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INSANITY: LEGAL PERSPECTIVES IN INDIA

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ABSTRACT:

The meaning of the Insanity is a general terminology used in legal as well as in the field medical. Legal terminology based on the Mc Naughten Rules enacted in England. In the Indian Penal Code it is well explained in the section 84.the court of law has to confirm to accused about his Insanity. There are many defense against the Insanity. This is based on three test and four Maxims.

Key words: Unsoundness, Mental Health, Psychiatric, Guilty.

INTRODUCTION:

In the court of Law the term “Insanity” and “unsoundness of mind” used frequently. They are two legal concepts. Insanity is distinguishes from low intelligence or mental deficiency due to age or injury. Insanity is a legal concept referring to diminished mental ability at the time of a crime that precludes criminal responsibility.

Human health may be divided in two parts: (A) Physical Health and (B) Mental health. Mental Health of course forms part of the discussion. Health relating to mind may be seen in two heads - mental health and mental illness.

Mental illness refers to abnormality of mind whether permanent or temporary arising out of mental disease, disorder. A person is mentally ill when his mind does not work properly. Such a person may imagine that things are so when they are not and he cannot control himself. It causes him to do unnatural things.Mental abnormality may exists since birth or it may develop subsequently.

Mental illness is defined as: a state of impaired psychiatric functioning of the individual which is institutionally defined as not the individual's fault or responsibility which exempts him from various ordinary obligations but which is also institutionally described as an undesirable state.

Insanity is considered legally as harmful behavior and perpetrated under circumstances in which the actor did not know the nature or quality of the act or did not know right from wrong. In this person can't distinguish the falsity from reality and cant conduct his affairs his or her affairs due to impulsive behavior.

Section 84 of Indian Penal code is the primary legislation dealing with the criminal responsibility of mentally ill persons in India. This law is based on Mc Naughten Rules enacted in England.

States should provide a full insanity defense. When defendants' mental illnesses prevent them from understanding the wrongfulness of the act or prevent them from controlling their behavior, they should be acquitted by reason of insanity. In these instances criminal liability is not effective nor appropriate.

LEGAL PERSPECTIVES OF INSANITY IN INDIA:

Since last three centuries Insanity defense took the legal position in India otherwise it was in existence since many centuries. In India there was one rule related to defense of insanity namely as Mc Naughten. This rule is considered to be the precedent for the Insanity defense.

Section 84 of the IPC, 1804 is solely based on the Mc Naughtan rule. Which is related and also deals with the unsound persons act deals with the “act of a person of unsound mind”

According to section 84 of the IPC “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.”

In the year 1971 there was a major attempt by the Law commission of india to revisit this section in their 42nd report, but no changes were made.

Section 84 has following essential categories to understand easily.

- A. Medical requirement of mental illness
- B. Loss of reasoning requirement

In the major criteria under medical illness means the person must be suffering mental illness during the commission of the act while minor criteria under the loss of reusing requirement means the person is Incapable of knowing the nature of the act or Incapable of knowing his act is wrong or Incapable of knowing it is contrary to law.

Section 84 also said about some fundamental maxims of criminal jurisprudence which are very much essential for Insanity defense. They are

- A. Actus nonfacit renun nisi mens sit rea it means an act does not constitute guilty unless done with a guilty intension
- B. Furiosi nulla voluntas est means a person with mental illness has no free will

Guilty intension is the essential part of any crime and that is called “Mena Rea” Hence, Section 84 IPC fastens no culpability on persons with mental illness because they don’t have necessary guilty mind and rational thinking.

There are also three tests laid down the foundation for the landmark for the MC Naughten rule:

- A. Wild Beast Test
- B. The insane Delusion Test
- C. Capacity to distinguish between right and wrong

From criminal Liability no person who is suffering from mental illness is exempted but there are some reason on which section 84 will not attract like the accused is conceited, odd, irascible, brain is not quite all right, physical and mental ailment, fits of insanity, abnormal behavior and he suffered had rendered his intellect weak and affected emotions.

In Insanity Defense, commission of crime and defense of the insanity are two aspects of proving an offence. Under the Law, every man is presumed to be the sane and assumed to possess a sufficient degree of reason to be responsible for his acts unless the contrary is proved.

The prosecution has always the burden of proving the commission of an offence and prosecution should prove the same beyond a reasonable doubt. Section 105 of the Indian Evidence Act says about the burden of proving the existence of the circumstances bringing case under section 84 of the IPC on the accused and directs that the court shall presume the absence of such circumstances.

In the case Dahyabhai Chhaganbhai Thakker versus state of Gujarat, this court said that even if the accused was not able to establish conclusively that when the crime committed by him he was innocent and, the evidence placed before the court may raise a reasonable doubt in the mind of the court as regards one or more of the ingredients of the offense, in which mens rea is the important factor of the accused and in that case the court would be entitled to acquit the accused on the ground that the prosecution due to general burden of proof was not discharged. Though the burden is on the accused, he is not required to prove the same beyond all reasonable doubt, but merely satisfy the preponderance of probabilities. The burden of proof casted upon him is no higher than that rests upon a party to civil proceedings.

Motivation for a crime is a very crucial factor to prove the defense of the insanity. Absence of motive for a crime and may be atrocious of the crime, in the absence of plea and proof of legal insanity can't be bring the case under the ambit of section 84 IPC. Infect not running from the crime scene would not indicate that he s subfreezing from the Insanity. In the case Bapu @ Gajraj Singh vs State of Rajasthan. Appeal (crl.) 1313 of 2006. Date of Judgment on 4 June, 2007 Supreme Court clearly said that abnormality of mind or partial delusion, irresistible impulse or compulsive behavior of a psychopath affords no protection under Section 84 IPC. The Plea of the insanity should be taken during the investigation or during the trial in the lower court not during the appeal to the higher court. In the Criminal Procedure Code, Section 328 and 329 are not considered as exemption under section 84 of the IPC, sentence against the Insanity rather these sections are detention to prevent mischief.

The law with regard to applicability of Section 84 was firmly stated by the highest court of law in Sheralli wall Mohd. V. State of Maharashtra,²⁰ where the court held, all the following ingredients of section 84 must be proved namely:

- a) That the accused was insane.
- b) That he was insane at the time of the commission of the act and not merely before or after the act
- c) That as a result of the unsoundness of mind, the accused was incapable of knowing the nature of the act or that what he was doing what was either wrong or contrary to Law.

LIABILITY:

Legal insane Person are also having some Civil liabilities,

Civil: According to law a normal person is having many responsibilities but an insane person cannot carry the civil liability. There are ample of civil liability under the Law are as under:

1. Hindu Marriage Act 1955: Marriage Section 13 (1)(iii) of Hindu Marriage Act 1955 provides that the marriage of an insane person shall be declared null and void if it is proved that during the time of marriage .
2. Competency as Witness; the insane person is not competent to give evidence. Evidence given by a person is not valid if it is proved that the person was not in a normal state of mind during the time of giving evidence.
3. Validity of Consent: The consent given by a person who is insane is invalid if it is proved that the person was of unsound mind at the time of giving consent. Section 5 (ii) of Hindu Marriage Act, 1955 provides that neither party at the time of marriage should be incapable of giving valid consent due to unsoundness of mind, mental disorder, recurrent attacks of insanity.
4. Testamentary Capacity a will may be declared null and void if it is proved that the person was insane at the time of making the will.
5. Contracts: A contract is invalid if it is proved that during the time of making the contract one of the parties was insane. Section 11 of Indian contract Act, 1872 deals with the provision that every person is competent to contract who is of the age majority and sound mind who is not disqualified from contracting by any law. He must not be disqualified by any Law in which he is subjected.

CONCLUSION:

So for as the plea of insanity under Section 84 IPC is concerned, the legal position relating to the same is now well established. It is not that a mere plea of insanity will keep the accused beyond the pale of punishment. Even establishment of fact of medical insanity would not aid the accused to earn an acquittal unless legal insanity is also proved which means that it is to be shown that he was not in possession of his cognitive faculties at the time of commission of the crime. It is only when the case is that the accused was at the relevant time not in conscious control of mental faculties which had deprived him of his power of judgment between the right and the wrong, to discriminate between the legal and illegal by reason of insanity that he could properly avail of the exception. In establishing such plea, history of previous insanity including any medical history of the same, the behavior of the accused on the day of the occurrence and his post- occurrence behavior are, besides other factors, also relevant to be taken into consideration as aids to judge the mental State of the accused at the time of commission of the crime.

Punishing a person, who is not responsible for the crime, is a violation of the basic human rights and fundamental rights under the Constitution of India. It also brings the due process of law, if that person is not in a position to defend himself in the court of law, evoking the principle of natural justice.

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5. Indian Penal Code 1860, s 33. Act and Omission- The word 'act' denotes as well a series of acts as a single act; the word 'omission' denotes as well a series of omissions as a single omission.