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True Crime Podcasts as Digital Media: Balancing Public Interest, Free Expression and the Presumption of Innocence in India

Jagannadham Riya Meghana

Symbiosis Law School, Pune

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ABSTRACT

The increase in the number and popularity of a lot of true crime podcasts contributed to the change in the public's interaction with criminal proceedings and created serious issues in relation to constitutional rights, such as one's right to the presumption of innocence and right to a fair trial. The paper investigates whether deficiencies of India's current legal system are suitable for controlling the impact of serial broadcasts on society. A doctrinal approach is utilized in order to study constitutional safeguards, the Contempt of Courts Act, 1971, court ruling precedents, the Law Commission of India's Report No. 200, and information from Australia's The Teacher's Pet podcast. The paper argues that the nature of true crime podcasts is fundamentally different than that of the traditional media as it enables audience immersion into the content of the podcasts, as well as the ongoing availability of the podcast series and the possibility of influencing the public opinion before the court's pronouncement. Nonetheless, the discrepancies mentioned do not offer an avenue for a distinct regulatory framework. On the contrary, India's present constitutional structure according to Articles 19 and 21 and the jurisprudence of contempt is ample enough on its own if it is applied correctly. The paper brings out the need of adapting to the constitution instead of resorting to further laws to safeguard the freedom of expression as well as the presumption of innocence in the digital world.

KEYWORDS

Presumption of Innocence; Trial by Media; True Crime Podcasts; Contempt of Court; Fair Trial (Article 21); Freedom of Speech and Expression (Article 19).

INTRODUCTION

An important aspect of any justice system is presuming guilt in criminal matters, which is an essential condition for keeping an individual's rights safe from transgression. The assumption implies that the accused must be treated like innocent people until concrete evidence proves the opposite in the court of law. Despite the fact that the Constitution of India has not declared the presumption of innocence among its doctrines, the Indian Supreme Court has repeatedly explained that the right to live and be free mentioned in Article 21 includes the right to a fair trial and thus entails the presumption of innocence as one of the aspects of the right to due process¹. Therefore, the validity of all criminal procedures must be measured not only by the fairness of trials but also by the fact that verdicts must be made based only on the evidence gained from court procedures and judicial hearings, but not on the public opinion regarding a given case. The development of digital technologies has changed the perception of crime reporting. The most essential innovations are the true crime podcasts that mix investigative journalism, documentary storytelling, interviews, archival footage, and narrations into one package to tell great stories about criminal investigations. In contrast to traditional news articles that are usually aimed at providing a short description of the essential facts regarding a crime, podcasts allow consumers to follow a certain crime story for an extended period of time and experience its intricacies in much more detail. Even though this type of media has improved people's understanding of the criminal justice system by highlighting wrongdoings in crime investigation, it should be noted that it has some disadvantages as it means people could start thinking certain person is guilty before he is found so by a legal institution, which could give rise to the concept of "trial by media." This emergence creates serious issues from a constitutional point of view. The possibility of freedom of speech guaranteed by Article 19(1)(a) makes the press free, thus rendering it free to conduct investigation. On the other hand, Article 21 protects the right to a fair trial. In fact, media coverage and information on ongoing criminal cases can create tensions when the media becomes excessively influential². This tension has been brought to the court's

¹ 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.

² Sahara India Real Estate Corp. Ltd. v. Sec. & Exch. Bd. of India, (2012) 10 S.C.C. 603 (India); R.K. Anand v. Registrar, Delhi High Court, (2009) 8 S.C.C. 106 (India); Law Commission of India, Report No. 200: Trial by Media Free Speech versus Fair Trial under Criminal Procedure (Amendments to the Contempt of Courts Act, 1971) (2006).

attention for quite a long time but not much attention has been paid to true crime podcasts as a new form of media. It is true that they have specific features making them unique from other forms of media, such as their specific form of storytelling making the podcast into a continuous stream, which raises a question of whether current laws can truly ensure the presumption of innocence. The paper contends that in the Indian context, there is no need for a new statute specifically on true-crime podcasts. In fact, the existing legal framework characterized by constitutional provisions particularly Article 19 and Article 21 of the Constitution and the Contempt of Courts Act, 1971, is adaptable enough to cover podcast-based publicity taking into account the nuances of serialized digital storytelling. The research is characterized by a doctrinal approach based on legal sources, judicial interpretations, Law Commission Report No. 200, and comparative analysis of the Australian podcast *The Teacher's Pet*, to investigate the adequacy of the present legislation in ensuring upholding the constitutional presumption of innocence while ensuring the necessary freedom of expression³.

LITERATURE REVIEW

The connection between the reporting done by Mass Media and the effect that it has on the operation of criminal justice has remained one of the most important topics in the context of constitutional and media law scholarship since a long time ago. While Indian legal literature has mostly concentrated on the question of trial by media through the constitutional principle of balancing freedom of speech according to Article 19(1)(a) and the right of the accused person to have a fair trial according to Article 21⁴, more recently, scholars and researchers abroad have started considering true crime podcasts as another form of digital journalism and narration⁵. Nevertheless, despite the fact that trial by media and true crime podcasts represent two separate fields of scholarship, they have not developed a close connection. Therefore, there is a gap in the literature regarding whether the laws already in place in India that govern prejudicial publicity

³ Hedley Thomas, *The Teacher's Pet* (podcast), *The Australian* (2018); *The Contempt of Courts Act*, No. 70 of 1971, Acts of Parliament, 1971 (India); INDIA CONST. arts. 19(1)(a), 19(2), 21.

⁴ Law Commission of India, Report No. 200: Trial by Media Free Speech versus Fair Trial under Criminal Procedure (Amendments to the Contempt of Courts Act, 1971) (2006); *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 SCC 603.

⁵ Leslie McMurtry, *The Podcast as a New Oral Storytelling Form*; Tiziano Bonini, *The "Second Age" of Podcasting: Reframing Podcasting as a New Digital Mass Medium*, 41 *Quaderns del CAC* 21 (2015).

are able to cope with the unique nature of serial audio-digital media. The chapter you are now reading reviews the existing literature on the topic in order to identify the gap in the research that this study is targeting.

2.1 Trial by Media and the Right to a Fair Trial

The earliest works in the scholarship discussing trial by media concentrate on the impact of media coverage on criminal justice. Legal scholars agree that excessive media coverage can interfere with the process of justice in a number of ways, which include forming public opinion, impacting witnesses, putting pressure on law enforcement agencies, and violating the presumption of innocence⁶.

The role of a free press in promoting accountability and transparency is crucial in a democracy, however some academicians indicate that unfettered publicity related to pending criminal cases creates a possibility of associating the charge with the conviction prior to the due legal process⁷. One of the major works in this regard is the Report No. 200 of the Indian Law Commission, according to which prejudicial media coverage can interfere with the right to a fair trial and recommends the limited use of judicial powers where postponing publication is warranted⁸. Although the Report focused on newspapers and television, its constitutional reasoning is valid because it points out that freedom of expression cannot mean actions that create serious risk to the justice administration. Recent research has widened the area by making possible investigations of online portals and social media, but still focuses primarily on text and visual communication while ignoring podcasts⁹. The second type of literature deals with the relationship between freedom of expression and the presumption of innocence in a constitutional sense. The constitutional scholars agree that investigative journalism and discussions on the criminal justice system are protected by the Article 19(1)(a) while Article 19(2) allows imposing reasonable limitations on freedom of speech, especially if the speech interferes with justice administration¹⁰. At the same time, it is necessary to indicate that Article 21 has been read in a way that presumes the existence of the right to mala fides in court, according to which the presumption of innocence has become a vital safeguard for citizens even though it does not have any textual expression¹¹. Notably, in terms of the discussion on the degree of fairness of criminal

⁶ Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1; Law Commission of India, supra note 1.

⁷ R.K. Anand v. Registrar, Delhi High Court, (2009) 8 SCC 106.

⁸ Law Commission of India, supra note 1.

⁹ Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 SCC 603.

¹⁰ INDIA CONST. arts. 19(1)(a), 19(2).

¹¹ Maneka Gandhi v. Union of India, (1978) 1 SCC 248; Noor Aga v. State of Punjab, (2008) 16 SCC 417

trials, most researchers agree that publicity can still influence someone's dignity and reputation regardless of the final outcome of judicial processes. Accordingly, they propose the idea that media freedom and the right to a fair trial should not be contrasted being in opposition. In recent years, the podcasting phenomenon has been studied in a number of academic publications focused on its essence as a separate means of communication. Unlike standard media, podcasts are created in a specific manner, including serialized storytelling, conversations with the audience, archival footage, interviews, and reenactments, which makes them attractive for audiences and helps maintain their interest. Researchers note that true-crime podcasts make it impossible to distinguish journalism from entertainment, as their principles combine investigative journalism and elements typical of storytelling.

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As effective as these features are for enhancing accessibility and engaging with the general public, they may influence the audience's interpretation of the issue of criminal responsibility before the appropriate evidence has undergone judicial scrutiny. Newer academic writings discuss issues such as accountability of the media outlets, privacy of victims, proper representation of the accused persons, and continuity of the podcast content through the internet¹². However, despite the major contribution of such materials, most existing research came from journalism, mass communication, and media studies, but not from constitutional law. This leads to a limited amount of research that applies these narrative methods in the framework of the existing legal principles on the matter of contempt, prejudicial publicity, presumptions of innocence, etc.

¹² Hedley Thomas, *The Teacher's Pet* (podcast), *The Australian* (2018).

RESEARCH GAP

The existing literature recognizes two interrelated developments: first, the Indian constitutional scholarship describes the sophisticated principles of trial by media, while the international literature considers true crime podcasts to be an essential part of the story-telling in the digital age. Unfortunately, these two perspectives have not been examined together¹³. This research fills the gap as it combines the theory of the Indian Constitution concerning the trial by media and modern academic work on true-crime podcasts. It maintains that even though podcasts pose new practical issues for safeguarding the presumption of innocence, these problems can be solved by applying the existing provisions of the Constitution of India in a principled and contextual manner without creating new statutes¹⁴.

INDIA'S EXISTING CONSTITUTIONAL FRAMEWORK: FREEDOM OF EXPRESSIONS, FAIR TRIAL, AND CONTEMPT OF COURT

The discussion about the constitutionality of true crime podcasts must be seen in relation to India's current legal environment related to the freedom of speech and the justice system's functioning. Although podcasts are relatively new in light of other means of digital communication, legal principles pertaining to unfair publicity are sufficiently developed. When combining Articles 19(1)(a), 19(2), and 21 of the Constitution with the Contempt of Courts Act of 1971, an opportunity for balancing the media freedom and the accused person's right to a fair trial can be created. This chapter states that the constitutional framework of India is doctrinally sufficient for dealing with podcast-based publicity, although necessary improvements in its application and methods of implementation need to be made; and these improvements should be connected with the peculiarities of the format of serialized digital media¹⁵.

Freedom of Speech and Expression

¹³ Law Commission of India, *supra* note 1.

¹⁴ The Contempt of Courts Act, No. 70 of 1971, Acts of Parliament, 1971 (India).

¹⁵ INDIA CONST. arts. 19(1)(a), 19(2), 21.

Freedom of speech and expression is of great importance in the Constitution of India. Article 19(1)(a) does not only allow for freedom of expression but also journalists' freedom, freedom of the press, and the freedom to hold public discussions on matters of public concern. According to judicial rulings, the public has to be informed to be able to participate in the process of democratic governance, the media being a crucial party in this process. Nevertheless, the right to express oneself is not absolute. Article 19(2) states that restrictions may exist due to the issue of contempt of court. Thus, media freedom does not include publications that threaten the process of administration of justice.

The Right to Fair Trial and Presumption of Innocence

Article 21 states that a person can be deprived of life or personal liberty only if the procedure set by the law is fair and just. Because of judicial interpretation, the right has been created into an extensive protection of fair trial right including constitutional presumption of innocence¹⁶. The presumption of innocence upholds that the criminal guilt is proved only based on the evidence presented to the court. Media stories which imply presumptions of guilt before the trial create risks of violating this constitutional right. In this context, the right to fair trial guarantees not only institutional independence of justice but also legitimacy of the whole system of justice¹⁷.

Contempt of Court and Prejudicial Publicity

One of the main acts dealing with prejudicial publicity is the Contempt of Court Act, 1971, which defines criminal contempt to mean any publication that hinders or obstructs the due course of judicial proceedings¹⁸. Thus, the Act's emphasis is on the effect of publication rather than on the medium of publication. The Supreme Court has, in a number of cases, pointed out that excessive publicity regarding the proceedings may pose a threat to the justice delivery system. In *R.K. Anand v. Registrar, Delhi High Court*, the Supreme Court held that media reporting should not impede the fairness of judicial proceeding¹⁹. Likewise, the Supreme Court in *Sahara India Real Estate Corp. Ltd. v. SEBI* endorsed the view that orders postponing publications are a reasonable constitutional solution for reconciling free expression with the right to a fair trial in

¹⁶ INDIA CONST. art. 19(1)(a).

¹⁷ *Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India*, (1985) 1 SCC 641.

¹⁸ The Contempt of Courts Act, No. 70 of 1971, § 2(c), Acts of Parliament, 1971 (India).

¹⁹ INDIA CONST. art. 19(2).

the situation where publication may cause serious prejudice²⁰The above mentioned cases indicate that the Constitution of India gives courts sufficient means to deal with prejudicial publicity without unduly restricting the activity of media people.

APPLICABILITY TO DIGITAL MEDIA

The development of digital communications does not get rid of or make outdated any of the constitutional principles. The courts have invariably used the available legal principles in the field of new technologies without the need to set up completely new constitutional criteria for different forms of media. Our modern regulatory policies on the regulating of the online intermediaries are in line with the same principle of independent functioning of constitutional rights regardless of the form of technology²¹. So, the podcasts do not operate outside the influence of Indian law just because they use digital audio and not printed or broadcasted information. The question of whether a given publication is capable of posing real and material danger for the administration of justice remains unchanged. The issue of podcasts has significance not due to the fact that they need new regulations, but due to the fact that they can play a different role in shaping public opinion compared to traditional media.

True Crime Podcasts as Constitutionally Distinct form of Prejudicial Publicity

The previous section has proven the fact that the constitutional scheme on freedom of expression, fair trial rights, and contempt of court in India is sufficiently wide to regulate harmful publicity regardless of the means of distribution. The question remains whether true crime podcasts are simply another means of discussing crime or whether their specific characteristics raise some constitutional issues unusual for this kind of information provided by newspapers and television. In this chapter, it is claimed that the constitutionally relevant feature of true crime podcasts is that they have a specific way of storytelling which makes them unique compared to newspaper and TV reports²².

²⁰ Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 SCC 603.

²¹ The Information Technology Act, No. 21 of 2000, Acts of Parliament, 2000 (India); The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

²² INDIA CONST. arts. 19(1)(a), 19(2), 21.

Beyond Conventional Journalism

Unlike traditional news reporting, true crime podcasts seldom limit themselves to reporting on the latest developments in legal processes. Instead, they depict the whole investigation structure based on interviews, archives, testimonies, expert opinions, and narrative interpretation. The story gradually unfolds in front of the audience while they listen to it rather than just receive the facts²³. This fact makes true crime podcasts different from traditional journalism as news reporting is separated from article writing and presented in a shorter cycle. For true crime podcasts, the verified information is mixed with its interpretation and narration, allowing the listener to use the information critically and compare different theories offered by the presenters. In this respect, it should be pointed out that investigative journalism helps a lot in revealing miscarriages of justice and institutional failures, but it also raises some legal issues²⁴.

Narrative Storytelling and Public Perception

The essential characteristic of authentic crime podcasts is their use of storytelling in episodes. Criminal investigations are arranged in a logical order and comprise recognizable heroes, motives, and wars. At the end of episodes, questions that remain unresolved or cliff-hangers are asked to let the audience keep watching²⁵. Studies in communication show that coherent stories are remembered more easily than isolated facts²⁶. While listening to several hours of stories about one case, listeners tend to develop emotional involvement in the interpretation of these events. While podcast developers do not say that a person is guilty, the cumulative effect of an episode's structure makes them think so.

Digital Permanence and Algorithmic Amplification

Compared to newsprint or broadcast news, podcasts are available through streaming services which permits them to be played again and again, downloaded, redistributed, and shared after they have been made public. Thus, unlike other media prejudicial publicity does not occur at a single point in time, but continues over the course of the investigation, trial, and other legal

²³ Leslie McMurtry, Podcasting and New Oral Storytelling, *The Radio Journal* (2019).

²⁴ R.K. Anand v. Registrar, Delhi High Court, (2009) 8 SCC 106.

²⁵ Hedley Thomas, *The Teacher's Pet* (podcast), *The Australian* (2018).

²⁶ Leslie McMurtry, *supra* note 2; Tiziano Bonini, *The "Second Age" of Podcasting: Reframing Podcasting as a New Digital Mass Medium*, 41 *Quaderns del CAC* 21 (2015).

proceedings²⁷. Digital platforms use recommendation algorithms that enhance the process by offering access to podcasts, documentaries, interviews, and content related to the user's previous interactions with similar content. This has an additional effect of consolidating the impression formed by the user as well as prolonging the life of the coverage beyond the limits that the conventional media is able to achieve. The existing legal doctrines apply, but it should be noted that the digital technology has changed how prejudicial publicity operates²⁸.

Role of Audience in True Crime Podcasts

Unlike conventional media, true crime podcasts invite active involvement from the audience through comments and forums on different social media platforms and online discussion forums. These people take matters into their own hands and investigate independently of law enforcement institutions they assess evidence, create timelines, formulate theories of alternative suspects, and create discussions on criminal culpability²⁹. This engagement results in what can be called a parallel process of public investigation, where discussions first started in a certain podcast quickly develop into narratives of criminal guilt/innocence far beyond the podcast itself. Although podcast creators can hardly be accountable for all that happens later, these online conversations result in the realization that podcasts are an element of a more complicated communication sphere having a totally different impact from the direct information broadcasting characteristic of traditional media.

A Distinct Constitutional Dilemma

The constitutional relevance of true crime podcasts is in the long-term effect of their communicating features rather than their form as a medium. Their features of long story-telling, involvement of emotions, digital persistence, dissemination through algorithms as well as generating discussions make true crime podcasts different from ordinary journalism. These traits create a ground for the audience to acquire firm beliefs concerning criminal responsibility before any evidence is assessed in the court³⁰. At the same time, the acknowledgement of these traits should not mean that the podcasts in general should be regarded as prejudicial or regulated in a

²⁷ Law Commission of India, Report No. 200: Trial by Media—Free Speech versus Fair Trial under Criminal Procedure (Amendments to the Contempt of Courts Act, 1971) (2006).

²⁸ Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 SCC 603.

²⁹ Hedley Thomas, *supra* note 4.

³⁰ Noor Aga v. State of Punjab, (2008) 16 SCC 417.

special way. The responsible investigative podcasting serves for the democratic accountability, knowledge of law by the society as well as control over the criminal justice system. Therefore, the constitutional response to the issue should be contextual rather than prohibitive. The present doctrines that exist in relation to the contempt of court as well as the right to the fair trial could be considered adequate from the point of view of law but the courts should apply them considering how serialized digital storytelling influences the public perception³¹.

COMPARATIVE PERSPECTIVE: THE TEACHER'S PET PODCAST AND LESSONS FOR INDIAN CONSTITUTIONAL LAW

The comparative constitutional examination permits academics and judges to assess how various countries deal with similar legal issues while understanding that external solutions cannot be applied directly to national constitutional settings. In the instance of true crime podcasts, the example of Australia and The Teacher's Pet serves as proof of the interaction between the digital podcasting and criminal justice system. The case provides a description of how investigative podcasts can contribute to the accountability of the society and raise doubts about the fairness of the outstanding cases as well. From the constitutional point of view, the case is significant for the fact that the judicial system acknowledged that the excessive publicity caused by the podcast could lead to the absence of fair trial³².

Teacher's Pet and Judicial Intervention

In 2018, The Teacher's Pet podcast was produced and published by The Australian newspapers' journalist H. Thomas to talk about the mystery of Lynette Dawson's disappearance in 1982, which was accomplished by means of interviews, historical materials, police documents, and testimonies of witnesses³³. It had millions of listeners all over the world and awakened public interest in the case³⁴. The Australian courts believed that letting people access the podcast without any restrictions might lead to the engagement of members of the jury in the long story

³¹ The Contempt of Courts Act, No. 70 of 1971, Acts of Parliament, 1971 (India).

³² Vicki C. Jackson, *Constitutional Engagement in a Transnational Era* (2010).

³³ Hedley Thomas, The Teacher's Pet (podcast), The Australian (2018).

³⁴ R v. Dawson [2022] NSWSC 1361 (Austl.).

about the case before they heard the evidence presented during the trial³⁵. Because of this, the podcast could be accessed only when the case was already solved and was not for the purpose of suppressing the freedom of journalism.

Constitutional Significance

Australia's situation shows that issues regarding constitutional law relating to prejudicial publicity are not dependent on false reporting or irresponsible coverage. The Teacher's Pet can be classified as a well-made investigative podcast that revived interest in an ongoing story³⁶. The courts did not take action against the podcast because the content was inaccurate; instead, what led to court intervention was the timing, penetration, and cumulative impact of the podcast on pending criminal proceedings. The information can be reported accurately, but the context might create a perception that jeopardizes the legal process. This case also confirms the argument presented in the previous section, which asserts that podcasts are distinct from other forms of the mediaplanet because, unlike newspapers or TV broadcasts that give news reports as short messages, The Teacher's Pet allowed the audience to listen for hours about another criminal case. The gradual presentation of evidence, interviews with different people, and telling the story step by step provided for a continuous perception and gradual formation of attitudes toward criminal responsibility³⁷.

Lessons for India

Directly applying what Australia has done would be wrong. Australia worked out its response using a jury system and hence had a situation where damaging information may influence jurors³⁸. The fact is, jury trials were abolished in India almost a century ago and we have a trained judge system of justice. Therefore, the logic behind Australia's suppression orders cannot be transferred directly into the Indian context. What is left from the comparative experience is important nonetheless. The right to a fair trial includes more than protecting the judge from external influence. Public discourse regarding criminal cases can create problems for witnesses,

³⁵ Attorney General for New South Wales v. Australian Broadcasting Corporation (suppression proceedings relating to The Teacher's Pet podcast); Hedley Thomas, *supra* note 2.

³⁶ Hedley Thomas, *supra* note 2.

³⁷ Leslie McMurtry, The Podcast as a New Oral Storytelling Form, *Radio Journal* (2019); Tiziano Bonini, The "Second Age" of Podcasting: Reframing Podcasting as a New Digital Mass Medium, 41 *Quaderns del CAC* 21 (2015).

³⁸ *R v. Dawson* [2022] NSWSC 1361 (Austl.).

victims, investigation agencies, prosecution, and the suspected criminals who are still presumed innocent³⁹ in accordance with the law

Similarly, the example of Australia confirms that the proper judicial action can maintain constitutional equilibrium without completely inhibiting investigative journalism. The example of the temporary injunctions in the course of the investigations in question is similar to that of the Indian Supreme Court of India in *Sahara India Real Estate Corp. Ltd. v. SEBI* where it was asserted that stay orders were extraordinary means of balancing the freedom of speech and justice⁴⁰. Both countries therefore acknowledge that the use of carefully tailored judicial intervention is preferable to either unrestricted publication or full censorship. Thus, the lesson to be acquired from *The Teacher's Pet* is that the judicial experience in Australia should not be taken as the model for making laws but as useful comparative evidence able to help us realize that the recent technological developments have altered the relationship between mass media and criminal justice. Therefore, the greatest lesson for India is that even though the existing legal system is not perfect it is quite flexible to deal with the influences of podcasts, but criminal justice has to be aware of the peculiarities of structured storytelling⁴¹.

EVALUATING THE ADEQUACY OF INDIA'S LEGAL FRAMEWORK FOR TRUE CRIME PODCASTS

The previous chapters highlight that while true crime podcasts put forth unique challenges in practice, there is no novel constitutional issue. The text describes India's constitutional text in its existing form which includes Arts 19(1)(a), 19(2), and 21 and the Contempt of Courts Act, 1971 provides an effective remedy to issues connected with prejudicial publicity, as per the relevant media format. The constitutional inquiry remains technology-neutral, in line with the parameters outlined above, i.e. the relevant publication creates a real and substantial risk of interfering with justice⁴². Thus, there is no regulatory gap that calls for an introduction of arbitrarily selected podcast regulations. The jurisprudence concerning Indian Constitution has always been flexible

³⁹ *Noor Aga v. State of Punjab*, (2008) 16 SCC 417; INDIA CONST. art. 21.

⁴⁰ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 SCC 603.

⁴¹ The Contempt of Courts Act, No. 70 of 1971, Acts of Parliament, 1971 (India).

⁴² INDIA CONST. arts. 19(1)(a), 19(2), 21; The Contempt of Courts Act, No. 70 of 1971, § 2(c), Acts of Parliament, 1971 (India).

and it has incorporated adapted traditional principles without the necessity of creating separate pieces of legislation for different media formats⁴³. Therefore, the same approach can be employed in the case of true crime podcasts and investigative podcasts that are covered by Art 19(1)(a) while also ensuring that the interference with justice is permissible in line with Arts 19(2) and 21 when the digital media outlets pose an unnecessary risk of interfering with fairness of the criminal trial.⁴⁴

However, the crucial problem cannot be resolved through legislative changes. The whole issue comes down to the fact that the courts have to accept the fact that the prejudice appearing as a consequence of various podcasts comes from the combined effect of the narrative, which might be prolonged and ratio-algorithmically presented, and not from one particular item that is being reacted to. In other words, there is nothing wrong with the existing constitutional framework if it interprets the regulations considering the specificity of the medium's communicative character in the digital age.⁴⁵

RECOMMENDATIONS AND THE WAY FORWARD

The Study's findings reveal that India does not require a new statute to regulate true crime podcasts. The protection of freedom of expression and right to a fair trial in India depends on the appropriate application of the existing constitutional provisions within the contextual framework of the issue⁴⁶. Accordingly, courts in India are expected to acknowledge that there are differences between podcasting and traditional journalism in terms of their format, consistency, and the ability to affect public opinion in the long run. Although the traditional tests for legality of prejudicial publicity will apply, courts ought to take into account these factors when determining whether a publication can be considered a threat to justice⁴⁷. In addition to court rulings, voluntary ethical principles must be actively promoted among podcasters providing data on

⁴³ Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India, (1985) 1 SCC 641; Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 SCC 603.

⁴⁴ Maneka Gandhi v. Union of India, (1978) 1 SCC 248; R.K. Anand v. Registrar, Delhi High Court, (2009) 8 SCC 106.

⁴⁵ Law Commission of India, Report No. 200: Trial by Media—Free Speech versus Fair Trial under Criminal Procedure (Amendments to the Contempt of Courts Act, 1971) (2006).

⁴⁶ INDIA CONST. arts. 19(1)(a), 19(2), 21.

⁴⁷ Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 SCC 603; R.K. Anand v. Registrar, Delhi High Court, (2009) 8 SCC 106.

active criminal trials. Differentiating between actual facts and opinion, observing the presumption of innocence, and treating victims and suspects with responsibility would improve the public's trust while ensuring the effective functioning of investigative journalism. In addition, digital channels may help promote responsible information sharing by introducing contextual messages when criminal cases are still underway, thus informing people that guilt can only be established through a court decision⁴⁸. Thus, the necessary constitutional response is to adapt rather than add to laws. By applying the existing theories to modern realities, India will be able to retain both its investigative journalism and its constitutional guarantee of fair trials⁴⁹.

CONCLUSION

This research looked into the adequacy of the constitutional provisions in safeguarding the presumption of innocence in the context of increasing popularity of true crime podcasts in India. The study finds that while the advent of podcasts does not pose a new constitutional issue per se, it does provide a contemporary technological backdrop against which older constitutional principles have to operate. Articles 19(1)(a), 19(2), 21 and the Contempt of Courts Act, 1971, still remain valid legal tools to help balance between freedom of expression and fair trial rights⁵⁰. The distinguishing attribute of true crime podcasts is that they cannot be treated as regular media. Their storytelling format, constant digital presence, and impact on public perception make a judicial assessment of prejudicial media coverage more justified than the traditional comparison to traditional journalism⁵¹. The basic premise of this paper is that what India needs is constitutional change rather than new laws. Legal doctrines already exist but need to evolve when being implemented in digital forms of storytelling. Keeping the assumption of innocence thus means ensuring that crimes are decided by courts and not by media narratives, allowing for the balance between freedom of speech, fair procedures, and rule of law⁵².

⁴⁸ Law Commission of India, Report No. 200: Trial by Media—Free Speech versus Fair Trial under Criminal Procedure (Amendments to the Contempt of Courts Act, 1971) (2006).

⁴⁹ The Contempt of Courts Act, No. 70 of 1971, Acts of Parliament, 1971 (India).

⁵⁰ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248; INDIA CONST. arts. 19(1)(a), 19(2), 21.

⁵¹ *Hedley Thomas, The Teacher's Pet* (podcast), *The Australian* (2018); *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 SCC 603.

⁵² *Noor Aga v. State of Punjab*, (2008) 16 SCC 417; Law Commission of India, Report No. 200: Trial by Media Free Speech versus Fair Trial under Criminal Procedure (Amendments to the Contempt of Courts Act, 1971) (2006).