

Effect of Social Media Trial on the Indian Judicial System

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Abstract—Social Media has become part of life of a big part of Indian Populace. With easy availability of mobile along with cheap internet data has made all the people at one place. The people coming at one place on the social media is not restricted by any of the demographic factors like education, religion etc. So any one from any sphere of life is putting their opinion and in this way helping others to make an opinion. In days the easy way of making opinion has made social media vulnerable in the hands of people who want to get benefitted by making certain opinions. It has become popular in the field of politics. The field of Judiciary is under question due to wider acceptability of Social media. In the present paper we have tried to study the effect of social media trial on the Indian Judicial system.

Keywords—Indian Judicial System; Opinion; Social Media; Trial.

I. INTRODUCTION

SOCIAL Media can be understood as an interactive technologies which has a linkage of computer technology. The basic idea behind the social media is to help in communicating everything that is there in the mind towards anything through virtual communities and networks [1, 2]. Even though defining social Media is not easy due to huge variation there are some points which are common among the social Media platforms [3]. Web 2.0 Internet-based applications have been found common in most of social Media [4]. It has been observed that the content is created by the user while they are interacting online. It has been observed that the every User use to have their own identities created by them which is further getting maintained by the social Media company [ibid]. All of these platforms gives an opportunity to form many type of societies based on the type of Social Media [ibid].

People get to services of social Media by means of online advancements of workstations, or the facilities of downloading which has now been made available on the cell phones too. With the help of social media people remain connected all the time and they can communicate and share anything of their need.

Systems framed with the help of social media alters the people were interacting but still remain intact. They "acquaint considerable and inescapable changes with correspondence between associations, networks, and individuals." [5] The advancements that are made is the focal point of this developing fields. Contrary to paper-based Media or electronic media which had been prevailing like that of TV,

Radio, including quality, social media is good in its reach, recurrence, intuitiveness, convenience, and execution [6]. Social Media outlets work in a dialogic transmission framework (numerous sources to numerous receivers) [7]. So in this way social media is totally different from all the conventional media because conventional system of media was a mono-rationale transmission model. Among the most popular social sites Facebook, YouTube, WeChat, Instagram, Twitter, Telegram, LinkedIn, etc.

In Indian democracy, Media plays the role of fourth pillar along with legislation, judiciary and administrative bodies. For so long the media has been playing its role very actively but social media is not the same. The way matter is presented in social media with much fabrication becomes crucial in creating the view points of the people. It is widely believed that in the name of enjoying freedom it is essential for the Social Media to be free. But the point is that whether freedom of speech on Social websites are harming us? In reality when it had been stated that as a check on all the system social media will be watch dog it was never thought that the same social media can be mis-utilized too. It is not that social media has not any good aspect and the good aspect can be proven by some popular criminal cases that would have gone unpunished in the case matter has not been highlighted in the social media. Some of such cases had been Priyadarshini Mattoo case [8], Jessica Lal case, Nitish Katara murder case [9] and Bijal Joshi assault case. Almost on daily basis we come across some or other videos that has been uploaded on the social media. It can be of some one doing something wrong and at the same time it can be fabricated

too. In some of the recent cases it was the social media that created the pressure to pursue the matter with sincerity.

But at times it can create a different mindset too. As for example the way social media reacted to the murder of Arushi Talwar. There was a Twitter account 'Justice4Aarushi' which with a short span of time had 1476 followers. Similarly on Facebook people were reacting a huge number 'Give Aarushi Talwar Justice' has over 50,000 likes. Similarly there are many cases where social media tried to create a pressure such as the Priyadarshini Mattoo case, Jessica Lal Murder Case [10] etc. In such cases social media created picture of their own choice which is against the basic principles of judiciary system. The judiciary system in India has some specified procedures which get obstructed when the cases starts getting discussed and analyzed in the social media. No matter the discussion was in favor or against the accused, it is always against the law of the land. The way social media has started behaving it seems as if there is a parallel judiciary system running within the country. The mandatory process that needs to be followed by the judiciary system has no importance under the "public court" set up by social media. It has become practice nowadays is that the people active on social media state their opinion without much of the facts check which ultimately leads to making a public opinion. This opinion could be either in the favour or against the accused. As a part of society and social network the fabricated prejudices can alter the opinion of larger mass as well as judges too.

II. PREJUDICE OR INTERFERENCE WITH THE JUDICIAL PROCESS

There is a rule in Judicial system which states that that all of those who have accused regarding anything, no matter how heinous the crime is, the accused has all the rights to face a fair trial. At the same time one should also note that it is just the justice done that is mandatory but it should be visible that justice has been done. There are multiple ways by the help of which we can create certain perception on the social media and if such opinion somehow can result into prejudice trial then it will result into convicting accused or may set free if the accused has done the actual crime. Any matter the social media which can affect the thinking of any of the persons like that of jurors, the witness, the environment should be considered as the contempt of court. It needs to be noted that in Indian Judiciary system if any matter is under consideration of court, any kind of comment if come into the cognizance of the court can be considered as the contempt of the court.

In one the case *Y.V. Hanumantha Rao v. K.R. Pattabhiram and Anr*, the chief justice Gopal Rao Ekkbote of Andhra Pradesh High Court stated very clearly regarding any kind of interference while matter is pending for trial. The learned judge observed that:

“..... When litigation is pending before a Court, no one shall comment on it in such a way there is a real and

substantial danger of prejudice to the trial of the action, as for instance by influence on the Judge, the witnesses or by prejudicing mankind in general against a party to the cause. Even if the person making the comment honestly believes it to be true, still it is a contempt of Court if he prejudices the truth before it is ascertained in the proceedings. To this general rule of fair trial one may add a further rule and that is that none shall, by misrepresentation or otherwise, bring unfair pressure to bear on one of the parties to a cause so as to force him to drop his complaint or defense. It is always regarded as of the first importance that the law which we have just stated should be maintained in its full integrity. But in so stating the law we must bear in mind that there must appear to be 'a real and substantial danger of prejudice'.”

It is widely accepted that in India we have a very strong judiciary. The strength of judiciary is being given by the constitution but there is an issue of accountability. As a matter of fact any institution in itself nothing. So it is made up of by people. So there is always a probability of error or misconduct. They might get influenced by the discourse going on in public domain or by anything else. In one of the case *Shalab Kumar Gupta and Ors. v. B.K. Sen and Anr*. Supreme Court stated that:

“No doubt it would be mischievous for a newspaper to systematically conduct an independent investigation into a crime for which a man has been arrested and to publish the results of that investigation. This is because trial by newspapers, when a trial by one of the regular tribunals of the country is going on, must be prevented. The basis for this view is that such action on the part of a newspaper tends to interfere with the course of justice whether the investigation tends to prejudice the accused or the prosecution. There is no comparison between a trial by a newspaper and what has happened in this case.”

III. STRESS ON JUDGES DURING THE TRIALS

In the words of one of the senior most supreme court judge, judges are "under stress" due to over active social media. It has been found that even before the case is admitted in the court the case is opened on the social media and decision use to be given. Such activities will definitely. In one of the conference titled "Freedom of press in the digital age" Justice A K Sikri stated that said the way the media is responding during current days it is changing the freedom of press is changing the way civil and human rights has been perceived and an example is the media trials. More important in such social media trials use to be what should be the outcome in spite of what is the outcome. Abbas Kazmi who was the lawyer for Ajmal Kasab must have faced the heat and similarly the judge in this case [11] too have faced such problem.

IV. SOCIAL MEDIA AS A WATCH DOG

On the one hand where the social media is creating pressure which affects negatively on the judiciary Social Media also assumes the role of Watch Dog. Recently “Unnao rape case” is just an example of the social media being the watchdog. The case is of 2017 which kept hanging but once it has been taken over by the social media the accused has been put behind bars and judicial proceedings have been initiated.

V. CONCLUSION

Social Media provides a platform to the general people to express themselves. It is getting utilized for showing only those fabricated matter for what they have been paid by different parties. Social Media in a portion of the cases make a few cases thrilling for while without understanding the case just and afterward basically change to some other occasion. Preliminary is particularly affected by the Social Media sensation. Judges while settling on choice beginning thinking about Social Media analysis on the off chance that they goes inverse from the perspective on the Social Media that is the reason in generally prominent cases decision goes by Social Media turns into the last decision in trial courts. The cases cited above shows that the impact of social media can be more negative than positive. It is therefore suggested that the social media should be brought under the observation of courts. The Social Media can't be allowed a free hand just for the sake of opportunity of articulation.

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