

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC - NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and

learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

SCOPE OF INTOXICATION UNDER SECTION 85 AND 86 OF INDIAN PENAL CODE, 1860

AUTHORED BY - SHUBHANG IGNATIUS FRANCIS

ABSTRACT

Focusing on Sections 85 and 86 of the Indian Penal Code (IPC), the abstract examines the complicated topography of drunkenness as a defence in the Indian criminal justice system. When someone violates the law while being of unsound mind, Section 85 deals with the situation and releases the offender from criminal responsibility if they were unable to understand the nature or wrongness of their conduct owing to their mental condition. Consistent application is difficult due to the unclear definition of "unsound mind" and the threshold for impairment. The crimes requiring particular knowledge or purpose that are committed by drunk people are covered under Section 86. According to this, the accused is handled as if they never had the essential purpose or knowledge if they are too drunk to develop them, acknowledging the instantaneous transformation of mental states due to intoxication. The abstract examines the difference between involuntary and voluntary drunkenness, highlighting how the law views both differently, creating difficulties in assessing the accused's mental state and degree of responsibility. It further notes that Sections 85 and 86 only apply to crimes requiring particular knowledge or purpose, creating a loophole in circumstances involving acts with generic intent. In conclusion, even if Sections 85 and 86 offer a procedure to handle situations involving mental impairments, there remain important problems. There are a number of issues with this defence, such as the fact that it may only be used in particular offences and that there is no clear definition of what constitutes drunkenness. To achieve the correct balance between accountability and recognising real disability within the Indian criminal justice system, these issues call for additional investigation and potential adjustments.

KEYWORDS: Intoxication, IPC, Mental Capacity, Incapacity

Introduction

Lord Denning defined intoxication as a defence in the case of Attorney General Northern Ireland v Gallagher¹ and looked into the lack of means read due to drinking . which focuses on the legal maxim “Actus nisi mens sit rea non-factum” no wrongful act must be accompanied by a legal punishment if done with no actual intention to commit it. This article is a clear definition of defense available to individuals if committed a crime with actual no knowledge or intention to commit a crime. This article provides a way in which the defense is used in Indian context and the understanding of the mental state of the person involved and the type of crime these persons get involved.

Indian criminal law provides defense available under the Indian Penal Code, 1860 under different levels of mental understanding of a person, which includes intoxication as an available defense. This article provides the analysis of section 84, 85, and 86 of the Indian Penal Code, 1860. The term Insanity and Intoxication are not clearly defined and has a broad understanding which has a varying degree of “intoxication” and “unsoundness of mind”.

Indian law provides various conditions that constitute exceptions under this section; Inability of a person to understand a situation, not being able to know the consequences of a crime, and intoxication done involuntarily. Intoxication can happen when substances like narcotics, marijuana, alcohol, sedatives, etc.

This article expands a view what is the mental state of a person and the consequences when intoxicated and the ability the distinguishing what is right and wrong. This article further provides the role of IPC in determining the liability of such individuals according to different levels of intoxication.

Further this article tries to identify the lacunae in the law that provides defense and also provides a clear understanding of mens rea and actus reus in committing an offense and to what extent the law provides a defense of sections 85 and 86 of the IPC, 1860 and the importance and who actually can avail the defense under it.

¹ Attorney General Northern Ireland v Gallagher [1963] AC 349

CHAPTER 1

Literature Review

1. Pratik Maitra, Critical Analysis of Intoxication as a Defence in IPC 1860, 2 Jus Corpus L.J. 734 (2022).

The abstract have not included the ways of intoxication and in what all ways can a person get intoxicated such as alcohol, marijuana, hallucinogens, sedatives, and other narcotic drugs.

2. Vidhi Raj, Does Insanity Come within the Ambit of Unsoundness of Mind?: An Analysis of Section 84 IPC, 1860, 4 INDIAN J.L. & LEGAL Rsch. 1 (2022-2023).

This paper on mental element did not specify the Mens rea or mental state or purpose at the time of a crime, which the actions that made up the offence. When taken as a whole, they establish the foundation for criminal culpability and ensure accountability for both deeds and mental state. This distinction between intentional and accidental acts, while actus reus of criminal behaviour in determining responsibility. which is essential that these factors interact in order to determine guilt or innocence was not clearly identified in the paper which can be used General defense .

3. Debashree Saikia, Insanity Defense in Criminal Law in India, 1 INT'L J.L. MGMT. & HUMAN. 24 (2018).

The legal distinguishing between deliberate and involuntary drunkenness and treats them differently, even though it acknowledges the momentary transformation of one's mental state brought on by intoxication. Differentiating between these two types of drunkenness and judging the accused's level of responsibility are the difficult tasks. This area of criminal law poses issues on what constitutes drunkenness and how to consistently, fairly, and justly use this defence. As a result, maintaining the proper balance between holding people accountable and identifying real disability is still a difficult task for the judicial system.

4. Kshitij Nair, A Critical Analysis of Defence of Insanity under IPC, 4 INDIAN J.L. & LEGAL Rsch. 1 (2022-2023).

In this paper the framework of criminal law, and the severity of mental illness is

conspicuously lacking. Although the idea of a mental condition is acknowledged by the legal system as a viable defence, it frequently lacks the specificity to take into consideration the different levels of impairment. This omission raises significant concerns regarding the equitable treatment of people with varying degrees of mental illness when determining their criminal responsibility. It is critical to remember that not all instances of mental illness are the same, and the lack of a nuanced approach in the legal system can result in inconsistent results and even unfair treatment. To provide a more equal and just system of justice, it is crucial to close the identification gap between the different levels of mental illness under criminal law.

Research Objective

The research explores the various degrees of insanity and intoxication and seeks to explain how these terms are used within the legal system .Focuses on the maxim

'Actus nisi mens sit rea non-factum' that states that those who conduct crimes do so despite having no real knowledge of or desire to do so are entitled to a defence. This study's main objective is to examine the use of this defence in Indian law, notably Sections 84, 85, and 86 of the Indian Penal Code, 1860, which deal with mental conditions, drunkenness, and criminal responsibility.

The research explores the various degrees of insanity and intoxication and seeks to explain how these terms are used within the legal system .Focuses on the maxim

It will also look at the circumstances that constitute exclusions from criminal accountability, including incapacity to understand a situation, ignorance of the repercussions of a crime, and involuntary drunkenness brought on by drugs such sedatives, alcohol, marijuana, and opioids. The research also aims to pinpoint any legal gaps and restrictions, as well as how they affect the notions of mens rea and actus reus in criminal offences. Additionally, the research will look at the requirements for anyone seeking the protections afforded by Sections 85 and 86 of the IPC, 1860, as well as the usefulness of these provisions in establishing a fair and just judicial system.

Research Methodology

The research explores the various degrees of insanity and intoxication and seeks to explain how these terms are used within the legal system .Focuses on the maxim

A doctrinal method was used in the pursuit of the indicated research objectives to explore the jurisprudential aspect of the subject matter, contextualised within the current legal environment. Examining key case law and perceptive opinions helped to facilitate our study. All of the gathered data underwent rigorous descriptive and analytical examination in the process of writing this essay. The references used for this project came from a wide range of sources, including books by renowned legal academics, trustworthy periodicals, perceptive blogs, and research papers.

Research Questions

1. What are the various legal statutes that cover crimes committed intoxicated individuals ?
2. Can a lack of mens rea be attributed to intoxication?
3. What factors are taken into account while determining whether drunkenness is voluntary or involuntary?

CHAPTER 2

JUDICIAL INTERPRETATION

Interpretation of section 84 IPC, 1860

Legal precedents show that the phrase "unsoundness of mind" has constantly been used to refer to insanity in legal discourse. In a notable Supreme Court decision, *Bapum Raj Singh v. State of Rajasthan*², it was emphasised that the term "insanity" spans a range of mental diseases, suggesting that not everyone with a mental illness is automatically exempt from criminal responsibility. Consequently, a key difference between medical and legal insanity is made. The legal system has repeatedly argued that the legal definition of insanity, rather than the medical one, is what matters most to the law. Several legal judgements have also reaffirmed this point of view. Medical insanity is the term used to describe situations where there are strong medical

² *Bapu Gajraj Singh vs State Of Rajasthan* on 4 June, 2007

indicators that a person has a mental illness. However, for the specific intent of Section 84 of the Indian Penal Code (IPC), the burden of proof shifts to the defence to show that the offender's cognitive abilities were compromised to the point that they prevented them from understanding the nature of their actions at the time of the offence.

The Indian Penal Code (IPC) Section 84's eligibility requirements were clarified by the court in the Surendra Mishra v. State of Jharkhand³ lawsuit. The court ruled that some traits, such as arrogance, strange behaviour, or sporadic bouts of insanity, do not, by themselves, provide sufficient grounds to invoke Section 84 of the IPC's provisions. This judgement serves as an authoritative interpretation of the legislation, highlighting the need for a more thorough and precise proof of cognitive impairment in order to support the use of Section 84 within the context of the IPC.

Burden of proof

The burden of proof in cases of insanity rests with the accused. As per Surendra Mishra v. State of Jharkhand⁴, the court decision made it clear that while the burden of proof is with the accused, they are not required to prove their case beyond a reasonable doubt. Instead, the accused just needs to show that their case has the advantage of the doubt. This legal view emphasises the significance of a more balanced approach in deciding the burden of proof in situations where insanity is invoked as a defence, ensuring that the accused is not unfairly burdened with an unreasonably high evidentiary standard.

Differences between Insanity and Intoxication

The differences between intoxication and insanity under Section 84 of the legislation grants cases of insanity the same level of protection that Section 85 does in cases of involuntary drunkenness. It is significant to note that voluntary intoxication largely functions as a justification with regard to the concept of "intention." In crimes that need the existence of purpose in order to be committed, it thus serves as a full defence. Instances when a crime just needs "knowledge" as opposed to "intention," however, do not relieve a person from responsibility due to voluntary intoxication.

³ Surendra Mishra vs State Of Jharkhand on 6 January, 2011,

⁴ Supra

Irresistible impulse" and "insanity"

The term "irresistible impulse" describes a mental state in which a person loses control over both their knowledge of their actions and their will to stop them. It largely has an impact on someone's ability to control their emotions. It is important to emphasise that the defence of overpowering impulse is not accepted as acceptable under English law. Several instances, notably R v. Haynes and R v. Burton⁵, have upheld this point of view. The unwillingness to embrace the irresistible impulse defence stems from the worry that acknowledging it could make it harder for people to practise self-control. Determining whether urges are indeed irresistible also presents significant challenges.

It is important to stress that Section 84 of the Indian Penal Code (IPC) does not recognise impulsive insanity or the notion of uncontrollable impulse as legitimate defences. In contrast to cognitive abilities, impulsive insanity largely impacts a person's will and emotions. An important legal decision in the case of State of Kerala v. Ravi⁶ established that under Indian law, an accused cannot be exempted from criminal liability solely on the basis of an irresistible impulse unless it can be proven that such impulse was the result of mental impairment caused by Section 84 of the IPC. This stance emphasises how the defence of irrepressible impulse is interpreted legally inside the Indian legal system and how it applies to criminal situations.

The Court issued a major ruling in the case of Ramedin v. State of Madhya Pradesh⁷ that made it clear that a claim of insanity under Section 84 of the Indian Penal Code cannot be supported by just saying that a murder was done on an uncontrollable whim. This decision emphasises the legal principle that the insanity defence should not be used in criminal proceedings simply because the defendant acted impulsively without being in a state of unsound mind as defined in Section 84. It emphasises the requirement for a stronger, more concrete link between the accused's mental condition and their acts when determining whether the insanity defence is appropriate.

⁵ R v. Haynes and R v. Burton (1863) IFF 838

⁶ State of Kerala v Ravi on 02 November 1977

⁷ Ramanand Ramnath vs The State Of Madhya Pradesh on 10 April, 1996,

Conclusion

In conclusion, Section 84 of the Indian Penal Code (IPC) deals with legal insanity, distinct from medical insanity, and encompasses various mental illnesses. It is crucial to emphasize that having a mental condition does not automatically absolve one from criminal responsibility, as the burden of proof lies with the accused to demonstrate their cognitive impairment. The legal precedent set by cases like *Bapum Raj Singh v. State of Rajasthan* and *Surendra Mishra v. State of Jharkhand* ensures a fair and balanced assessment of the burden of proof in insanity cases.

Moreover, the distinction between insanity and drunkenness, covered under Sections 84 and 85 of the IPC, grants similar levels of legal protection. Voluntary drunkenness primarily acts as a defense concerning the concept of "intention" in criminal cases. However, it does not necessarily absolve one of culpability in cases that require only "knowledge."

The concept of "irresistible impulse," recognized in English law, is not accepted under Indian law, as shown in cases like *R v. Haynes*, *R v. Burton*, *State of Kerala v. Ravi*, and *Ramedin v. State of Madhya Pradesh*. In Indian law, an accused cannot be released from criminal responsibility solely based on an irresistible impulse unless it can be linked to a mental impairment as defined in Section 84. This legal stance underscores the need for a strong connection between the accused's mental state and their actions for mounting an insanity defense. Overall, these legal principles ensure a balanced and just approach to cases involving mental illness and criminal responsibility in the Indian legal system.

CHAPTER 3

Mental Capacity and intoxication as a defense

MEN REAS PART IN THE DEFENSE AGAINST INTOXICATION

Criminal law provides a limited defence for intoxication, whether it was deliberate or not. The level of drunkenness may affect a person's capacity to develop the necessary Mens Rea, which is the mental state or purpose required for the crime, when they commit a crime while under the influence of alcohol or drugs.

In general, the defence of involuntary intoxication is not viable if the accused successfully forms

the required mens rea while committing the offence. In the case of *R v. Kingston*⁸, it was established that even if an accused person acts in a way that they would not have done when sober as long as the mental element necessary for the offence is shown, they can still be held guilty. This case serves as an example of this concept.

In the case of *D.P.P v. Beard*⁹, the defendant claimed that his drunkenness constituted a valid defence to charges of raping and killing a thirteen-year-old girl. According to the court's decision, an intoxication defence can only be utilised if the accused was unable to create the mens rea.

Similar to this, the court emphasised the requirement for strong proof of drunkenness and the lack of mens rea in the case of *Soolkal and Francis Mansingh v. The State*¹⁰. An accused individual may contend that they lacked the required mens rea when a crime is claimed to have been committed with specific purpose because they were inebriated. But it's important to understand that even an inebriated intention is still seen as an intention. In the case of *R v. Sheehan and Moore*¹¹, two defendants were accused of killing a man by dousing him in petrol and lighting him ablaze. This legal theory is demonstrated in this case.

In matters requiring specific purpose, the burden of proof rests with the prosecution to show that the defendant lacked the necessary mens rea at the moment the crime was committed. Even with the impact of alcohol into account, the prosecution is responsible with determining the accused's real purpose. On the other hand, in cases involving fundamental purpose, the sheer fact that someone is drunk out of their own free will is sufficient proof that the required mens rea exists.

Intoxication as a defense section 85 and 86 IPC

Involuntary drunkenness is defined legally under Section 85 of the Indian Penal Code of 1860. It stipulates that an act carried out by someone whose drunkenness was brought on without their will shall not be regarded as an offence. This defence is based on the claim that the offender was intoxicated and hence unable to comprehend the nature of their conduct or that their actions were illegal or morally repugnant. It is essential that the drug or component that caused the

⁸ *R v Kingston* [1994] 3 WLR 519

⁹ *D.P.P v Beard* [1920] AC 479

¹⁰ *2 Soolkal & Francis Mansingh v The State (Trinidad And Tobago)* [1999] UKPC 37

¹¹ *R v Sheehan and Moore* [1975] 60 Cr App R 308

intoxication was given to the individual against their will or against their knowledge in order to qualify for this defence.

In order to successfully employ this defence, the accused must demonstrate that a set of precise requirements, or the "ingredients for Section 85," have been satisfied. These standards comprise: There should be a person who can be identified who carried out the deed. It must be impossible for the person in issue to understand the nature of the act. The individual's drunkenness must be the primary cause of this lapse in judgement. It was wrong for the substance or component to have been administered to the person without their will or without their knowledge.

According to Section 86 of the Indian Penal Code of 1860, crimes requiring a certain level of purpose or knowledge can be committed by someone who is voluntarily intoxicated. A person is judged to have the same amount of knowledge as they would have had they been sober if they freely engage in an activity while inebriated, unless the intoxicant was delivered to them without their knowledge or against their choice. It is noteworthy that this section distinguishes between knowledge and intent.

This clause provides a legal presumption that, when sober, an individual would have had the essential information but not necessarily the purpose in circumstances involving offences where a specific intent is required. It is assumed that a reasonable person would have desired those results if they were aware of the anticipated outcomes of their conduct. However, when a person is drunk, the connection between knowledge and intent is broken. As a result, this part of the law demands that people can be held accountable even if they have the sufficient information for the offence but lack the necessary intent.

This legal rule specifies how to handle people who get intoxicated of their own free will and then take activities that may be crimes, particularly where purpose or knowledge is a key component of the crime. Instead than establishing a defence, it offers a framework for figuring out guilt in such circumstances.

In *Venkappa Kannappa Chowdari v. State of Karnataka*¹², the defendant coerced his wife into taking money out of an account she had been given as compensation for the terrible loss of their

¹² *Venkappa Kannappa Chowdari vs State Of Karnataka* on 29 June, 1995,

kid in a vehicle accident. She refused to comply with this demand, which infuriated the accused, who then committed a heinous deed by burning his wife on fire. Sadly, the victim's injuries turned out to be lethal, resulting in her untimely death. The defendant tried to use drunkenness as a defence against him throughout the court case. However, because the drunkenness in question was voluntary, the court rejected his petition. Because people are usually held accountable for their conduct even when they are willingly inebriated, this case serves as an example of how voluntary intoxication does not frequently constitute a legitimate defence in criminal proceedings.

In all, if someone can anticipate the results of their acts, the defence of drunkenness is not valid. The *Basudev v. State of Pepsu*¹³ case, in which the accused, a former military officer, and the dead attended a village wedding, is a prominent example of how this concept is used. The dead refused to give up a chair that the accused wanted to sit on, which led to a fight. Intoxicated, the accused pulled out his handgun and shot the young man, who tragically died as a result of the serious wounds he received. The defendant claimed during the trial that his inebriation prevented him from understanding the effects of his conduct. The offender had lived in the same area and was allowed to stroll, thus he might have fairly predicted the results of his actions, the court emphasised in rejecting this defence. He was therefore adjudged to have committed murder.

Since people participate in what is viewed as risky behaviour by choosing to consume alcohol while being aware of the hazards, voluntary drunkenness is not accepted as a defence. It is important to note that Section 86 of the Indian Penal Code (IPC) can only be used as a defence for offences done with the purpose to cause harm to others and not for offences committed with only awareness of the repercussions. The legal ramifications of actions motivated by various mental states are shaped by this section's clear difference between the two.

Misuse of intoxication as a general defense

There has been a great deal of discussion and criticism around the legal responsibility of those who commit crimes when impaired by intoxicants. The debate over whether to judge the crime from the community's objective viewpoint or the offender's subjective one is at the heart of this discussion. In addition, moral conundrums arise, such as whether sympathy should be shown to

¹³ *Basdev vs The State Of Pepsu* on 17 April, 1956

a drunken offender and, if so, if it should come at the price of the innocent victim.

Crimes that are dangerous and damaging are frequently committed when people who are impaired by drugs or alcohol are involved in incidents. It is important to stress that it is controversial to use drunkenness as a justification for illegal behaviour in order to avoid accountability while blaming it completely on alcohol or other drugs.

When the criminal was inebriated when the crime was committed, the legal system permits the prospect of a lesser sentence. This idea is demonstrated in the *Rex v. Pearson*¹⁴ case, in which the accused brutally murdered his wife with a sharp weapon. He had no other explanation for his behaviour but that he was drunk. This conveys a crucial ethical and legal dilemma: to what degree does intoxication lessen a person's responsibility for unlawful behavior? The legal system and society at large are still trying to figure out how to balance the need to acknowledge the role of intoxication in criminal behaviour with the need to hold people accountable, especially when those actions cause harm and suffering to innocent victims.

Recent law changes mean that people will no longer be able to use intoxication as a defence in situations where the crime committed is extremely severe and when the natural consequences of the acts may be fairly predicted. This idea was emphasised in the *Babu Alias Mubarik Hussain v. State of Rajasthan*¹⁵ case. Although it was determined that the accused's conduct were affected by alcohol, the court found that this did not excuse him from the charge that he was unaware of the likely repercussions of his violent behaviour. Due to the heinousness of the alleged deed, the court thus dismissed his defence.

It is considered that the current intoxication defence clause has fundamental flaws. It does not clearly distinguish between offences with a fundamental intent and those with a special aim in terms of mens rea, the mental component of a crime. It is not acceptable to use intoxication as a defence since it does not completely eliminate mens rea. merely crimes when the mental component is completely eliminated should qualify for this defence; crimes where merely inhibitions are lessened should not.

¹⁴ *Rex v Pearson* [1983] 152 [CLR] 254

¹⁵ *Bablu @ Mubarik Hussain A ... vs State Of Rajasthan A Respondent* on 12 December, 2006,

Intoxication brought on by the deliberate ingestion of alcohol or drugs may be regarded as voluntary if the user is fully aware of the substances' potential for intoxication. However, if the accused person's intoxication results from a scenario that increases their sensitivity to the drug's effects and is unbeknownst to them, it will not be considered voluntary. These variables demonstrate the dynamic character of the law's approach to using drunkenness as a defence, which aims to achieve a balance between personal accountability and mitigating circumstances.

Intoxication and Foreseeability test

An individual's liability for a specific offence is determined using the principle of foreseeability. The possibility of losing control when using drugs or alcohol is commonly acknowledged. A person acting recklessly and negligently while fully aware of the possibility of losing control is someone who purposefully consumes such substances while knowing the risks. Therefore, using drugs that are known to have certain effects exposes a person to the possible liability of intentional usage. One might have avoided drinking or using drugs, if appropriate, if they did not want to lose control.

It's crucial to keep in mind that the loss of control is a gradual process that doesn't always come without symptoms. The topic gets more divisive when it comes to incidents of unintended drunkenness, though. The core of the problem rests in the person's intention, their conscious decision to act in a way that might result in losing control, as well as their understanding of the likely repercussions. This calls into question whether people should be held accountable for decisions made knowing full well the consequences of their conduct. It will be challenging for those who continue to drink a drink that has been tainted while showing signs of drunkenness to use the intoxication defence. This is due to the fact that it is reasonable to assume that they are aware of the risks and outcomes that may result. The intoxication defence will not apply if a person stops drinking after noticing the symptoms and realising that their drink contains an unidentified drug and any subsequent activities that endanger both themselves and others will not be covered by this defence.

The statutory basis for this is based on the idea that the law prioritises the preservation of the public interest over the interests of a person who, via deliberate and careless behaviour, jeopardises both the safety and well-being of the public and their own. This emphasises the value of acting responsibly and sensibly, as well as the potential repercussions of someone

purposefully putting himself and others in danger.

Conclusion and suggestion

In fact, one may say that violence in the community is significantly influenced by intoxication. A person is either declared innocent or guilty in the area of criminal law depending on the finding of purpose, which is a fundamental component. Therefore, it is crucial to think about whether being intoxicated may be associated with having poor mental capacity. If this were the case, it may seriously harm society because of the possibility that wrongdoers would use drunkenness as a defence against punishment. In order to fully understand this complicated topic, it is necessary to examine it through the prism of many case laws, commentary, and elements like forensic toxicology, circumstantial evidence, the accused's intent, and other mitigating circumstances.

The judge has a responsibility to implement Sections 85 and 86 of the legislation carefully, taking into account all pertinent factors. In situations involving drunkenness, determining guilt should be a complex and informed process that takes into consideration the whole range of evidence and circumstances in order to guarantee that justice is done and the interests of society are properly preserved.

The general exceptions of the Indian Penal Code do not provide a particularly strong defence for drunkenness. It does not exonerate the accused of guilt even if it is mentioned; at most, it can be used as a mitigating element in sentence. There may be a solid foundation for defence in circumstances of involuntary intoxication, as opposed to cases where the intoxicant was consumed voluntarily. This is so because mens rea, or the mental condition of being inebriated, might still exist. Voluntary drunkenness does not absolve the accused of culpability; rather, it suggests that the accused is assumed to be as conscious as if they were sober.

To determine if there is legal responsibility and whether the results of one's acts were predictable, the foreseeability test is frequently used. Even in circumstances of involuntary drunkenness, people may be held accountable, especially if the offence in question is extremely serious.

The defence of drunkenness is complex and difficult in practise, even if it may appear simple in principle, it becomes clear when Sections 85 and 86 of the Indian Penal Code are taken into

account combined. The contrast between general intent and specific purpose offences relating to drunkenness should be made apparent in the provision to improve legal clarity. Making this distinction would make it easier to use this defence. Any change in this area should work to dispel the myth that illegal behaviour may be excused on the basis of drunkenness. Additionally, it should make sure that the public's interests are protected from those who are inebriated and do careless or rash acts.

BIBIOGRAPHY

Case laws

- 1 Attorney General Northern Ireland v Gallagher [1963] AC 349
- 2 Bapu Gajraj Singh vs State Of Rajasthan on 4 June, 2007
- 3 Surendra Mishra vs State Of Jharkhand on 6 January, 2011,
- 4 R v. Haynes and R v. Burton (1863) IFF 838
- 5 State of Kerala v Ravi on 02 November 1977
- 6 Ramanand Ramnath vs The State Of Madhya Pradesh on 10 April, 1996,
- 7 R v Kingston [1994] 3 WLR 519
- 8 D.P.P v Beard [1920] AC 479
- 9 Soolkal & Francis Mansingh v The State (Trinidad And Tobago) [1999] UKPC 37
- 10 R v Sheehan and Moore [1975] 60 Cr App R 308
- 11 Venkappa Kannappa Chowdari vs State Of Karnataka on 29 June, 1995,
- 12 Basdev vs The State Of Pepsu on 17 April, 1956
- 13 Rex v Pearson [1983] 152 [CLR] 254
- 14 Bablu @ Mubarik Hussain ã ... vs State Of Rajasthan ã Respondent on 12 December, 2006,

Books referred

- 1 PSA Pillai's Criminal Law
- 2 Ratan law & Dhirajlal, The Law of Indian Evidence

Referred Articles

- 1 Pratik Maitra, Critical Analysis of Intoxication as a Defence in IPC 1860, 2 Jus Corpus L.J. 734 (2022).

- 2 Vidhi Raj, Does Insanity Come within the Ambit of Unsoundness of Mind?: An Analysis of Section 84 IPC, 1860, 4 INDIAN J.L. & LEGAL Rsch. 1 (2022-2023).
- 3 Debashree Saikia, Insanity Defense in Criminal Law in India, 1 INT'L J.L. MGMT. & HUMAN. 24 (2018).
- 4 Kshitij Nair, A Critical Analysis of Defence of Insanity under IPC, 4 INDIAN J.L. & LEGAL Rsch. 1 (2022-2023).

Websites

1. <https://www.scconline.com/>
2. <https://indiankanoon.org/>

