

## Media As Arbiter In Law

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The Constitution of India very clearly divides powers between the Executive, the Legislature and the Judiciary. Executive power vests in the President and in officers appointed by him through whom he will exercise his powers. This applies mutatis mutandis to the States also, except that here it is in the Governor that Executive power vests. It is the duty of the Executive, within the laws framed by the Legislature to administer the country. The Legislature itself enacts laws keeping in mind the provisions of the Constitution and Directive Principles given therein. The Judiciary interprets laws and adjudicates all disputes. The role of each of these organs of the State is independent, though there is a coming together at the margin of the Executive and the Legislature and, to the extent that effect has to be given to the judgements of courts, at the margin of all three organs.

Adjudication is entirely within the domain of the Judiciary, which is why so much emphasis is laid in the Constitution on the independence of the Judiciary. Under the umbrella of the Supreme Court we have the High Courts in which all the judges are given constitutional protection against removal except through a process of impeachment. The entire subordinate judiciary, that is, from the level of District and Sessions Judge right down to the Civil Judge at the lowest level and Judicial Magistrate is under the control of the High Court and totally immunised from any interference by the Executive. Under Article 227 superintendence of courts and tribunals located within the territorial jurisdiction of a High Court is vested in the High Court, which is empowered to lay down the rules and the procedures to be followed by subordinate courts. The independence of the Judiciary and its sole authority to adjudicate and pronounce judgement are laboured because in the ultimate analysis it is only a court which can judge and deliver a decree or a judgement. In criminal matters the police can investigate, the media can report, but only the court can judge.

There is a presumption of innocence till guilt is proved beyond reasonable doubt, which is not only a basic principle of Anglo Saxon Jurisprudence but is also a part of our legal system. That is why under Article 20 of the Constitution no person may be convicted of an offence except for violation of a law. Under Article 21 a person cannot be deprived of life or personal liberty except according to procedure established by law. Under Article 20 (3) a person cannot be compelled to be a witness against himself in any criminal proceedings. Under section 101 of the Indian Evidence Act the burden of proof lies on the person who alleges a fact or accuses a person of having committed a crime. That is the refrain of Chapter VII of the Indian Evidence Act. Under Indian law the accused has to prove nothing, certainly not his innocence. All he has to do is to rebut the admissibility, relevance and credibility of the evidence led against him and if any doubt remains, then it is the accused who will get the benefit of doubt.

The police investigates, determines whether prima facie an offence can be brought home to an accused and then proceeds under Chapter XII Cr.P.C. to prosecute the offender in a competent court. The freedom of speech and expression guaranteed by Article 19 does not supersede the constitutional competence of courts to pronounce judgement, nor does it permit the media to report matters in a way which would suggest that a certain person is in fact either the perpetrator of an offence or is the victim of the actions of a particular offender. Unfortunately the Indian media, in particular some TV channels, are only too eager to act as accusers, inquisitors and judges and pronounce judgement freely on cases which lie within the domain of the Judiciary. One recent example is that of the death of D.K. Ravi, an IAS officer of the Karnataka Cadre of the 2009 batch who was found in his house hanging from a ceiling fan. The Bangalore Police took notice of this and reported the matter to the nearest Executive Magistrate under section 174 Cr.P.C. The media jumped on this, stated that Ravi was a honest officer who as District Magistrate of Kolar took action against illegal sand mining and subsequently, as Joint Commissioner, Commercial Taxes launched a probe against land developers

for tax evasion. The media concluded, without any investigation, that Ravi is a honest officer who has annoyed vested interests and these persons murdered Ravi, whose death was not caused by suicide. The Karnataka Police has been upbraided by the media, whose reports have triggered a popular agitation, for not registering an offence under section 302 IPC and instead having recourse to section 174 Cr.P.C. Unfortunately the agitators and the media persons do not seem to have read section 174 Cr.P.C, which requires the police, on receiving information about a suspicious death, an alleged suicide, an accidental death, etc., to immediately report the matter to the nearest Executive Magistrate, who is then required to conduct an inquest. The Magistrate can record evidence, send the body for post mortem examination and subsequently to direct the course of further action which, if the death appears to be a homicide, could take the form of recording of a FIR and subsequent investigation. The Karnataka Police had no option except to follow this course and I think the police has acted appropriately in D.K. Ravi's case.

Before being judgemental our press must learn not to suddenly make a person a hero and someone else to be a villain. Does the media know enough about D.K. Ravi to decide that here is a honest young officer who has been virtually tortured mentally by vested interests? Did he make any complaint in this behalf to his own superiors? One story emerging is that perhaps Ravi wanted a relationship with someone which was not reciprocated and, therefore, he could have been mentally perturbed. All this will come out in the course of investigation and, therefore, any pre-judgement in this behalf would be totally premature. Unfortunately a media which is becoming increasingly immature in its hunt for sensationalism recognises none of the rules of prudence because it is so much easier to typecast people as heroes and villains in the unending saga which the media loves to create.

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