



This is an Open Access article distributed under the terms of the Creative Commons Attribution- Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

DEFENCE OF INSANITY

-Mrunmayee Santosh Bhat

INTRODUCTION: The defence of Insanity is a defence used by defenders & criminals. The unsoundness of mind can be called as insanity . These defence is classic defence used by criminals. What is defence it means the reason you give to justify the crime you committed . The unsoundness of mind is a old school classic defence used by defenders we are going to see history of the defence of insanity . How it affected the punishments , & how it can be improved .

HISTORICAL BACKGROUND : The defence of insanity was seen in Ancient Rome around 50 BC. Lex Cornelia and Roman jurists laid the principle furiosus solo furore punitur – a mad man is punished by his madness .In Hebrew Law the insane person was exempted from legal liability because they lacked the intent . So in ancient times being insane or having insanity defence meant the person did not had the intent so he was not held legally liable.in the 12th century English common law excused the madman defence meaning the person was completely mad but no formal test was done the only person they needed to be convinced was the king “ king would pardon and detained them at the kings pleasure.in 1581 Eirenarcha by William Lambarde first used the term non compos mentis in English law. Still no clear standard. In 1724 the first formal test for insanity was introduced in the case of Rex v Arnold . The Wild Beast Test : defendant must be totally deprived of understanding and memory ,and he shouldn't be know about his doing then The is not more than the wild beast. This test was extremely strict .

In 1843 the M’Naghten case¹ this case is the important case which created the M’ naghten rule . Danial M’Naghten was acquitted for killing PM peel’s secretary because he suffered from paranoia delusion that the peel and the tories were following his everywhere he actually intended to kill Peel himself but shot Drummond by mistake his lawyer pleaded insanity . the delusion was described as ‘ morbid delusion’² that deprived him of self control . he was found not guilty on the ground of insanity he was committed to Bethlam Royal Hospital then Broadmoor for life . but this verdict cause political and public backlash . Queen Victoria was furious . The House of the lords thought the rule was unclear. So, the lord summoned all 15 common law judged to answer the 5 questions about the insanity defence . and their answer became M’Naghten Rules³.

¹ March 3, 1843, at the Central Criminal Court, Old Bailey

² A false ,fixed belief cause by a disease of mind

³ June 19, 1843.

In the Early 19th Century The Neo-Classical School of criminology introduced and expanded the defence of insanity . meanwhile the Clinical School of Criminology said that every criminal is not a bad person he is a ill person don't punish him trat him . the concepts of Ed , Ego & Superego comes under this school. This school studies the reason behind the Insanity of the Criminal or in their word mentally ill patient

What Is Insanity: There is not a single definition that can describe the full meaning of insanity. There are two definitions one legal definition and medical deifinition

This is the definition laid by Indian Legislation also can be called as legal definition “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 wrong or contrary to law.”⁴

This is the definition laid by American Psychiatric assoc, which can be said as medical definition No “insanity.” Uses psychosis: gross impairment in reality testing, with delusions, hallucinations, disorganized thinking.⁵

WHAT ARE THE ESSENTIALS FOR THE DEFENCE OF INSANITY:

Before BNS was introduced, Sec.84 of IPC talk about the defence of Insanity 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 wrong or contrary to law.⁶ Now section 22 BNS ⁷. The only difference is BNS uses word Unsoundness of mind along with the word Mental Illness instead of Lunatic to align with mental Healthcare Act⁸.

These of the 3 essentials which should be proved in front of the court to be proven not guilty under the defence of insanity

- 1 . At the Time of Doing it
2. By Reason of unsoundness of mind
3. Incapable of Knowing
 - a). Nature of Act
 - b). Without knowing that the act is illegal or wrong .

theses 3 things should be proved in the court of law to get acquitted under sec.22 . lets break it down with the cases

the first essential is At the time of doing it ; this simply means that the use of insanity defence is based on period of time when the person went insane or became unsound . To fulfil the first essential the person should be insane at the time of the crime occurred not before and not after for example .if you shoot someone at became insane or unsound after you committed the murder you cant use the defence of insanity . in the case of Ratan Lal

⁴ M'Naghten word-for-word definition

⁵ American Psychiatric Assoc.DSM-5-TR, 2022

⁶ Definition of insanity according to the IPC & BNS

⁷ Bhartiya Nyaya Sanhita 2024

⁸ The Mental Healthcare Act, 2017 (MHCA)

v. State of MP 1971. accused had history of insanity. But on the day of murder he went to market, bought axe, returned and killed. Hence the court declared No proof of unsoundness at the time. So he was Convicted.⁹

In Sheralli Wali Mohammed v. State of Maharashtra, 1972 the accused Killed wife & 4 kids. Had delusions for months. But on fatal night he locked doors, waited for victims to sleep, killed silently. After hearing everything court said the Conduct showed planning and knowledge hence, Insanity defence was rejected¹⁰

The second essential is The unsoundness of mind ; to fulfil this essential there must be a disease of mind . mental illness like Psychosis, schizophrenia, delusional disorder, severe mental retardation can be count as the unsoundness of mind all mental illness cannot be counted as the unsoundness of mind . In the case of State of Rajasthan v. Shera Ram, 2012 the Accused was schizophrenic. The Medical records And witness testimony proved that he had active psychosis. After hearing the case SC acquitted the defender under the defence of insanity ¹¹. This is what does count.

The third essential is Incapable of Knowing; first by the knowing the nature of act , this says that the person should be incapable of knowing the nature or the severity of the act he is doing . In the case of Hari Singh Gond v. State of MP, 2008 the Accused killed his son thinking he was sacrificing a goat to appease goddess. Court said that the defendant didn't know the nature of the act therefore he was acquitted under Sec 84.¹² The second type is without knowing the act is wrong or illegal means the person who is committing the offence thinks that whatever he is doing is good and not illegal in other words the person is incapable of knowing that what he is doing is wrong and illegal in case of Siddhapal Kamala Yadav v. State of Maharashtra, 2008 the Accused killed his sister-in-law due to paranoid schizophrenia, believing she was doing black magic. Medical evidence showed that he couldn't appreciate wrongfulness simple words he didn't thought or he was incapable of thinking that the act he did was wrong . therefore he was by the court Acquitted¹³.

2 LANDMARK CASES THAT PROVED AND FAILED THE

DEFENCE : lets first see the case which can be called as the most important success case .Because of this case SC laid down the clearest check list for how to prove Sec 84 IPC / Sec. 22 BNS. In the case of Shrikant Anandrao Bhosale v. State of Maharashtra 2002 Accused killed his wife with a grinding stone He had the more than 20 years of paranoid schizophrenia. He Believed his wife was poisoning him and his children . The defence was proven by fulfilling the three essential which are -Time: Medical evidence showed active psychotic episode on the day of killing. -Unsoundness: Treated at Yerwada Mental Hospital for years. Doctor testified he suffered from delusions of persecution. - Incapable of knowing wrong: Due to delusion, he thought killing was self-defence against

⁹ Ratan Lal v. State of Madhya Pradesh, [1971] 3 S.C.R. 251 (India).

¹⁰ Sheralli Wali Mohammed v. State of Maharashtra, (1973) 4 SCC 79, 1972 SCC (Cri) 743, A.I.R. 1972 S.C. 2443

¹¹ State of Rajasthan v. Shera Ram, (2012) 1 SCC 602, 2011 SCC Online SC 1420, A.I.R. 2012 S.C. 359.

¹² Hari Singh Gond v. State of M.P., (2008) 16 SCC 109, 2008 SCC OnLine SC 1324, A.I.R. 2008 S.C. 2691

¹³ Siddhapal Kamala Yadav v. State of Maharashtra, (2009) 1 SCC 631, 2008 SCC OnLine SC 1387, A.I.R. 2009 S.C. 97.

being poisoned. Didn't appreciate it was murder. This case laid the checklist for how to prove the defence of insanity¹⁴

The second case which is important failed case because this case laid that 'The mere mental illness isn't enough, the legal insanity at the time of the offence must be proved' In the case of Sheralli Wali Mohammed v. State of Maharashtra, (1973) the accused Killed wife & 4 kids. Had delusions for months. But on fatal night he locked doors, waited for victims to sleep, killed silently. After hearing everything court said the Conduct showed planning and knowledge hence, Insanity defence was rejected¹⁵ Court's quoted - "Every person suffering from mental disease is not ipso facto exempted from criminal liability." Therefore the court Conviction for murder upheld. Sentenced to life.

PUNISHMENT : Many of the people think that being acquitted under the section 22 of BNS means that the person is walking free, without any punishment, it may seem like the slap on the hand. But sometimes the person acquitted spends more time in mental hospitals than he would have spent in jail. Which is more worse than the jail time but is for the safety of the people.

CONCLUSION : Overall the defence of insanity is used in the criminal cases to be found not guilty. There are 3 given essentials, clear checklist given by court to prove but not all people who plead the defence of insanity get acquitted by the court.

¹⁴ Shrikant Anandrao Bhosale v. State of Maharashtra, (2002) 7 SCC 748

¹⁵ See footnote 10