 21,³⁰ the mere fact of legal recognition does little to put back what has been done once information has been screenshotted, archived and spread across jurisdictions and platforms.

The same can be said of takedown mechanisms on the part of the platforms. Under the Information Technology Act, 2000 and the rules for intermediaries, there are ways to handle

²⁸ Supra note 13.

²⁹ The Contempt of Courts Act, 1971 (Act 70 of 1971), s. 2(c).

³⁰ Supra note 14.

unlawful content and meet obligations.³¹ But pulling down a post is not the same as erasing the millions of impressions created by algorithmic amplification, nor the reposts and mirrored copies that remain.

In the end, the deficiency is structural. Current law is set up to look at a particular publication or an identifiable speaker, or a discrete instance of interference with justice. A social media trial is something else entirely, born of the interplay between users, influencers, anonymous accounts and the architecture of the platform itself. Indian law is more than capable of handling an individual unlawful post, but less so the public adjudication that is algorithmically amplified. Contemporary constitutional jurisprudence would do well to confront this legal vacuum.

VIII. TOWARDS A CONSTITUTIONAL FRAMEWORK FOR DIGITAL PRESUMPTION OF INNOCENCE

Any constitutional approach to the phenomenon of social media trials has to be careful not to make a crime of public discourse, yet it cannot allow persons to stand without recourse against prejudgment that technology has put on a pedestal. A sound framework for the digital presumption of innocence would be built on four safeguards.

To begin with, there is the matter of contextual integrity. When content of wide circulation deals with criminal proceedings, it must honour the basic legal difference between an allegation and an acquittal, or an arrest and a conviction. The technology should not be used to put an FIR or an arrest on a par with evidence of guilt.

Then there is the question of algorithmic responsibility. Platforms need to put in place proportionate checks on their recommendation engines so as to avoid amplifying material that declares an accused guilty prior to any adjudication. But these are not meant to stifle proper journalism, victim advocacy or criticism of the authorities. Any curtailment of what can be said online has to hold up to the tests of legality and necessity laid down by Articles 19 and 21.³²

A right to digital rehabilitation is also called for. For those who have been formally exonerated or acquitted, there should be ways to correct the record, de-index old claims or at least diminish

³¹ The Information Technology Act, 2000 (Act 21 of 2000), s. 79; The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

³² The Constitution of India, arts. 19, 21; *Modern Dental College and Research Centre v. State of Madhya Pradesh*, (2016) 7 SCC 353.

their prominence, barring some legitimate public interest. After all, one's privacy and dignity are constitutionally protected; to be permanently linked in the digital sphere to an accusation that has been legally put to rest can be harmful in its own right.³³

In the rare instance where viral prejudgment puts fair-trial rights in jeopardy, courts should have the power to issue proportional remedies. The Supreme Court has shown that free speech and the administration of justice can be reconciled through something like a postponement order rather than a blanket prior restraint.³⁴ This allows for narrowly drawn directions from the bench where necessary.

The line must be drawn clearly: the aim is to achieve balance, not to impose censorship. It is about constitutional protection, not silencing the digital space. The presumption of innocence in this medium should shield individuals from being punished by the public ahead of time, but it should not put governments, platforms or the courts in the position of deciding what public opinion is acceptable.

IX. CONCLUSION: CAN ACQUITTAL DEFEAT VIRALITY?

In a traditional courtroom, guilt is established on the basis of evidence and procedure, through cross-examination, reasoned judgment and the possibility of appeal. The digital version of that arena is often driven by quite different forces: speed and emotion, repetition, virality and the hand of the algorithm. There is a danger that when an accusation alone can exact irreparable social or professional retribution, the dignity and fair process guaranteed by Article 21 are rendered impotent once one leaves the confines of the court, despite their constitutional promise within it.³⁵

It is not a matter of hushing public discourse; the task is to keep virality from standing in for justice. For a constitutional democracy to maintain its integrity, it cannot have it both ways: it cannot insist on the presumption of innocence while the very nature of digital virality makes guilt the default assumption and an acquittal something of an afterthought.

³³ Supra note 14.

³⁴ Supra note 7.

³⁵ The Constitution of India, art. 21; Supra note 11.