

Defense Of Insanity: A Loophole In Criminal Justice System

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Abstract

It's a topic that whenever tried to put some light on it, is always hushed and put under the carpet which needs serious attention and discussions by the judiciary of India. In a spiritual country like India, there are some things that are unsaid, untold, and unexplainable which are beyond the scope of science. Science names that as "paranormal activities" but, still there is not enough explanation for such activities. People using such spiritual sentiments, take advantage of this fact and hush their wrongful acts under the carpet of blood in the name of spirituality. Though the word "insanity" as a mental disorder is nowhere recognized in the provisions of the Indian penal code, of 1860, the Indian judiciary and lawmakers have taken various keen steps and measures to be able to highlight the word "unsound mind" and bring it under the scope and shadow of Section 84 of the Indian Penal Code, 1860. The particular section says that people being of unsound mind at the time of the commission of the wrongful act who are unable to differentiate between the right and the wrong would get an advantage of law as they do not possess the right amount of men's rea to commit such actus reus. The judiciary of India and the Indian penal code, of 1860 particularly deal with legal unsoundness of mind and not medical. With the immense growth in science and law, some serious changes and amendments shall be made so that the undue advantage of the particular concept in question wouldn't be made. Our judiciary demands the evidence to be proved beyond a reasonable doubt, which becomes a bit difficult to be proved in some cases as the present matter is concerned.

Keywords

Insanity, Section 84, Indian Penal code, 1860, men's rea, unsound, legal insanity, medical insanity.

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Introduction

Whether it be the stone age, medieval age, modern era, etc., the laws of nature have always ruled the world, and nature treats everyone on the same pedestal, the nature provides us the sense to perceive things and acts as good and bad and therefore it also teaches us that “no bad shall remain unpunished” and similarly “no good shall be punished”. Therefore, an individual can not be punished for a crime he or she is not liable for, which throws light on the topic of discussion and research under this article, the ideology, legislative intent, scope, object, and concept behind section 84 of the Indian penal code, 1860. A person with an “unsound mind” can not differentiate between right and wrong about the acts he or she is performing or about to perform. The well-established principle for the above-mentioned scenario is “*Actus No Facit Reum Nisi Mens Sit Rea*” which in its literal sense means an actus reus can not be committed and punished, without the presence of the men’s rea (the actual presence of the guilty mind to perform the actus reus), to constitute the preparation, motive all into a criminal act.

The insanity defense is primarily used in criminal cases. It is based on the premise that the defendant was seriously mentally ill at the time of the offense and was therefore unable to assess the nature of the offense and distinguish right from wrong behavior and is therefore not legally responsible for the offense. The insanity defense is a legal, not a clinical (medical) concept. This means that merely suffering from a mental disorder is not enough to prove insanity. The defendant bears the burden of proof for the insanity defense for a “preponderance of the evidence” which is similar to a civil proceeding. Legal insanity is difficult to establish, and even more difficult to successfully defend in court. This article mainly focuses on the decisions of the defense against mental illness and the rules applied by Indian courts. Researchers present a model for assessing a defendant’s mental state examination and briefly discuss legal standards and procedures for assessing insanity defense assessments. There is an urgent need to initiate a formal graduate course, and set up forensic psychiatric training centers and clinical services across the country to increase human resources and ensure a fair and expeditious process.

The unsoundness of the mind should be proved in the court beyond a reasonable doubt to establish that the defendant was in a state that he or she was so incompetent to know the consequences of the act they are performing. Section 84 of the Indian penal code, 1860 has derived itself from the concept of “*McNaughton’s Rule*”.

Under this, there was a person who was suffering from an insane delusion where he used to think that for all of his problems prime minister is responsible as a

result of this he murdered his secretary misunderstanding him as the prime minister and shot him into the death.

The Rule prescribed that:

“the accused in order to get exemption from criminal responsibility on the ground of insanity must prove that owing to a defect of reason due to a disease of the mind, he did not know the nature and quality of his act if he did know this, that he did not know that he was doing wrong”. The public outrage after his acquittal prompted the creation of a strict definition of legal insanity which is known as the MC Naughton’s Rules.

There are certain principles which were laid down during this rule are given as follows:

1. If a person is known the fact of what is he or she actually doing and what can it result in, or is into a partial delusion, he or she will be punished
2. An assumption is made that every person is prudent and knows what he or she is doing and knows the consequence of the same as not knowing the law is not an excuse to run.
3. In order to plead the defense of insanity one must be able to establish the same in the court of law and that too beyond a reasonable doubt, the accused/defendant was under such a medical condition or state where one could not distinguish between good and evil.

A person who has sufficient medical knowledge, or is a medical man and is familiar with the disease of insanity cannot be asked to give his opinion because it is for the jury to determine, and decide upon the questions.

Medical Insanity vis-à-vis Legal Insanity

It is evident to notice how medical conditions/ailments are perfectly placed amongst the legal provisions under the Indian Penal Code, 1860 and one can also figure out the relationship between these provisions and principles that how they go hand in hand. However, this does not always mean that the legal provisions will be totally derived or would be wholly dependent upon the medical principles and guidelines, they often differ from each other as law and medical sciences are two completely different fields of study and one cannot be the support system of the other. The same can be seen in the provisions of Section - 84 of the Indian Penal Code, 1860 which grants protection only towards legal insanity and not mental insanity.

On one hand, where medical sciences and their community are of the opinion that the individual himself will be treated as an insane person if he commits a crime

and therefore should be provided with the defense of insanity under the provisions of Section - 84 of the Indian Penal Code, 1860, whereas on the other hand, the legal community possesses a mindset that suggests that the accused shall be treated as an insane person only if the accused is mentally unable to distinguish between good and evil, lawful and unlawful and in that case, only the defense of Insanity shall be granted to an accused under the legal provisions under Section - 84 of the Indian Penal Code, 1860.

The Supreme Court ruled that people with “mental illness” and psychopaths cannot seek immunity from a criminal proceeding, as this is the case is your responsibility to prove insanity at the time the crime was committed. In practice, therefore, not all people with mental illnesses are exempt from criminal liability. A distinction must be made between legal insanity and medical insanity. “Arijit Pasayat and the Bank of Justice, DK Jain, declared while defending the life sentence of a man who chopped off his wife’s head. A psychopath’s mere abnormality of mind, partial delusions, irresistible impulses, or compulsive behavior does not provide immunity from criminal prosecution as provided by the Supreme Court under Section 84 of the Indian Penal Code (IPC).

The Court found that Section 84 of the IPC, which grants immunity from criminal prosecution to persons with “mental illness”, would not be available to a defendant because the onus of proving insanity would be on them, as provided for in Section 105 of the Indian Evidence.

In the case of Hari Singh Gond v. State of Madhya Pradesh,¹ The Supreme Court gave the verdict that Section 84 establishes the judicial review of liability in cases of alleged mental illness. There is no definition of “sanity” in the IPC. However, the courts have mainly treated this expression as synonymous with insanity. But the term madness itself has no precise definition. It’s a term used to describe different degrees of mental disorders.

Every person with mental illness is not ipso facto exempt from criminal liability. A distinction must be made between legal insanity and medical insanity. A court deals with legal insanity, not medical insanity.

In the case of Surendra Mishra v. State of Jharkhand², It was pointed out that ‘every person suffering from mental illness is not ipso facto exempt from criminal liability.’ followed by, in the case of Shrikant Anandrao Bhosale v. State of Maharashtra², the Supreme Court, in finding the offense under Section 84 of the IPC, ruled that “it is the totality of the circumstances considered in the light of the recorded evidence” that would prove that the crime was committed.” Added: “The lack of sanity before and after the the incident is a relevant fact.”

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And not only this, various other interpretations were given regarding the provisions under Section - 84 of the Indian Penal Code, 1860 by the Honourable Supreme court of India while delivering various other landmark judgments, one or few of which are reiterated here for a better understanding upon the point of distinction.

Historical Background of Insanity in India

The law of insanity was followed since time immemorial but has been coded and written into structured form and gained its presence since the 1700s. In the early times, people used to link insanity with god, by saying if any such act is being committed by such a person is a man of god and is innocent, does not know the difference between good and evil, and should not be punished. But, the advantage and benefit of the doubt given to people like that are soon being taken undue advantage of by criminal-minded people to hush their wrong deeds into this concept.

The concept first arose in the case of *R v. Arnold (1724)*³, here, in the present-mentioned case Edward Arnold tried to attempt murder and even wounded Lord Onslow for which he was tried. But, all the circumstantial evidence brought to the court, beyond reasonable doubt proved that he was mentally ill and suffering from a mental disease.

Tracy J. observed in this, *“that even though he has committed the biggest offense still he would be treated as a man of God who was not able to differentiate between good and evil”*.

Here comes another test, famously known as the *“wild beast test”* which states that a person can ask for immunity if she or he claims and proves this in a court of law beyond reasonable doubt that the actus reus committed by them does not allow them to figure out whether it is an act committed for good or not.

Followed by another case that helped in the growth of this concept, is *Hadfield’s case (1800)*⁴, here, the person in question is Hadfield who was released from the army on the ground of insanity and was tried for high treason in attempting

to assassinate the King George III. It was held and proved that Hadfield only pretended to kill the King hence, he is not guilty on the ground of insane delusion from which the accused was suffering.

Lastly, it involves the case of *Bowler's case (1812)*⁵, here the question of whether the accused was within one's control to see whether the act done is of good or evil nature, was put into question whether one is able to control his or her illusions or not.

Abuse of Insanity As A Defence

While considering the present state of affairs, there exists a maximum probability that the Defense of Insanity may be wrongfully used as it is a very strong excuse to avoid criminal prosecution. This might become near to impossible to establish that the accused was not in a correct mental state to understand the character of the offense. The counsel for the accused could use this defense to acquit those who might be guilty of deliberate malpractice.

A very essential role is performed here by the courts of law as they are the ones who should guarantee that an accused with a guilty intent does not acquit himself by taking the support of the defense guaranteed under Section - 84 of the Indian Penal Code, 1860. Nations like Germany, Thailand, Argentina, etc. have already taken the keen yet interesting step of abolishing this defense under the provisions of their respective criminal laws.

But, these days a pattern has been observed, that is, of doing a crime and then using insanity as a measure to protect him/herself from the punishment of the act committed, it is being wrongfully overused these days. The defense would only be given to the accused only if it will be established before the court that the grounds for insanity are established beyond a reasonable doubt, satisfying the ingredients of the insanity and the honorable judges of the court.

Similarly, happened in *Jai Lal v. Delhi Administration*⁶ in this case, the person stabbed a young girl to her death and murdered her, because of this as result he was convicted under section 302 (murder) of the Indian penal code, 1860. Later on, when he was asked questions by the investigating officers in order to not leave room for doubts, he answered all the asked questions very cleverly and intelligently as other normal prudent men have done it. So, through his conduct, it was observed by the court and held that he would not be favored by law as he is able to know about what acts would result in which consequence. It was held in the above-mentioned case, that the person in question would be convicted under section 302 of IPC, 1860.

Role of Psychiatrist

In the interests of justice each and every accused shall be subjected to proper medical examination (physical as well as mental) and in order to obtain the best results a standardized screening method should be adopted.

Unfortunately, in the present scenario, there do not exist any such standardized methods in our nation to date. The fact that despite various efforts no such standardized methods could be set up is in it very shameful for the lawmakers and the judiciary and shall be given priority.

The courts of law take the assistance of Psychiatric doctors/professionals very often to provide the true and best results by showcasing their experience and skills regarding mental health assessments and treatments.

Additionally, the courts of law could also order psychiatric doctors/professionals to issue certain certifications in order to assist the courts to get a better understanding of the mental condition of the person in question. The above-specified certifications are as listed hereunder:

1. Certify the presence or absence of a psychiatric disorder when the accused alleges insanity (the mental state of the accused at the time the alleged crime was committed);
2. Aptitude assessment Cases in which a mental illness disables a person's cognitive, emotional, and behavioral abilities that have a significant impact on the ability to handle the case (the defendant's current situation of mind and competence at the time of sentencing).⁷

Apart from the assistance that shall be provided by the Psychiatric doctor/professional to the courts, he can also suggest the court grant leave for hospitalization of the accused for a better examination of their mental state.

Plea of Insanity

Though it is clearly evident from the provisions laid down under the Indian Penal Code, 1860 that every individual shall be treated equally, however steps have been taken to grant the defense of insanity under Section - 84 of the Indian Penal Code, 1860 to the accused who is not mentally capable of drawing a distinction between lawful and unlawful acts.

The procedural and substantive laws regarding mental insanity clearly iterate that the plea of insanity shall be taken by the accused, his family members, or his legal representative in order to take the defense under Section - 84 of the Indian Penal Code, 1860.

Apart from the role to be played on the part of the accused there also exists an essential role to be played by the Investigating Officer as well. An honest and dutiful Investigating Officer shall always abide by the provisions laid down under the Code of Criminal procedure, 1973 regarding the medical examination of the accused and shall thereby subject the accused to a proper medical examination without any delay to assist in the trial.

Conclusion

The concept of insanity in India is totally based on MC Naughten's rule. The term insanity should be defined in its true sense by making amendments to the Indian penal code, 1860 in order to avoid confusion and controversies arising because of the same. And the scope of the word "legal insanity" and "mental disease" should be given a wider interpretation through judgments and amendments so that they could be understood in their true sense.

As per the facts and judgments stated, reports discussed and research methodology used it can be concluded by the way of this article that the word "mental insanity" or "insanity" shall be given a proper legal definition so that there exists no scope for misinterpretation, misunderstanding or controversy while considering the plea for insanity sought by the accused in his defense.

While sum up, the last but not least suggestion that could be adopted by the lawmakers and the judiciary is to promote and establish more Forensic Psychiatric Training Centers and clinical services throughout the nation because as per the present scenario, there exist only a few informal institutions like these.

And in order to ensure a fair and expeditious trial that is in the interests of justice, Forensic psychiatry shall be given the maximum priority.

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