

# Insanity Defense in Criminal Law in India

Debashree Saikia  
Advocate, Gauhati High Court

## ABSTRACT:

In this Article an attempt has been made to analyse Section 84 Indian Penal Code which deals with the defense of insanity in criminal law. 'Insanity' is a word that does not have any precise definition, however, broadly it refers to the varying degrees of mental disorder. In Section 84 instead of the word 'insanity' the term 'unsoundness of mind' is used to broaden the scope of the word. This Section is mainly based on the famous Rule of M'Naghten evolved by the English Courts and hence in this Article brief mention of the M'Naghtens rule is made.

To provide an accused the benefit of Section 84 it must be proved that at the time of commission of the offence his cognitive faculties were so impaired that he was not capable of knowing the nature of the act.

Section 84 was subject to a number of interpretations in the various decisions of the Courts which throw important light on the various words used in this section. In this Article those case laws are being dealt with.

## I. INTRODUCTION

Insanity is a disorder of the system by which sound and healthy exercise of the mental faculties is impeded or disturbed.<sup>1</sup> The word 'sane' has its roots in the latin word 'sanus' which means healthy (thus insane means not healthy, that is, an unhealthy mind). Insanity is therefore a term used to describe varying degrees of mental disorder.

The defense of insanity in Criminal law has been present since ancient times with tests like wild beast test (developed by the English Courts in the 18<sup>th</sup> century in the case of *R v Arnold*<sup>2</sup>), insane delusion test (developed in *Hadfields case*<sup>3</sup>) and the like. But a definite shape in this direction took place with the famous case of M'Naghten wherein some propositions were laid down which were called 'the M' Naghten Rules'. The important ones were-

1. Every man is presumed to be sane until the contrary is proved.
2. In order for defense of insanity to succeed it must be proved that the accused was under a delusion so as not to know the nature of the act he did and if he knew the act then he did not know the act to be wrong.
3. A medical witness who has not seen the accused before trial should not be asked on evidence whether he thought the accused to be insane.

<sup>1</sup> A Treatise on Insanity-James Cowles Prichard:Philadelphia (1837)

<sup>2</sup> (1724) 16 St. Tr.695

<sup>3</sup> (1800) 27 St. Tr.128

Another important development to be noted while studying the defense of insanity is the Durham's Rule which was evolved in the case of *Durham v United States*<sup>4</sup>. According to this Rule an accused is not criminally responsible if his unlawful act was the product of his mental illness. However the Brawner Rule came about in 1972 which over-turned the Durham's Rule. The Problem with the Durhams Rule was that it gave too much of weightage on the opinion of psychiatric and psychological experts and not enough to jurors.

The Indian law on the defense of insanity is embodied in Section 84 Indian Penal Code (hereinafter referred to as IPC). It is broadly based on the M'Naghtens rules. In Criminal law a crime is an act of commission or omission for which the state provides for punishment. One of the important ingredients of crime is Mens Rea ( that is a guilty mind). Thus the famous maxim in criminal law is –*Actus reus non facit reum nisi mens sit rea*, that is an act is not guilty unless done with a guilty mind. An insane person is not capable of having the requisite mens rea to commit an offense and so law allows insane people to take the benefit of the defense of insanity. It is said that a mad man is best punished by his own madness-“*furiosus furore suo punier*”. It is further said that a mad man has no will-*furiosus nulla voluntas est*. He is therefore, in all ages an object of consideration.

In Section 84 the term used is 'Unsoundness of mind' and not 'insanity' because the scope of the word 'unsoundness of mind' is broader than the word 'insanity'. Any kind of mental derangement is unsoundness of mind, but the same may not be insanity always. However the term 'unsoundness of mind' is not defined in the IPC. But it is equivalent to the old legal term 'non compos mentis' and includes the following category of persons- an idiot, one made non compos by illness, a lunatic or a madman and one who is drunk.

Section 84 IPC reads as under-

*“Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.”*

Thus the essential ingredients of Section 84 are-

### **1. The accused must be of unsoundness of mind at the time of commission of the offence.**

The crucial point of time at which unsoundness of mind must exist is at the time of commission of the offence. This is a question of fact and has to be decided by the court from case to case basis.

In *Sheralli wali mohd v State of Maharashtra*<sup>5</sup> the Apex Court held that to establish that acts done are not offences under Section 84 of the IPC it must be proved clearly, that at the time of commission of the act the accused was incapable of knowing the nature of the act because of unsoundness of mind.

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<sup>4</sup> 214 F. 2d. 862

<sup>5</sup> (1973) 4SCC 79

In *Rattan Lal v State of MP*<sup>6</sup> the court held that whether or not the accused is entitled to the benefit of Section 84 can only be established from the circumstances which preceded, attended and followed the crime.

**2. The accused must not be capable of knowing the nature of the act or that what he was doing was wrong or contrary to law.**

To get the benefit of Section 84 the cognitive faculties of the mind must be so impaired that the accused becomes incapable of knowing the nature of the act or that it was wrong or contrary to law.

In *Queen Empress v K N Shah*<sup>7</sup> the accused was suffering from mental derangement for some time. A person put his son in the company of the accused and on returning he found the accused hiding in the jungle and his son was killed by the accused. The court held that the circumstances attending the murder showed that he was not deprived of the reasoning power to distinguish between right and wrong (e.g. he hid himself in the jungle).

Similarly in the case of *Laxmi v State*<sup>8</sup>, the accused a drug addict was convicted for the murder of his step-brother. He assaulted his step brother with a pharsa and then fled the spot. The court held him guilty and not entitled to the benefit under section 84 as he knew the nature of his act as evident from his fleeing the spot to evade arrest.

## II. JUDICIAL INTERPRETATION OF SECTION 84

### a. Legal and medical insanity

From the various case laws it is evident that the courts have treated the expression 'unsoundness of mind' as equivalent to insanity. In *Bapu @ Gajraj Singh v State of Rajasthan*<sup>9</sup> the Supreme Court held that the term insanity is used to describe various degrees of mental disorder. So every person who is mentally diseased is not ipso facto exempted from criminal liability. A distinction has therefore to be made between legal and medical insanity and what the law is concerned with is legal and not medical insanity. The same view was held by the courts in a number of cases. If there exists sufficient medical grounds to hold that a person is suffering from insanity, it is a case of medical insanity. But for the purpose of Section 84 IPC what the defense must prove is that, at the time of commission of crime the cognitive faculties of the person was impaired which made him incapable of knowing the nature of the act.

In *Surendra Mishra v State of Jharkhand*<sup>10</sup> the court held that the mere fact that the accused is conceited, odd, irascible, had fits of insanity at short intervals are not sufficient to attract the application of Section 84 of IPC .

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<sup>6</sup> AIR 1971 SC 778

<sup>7</sup> (1896) IA 23 CAL 604

<sup>8</sup> AIR 1959 ALL 534

<sup>9</sup> (2007) 8 SCC 66

<sup>10</sup> (2011) 11SCC 495

### **b. Burden of proof**

The burden of proof in case insanity lies on the accused. In the case of *Surendra mishra v State of Jharkhand*<sup>11</sup> it was held that though the burden of proof is on the accused he is not required to prove the same beyond all reasonable doubt but merely satisfy the preponderance of possibilities.

The accused has only to satisfy the preponderance of possibilities after which the onus shifts on the prosecution to establish the inapplicability of the exception.

### **c. Intoxication and insanity**

Involuntary intoxication affords the same degree of protection under Section 85 as is given under Section 84 for insanity. Voluntary drunkenness is an excuse only as regards 'intention' so that it is a complete excuse in crimes requiring the presence of an intention to complete the crime. But voluntary drunkenness is no excuse for a crime which requires the mere presence of 'knowledge' as distinct from 'intention'.

If a person suffers from delirium tremens that results from over-indulgence in drinks and if it produces such a degree of madness in him that he cannot understand the nature of his act, it would give him excuse from criminal liability.

### **d. Irresistible impulse and insanity**

Irresistible impulse is a state of mind where a person loses control not of the awareness of what he is doing but of the will to stop himself from doing it. It affects a person's control over his emotions. The English Law does not consider rejected irresistible impulse as a valid defense and it was rejected in a number of cases like *R v Haynes*<sup>12</sup> and *R v Burton*<sup>13</sup>. There are some difficulties in accepting irresistible impulse defense because if accepted it would take away all incentives towards self control and it is also very difficult to say which impulse is irresistible and which is not. The doctrine of irresistible impulse and impulsive insanity is not a valid defense under Section 84. Impulsive insanity affects the will and emotions and not the cognitive faculties. In the case of *State of Kerala v Ravi*<sup>14</sup> it was held that in Indian law an accused is not exempted from criminal liability on the mere ground of irresistible impulse until it can be shown that it was the result of unsoundness of mind attributable to Section 84.

Similarly in the case of *Ramedin v State of MP*<sup>15</sup> the Court held that mere fact that the murder was committed on a sudden impulse will not be sufficient to accept the plea of insanity under Section 84.

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<sup>11</sup> Supra note 10 at page 4.

<sup>12</sup> (1859) IFF 666

<sup>13</sup> (1863) IFF 838

<sup>14</sup> 1978 KLT 177

<sup>15</sup> 1996 Cr. L.J. 370 8(MP) (DB)

### III. CONCLUSION

Thus from the above discussion we can conclude that Section 84 which is a part of Chapter IV IPC deals with the defense of insanity in criminal law. It is applicable only when the accused proves that because of unsoundness of mind *at the time of* commission of the offence he was not capable of knowing the nature of the act or that it was wrong or contrary to law. In order to see whether the accused was insane at the time of commission of the offence, the state of his mind before and after the commission of the act is relevant. Absence of any motive, absence of secrecy, want of pre-arrangement are relevant factors. However taken alone these factors would not be sufficient. It is also to be noted that what the courts are concerned with is legal insanity and not medical insanity.



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