

The Verdict Before the Judgment: An Analysis of the Impact of Media Trials on Justice in India

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Abstract: *In recent years, the growth of television debates, digital news platforms, and social media has profoundly altered the way criminal cases are discussed. High-profile investigations no longer unfold only in courtrooms; they play out simultaneously in studios, on screens, and across online platforms. While media scrutiny can promote transparency and accountability, it can also create powerful public narratives that assume guilt long before a court delivers its judgment. This phenomenon—commonly described as “trial by media”—raises pressing constitutional concerns.*

This research paper examines the delicate balance between freedom of speech under Article 19(1)(a) of the Constitution of India and the right to a fair trial guaranteed under Article 21. It argues that when reporting shifts from informing the public to shaping verdicts in advance, the presumption of innocence is placed at risk. Through close examination of the Aarushi Talwar case, the Sushant Singh Rajput–Rhea Chakraborty episode, and the Aryan Khan prosecution under the NDPS Act, the paper illustrates how intense media coverage can influence public perception, exert pressure on investigative agencies, and cause lasting reputational damage regardless of eventual judicial outcomes.

It further evaluates existing legal safeguards, including contempt jurisprudence, Law Commission recommendations, and current regulatory mechanisms governing print and electronic media. A comparative review of approaches adopted in the United Kingdom, United States, Canada, and Australia reveals that India lacks a clear and structured framework for addressing prejudicial publicity during ongoing trials. The paper concludes by proposing measured reforms aimed at protecting both democratic transparency and procedural fairness. In a constitutional system governed by the rule of law, public debate must remain robust—but criminal guilt must ultimately be determined in courts, not in the court of public opinion.

Keywords: Media Trial; Fair Trial Rights; Freedom of Expression; Article 19 and 21; Presumption of Innocence; Contempt of Court; Criminal Justice

I. INTRODUCTION

In a constitutional democracy governed by the rule of law, the legitimacy of criminal adjudication rests upon a foundational premise: guilt must be determined by courts through established legal procedure, not by majoritarian sentiment or public speculation. The presumption of innocence operates as a structural restraint on state power and as a moral safeguard against arbitrary condemnation. As the Supreme Court of India has repeatedly emphasized, a fair trial is an indispensable component of Article 21 and forms the bedrock of criminal jurisprudence.¹

The rise of contemporary broadcast and digital media has, however, transformed the landscape within which criminal proceedings unfold. High-profile investigations are now discussed in real time, analyzed through panel debates, and amplified across digital platforms long before judicial findings are rendered. In this altered communicative environment, the courtroom no longer functions as the exclusive site of adjudication. Parallel narratives frequently emerge in the public sphere, shaping perception prior to evidentiary scrutiny.

¹ Zahira Habibullah Sheikh v. State of Gujarat, (2004) 4 S.C.C. 158, 183 (India).



The phenomenon commonly described as “trial by media” reflects this development. The term does not merely denote reporting on criminal proceedings—an activity fully protected under Article 19(1)(a). Rather, it captures instances in which media institutions construct determinate narratives of guilt or innocence, conduct parallel inquiries, and present conclusions before courts have examined the record.² In such circumstances, the accused confronts not only prosecutorial authority but also sustained public judgment.

This shift must be understood against broader structural changes in India’s media economy. The liberalization of media markets, proliferation of 24-hour news cycles, and algorithmic amplification through digital platforms have intensified competition for attention. Sensational crime reporting, particularly involving public figures, generates sustained engagement. Yet speed and spectacle may compromise verification and restraint. As Justice Frankfurter cautioned, “the court of public opinion is a tribunal which is not bound by rules of evidence.”³

The constitutional tension that arises is neither abstract nor episodic. Article 19(1)(a) guarantees freedom of speech and expression, a freedom described as the “foundation of all democratic organisations.”⁴ Simultaneously, Article 21 protects life and personal liberty, judicially interpreted to include the right to a fair trial, presumption of innocence, and procedural fairness.⁵ When media narratives begin to prejudge criminal liability, these guarantees enter into structural tension.

The central question, therefore, is not whether criminal proceedings may be reported—they must be in any open society. The deeper inquiry concerns the extent to which media-driven narratives may distort due process guarantees and whether existing constitutional and statutory frameworks sufficiently safeguard the integrity of adjudication.

II. CONSTITUTIONAL ARCHITECTURE: ARTICLES 19 AND 21 IN STRUCTURAL TENSION

A. Article 19(1)(a): Press Freedom and Democratic Accountability

The Supreme Court has consistently affirmed that freedom of speech and expression is integral to democratic governance. In *Romesh Thappar v. State of Madras*, the Court held that freedom of speech lies at the foundation of all democratic institutions.⁶ Press freedom, though not separately enumerated, has been read into Article 19(1)(a) as a necessary corollary.⁷

Investigative journalism has historically exposed corruption and institutional failure, reinforcing democratic accountability. In *Indian Express Newspapers v. Union of India*, the Court underscored that the press plays a vital role in advancing public interest.⁸

Yet constitutional protection is not absolute. Article 19(2) permits reasonable restrictions in the interests of, inter alia, contempt of court and defamation.⁹ The inclusion of contempt reflects recognition that unrestrained publication may prejudice judicial proceedings. The Contempt of Courts Act, 1971 defines “criminal contempt” to include publications that interfere with or obstruct the administration of justice.¹⁰

The Supreme Court has acknowledged that media reporting may, in certain circumstances, prejudice a fair trial. In *Sahara India Real Estate Corp. v. SEBI*, the Court recognized the power of courts to issue postponement orders where

² *Sahara India Real Est. Corp. v. SEBI*, (2012) 10 S.C.C. 603, 641 (India).

³ *Pennekamp v. Florida*, 328 U.S. 331, 350 (1946) (Frankfurter, J., concurring).

⁴ *Romesh Thappar v. State of Madras*, (1950) S.C.R. 594, 602 (India).

⁵ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248, 281 (India).

⁶ *Romesh Thappar*, (1950) S.C.R. at 602.

⁷ *Bennett Coleman & Co. v. Union of India*, (1972) 2 S.C.C. 788 (India).

⁸ *Indian Express Newspapers v. Union of India*, (1985) 1 S.C.C. 641, 650 (India).

⁹ INDIA CONST. art. 19(2).

¹⁰ Contempt of Courts Act, 1971, No. 70 of 1971, § 2(c) (India).



necessary to prevent real and substantial risk to the fairness of proceedings.¹¹ Such orders, however, must be narrowly tailored and proportionate.¹²

Thus, Indian constitutional doctrine does not conceive press freedom and fair trial as mutually exclusive. Rather, it demands calibrated balancing.

B. Article 21: Fair Trial as Substantive Due Process

The transformation of Article 21 through judicial interpretation has entrenched fair trial as a non-derogable constitutional guarantee. In *Maneka Gandhi v. Union of India*, the Court held that procedure under Article 21 must be “right, just and fair,” and not arbitrary or oppressive.¹³ This doctrinal shift introduced substantive due process into Indian constitutional law.

Subsequently, in *Zahira Habibullah Sheikh v. State of Gujarat*, the Court emphasized that a fair trial requires proceedings free from external influence and intimidation.¹⁴ Fairness is not confined to the rights of the accused alone; it encompasses the integrity of the process itself.¹⁵

The presumption of innocence, though not explicitly stated in the Constitution, is deeply embedded in criminal jurisprudence.¹⁶ Courts have consistently held that pre-trial publicity must not compromise this foundational principle.¹⁷ When media narratives generate sustained presumption of guilt, the equilibrium underlying Article 21 may be destabilized. Even in the absence of demonstrable judicial bias, investigative agencies, witnesses, and public perception may operate within a charged environment. As the U.S. Supreme Court observed in *Sheppard v. Maxwell*, excessive publicity may undermine the “serene and orderly atmosphere essential to the administration of justice.”¹⁸

The Indian constitutional framework thus confronts a recurring dilemma: how to preserve the openness of public discourse while preventing prejudicial distortion of adjudicative processes.

III. MEDIA TRIALS IN PRACTICE: DOCTRINAL AND SOCIO-LEGAL IMPLICATIONS

A. The Aarushi Talwar Case: Narrative Construction and Evidentiary Uncertainty

The 2008 Aarushi Talwar double murder case marked a watershed moment in the evolution of media trials in India. From the earliest stages of investigation, speculative reporting occupied prime-time coverage. Hypotheses concerning motive, family relationships, and alleged moral impropriety were aired repeatedly, often without evidentiary substantiation. The distinction between verified fact and conjecture became increasingly porous.

The trial court convicted the accused in 2013, relying substantially on circumstantial evidence.¹⁹ However, in 2017, the Allahabad High Court reversed the conviction, holding that the prosecution had failed to establish guilt beyond reasonable doubt.²⁰ The High Court underscored investigative deficiencies, evidentiary gaps, and the absence of conclusive proof linking the accused to the crime.²¹

The divergence between sustained media narrative and eventual appellate reasoning illustrates a core constitutional concern: reputational harm may crystallize long before legal standards of proof are satisfied. The Supreme Court has

¹¹ *Sahara India*, (2012) 10 S.C.C.

¹² *Id.*

¹³ *Maneka Gandhi*, (1978) 1 S.C.C. at 281.

¹⁴ *Zahira Habibullah Sheikh*, (2004) 4 S.C.C. at 183.

¹⁵ *Id.*

¹⁶ *Narendra Singh v. State of M.P.*, (2004) 10 S.C.C. 699 (India).

¹⁷ *Sahara India*, (2012) 10 S.C.C. at 641–42.

¹⁸ *Sheppard v. Maxwell*, 384 U.S. 333, 358 (1966).

¹⁹ *CBI v. Rajesh Talwar*, C.C. No. 477/2012 (C.B.I. Ct. Ghaziabad Nov. 26, 2013) (India).

²⁰ *Rajesh Talwar v. State of U.P.*, 2017 SCC OnLine All 3936 (India).

²¹ *Id.*



previously cautioned that presumption of innocence constitutes a human right and forms part of fair trial jurisprudence.²² Yet in high-visibility cases, repetition of suspicion may create an aura of inevitability around guilt. The Aarushi case demonstrates that while appellate courts may correct evidentiary error, the corrective function of judicial review does not necessarily repair reputational injury inflicted through prolonged publicity.

B. The Sushant Singh Rajput Case: Parallel Investigations and Gendered Public Narratives

The 2020 death of actor Sushant Singh Rajput generated one of the most sustained media episodes in recent Indian history. Multiple investigative agencies—including the Mumbai Police, Central Bureau of Investigation (CBI), Enforcement Directorate (ED), and Narcotics Control Bureau (NCB)—became involved.²³ Simultaneously, several news channels conducted what were effectively parallel inquiries, broadcasting selective communications, speculative timelines, and commentary that frequently adopted accusatory framing.

Rhea Chakraborty, who was arrested under the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), became the focal point of intense scrutiny.²⁴ Media discourse frequently extended beyond legal allegations into moral characterization. The phenomenon illustrates how gendered tropes and celebrity culture may intersect with criminal reporting, magnifying reputational consequences.

While bail jurisprudence under the NDPS Act is notably stringent, courts have consistently emphasized that deprivation of liberty pending trial must not assume a punitive character.²⁵ The Supreme Court has reiterated that “bail is the rule and jail the exception,” even while recognizing statutory constraints.²⁶

The Rajput episode highlights a structural concern: media amplification may generate public pressure that operates independently of formal evidentiary standards. Although investigative agencies remain legally bound by statutory procedure, sustained publicity may influence the broader environment in which prosecutorial discretion is exercised.

C. The Aryan Khan Case: Bail, NDPS, and Public Perception

The arrest of Aryan Khan in October 2021 under the NDPS Act reignited debate concerning prejudicial publicity and due process. The NCB alleged involvement in a drug-related conspiracy following a cruise ship operation.²⁷ Extensive media coverage followed immediately, framing the case as symbolic of elite decadence and moral decline.

Section 37 of the NDPS Act imposes stringent conditions for bail in cases involving commercial quantities of narcotics.²⁸ Courts must be satisfied that there are reasonable grounds to believe that the accused is not guilty and is unlikely to commit an offence while on bail.²⁹ This provision has been interpreted as creating a statutory embargo that reverses the ordinary presumption favoring bail.³⁰

However, the Supreme Court has clarified that statutory restrictions must still be applied consistently with constitutional safeguards.³¹ In granting bail to Aryan Khan, the Bombay High Court noted the absence of recovery from his possession and the lack of material demonstrating conscious possession or conspiracy.³² The Court emphasized that mere presence at the scene, absent cogent evidence, cannot satisfy the threshold required under Section 37.³³

²² Narendera Singh v. State of M.P., (2004) 10 S.C.C. 699, 705 (India).

²³ CBI Press Release, Aug. 2020.

²⁴ Narcotic Drugs and Psychotropic Substances Act, 1985, No. 61 of 1985 (India).

²⁵ Union of India v. Shiv Shanker Kesari, (2007) 7 S.C.C. 798 (India).

²⁶ State of Rajasthan v. Balchand, (1977) 4 S.C.C. 308, 309 (India).

²⁷ Narcotics Control Bureau v. Aryan Khan, Bail Order No. 827/2021 (Bom. H.C. Oct. 28, 2021) (India).

²⁸ NDPS Act § 37.

²⁹ *I*’d.

³⁰ Union of India v. Ram Samujh, (1999) 9 S.C.C. 429 (India).

³¹ Tofan Singh v. State of T.N., (2021) 4 S.C.C. 1 (India).

³² Aryan Khan Bail Order No. 827/2021, *supra* note 27.

³³ *I*’d.



The judicial reasoning reaffirmed that pre-trial detention cannot substitute for punishment.³⁴ Yet during the period of custody, sustained media framing had already shaped public discourse. The episode illustrates a recurring dynamic: while courts may ultimately restore procedural balance, the reputational and social consequences of publicity precede adjudication.

IV. LAW COMMISSION REPORT NO. 200 AND REGULATORY RESPONSES

The Law Commission of India, in its 200th Report titled *Trial by Media: Free Speech versus Fair Trial under Criminal Procedure (Amendments to the Contempt of Courts Act, 1971) (2006)*, directly addressed the constitutional friction between Articles 19 and 21.³⁵ The Commission acknowledged that prejudicial reporting may compromise due process, particularly in high-profile cases where juristic safeguards are strained by public scrutiny.³⁶

It recommended statutory amendments to empower courts to regulate publication that creates a real and substantial risk of prejudice.³⁷ Despite these recommendations, comprehensive legislative reform has not been enacted.

Regulatory oversight remains fragmented. The Press Council of India exercises advisory authority under the Press Council Act, 1978, but lacks robust enforcement powers.³⁸ Broadcast content is governed by the Cable Television Networks (Regulation) Act, 1995 and the accompanying Programme Code.³⁹ Enforcement, however, has been inconsistent.

Digital media platforms are regulated under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.⁴⁰ While these Rules introduce a three-tier grievance redressal mechanism, concerns remain regarding both effectiveness and constitutional compatibility.⁴¹

In practice, courts often resort to contempt jurisdiction to address egregious interference.⁴² Yet contempt proceedings are reactive, case-specific, and limited in scope. They do not provide a comprehensive, prospective balancing framework akin to statutory regimes in certain comparative jurisdictions.

V. COMPARATIVE PERSPECTIVE: HOW OTHER JURISDICTIONS RESPOND

A brief comparative examination demonstrates that concerns regarding prejudicial publicity are not unique to India. Other constitutional democracies have developed structured mechanisms to balance press freedom with fair trial rights.

In the United Kingdom, the Contempt of Court Act, 1981 introduces a strict liability rule under which publications that create a substantial risk of serious prejudice to active proceedings may attract liability, regardless of intent.⁴³ The statute clearly defines when proceedings become “active,” thereby providing predictability to media organizations. The emphasis is not on silencing criticism, but on preventing interference with the administration of justice.

The United States adopts a different approach. Strong First Amendment protection makes prior restraints on publication extremely rare.⁴⁴ However, American courts rely on procedural safeguards within the trial process—such as change of venue, jury sequestration, and careful jury instructions—to mitigate the impact of publicity.⁴⁵ In *Sheppard v. Maxwell*,

³⁴ *Gudikanti Narasimhulu v. Public Prosecutor*, (1978) 1 S.C.C. 240 (India).

³⁵ LAW COMM’N OF INDIA, 200TH REPORT, TRIAL BY MEDIA (2006).

³⁶ *Id.*

³⁷ *Id.*

³⁸ Press Council Act, 1978, No. 37 of 1978 (India).

³⁹ Cable Television Networks (Regulation) Act, 1995, No. 7 of 1995 (India).

⁴⁰ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E) (India).

⁴¹ *Shreya Singhal v. Union of India*, (2015) 5 S.C.C. 1 (India).

⁴² Contempt of Courts Act, 1971, § 2(c).

⁴³ Contempt of Court Act 1981, c. 49 (UK).

⁴⁴ *Neb. Press Ass’n v. Stuart*, 427 U.S. 539 (1976).

⁴⁵ *Id.*



the U.S. Supreme Court acknowledged that excessive media exposure can undermine fairness and placed responsibility on trial judges to maintain courtroom integrity.⁴⁶

Canada has developed a structured proportionality test through *Dagenais v. Canadian Broadcasting Corp.* and *R v. Mentuck*.⁴⁷ Courts may impose publication bans only where necessary to prevent a serious risk to the administration of justice and where the benefits outweigh the harm to free expression. This balancing framework explicitly recognizes that both rights—expression and fair trial—hold constitutional status.

Similarly, Australian courts possess statutory authority to issue suppression or non-publication orders when necessary to preserve trial integrity. These measures are applied cautiously and are subject to judicial scrutiny.

The comparative experience reveals a common thread: while press freedom remains robust, jurisdictions provide clearer statutory or doctrinal standards to prevent serious prejudice to ongoing proceedings. India, by contrast, relies largely on contempt powers and case-specific judicial intervention, without a comprehensive codified balancing framework. This absence of clarity contributes to inconsistency and uncertainty in addressing media trials.

VI. SOCIO-LEGAL CONSEQUENCES OF MEDIA TRIALS

Beyond doctrinal analysis, media trials generate enduring social consequences. The digitization of news ensures that allegations acquire permanence. Even where acquittals occur, initial narratives often dominate public memory.

Scholars have observed that reputational harm in the digital era may be irreversible.⁴⁸ The imbalance between accusatory coverage and later judicial exoneration creates structural asymmetry. Employment prospects, social relationships, and psychological well-being may suffer long-term impairment.

The Supreme Court has recognized reputation as an integral facet of dignity under Article 21.⁴⁹ Thus, prejudicial publicity implicates not only fair trial rights but also constitutional protection of reputation.

VII. TOWARD A STRUCTURED REFORM MODEL

A calibrated response must reconcile transparency with fairness. The objective is not censorship, but constitutional harmonization.

1. Statutory Clarification

Parliament may consider enacting narrowly tailored legislation defining prejudicial reporting during active criminal proceedings, drawing upon the UK strict liability model while incorporating proportional safeguards.⁵⁰ Clear statutory thresholds would enhance predictability and reduce arbitrary enforcement.

2. Judicially Articulated Balancing Test

Indian courts could formally adopt a structured proportionality framework akin to the *Dagenais/Mentuck* test. Such a model would require courts to demonstrate necessity and proportionality before restricting publication.

3. Strengthened Regulatory Institutions

The Press Council of India's advisory character limits effectiveness.⁵¹ A restructured independent media standards authority with limited quasi-judicial powers—subject to constitutional oversight—may provide non-criminal corrective mechanisms.

4. Digital Platform Accountability

Algorithmic amplification intensifies prejudicial narratives. Regulatory frameworks should impose transparency obligations regarding content prioritization without infringing editorial independence.⁵²

⁴⁶ *Sheppard v. Maxwell*, 384 U.S. 333 (1966).

⁴⁷ *Dagenais v. Canadian Broad. Corp.*, [1994] 3 S.C.R. 835 (Can.); *R v. Mentuck*, [2001] 3 S.C.R. 442 (Can.).

⁴⁸ Daniel J. Solove, *The Virtues of Knowing Less: Justifying Privacy Protections Against Disclosure*, 53 DUKE L.J. 967 (2003).

⁴⁹ *Subramanian Swamy v. Union of India*, (2016) 7 S.C.C. 221 (India).

⁵⁰ LAW COMM'N OF INDIA, 200TH REPORT, *supra* note 35.

⁵¹ Press Council Act, 1978, *supra* note 38.



5. Legal Literacy and Ethical Protocols

Institutionalized media training on sub judice principles, evidentiary standards, and contempt law may reduce inadvertent prejudice. Ethical codes must be reinforced through enforceable compliance mechanisms.

VIII. CONCLUSION

Media trials in India are not isolated aberrations but manifestations of structural tension between openness and adjudicative restraint. Freedom of speech and fair trial are coequal constitutional commitments. Yet when reporting transforms into pre-adjudicative condemnation, equilibrium is disturbed.

The Aarushi Talwar acquittal, the Sushant Singh Rajput investigations, and the Aryan Khan bail order collectively illustrate that judicial correction often occurs after reputational consequences have crystallized.

As Justice Felix Frankfurter observed, “The history of liberty has largely been the history of the observance of procedural safeguards.”⁵³ In the age of instantaneous communication, safeguarding those procedural guarantees remains an urgent constitutional imperative.

Ensuring that verdicts emerge from courts rather than cameras is not a retreat from transparency. It is, instead, a reaffirmation of the rule of law.

⁵² Information Technology Rules, 2021, supra note 40.

⁵³ *McNabb v. United States*, 318 U.S. 332, 347 (1943) (Frankfurter, J.).

