

CONTEMPT OF COURT WITH REFERENCE TO MEDIA TRIALS

Author: Anish Bachchan, V year of B.A.,LL.B(Hons.) from Amity Law School, Noida, Uttar Pradesh

ABSTRACT

Imagine someone named A committing a crime. Then the judge decided that he should be imprisoned for so and so years. Then after sometime later, A gets paroled for good behavior. The court gave him parole under the condition that he never leave his home state. Unfortunately, A decides to violate the parole order by going to another state. That kind of defiant behavior will be considered as contempt of court.

In the modern age, we're seeing a new form of criminality. It is coming from the very group of people who are supposed to give news and information to the masses. I'm talking about the rising media trial in the Indian News Industry. They are pretending to be the Supreme Court of India while giving "judgments" to people who may or may not be innocent of a particular incident, be it a celebrity or an average Joe. In most cases, the so-called trial by media is conducted for the sake of ratings, fame, and clout. Oftentimes, they don't even realize the consequences of their actions, from violating the proceedings of the court to affecting the mental health of someone, they're targeting. It gets to a point that a person may resort to something tragically drastic.

This research paper will lament how media trials are nothing more than contempt of court. Furthermore, it will also bring up the laws that might serve as deterrence against media trials. People need to understand that a person of interest deserves a fair trial, and before the trial is concluded, he or she is innocent until proven guilty.

INTRODUCTION: DEFINITION OF CONTEMPT OF COURT¹

When we talk about the concept of contempt of court, we need to bring in the simplest of the definition so that the masses would easily understand. Let me reiterate the abovementioned example of a who committed a crime, and now against the court orders, he is violating his parole. That is an example of contempt of court.

¹Diganth Raj Sehgal, Contempt of Court - iPleaders, IPleaders (Aug. 20, 2019), blog.iplayers.in/contempt-of-court-2/.

In layman's terms, contempt of court means deliberately and defiantly violating the order and authority of the court. Imagine a teenager being rebellious against their parents for the wrong reasons say going to an underage party, and to punish that teen, their parents ground them in the room for a month. In a legal context, the court is the parents, and the person committing a contempt of court is the teenager, except the consequences are more severe than grounding a teenager in a room.

If we bring up the Indian context into it, the contempt of court has been given more broadly in The Contempt of Court Act 1971. Section 2(a) of the said act defined the said concept by dividing it into two. Those are Civil Contempt and Criminal Contempt.

CIVIL CONTEMPT AND CRIMINAL CONTEMPT²³

CIVIL CONTEMPT:When we talk about civil contempt, the concept's definition is a person willingly being defiant towards a decree, order, writ, or any judgment made by the court. In simplistic language, a person deliberately disobeys the undertaking made by the court. The person who is aggrieved in a civil offense can be entitled to seek benefit from the court order. Judges would resort to civil sanctions so that a person would be compelled to follow the court order, should they fail to obey it.

Section 2(a) of the said Act defines civil contempt. There are various defenses to civil contempt.

1. The person in question allegedly committing civil contempt must be unaware of the said contempt.
2. The breach of the court order must be either a mere accident or it was beyond their power to change the outcome.
3. The order which the court gave must be ambiguous or not understandable.
4. Orders should have more than one reasonable interpretation.
5. The compliance of the order must be like "Easy for you to say." In other words, it should be impossible to be followed.

²Contempt of Court in India |, Contempt of Court Act 1971 (Mar. 27, 2017), byjus.com/free-ias-prep/contempt-of-court/.

³Diganth Raj Sehgal, Contempt of Court - iPleaders, IPleaders (Aug. 20, 2019), blog.ipleaders.in/contempt-of-court-2/.

U.P. Resi. Emp. Co-op., House B. Society v. New Okhla Industrial Development Authority⁴

For the current situation, the Supreme Court has guided the Noida Authorities to check and state on the promise subtleties gave by people for allocating of plots. Logical inconsistency to a similar bearing by the Supreme Court a solitary Mr. S recorded a bogus pledge to misdirect the court. The Registry worked with a show-cause notice against him to say that why a display of disdain ought not to be taken against him for deceiving the Supreme Court.

CRIMINAL CONTEMPT: Section 2(c) of the said Act talks about criminal contempt. The definition states that any act that is:

1. Committed through the publication of words (either oral or written) or physical gestures, sign language, or visual representation.
2. It is committed in a way that could-
 - i. Scandalise the judicial proceedings, thus reducing's court authority.
 - ii. Any biased nature which interferes with the court's judicial proceedings.
 - iii. It has the potential to obstruct the justice's administration.

Jaswant Singh v. Virender Singh⁵

For this situation a supporter station censorious and shameful assault on the appointed authority of the High Court. An application was documented by a political race candidate in the High Court, who was a promoter. He needed to look to remain for additional contentions in a political race appeal and furthermore the exchange of political decision petitions. These things cause an assault on the official procedure of the High Court and tended to embarrass the Court. It was held for this situation that it was an endeavor to threaten the adjudicator of the High Court and cause an interface in the lead of a reasonable preliminary.

⁴ K Saikia, Uttar Pradesh Residents vs New Okhla Industrial Development Authority, <https://indiankanoon.org/doc/372035/>.

⁵Jaswant Singh v Virender Singh and Others on 09 November 1994, LawyerServices www.lawyerservices.in/Jaswant-Singh-Versus-Virender-Singh-and-Others-1994-11-09.

CONSTITUTIONSLITY OF CONTEMPT OF COURT⁶

The Indian Constitution is the incomparable rule that everyone must follow, has its arrangements towards scorn of court. Article 129 states that the Supreme Court is the Odin of the Indian Courts' Yggdrasil. As such, the Apex Court is the Court of Record. It has all the ability to rebuff somebody who could perpetuate hatred of court, either civil or criminal.

Article 142(2) is the real deal because it talks about the Contempt of Court. As the states that the Odin of Indian Courts will be passing orders that could secure any person's attendance. It can also make orders for the production of documents and will pass any orders that could punish someone for any contempt. All of this is based on any law which is made by our Parliament (mentioned in clause 1 of the Article). At the same time, the Apex Court must ensure that a person's personal liberty is not violated as it is one of the most important fundamental rights of the Constitution.

CONCEPT OF MEDIA TRAILS

We're living in an era of what I call "pseudo-journalism." In this era, journalism has lost all its meaning⁷. And it is now replaced with people who scream and shout like an infant crying instead of presenting actual news and providing information to the masses. The only reason they're doing this is that they're desperate to get ratings, money, credibility, and clout. Well, even the foreign reputed media outlets like The New York Times talked big about India's Covid situation when the Second Wave devastated the lives of innocent souls. While at the same time, they made hit pieces on people like MrBeast and Elon Musk. In MrBeast's case, they brought up allegations that were debunked years ago. And in Elon Musk's case, they complained about him stealing memes, which is a normal activity despite having some legal cases⁸⁹.

⁶Diganth Raj Sehgal, Contempt of Court - iPleaders, IPleaders (Aug. 20, 2019), blog.iplayers.in/contempt-of-court-2/.

⁷AnishBachchan, Opinion: Pseudo Culture Is Harming The Internet And India, Youth Ki Awaaz (May 12, 2021), www.youthkiawaaz.com/2021/05/the-pseudo-culture-is-harming-the-internet-and-india/.

⁸AnishBachchan, A Memelord in Legal Realm, Judicame https://judicame.com/wp-content/uploads/2021/09/The-Meme-Lord-In-Legal-Realm-by-Anish-Bachchan_JudicateMe-Issue-V.pdf.

⁹AnishDeku, Attention India, the celebrities and media gave their opinions, beware, this is not a drill, <https://myvoice.opindia.com/2021/10/attention-india-the-celebrities-and-media-gave-their-opinions-beware-this-is-not-a-drill/>.

When foreign media is that desperate for credibility, then imagine what the state of Indian media would be. Right now, our media is completely acting all high and mighty whenever any situation happens. And then they start giving judgment as if they're the Supreme Court. That explains the concept of Media Trial. In this concept, they become the judge, jury, and executioner. Media trial represents everything wrong with the Indian Media because of their current behavior, they've become the shell of their former self. They used to be informative and cared only about the news. Even if they were politically biased, they would stay politically neutral¹⁰.

Unfortunately, with the change in socio-political climate in the 21st century, the state of media also started to deteriorate. Thanks to Media Trials, the sugarcoating of trivial information has replaced the current affairs of India and the world (as if the latter isn't oversensationalized already). Our media also started to follow the patriotic *bhedchaal*, and they would deem anyone an anti-nationalist, *tukde-tukde gang*, *deshdrohi*, and whatnot. Even though the person in question would make some critiques towards the government's policies. The concepts of patriotism and sedition are now lost, especially in the aftermath of the Kanhiya Kumar Sedition Case. For instance, A makes an innocent comment about the Government's role during their handling of the Second Wave of Covid. That comment, however, gets blown out of proportion, and the media gets the wind of this. They will take the comment out of context, and they would give their judgment that A is anti-national and they should go to Pakistan. Because they influence the people, the audience would be toxic enough to give nasty respond to A on social media. Some would resort to revealing's residential address and other personal information that could be used to harm A and his family. This is what media trial is capable of¹¹¹².

Outrage Culture, *Bhedchaal* Mentality, Harassment, and Witch-hunt have a clear nexus with the media trial. Think of it as McCarthyism meets The Night of the Long Knives. I think one case that represents all of it was the **Sushant Singh Rajput Case**. We all know what happened last year. The unfortunate death of an actor has created a snipe-storm all over media and the internet. Wannabe detectives on the media and the internet trying to find the cause of the actor's death through conspiracy theories, fanfictions, fake evidence. Eventually,

¹⁰AnishBachchan, The Indian Media USED To Be The Fourth Pillar Of Democracy, Youth Ki Awaaz (Jan. 4, 2021), www.youthkiawaaz.com/2021/01/media-the-shell-of-its-former-self/.

¹¹Law Corner, The Calamity of Patriotic *Bhedchaal*, Law Corner (Aug. 24, 2021), lawcorner.in/the-calamity-of-patriotic-bhedchaal/.

¹²Law Corner, The Rising Problem of Fake Patriotism, Law Corner (Jan. 29, 2021), lawcorner.in/the-rising-problem-of-fake-patriotism/.

they found a scapegoat of the case- Rhea Chakraborty. The media pushed the narrative (more like giving the judgment) that the deceased actor's girlfriend has something to do with his death. And the audience ate it all up by constantly harassing her, and at the same time, sending rape and death threats¹³¹⁴.

The same could be said about the **Arushi Talwar case**. The death of a teenager caused a huge ruckus all over the country. The media being media, decided to milk this case by making judgments that the teenager's parents were the actual perpetrators of her death. The catch was, that the court proceeding did not even take place. **The Rohtak Case** was another example, where two siblings, despite being the perpetrators were hailed as heroes on National Television just because of a video of them beating three boys went viral¹⁵¹⁶.

WHY DOES THE MEDIA ACTS LIKE THE COURT?¹⁷¹⁸¹⁹²⁰²¹

The media misuses their power, influence, and fame just to seek their benefit. The only reason they use people's anger for the wrong reasons is because of the Television Rating Point (or TRP in short). The media would over sensationalize a situation like the Indo-Chinese border clash, which happened last year just to get the TRP out of it. Not only they've become TRP mongers, but they use their influence to get more money and increase their cult following. Convenience also plays a huge role in media trials. The media wants to take the

¹³AnishBachchan, Outrage Culture And Bhedchaal Mentality Are Affecting India Worse Than We Think, Youth Ki Awaaz (Jan. 10, 2021), www.youthkiawaaz.com/2021/01/online-bandwagon-and-outrage-culture-in-india/.

¹⁴ Online Harassment and the rise of Social Media Trial and Online Witch Hunt, Advocates, Law Firms, Attorney directory, Lawyer, vaki www.legalserviceindia.com/legal/article-4082-online-harassment-and-the-rise-of-social-media-trial-and-online-witch-hunt.html.

¹⁵ The Freedom Of Speech And The Privacy Right In The Press And The Media: When Should The Journalists Rights For The Freedom Of Expression Be Restricted? |, JudicateMe (July 12, 2021), judicateme.com/the-freedom-of-speech-and-the-privacy-right-in-the-press-and-the-media-when-should-the-journalists-rights-for-the-freedom-of-expression-be-restricted/.

¹⁶Muskan Sharma, Problem of Outrage Culture & Social Media Trials: Sushant Singh's Case, (July 2, 2021), legalreadings.com/problem-of-outrage-and-social-media-trials-sushant-singhs-case/.

¹⁷ Law Corner, Advertisement: Outrage For Sale, Law Corner (Aug. 25, 2021), lawcorner.in/advertisement-outrage-for-sale/.

¹⁸AnishBachchan, Why Does Our Society Value Convenience Over Morality?, Youth Ki Awaaz (Oct. 11, 2021), www.youthkiawaaz.com/2021/10/the-harmful-side-of-convenience/.

¹⁹ Law Corner, Disillusionment Of The Indian Masses Towards The Media, Law Corner (July 23, 2021), lawcorner.in/disillusionment-of-the-indian-masses-towards-the-media/.

²⁰AnishBachchan, My Thoughts on The Rise Of Outrage Culture In India, Medium (Jan. 21, 2021), anishbala147.medium.com/my-thoughts-on-the-rise-of-outrage-culture-in-india-77f12616114f.

²¹Law Corner, The Online Mob Mentality in India, Law Corner (Jan. 26, 2021), lawcorner.in/the-online-mob-mentality-in-india/.

easy route. They don't care about giving detailed facts. They care about stories that are not only spicy but also media could milk the ever-loving heck out of it.

When the whole Sushant Case blew out of proportion, the media milked it like collecting buckets of water from the river. In the meanwhile, they made Rhea Chakraborty, a scapegoat because she was the convenient target for them. They knew constant outrage would sell more, and they'll get a lot of TRP, money, and clout from it.

What they're doing may be beneficial monetarily, and yet, they're additionally harming their believability. They don't understand what they're doing maybe morally or/and lawfully off-base. Their activities may abuse the security of the individual of interest, or more awful, may severely influence their physical and emotional wellness. Like the Arushi Talwar case, they may disturb the court procedures, which could influence the lawful and legal arrangement of the country. Or then again more terrible, they may deteriorate their relations with general society. Likely the absolute bottom of the Indian Media may be the TRP Scam. At the point when it was discovered that RepublicTV was supposedly getting amicable with BARC (Broadcast Audience Research Control) to get more TRP. To add more salt into injury, the supposed Whatsapp Chat spills, which shows a specific columnist purportedly benefitting off from the casualties of the Pulwama Attacks. It shows how far the media would go wrong.

DETERRENCE BY THE LAW AGAINST THE CONTEMPT OF COURT THROUGH MEDIA TRIALS²²²³²⁴

THE CONTEMPT OF COURT ACT 1971: The Contempt of Court Act 1971, Section 3(1), stifles any stream or undertaking that could jeopardize the court's legitimate operations. The aforementioned Act's Section 12 allows the High Court and the Supreme Court to punish someone for disobedience to the court. Section 12 (1) permits a sentence for contempt of court in which a person is required to set anything aside for a fundamental period equivalent to paying a fine of Rs 2000. In the meantime, if he chooses to make a made propitiatory

²² Recent Developments in the arena of Freedom of Speech and Expression and Concept of Media Trial: Explained, www.latestlaws.com/articles/recent-developments-in-the-arena-of-freedom-of-speech-and-expression-and-concept-of-media-trial-explained/.

²³ Diganth Raj Sehgal, Contempt of Court - iPleaders, IPleaders (Aug. 20, 2019), blog.iplayers.in/contempt-of-court-2/.

²⁴ "Scholar., Limitation to the Rights of Protest, VidhiAgaaz <https://drive.google.com/file/d/1BVVBGEBCDI-bUjo8Em5P9cxtv15yhW9IH/view>.

evaluation, he can be pardoned from the court's disdain. The expression of dissatisfaction should be sincere and viewed under the court's rules.

OTHER LEGAL REMEDIES

1. The Indian Constitution's Articles 21 and 304 ensure the right to free and fair trial to all the citizens of the country. The said articles were well versed in Maneka Gandhi vs. the Union of India. Article 39A ensures that the people from the weakest section of the society get free legal aid.
2. Article 19(2) of the Indian Constitution serves as a deterrent against Article 19(1)(a) that is freedom of speech and expression. It means that to protect the position of the state, the former must act as a reasonable restriction to the latter.
3. Should the reputation of a person gets damaged because of the constant media's McCarthyism; they should seek remedies through the IPC Sections 499 and 500 which explains defamation and its punishment. A person who gets charged under this offense will be punished with 2 years of imprisonment.
4. Similarly, IPC Section 228a punishes someone for two years should he or she reveal the name of the victim. This section holds more importance in the aftermath of Nirbhaya and the Hyderabad rape case. At the same time, IPC Section 354C punishes someone for voyeurism. It means taking images of the victim without their consent. The person punished under this section will be imprisoned for 3 years. Should they repeat this act, then the sentence will increase to 5 years.
5. Various legal experts and judges like Chief Justice J.S.Khehar expressed their concerns about the media trials, with the Supreme Court hinting to end the media trial in 2017. The 200th Law Commission also brought the issue of media trial in their Trial by Media- Free Speech vs. Media Trial by Criminal Procedure.

CONCLUSION

The "Innocent before proven guilty" principle is something that is deliberately ignored by the media. They just want to prove someone guilty without any evidence or context. But those two do not matter to them. To them, they want to act all high and mighty, while at the same time pushing a certain narrative just for some ratings. They used to be the fourth pillar of the Indian democracy, but now they're the pale shadow of what it once was. And now, they are

shackling the pillars of the Indian democracy itself. No person can lift a finger against them without being vilified by the media.

Our laws have to make sure that they do not go out of their way to ruin someone's reputation, well-being, and privacy just for some mere accusations, narrative, and ratings. They need to be strong enough to stop media trials above all people need to stop putting them on a pedestal. They need to be aware that not everything the media say is true. Moreover, the media should revert to their original state that is giving news and information to the masses. They should leave the trial and judgment to the courts. Otherwise, will ruin both the internet and the country. It is high time, that the media need to reflectitself.



BRILLOPEDIA