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TESTS OF INSANITY*

Introduction

Section 84 of Indian Penal Code defines the "act of a person of unsound mind". According to this Section, 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.¹ The section embodies the principles laid down in M'Naghten Rules.

- Every person is presumed to be normal and sane and can be made responsible for his crimes until he proved to be insane.
- To take the defence of insanity, it must be proved that at the time of committing the crime the person was so insane that he did not understand the nature of his acts and the consequences of the crime committed, if even though he knew it he could not be able to resist his tempt to commit that crime and he does not know that it is wrong.
- To prove wrongfulness, then there is a need to distinguish between right and wrong in relation to particular act committed.
- If the medical witness has not seen the accused before the trial then he cannot be asked for his opinion that the evidence he thinks that the accused was insane.
- When the crime is committed by a person due to delusions caused because of surroundings facts which are concealed from him the true nature of acts he is doing, he would be made responsible to the same extent as he would have been on the facts as he imagined them to be.

A mentally ill person is not punished for his crime as he is not at the stage of draw a difference between right or wrong as he is the committing the act with ill will, knowledge, intention, intelligence. Burden of proof is on the accused to prove his innocence and if the case cannot be proved then the accused will be acquitted. It mainly depends upon the circumstances of the case and nature of the offence that how a accused should be treated, whether he should be sent to prison, safe custody, or hospital or any other place or should be acquitted. As a insane person should not be punished because punishment is already given to him by nature.

THE FOUR MAIN TYPES OF INSANITY TEST ARE:

1. M'Naghten Rule
2. The irresistible Impulse test
3. The Model Penal Code test
4. Durham Rule

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¹ Indian Penal code, 1860, § 84.

Model Penal Code Test

This test was developed to improve the problems of the Durham Rule and to soften the M'Naghten Rule. It was developed in 1962 and under this test of insanity "Under this test, the defendant is not responsible for criminal conduct where he, as a result of mental disease or defect, did not possess "substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law."² The Model Penal Code "turning responsibility to the jury", it is the test which leaves a number of responsibility up to the jury to determine the testimony of experts and the facts of the case.

MPC rule says that whether defendants are able to fully understand the criminality of their conduct or able to conform their conduct to the law, combining these two elements.³ There is a requirement under MPC test that mental problem must be diagnosed by a licensed mental health professional. If we are to hold a person mentally responsible for his criminal act unless he is so disordered as to be unable to appreciate its criminality, we shall have to condemn as responsible and fit for punishment some of the most wildly disordered persons ever seen.⁴

For example: persons having hallucinations and hear different voices and these kinds of people kill another believing that this deed is commanded by God. Also he has complete knowledge and well versed that that the act is in violation of the temporal law, in spite of that he commits these offences believing these to be criminal but also believes that it is the reincarnation of Jesus Christ and eventually this act result in criminal offence.

M'Naghten Rule:

Principles laid down by M'Naghten are:

- Every person should be presumed to be sane, until its contrary is proved.
- To prove the defence of insanity, it must be proved that at the time of committing the crime the accused was so insane that he was incapable of knowing the nature and consequences of the act done by him or if he did know it but he did not know what he was doing was wrong.
- To distinguish between the wrong and right is the test of wrongfulness of the particular act committed.

The M'Naghten rule is described as the inability to know the difference between wrong and right which is the consequence of some disability or mental defect. Several arguments were raised by some critics that insanity defense should focus on mental illness and not a cognitive test of a cognitive test of knowing right from wrong.⁵

Durham Test

Durham rule is a legal standard for insanity which is only used in the state of New Hampshire. Durham rule or "product test" states that: No men shall be held responsible, criminally, for his conduct because it was a product of his insane mind. Regardless of clinical diagnosis, defendant's "mental defect" resulted in a criminal act.⁶

The irresistible Impulse test

² Legal Information Institute, Insanity defence, https://www.law.cornell.edu/wex/insanity_defense

³ The "Model Penal Code" Test for Legal Insanity, <http://criminal.findlaw.com/criminal-procedure/the-model-penal-code-test-for-legal-insanity.html>

⁴ Weihofen, H, (1967). Capacity to Appreciate "Wrongfulness" or "Criminality" under the A. L. I-Model Penal Code Test of Mental Responsibility. *The Journal of Criminal Law, Criminology, and Police Science*, 58(1), 27–31. <http://doi.org/10.2307/1141365>

⁵ Carol A. Rolf, J.D, From M'Naghten to Yales- Transformation of the Insanity Defence in the United States- Is it still Viable? <https://www.rivier.edu/journal/ROAJ-2006-Spring/J41-ROLF.pdf>

⁶ Find Law, Insanity Defence, <http://criminal.findlaw.com/criminal-procedure/insanity-defense.html>

Some people could not control their actions and they have impulse to do those actions, so the defendants state that they could not be held criminally liable for their actions which broke the law. It is varying to M'Naghten Rules that explains the situation in which the defendant knew that he is doing some wrong out of impulse but could not resist himself from doing that wrong. The Irresistible Impulse Test was first adopted by the Alabama Supreme Court in the 1887 case of *Parsons v. State*.⁷ The Court said even though he is known to a situation that it is wrong but he is under such duress of mental disease that he has lost the power to control his impulse of wrongdoing and his free agency at the time destroyed and the said crime was so connected with such mental disease. Due to mental disease a person could not restrain his impulses, which results in criminal act.

Some more tests on insanity

Apple Test- Judge would toss coin and apple and a child has to choose. If child picks apple he is innocent.

Wild Beast Test- There is involved the attempted murder of Lord Andrews. Andrew proved in the court that he was insane but jury was not satisfied. Degree of insanity 'If there a person approached and pleads us the insanity, it is wild beast that is out of control and it talked about the degree of insanity, wild beast that is out of control' It talks about the degree of insanity, understanding, power of comprehension of what is wrong or what is right. The judge declared that no mentally affected persons should be released if it is not appeared that he is completely absolved of his understanding and memory and it shows that he does not know what he is doing.

Ferrer's Case- Person murdered another person imagining a harm would come from that person. He was hallucinated.

Good and evil Test- Rationality is absent. It is the test which is morally good or morally evil and highly subjective in nature.

ESSENTIALS OF INSANITY

FACTORS RELEVANT FOR THE PURPOSE OF ASCERTAINING INSANITY

1. Motive for the crime
2. Behaviour of the accused before and after committing the offence
3. The Intention at the time of the offence committed
4. The previous history of the state of mind of the accused
5. The events that occurred immediately before and after the commission of the offence
6. Conduct of the accused after committing the offence

Essential ingredients of Insanity

To take the defence of s 84, IPC, it is necessary for the accused to prove that he, because of unsoundness of mind', was: incapable of knowing the 'nature' of the act; or that the act was 'contrary to law'; or that act was 'wrong'.⁸

The essential ingredients of insanity are 1) unsoundness of mind, 2) incapable of knowing the nature of the act and 3) the act was wrong.

1. **Unsoundness of mind:** When a person is incapable of knowing the nature of the act that whether it is right or wrong, when he fails to know the results of acts done by him. The

⁷Find Law, The Irresistible Impulse Test, <http://criminal.findlaw.com/criminal-procedure/the-irresistible-impulse-test.html>

⁸ Bharat Kumar v state of Rajasthan (2004) Cr LJ 1958 (Raj)

nature and extent of the act done was him are beyond his capability of knowing the wrong or right, he fails to recognize that the same act done by him is contrary to law. A mere wrapped and twisted mind, which criminal may have which cannot be said to be a unsound mind.⁹

1. Natural – person has problem of insanity since birth
2. Accidental- Person did not naturally lead the problem, can also be consistent was not present.
3. Acquired- Very temporary in nature, eg drunkenness

2. **Incapable of knowing the nature of the act:** At the time of committing the offence, the person is not known of the physical characteristics of the act, because he is incapable of knowing the consequences of the act because of the disease of mind. A plea of insanity at the time of trial cannot avail him, the benefits of this section should be granted or not will be decided at the time of the offence committed. To get the benefits of section 84, it must be proved that the time when the offence took place the accused was incapable of knowing the nature of the act done by him, he fails to recognize that the act is morally wrong or contrary to law by reason of unsoundness of mind.
3. **Act was wrong:** If an accused is incapable of knowing while doing an act, by reason of unsoundness of mind, that the act is either wrong or contrary to law, he would be benefited under section 84 even though he knew the nature of the act.

Two primary types of insanity:

- Partial
- Complete

In partial defence it is intercepted by moments of lucidity. Those mental illness when a person is not insane all the time, behaves in a manner in one time and another in other time. In other words they are insane at times. It does not matter more or less in nature it is. Moments of lucidity are sufficient. In cases of completely insane, there is no lucid interval ever all the records have been consistent.

Medical Insanity and Legal insanity

Only legal insanity comes within the purview of section 84 of IPC. Legal insanity says that offender must be unsound or insane at the time of the commission of offence and he does not know its consequences. Legal insanity means “the accused’s consciousness in relation to him”¹⁰ Legal insanity is good defence under section 84 of IPC.

Medical insanity focuses on a person’s previous and present conduct or behaviour. There are different types of mental ailments but no one is recognized in law if not the ingredients of section 84 are satisfied. If a person is not insane but because of some reasons he is imbalance or crazy or under some kind of obsession or hallucination, then section 84 will be of no use and will not be applied. Each and every kind of mental problem or insanity is not a legal insanity. Medical insanity is not a reasonable and valid defence under criminal law. Medical insanity do not have ant cognitive faculty falling within the purview of legal insanity.

Distinguish between medical insanity and legal insanity lies in the cognitive faculty of a man that affecting the will or emotions. Medical insanity focuses on a person’s previous, current or future conduct and behaviour, on the other hand legal insanity focuses on accused’s present conduct

⁹ Francis v State of Kerela (1975) 3 SCC 825

¹⁰Prajwal Poojary, Difference between “Medical and Legal insanity”, <http://www.shareyouressays.com/115783/difference-between-medical-and-legal-insanity-explained>

done by him at the time of the incidence of the act and the accused does not know the consequences and nature of the act. Medical insanity is not concerned with time factor whereas legal insanity is. Only legal insanity and not medical insanity absolves an accused from criminal responsibility.¹¹

Supreme Court held in the case of *Jai Lal v Delhi Administration*¹² act which cannot be said to be an offence under section 84 has to qualify the following elements:

- The accused was insane and unsound at the time of the commission of the offence,
- By the reason of insanity, he was incapable of knowing the consequences of the act done and do not know that their act is wrong and contrary to law

Presumption of Sanity

The courts will presume that every person is sane and innocent and have the capability to understand the consequences of his acts and his actions are under his full control, until the contrary is proved.¹³ As per s 105 of the Indian Evidence Act 1872, the burden of proof will always be upon the accused and the Court shall presume that there existed some circumstances relating to the offence occurred in connection with the accused. If any accused plea for the defence of insanity then it is upon him to prove the same in Court of Law and the accused shall be presumed sane until proof is established by him. Plea of insanity is defence against criminal responsibility, so it must be established by the defence. It is presumed by court that every person who asks for plea of insanity then it is upon him to prove the same in court of law, until the proof comes, the court would presume that the accused is not insane.¹⁴

Judicial Pronouncements

Case Laws

1. ***State of Madhya Pradesh v Ahmadulla***¹⁵ - It was held by Supreme that burden of proof is on the accused to prove that he was insane at the time he committed the crime. It was happened in this case that the accused has committed murder of his mother in law because of the ill will connected to his divorce. At night he entered the room of his mother in law with a torch in his hand where she was sleeping to kill her. It is showed here that the act committed by him was not sudden but was all planned and executed and directed against the person against he has done planning whom he thought to be his rival. The Supreme Court sentenced the accused to life imprisonment and he was held liable for committing murder.
2. ***SK Nair V State of Punjab***¹⁶ - The accused tried to cause injury to the deceased with a dragger. The deceased caught him and warned him he will not be saved afterwards and he will complain to the superiors and to this accused said to deceased 'only if you were saved and alive' and gave a deep blow on him with a khukri which resulted in murder of the deceased person. The accused defended himself that he is suffering from paranoia, which is a disease from which people suffer from illusions, and special and peculiar ideas, visions and thoughts which is totally different from other normal persons. But the threat given by the accused shows that accused person did not became totally insane at the time of time of commission of the offence and he was having some sense of

¹¹ S Sunil Sandeep v state of Karnataka (1993) Cr LJ 2554

¹² Jai Lal v Delhi Administration, 1969 SCR (1) 140

¹³ Dulal Naik v state (1987) Cr LJ 1561 (Cal)

¹⁴ Dahyabhai Chhanagnbhai Thakkar v State of Gujarat AIR 1964 SC 1563.

¹⁵ State of Madhya Pradesh v Ahmadulla ,AIR 1961 SC 998, (1961) 2 Cr LJ 43 (SC)

¹⁶ SK Nair v State of Punjab AIR 1997 SC 1537, (1997) Cr LJ 772 (SC)

understanding so he was made liable for murder and punished under section S.302 of IPC and sentenced to life imprisonment.

3. ***Dayabhai Chhagabhai Thakkar case***- The Supreme court held that to determine that the accused can take the defence of insanity under section 84 of IPC; the court has to take all the circumstances into action which proceeded, in course at the time of commission and followed the crime. It is the very essential and leading case of insanity. The accused is made liable for committing murder of his wife. When neighbors heard the cries of his wife inside the room they were alerted but the door was latched inside the room then they asked the accused to open the door from inside and when he opened the door they found his wife killed with 45 knife injuries on her body. The court held him liable for the murder of his wife without reasonable doubt and rejected the plea of insanity because there was no indication of insane state of mind of the accused when he committed the crime and supreme court held that there was not even a single and sufficient reason that accused was under a fit of insanity at the time of commission of crime.
4. ***Shrikant Anandrao Bhosale v State of Maharashtra***¹⁷- In this case a person killed his wife by causing injuries on her head by a stone when she was washing clothes. The trial court and High Court rejected his plea of insanity but Supreme Court granted him with the benefit of sec 84 because court held that he was insane when he hit a blow on the head of his wife which resulted in death. So he was entitled to the benefit of section 84 of IPC.
5. ***Ashiruddin v The King***- A person caused death of his son under the delusion of the dream, that he is commanded by someone to sacrifice his son age of 5 years and believing it to be correct. He killed his son by thrusting a knife into his throat at mosque. Then he went to his uncle's house where he told his story. It was held that by the High Court that the accused had not the knowledge that what he did was wrong and believed it to be right so he was provided with the defence of insanity under section 84 of IPC.
6. ***Bhikari v State of Uttar Pradesh***- A person threatened to kill all the family persons of the deceased, when he was working in the field. At the day of the occurrence of the event he deliberately chooses to kill only the children of the deceased's family even though there were other people around. These actions of him indicated that his actions were deliberate and intentional and these acts were not actions of an insane person.¹⁸
7. ***Sheralli Wali Mohammed v State of Maharashtra***¹⁹- The accused after killing his wife and daughter locked himself inside his house and started shouting from inside 'save my wife', 'save my daughter' 'Please help someone call the Police'. When people broke open his gate and his wife and daughter found lying inside the room with bleeding injuries and he was standing adjacent to gate with a chopper in his hand. A plea of insanity was refused because motive and mens rea were there and his acts were deliberate as he tried to run away when the door was opened.
8. ***Oyami Ayatu v State of Madhya Pradesh***²⁰- Accused was a life convict and deceased was also a co-prisoner, accused spread bamboo sticks in a shed where deceased went for the urinal at night and the accused attacked the deceased with the knife and killed him. Accused caused the death of the deceased over a trifling matter also concludes that the accused was not an insane person and death sentence was given to him.

Conclusion

The Indian law on insanity is based on the rules laid down in Mc'Naghten case. Courts in India stressed the need for adopting a more progressive attitude in application of the principle laid down

¹⁷ Srikant Anandrao Bhosale v state of Maharashtra (2003) 7 SCC 748.

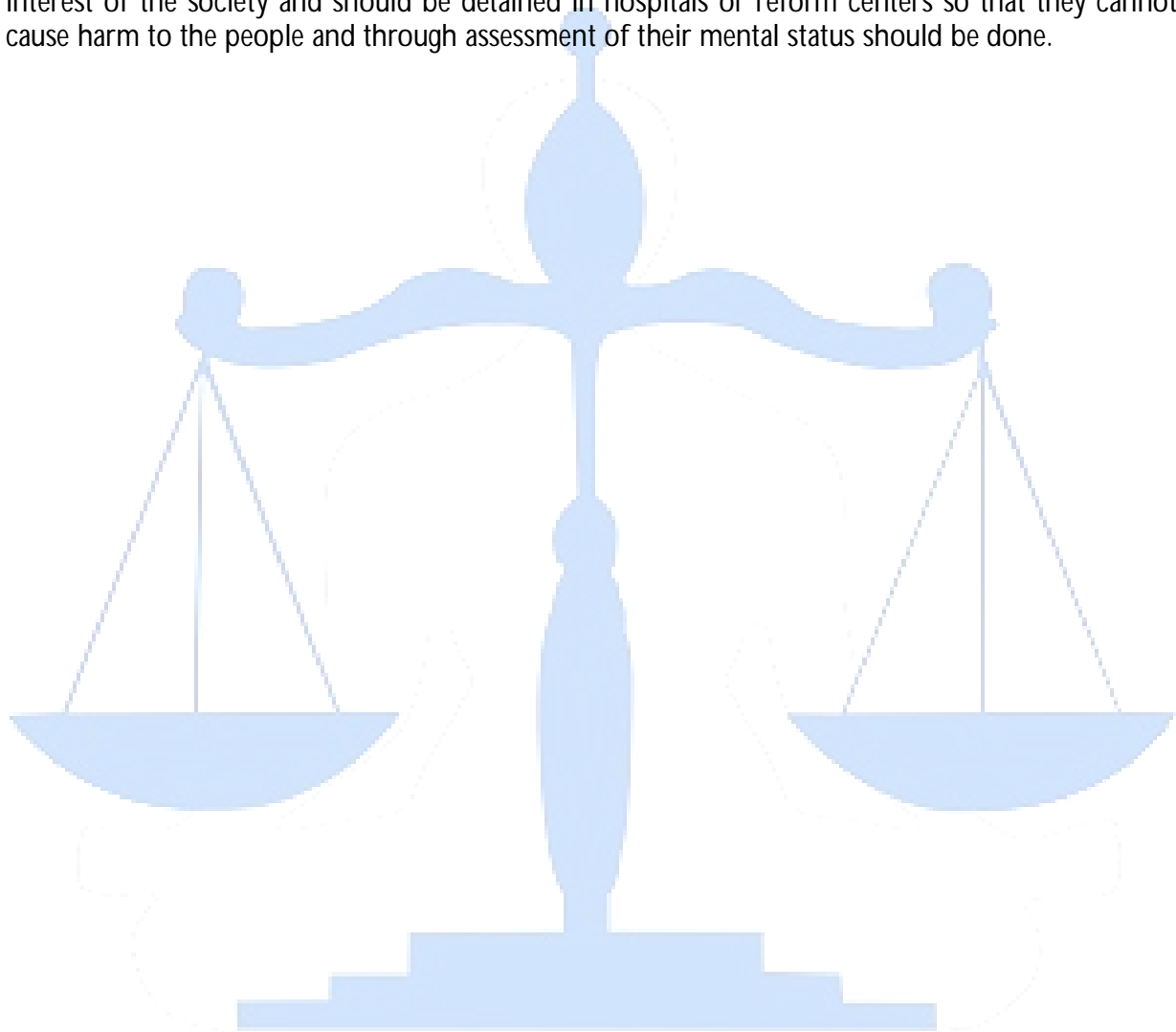
¹⁸ Bhikari v State of Uttar Pradesh AIR SC 1, (1996) Cr LJ 63 (SC)

¹⁹ Sheralli Wali Mohammed v state of Maharashtra AIR 1972 SC 2443

²⁰ Oyami Ayatu v State of Madhya Pradesh AIR 1974 SC 216

in section 84 of IPC. There is need for amendments in Indian laws and defence of diminished responsibility should be recognized in section 84, IPC.

Sometimes there are situations when offenders are acquitted instead of committing the offences under the plea of insanity as Section 84 tries to deal justly with insane people for larger interest of society, but sometimes there are false acquittals which need to be curtailed. Stress must be put to curtail the crime and not the criminals. These criminals should not be given freedom for the larger interest of the society and should be detained in hospitals or reform centers so that they cannot cause harm to the people and through assessment of their mental status should be done.



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