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“A Critical Analysis Into The Existing Provision For Insanity As A Defence Under Section 84 of IPC, 1860”

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CLAIM STATEMENT

It is contended that there is an ambiguity in imposition of liability upto a certain extent on crimes committed by the people of “unsound mind” under section 84 of the IPC, 1860 which amounts to the provision being exploited to escape their criminal liability.

RESEARCH QUESTION

To what extent is the Insanity Defence under section 84 of the Indian Penal Code, 1860 being exploited to escape criminal liability.

RESEARCH PROBLEM

It is contended that while the best interest of the people of unsound mind needs to be protected by the state as they are believed to be incapable of knowing the nature of the work they commit, the ambiguity in imposition of liability upto a certain extent of crimes committed by the people of unsound mind under section 84 of the IPC, 1860 amounts to the provision being exploited to escape their criminal liability.

RESEARCH OBJECTIVES

- The present study aims to analyse the extent to which the provision of law under section 84 of the IPC, 1860 is being misused to escape criminal liability.
- To analyse the imposition of liability for crimes committed by the people of unsound mind under section 84 of the IPC, 1860.

- The paper seeks to look for solutions to prevent the provision under section 84 of the IPC, 1860 being exploited by the criminals.

INTRODUCTION

The present study aims at analysing the validity of imposition of liability upto a certain extent on crimes committed by the people of “unsound mind” under section 84 of the IPC, 1860. To fulfil the objectives of this research paper, only the published data is being analysed by the researcher.

This Research paper uses the Doctrinal method of research as data is collected from existing primary and secondary sources available. Case laws, Legislature, Journals, Articles, etc. are primary sources of research whereas Data, Newsletters, etc. are secondary sources.

The paper involves both qualitative and quantitative research methodology approach thus making it more scientific and less opinionated. It is qualitative as it involves Case laws, Journals, Articles and quantitative as it involves secondary use of numerical data. The approach to qualitative data is grounded and phenomenological and focus on thematic and textual analysis of the same, thus leading to flexibility and generation of new ideas.

ANALYSIS OF THE PROVISION OF INSANITY DEFENCE

The Indian Penal Code, 1860 under its section 84 states about the act committed by a person of unsound mind which says, “Nothing is an offense 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 the law.”¹

The "intention" of committing the crime is a critical factor for determining the offense's potential punishment. The basics on which the offenders might be demonstrated to have been insane when performing the unlawful conduct are outlined in Section 84 of the Indian Penal Code, which deals with criminals of unsound mind. The conduct must have been performed while the individual's mind was unsound and he or she should have been incapable of recognizing and understanding the character of the act and the legality of the act, which

¹ Section 84 of the Indian Penal Code, 1860

indicates the condition in which a person must be in order to take use of this provision.

In India, the Insane Criminals are not held criminally liable and the illegal act that have been committed is not seen as an offense under section 84 of the Indian Penal Code. This provision is used by the cunning criminals in today's world to get out of their liability by proving that they are insane because a person who has already committed a crime will not back down from committing another one to escape from the first one, he/she has committed. Therefore, he/she will not think twice before committing perjury and providing fake evidences before the court under oath.

STATISTICAL DATA

A total of 102 cases were evaluated for determining the most common crimes that the people committed in a state of unsound mind. The data was collected from cases brought under 13 out of the 23 High Courts in India which are Kerala (31), Himanchal Pradesh (20), Madras (15), Rajasthan (9), Karnataka (9), Madhya Pradesh (7), Delhi (5), Punjab (3), Chhattisgarh (2), Andhra Pradesh (1).²

The most common crimes for which the Insanity Defense was used in Indian High Courts in the past 10 years: -

<u>NATURE OF CRIME</u>	<u>NUMBER OF CASES (%)</u>
Murder	78 (76.47)
Rape	5 (4.90)
Attempt To Murder	4 (3.92)
Murder and Attempted Suicide	2 (1.96)
Culpable Homicide not amounting to Murder	2 (1.96)

² Ramamurthy P, Chathoth V, Thilakan P. How does India Decide Insanity Pleas? A Review of High Court Judgments in the Past Decade. Indian J Psychol Med. 2019 Mar-Apr;41(2):150-154. doi: 10.4103/IJPSYM.IJPSYM_373_18. PMID: 30983663; PMCID: PMC6436411.

Voluntarily causing grievous hurt using dangerous weapons or means	2 (1.96)
Assault on a woman with intent to outrage her modesty	1 (0.98)
House-trespass; Criminal intimidation	1 (0.98)
Mischief by fire with intent to destroy house; Obscene acts in public	1 (0.98)
Rash driving on a public way; Causing hurt by act endangering personal safety of others	1 (0.98)
Impersonation and forgery; Cheating	1 (0.98)
Cheating and dishonestly inducing delivery of property	1 (0.98)
Falsification of records; Misappropriation of funds	1 (0.98)
Bribing the presiding officer of the court	1 (0.98)
Cheque dishonoured due to an insufficiency of funds	1 (0.98)
Total Number of Cases	102 (100)

Murder was the crime for which the Insanity Defence was raised the most times amounting to 78 out of the total 102 cases. 92 cases of the 102 were appeals against conviction to the High courts by the accused who were aggrieved by the decision of the Sessions court. The remaining 10 cases were appeals against acquittal by the State challenging the order of the Sessions court.³

The Relationship of the accused to the victim also plays a major role in understanding the reason for the crime committed. Out of the 102 cases, in only 4 cases the accused was a female and in the rest 98, it was a male.

³ SUPRA NOTE 1

<u>RELATIONSHIP OF VICTIM TO ACCUSED</u>	<u>NUMBER OF CASES (%)</u>
Spouse	22 (21.57)
Parent	13 (12.75)
Child	6 (5.88)
Sibling	3 (2.94)
Second-degree Relative	14 (13.73)
Employer/Superior	2 (1.96)
No Relation	34 (33.33)
Not Applicable	4 (3.92)
Details Not Available	4 (3.92)
Total Number of Cases	102 (100)

The Psychiatrist's diagnosis is also a factor which determines the extent of the unsoundness of mind of the accused so that the court can determine whether the accused is eligible to avail the benefit under section 84 of the IPC, 1860.⁴

<u>DIAGNOSIS</u>	<u>NUMBER OF CASES (%)</u>
Schizophrenia and other Psychotic illnesses	43 (42.16)
Bipolar Disorder/Mania	7 (6.86)

⁴ SUPRA NOTE 1

Depression	7 (6.86)
Organic Psychosis	2 (1.96)
Epilepsy	2 (1.96)
No Mental Illness	6 (5.88)
Not Obtained	26 (25.49)
Not Available	9 (8.82)
Total Number of Cases	102 (100)

The 67 cases in which the Psychiatrist testified as an expert witness, in 32 of them the patient was treated by the Psychiatrist prior to the crime. In 41 of them, the patient started going to the Psychiatrist only after the crime was committed.

There are several factors that determined the success of the plea of Insanity Defence before the Indian High Courts. It was seen that the order of conviction or acquittal which was passed by the lower courts were mostly upheld by the High Courts.⁵

<u>FACTORS</u> <u>DETERMING THE</u> <u>DECISION OF</u> <u>HIGH COURTS</u>	<u>CONVICTED</u> <u>(INSANITY</u> <u>PLEA</u> <u>REJECTED)</u>	<u>ACQUITTED</u> <u>(INSANITY</u> <u>PLEA</u> <u>ACCEPTED)</u>	<u>TOTAL</u>
Appeal Against Conviction	74	11	85
Appeal Against Acquittal	2	7	9
Documentary evidence available to prove mental illness prior to the crime	26	11	37

⁵ SUPRA NOTE 1

No documentary evidence to prove mental illness prior to the crime	49	5	54
No documentary evidence to prove mental illness prior to the crime	40	16	56
No mental illness according to psychiatrist opinion	6	0	6
Psychiatrist opinion not obtained	24	0	24

JUDGEMENTS

Devidas Loka Rathod v. State of Maharashtra⁶

The appellant urged that in the absence of any mensrea, conviction was unsustainable. It was next contended that the evidence with regard to the unsoundness of mind has not been wrongly rejected as insufficient. The respondent submitted that the appellant had failed to establish a case for unsoundness of mind. The conduct of the appellant in making repeated assaults, running away from the place of occurrence is sufficient to establish the commission of the offence knowingly by him. The Court held that the appellant had been able to create sufficient doubt that he is entitled to the benefit of the exception under Section 84 IPC because of his medical condition at the time of occurrence. The prosecution cannot be said to have established its case beyond all reasonable doubt. The appellant was therefore entitled to the benefit of doubt and consequent acquittal and he was directed to be released from custody.

Dahyabhai Chhaganbhai Thakkar v. State of Gujarat⁷

The appellant contended that the evidence of the witnesses should have held that the accused had discharged the burden of proof that at the time he killed his wife he was incapable of knowing the nature of his act. The respondent argued that the motive for the appellant to kill

⁶ 2014 Bom 4878

⁷ 1964 AIR 1563

his wife, as he did not like her, was proved. He further contended that even if the appellant had a history of insanity, the witnesses indicated that he was sane at the time of occurrence. The court held that it has not been established that the accused was insane; nor the evidence is sufficient even to throw a reasonable doubt in the mind that the act might have been committed when the accused was in a fit of insanity. Therefore, the court dismissed the appeal.

Baswantrao Bajirao vs Emperor⁸

The accused stated that the opinion of an expert is relevant where a question of science is involved. In cases involving a question of insanity an expert in mental diseases is generally examined as a witness. The respondent contended that the evidence of Dr. Boy is unacceptable because it is based upon insufficient data and because he did not keep the accused under his observation. The court held that the accused was legally sane, and therefore his conviction is correct. The conduct of the accused does have some features of abnormality and that he was acting under some form of mild insanity while committing the two crimes, still he cannot be shown any leniency because the law does not allow so.

Hari Singh Gond v. State of Madhya Pradesh⁹

The appellant argued that the unusual behaviour of the accused has been stated by even the eye witnesses and, therefore, the courts below were not justified in rejecting the plea of protection under Section 84 of the IPC. The prosecution on the other hand submitted that section 84 has no relevance or application as the section 84 of the IPC does not cover the medical insanity. The court held that it would be dangerous to admit the defence of insanity merely from the character of crime. Mere absence of motive for a crime cannot be considered a proof of legal insanity merely because the act is atrocious. Therefore, section 84 of IPC has no application.

Kamala Bhuniya v. West Bengal State¹⁰

The appellant contended that the main point for consideration would be whether at the time of commission of the offence the person was suffering from mental insanity or not and not before or after that. He also argued that considering the relationship between the appellant and the victim, there was no motive behind the murder and even if there is no sufficient proof

⁸ 1949 CriLJ 181

⁹ 2008 16 SCC 109

¹⁰ 2006 SCC OnLine Cal 6

regarding mental insanity of the appellant, she is entitled to get benefit of doubt. The respondent, contended that the appellant did not take the plea of insanity in the initial stages and the witnesses claimed that the appellant had no reaction after commission of the murder so, no conclusion can be drawn that the appellant was insane at that time. The court held that the appellant at the time of commission of the offence was insane and incapable of appreciating the consequence of her act. Accordingly, she was entitled to get the benefit of section 84 of the IPC.

Conclusion

In India, the Insane Criminals are not held criminally liable and the illegal act that have been committed is not seen as an offense under section 84 of the Indian Penal Code. This provision is used by the cunning criminals in today's world to get out of their liability by proving that they are insane because a person who has already committed a crime will not back down from committing another one to escape from the first one, he/she has committed. Therefore, he/she will not think twice before committing perjury and providing fake evidences before the court under oath. The laws of the land must address any illegal activity that is being committed by the people and hence new reforms in the Indian Penal Code needs to be brought down to prevent the mentally-fit criminals to be able to escape from their punishment by the Insanity Defense. The law is open to misuse by criminals. The researcher through this research paper has tried to understand whether this law made years ago is serving any good at the present time or have merely become a loophole in the criminal justice system.