

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 5

2023

© 2023 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Judicial Approach on Plea of Insanity in India

SHANYA AGARWAL¹ AND RAVEENA GURAV²

ABSTRACT

The idea of responsibility is connected to our deepest beliefs about human nature, dignity, and the feeling of guilt, innocence, blame, and punishment in daily life. In criminal cases, insanity defence is frequently employed. It is predicated on the idea that the defendant was suffering from a severe mental condition at the time of the crime and was unable to understand the nature of the offence and distinguish between right and wrong behaviour as a result, rendering them not legally responsible for the crime. The concept of insanity defence is one of law, not of medicine. This reflects that merely having a mental condition does not constitute as insanity. Like a civil case, the defendant must establish the defence of insanity by a "preponderance of the evidence". The fundamental rights guaranteed by the Indian Constitution and basic human rights are violated when someone who did not commit the act is punished. Invoking the idea of natural justice, it also invokes the due process of law if the defendant is unable to defend himself in court. Legal insanity is touch task to define, and it is even more touher to adequately argue against it in court of law. The recent Supreme Court ruling on the insanity defence and the legal norms followed in Indian courts are the main topics of this essay. Researchers outline a methodology for assessing a defendant's mental status examination and briefly go over the legal requirements and processes for reviewing evaluations of the insanity defence. The "act of a person of unsound mind" and the insanity defence are covered under Section 84 of the Indian Penal Code (IPC) in that country. Professionals in the fields of medicine, psychology, and law are deeply divided over this issue.

I. INTRODUCTION

Laws pertaining to insanity as a defense have been in existence for centuries but the insanity law got legal recognition around 300 years back. In India, section 84 of the Indian Penal Code deals with insanity as a defense. The section 84 absolves an accused of all criminal liabilities if he at the time of committing an offence was

- Incapable to know the nature of his act

¹ Author is a student at NMIMS, India.

² Author is a student at NMIMS, India.

- Incapable to know the wrongfulness and illegality of his act, due to being in an ‘unsound’ state of mind.

However, the term used in the statutes is ‘mental soundness’ instead of ‘insanity’. It should be noted that the framers of the law have focused on ‘mental insanity’ which has a wider scope than ‘insanity’. In order to use this defense, it must be established that the accused was in an unsound state of mind while committing the crime and was not aware that his act was wrong or contrary to the law.

However, not every form of mental unsoundness is eligible to be used as a defense. Thus, there is a distinction between medical and legal insanity.

(A) Research Problem

The plea of insanity as a defense in criminal cases has been a part of Indian legal system for a long time. Section 84 of Indian Penal Code (IPC) contains provisions regarding acts done by a person without a sound state of mind. The meaning and scope of various aspects of the section 84 has been comprehensively covered by various authors. It is one of the most popular tools used for defense in any crime. It is also observed that it is very difficult to prove the authenticity of the insanity plea during the course of a trial. It has the potential to save a criminal with a ‘sound’ state of mind from punishment. However, owing to the difficulty in producing a valid proof and consideration of various factors, the courts in numerous cases, reject the defense’s plea of insanity. In fact, some statistics reveal that the rate of success in cases involving the insanity plea is not more than 20%. Hence, question arises as to what factors are considered by the courts while deciding on the validity of the insanity plea. The paper will focus on the factors determining the effectiveness of the plea of insanity as a tool of defense in criminal cases and the opinion of the judiciary regarding the same.

(B) Research Questions

The paper tries to answer the following research questions:

1. How is medical Insanity different from legal insanity?
2. What are the difficulties associated with proving the authenticity of the plea of insanity for different types of unsound mental conditions recognized in the law?
3. Whether there exists a test of insanity to determine the level of insanity?
4. What factors are taken into consideration by the judiciary while deciding on the applicability of the plea of insanity in different types of cases?
5. How readily can the insanity defense be misused?

(C) Literature Review

The basic understanding of the insanity defense laws was obtained by studying the section 84 of the Indian Penal Code in detail. References were also made from related statutes such as the section 105 of the Indian Evidence Act 1872. Journal papers such as “Defence of Insanity in Indian Criminal Law” published by K.M. Sharma and “The Insanity Defense” published by T.V. Ashokan provided the literature base for the research. Published judgements of relevant cases given by the different state High Courts and the Supreme Court were read thoroughly to gain valuable insights on the topic. Further reference was made from online blogs and research articles published on different platforms.

(D) Hypothesis

The author formulated the following hypotheses during the course of the research:

- There is a profound impact of mental illness on the overall conduct and cognitive facilities of a person
- Persons of unsound mental health should not be held liable for the acts committed by them.

(E) Research Methodology

During the course of the research, various aspects of the provisions under section 84 of the Indian Penal Code and section 105 of the Indian Evidence Act were studied in detail. Reference was taken mainly from journal papers, research articles and newspaper editorials. Leading case laws and judgements given by various state High Courts and the Supreme Court, available in the public domain were studied and analyzed thoroughly. Major emphasis has been put on case laws and judgements and the comments of the courts have been used to reach at the answers to the research questions.

Here comes the Research Question:

(A) How is medical Insanity different from legal insanity?

The medical test of insanity would ipso facto exempt all mentally ill persons and psychopaths from criminal responsibility. Whereas, the legal test of insanity is only concerned with the fact that whether a person while committing a crime was in a state of mind to distinguish between right and wrong and that whether he knew his act was contrary to the law. Since there is no clear definition of insanity under section 84 of the IPC, the need to distinguish between medical and legal insanity has been reiterated by the Supreme Court in cases such as Hari Singh Gond

vs State of Madhya Pradesh³ and Surendra Mishra vs State of Jharkhand⁴. In Hazara Singh vs State of Punjab⁵, the court held that the mere presence of mental illness in a person does not entitle him to by default exemption from punishment for criminal offences.

In State of Maharashtra vs Sindhi Alias Raman⁶, the court clearly laid down the distinction between medical and legal insanity. The court held that the effect of medical insanity on the cognitive abilities of a person varies with the nature of the medical condition and it might be possible that the unsoundness of mind due to a mental illness might still not make a person eligible for insanity defense as per section 84 of the IPC. This means that even under the influence of a mental illness at the time of committing a criminal offence, if a person has the capacity to know the nature of his act or to know the wrongfulness or illegality of his act, he shall not be given exemption from his criminal liabilities.

Although irresistible impulse does not fall within the scope of section 84 of the IPC, arguments have been made on several occasions in the courts in the past to take it into consideration while commenting on the mental state of the accused at the time of committing the offence. The courts on several occasions have held that if at the time of the commitment of an offence, the person was in a state to distinguish between right and wrong, the presence of irresistible impulse shall not provide any exemption from criminal liabilities. This stand has been reiterated by different courts in cases like Kannakunnummal Ammed Koya vs State of Kerala⁷, Ganesh Shrawan Chaudhari vs State of Maharashtra⁸ and Laxmi vs State of Uttar Pradesh⁹.

Moreover, The Supreme Court has said in Shrikant Anandrao Bhosale vs State of Maharashtra¹⁰ and Rattan Lal vs State of Madhya Pradesh¹¹, that the unsoundness of mind of the accused just before, during and after the incident in consideration is relevant. Based on this tenet, the insanity defense of the accused was upheld by the court in Kamala Bhuniya vs State of West Bengal¹². Similar concept was used by the court as the basis of its judgement in Chhotelal vs State of Madhya Pradesh¹³, Pula Mura vs State of Assam¹⁴ and Mariappan vs State of Tamil Nadu¹⁵.

³ (2008) 16 SCC 109.

⁴ (2011) 11 SCC 495.

⁵ AIR 1954 Punj 104.

⁶ (1987) 89 BOMLR 423.

⁷ 1967 CriLJ 494.

⁸ (1969) 71 BOMLR 643.

⁹ AIR 1959 All 534.

¹⁰ (2002) 7 SCC 748.

¹¹ JT 2002 (7) SCC 627.

¹² (2006) (1) CHN 439.

¹³ (2018) MP CRA No. 421/1995.

¹⁴ (2003) MANU/GH/0448/2003.

¹⁵ CDJ 2013 SC 232.

The fact that the law recognizes a different definition of insanity than that provided by the medical science, warrants attention towards the test for insanity prescribed by the law.

Here come the Research Questions:

- (B) Whether there exists a test of insanity to determine the level of insanity? and**
(C) What factors are taken into consideration by the judiciary while deciding on the applicability of the plea of insanity in different types of cases?

The section 84 of IPC lays down that a person at the time of committing an offence is unaware of the nature of his act and also of the fact that his act is wrong or contrary to the law. This test for legal insanity is based on the M'Naughten Test. However, unlike M'Naughten Test, section 84 uses the term 'unsoundness of mind' which has a greater scope than that of the term 'insanity'. The mental unsoundness of a person should be such that he loses awareness of the nature and wrongfulness of his act.

The Calcutta High Court in *Ashiruddin Ahmad vs The King*¹⁶ laid down a three-element test. The following were the elements of the test it devised:

- i. Accused was unaware of the nature of his act
- ii. Accused was not aware that his act was contrary to the law
- iii. Accused was not aware that his act was wrong

This judgement of the Calcutta High Court countered one of its own previous judgements given in *Geron Ali vs The King*¹⁷ where it held that the test for the awareness in the accused regarding the wrongfulness and illegality of his act was one and the same.

However, the Allahabad High Court in *Laxmi vs State of Uttar Pradesh*¹⁸ criticized this view of the Calcutta High Court and commented that if a person has the capacity to know the wrongfulness of his act, he cannot be absolved from his criminal liabilities.

As per a recent study conducted by using past ten years' data from 13 out of 23 High Courts of various states, insanity plea defense was used the most in cases of murder (76.5%) and the overall success rate of insanity pleas was a moderate 17.6%. The study also revealed that the factors which played a key role in determining the success of the insanity pleas were the opinion of the psychiatrist and the presence of documentation ascertaining mental illness prior to the commission of the crime.

¹⁶ AIR 1949 Cal 182.

¹⁷ AIR 1941 Cal 129.

¹⁸ AIR 1959 All 534.

The influence of the medical opinion over the opinion of the court was seen in *Tikaram Krishnalal Pandey vs State of Maharashtra*¹⁹, in which the court provided the benefit of the insanity defense to the accused after the medical tests suggested that the accused suffered from Schizophrenia.

However, in a previous case, *Santosh Maruti Mane vs State of Maharashtra*²⁰, the apex court upheld the conviction of the accused even after the defense produced several pieces of evidences to prove the unsoundness of mental health of the accused. The court questioned the reliability of the medical opinion and cited lack of evidence to prove sufficient degree of insanity at the time of commission of crime.

In 2018, the Bombay High Court acquitted a man from murder charges after it was convinced that the defense produced enough evidence and created a reasonable doubt regarding the sanity of the accused at the time of commission of the crime. The same person had been given the benefit of section 84 in a similar murder case a few years earlier. To summarize, the court held that even a '*reasonable doubt*' is enough for a person to get the benefit of the insanity defense.

The issue of reasonability of the doubt regarding the sanity of the accused was taken up by the Bombay High Court in *Sitaram Hiranman Jopale vs State of Maharashtra*²¹, in which the court held that the mere creation of doubt regarding the sanity of the accused is not sufficient to obtain the benefit of section 84 of the IPC.

Thus, we can say that the courts exercise their discretion while determining the sufficiency of evidence of the insanity of the accused and the reasonability of doubt regarding his sanity. Although, the legal definition of insanity differs from the medical definition, the courts duly consider the evaluation reports of doctors and experts while adjudicating on the insanity defense matters. However, the opinion of the doctors and experts are not considered comprehensive and completely exhaustive by the courts in most of the cases.

The other important aspect of the insanity plea defense is the burden of proof. Thus, it is important to look at the Research Question:

(D) What are the difficulties associated with proving the authenticity of the plea of insanity for different types of unsound mental conditions recognized in the law?

According to section 105 of the Indian Evidence Act 1872, in a case where insanity is put forward as a defense, the burden of proof lies with the accused. It is an established tenet of

¹⁹ (2013) 3 BOM CR (CRI) 226.

²⁰ AIR 2019 SC 527.

²¹ (2013) 4 BOM CR (CRI) 530.

criminal jurisprudence that the accused is innocent unless proven guilty by the prosecution. Every person is presumed to know the law and the natural consequences of his actions. As per section 84 of the IPC, for a plea of insanity to sustain, the accused has to prove that he was in an unsound state of mind at the time when the criminal offence was committed and that he was not in a position to recognize that his act was wrong or contrary to the law.

The fact that the burden of proof lies with the accused is observed by the courts in cases like *State of Madhya Pradesh vs Ahamadullah*²². However, in judgements like *Bhikari vs State of Uttar Pradesh*²³ and *Sudhakaran vs State of Kerala*²⁴, the courts in several judgements have pointed out the burden of proof on the accused to prove his unsoundness of mind is not as rigorous as that on the prosecution to prove the commission of the offence. The accused while proving insanity under section 84 of IPC has to show that the balance of probabilities was in his favour.

In *Hari Singh Gond vs State of Madhya Pradesh*²⁵, the Supreme Court pointed out that if the history of insanity has been revealed for an accused, an investigator must subject the accused to a medical examination and produce relevant evidence before the court. Failing to do so will produce serious infirmity in the case of the prosecution and might provide the benefit of doubt to the accused.

Nevertheless, the accused has to produce relevant evidence to claim the benefit of doubt. Mere absence of motive or the fact that the accused did not attempt to run away after committing a crime does not indicate his unsoundness of mind. In *Sheralli Wali Mohammed vs State of Maharashtra*²⁶, the court observed that the mere absence of proved motive for committing a crime would not prove that the accused was insane.

It can be clearly inferred that the law requires the accused to produce just the enough amount of evidence to create a reasonable doubt regarding his sanity in order to pursue the insanity defense. This can be of great advantage in cases where the accused is genuinely ill mentally but has lack of proof to justify his mental condition. However, the fact that the courts have clearly stated that the 'beyond reasonable doubt' requirement is not to be fulfilled mandatorily by the accused to attract the benefits of section 84 of the IPC, makes the insanity defense prone to misuse by criminals who might use it to get away with even the most heinous of crimes.

²² AIR 1961 SC 998.

²³ 1965 SCR (3) 194.

²⁴ (2002) 7 SCC 748.

²⁵ (2008) 16 SCC 109.

²⁶ AIR 1972 SC 216.

Thus, it is important that we analyze the various dimensions related to the misuse of the insanity defense.

Here comes the Research Question:

(E) How readily can the insanity defense be misused?

Although the success rate of insanity pleas is not very high, it is still used in many cases by the accused. It is very difficult for the prosecution to disprove the claim of the defense that the accused was not capable of knowing the nature of his act or was not in a mental state to distinguish between right and wrong. Moreover, cases where the courts acquitted the accused citing reasonable doubt on their insanity also gives encouragement to others to file an insanity plea in cases of serious crimes like murder, rape etc.

It should be noted here that generally, the insanity defense is used in serious crimes like murder where the sentence is very rigorous. This is because even if a person is acquitted on account of unsoundness of mind, he is generally sent to mental corrective facilities for long periods of time.

In *Ramdulare Ramadin Sunar vs State of Madhya Pradesh*²⁷, the Madhya Pradesh High Court observed that in some cases, the accused files false pleas of insanity as a way to get away with the crime he committed.

The opportunities for misuse of the insanity defense are also proliferated due to the distinction between medical and legal insanity. The legal definition of insanity is much broader than that of the medical definition of insanity. It may include both temporary and permanent unsoundness of mind within its ambit. The difficulty to prove or disprove temporary unsoundness of mind and the difference in the rigor of proof requirements from the prosecution and the accused give rise to misuse of the insanity defense. This is because, when it is hard for the prosecution to disprove temporary insanity at the time of commission of crime, it will become subsequently difficult for the court to clarify the regarding the sanity of the accused and it will be pressurized to assume greater reasonability in the argument of insanity of the accused.

Moderate levels of success of the insanity plea defense and the potential demerit of criminals getting acquitted has led to the abolition of this mode of defense in many countries like Germany, Thailand etc.

Nevertheless, the courts have tried to prevent the misuse of the insanity defense as evident in multiple cases. In *Laxmi vs State of U.P.*, the U.P. High Court²⁸ held that there is a difference

²⁷ AIR 1959 MP 259.

²⁸ AIR 1959 All 534.

between the capacity to know something in the accused and the actual knowledge or belief of the accused. It further added that when the capacity exists in an accused to know the nature of his act, his belief or perception of the situation cannot save him from criminal liabilities.

In *Ramdulare Ramadin Sunar vs State of Madhya Pradesh*²⁹, the M.P. High Court tried to instill discipline into the system by saying that while filing an insanity plea, the accused should also specify the exact type of mental illness he is suffering from. The court called for a unification of the two definitions of insanity – medical and legal, saying that the advancements in the medical science have shown that even minor mental disorders affect the brain in its overall function. Decisions like these could reduce the element of personal discretion that is exercised by the judges in determining the validity of the insanity plea of the accused.

II. CONCLUSION

The critical dimensions of the law on insanity defense are: distinction between medical and legal insanity, proving unsoundness of mind at the very time of the commitment of the crime and exclusion of elements like irresistible impulse. Over the past decades, the section 84 of the IPC has benefitted several accused, suffering from mental illness from rigorous punishments and have saved their human rights and fundamental rights. However, the leniency given by the law to the accused in these cases in terms of proving his insanity paves way for the misuse of this law. Moreover, the test for insanity prescribed in the law incorporate a broader definition of mental unsoundness and also includes temporary insanity which is very difficult to prove or disprove. As insanity defense is mostly employed in heinous crimes which attract severe punishments, an acquittal of a criminal on the basis of a false insanity plea can prove to be a huge threat to the society. Thus, it is of utmost importance that the courts analyze the insanity pleas carefully. The element of discretion of the judges can be minimized by making the best use of the forensic science and medical science, thereby increasing the overlap between medical and legal insanity and reaching a better and informed decision.

²⁹ AIR 1959 MP 259.

III. REFERENCES

1. P. Ramamurthy, V. Chathoth & P. Thilakan, How does India Decide Insanity Pleas? A Review of High Court Judgments in the Past Decade, *Indian Journal of Psychological Medicine*, 41(2), 150–154 (2019)
2. K.M. Sharma, Defense of Insanity in Indian Criminal Law, *Journal of the Indian Law Institute*, 7, 325-383 (1965)
3. T.V. Ashokan, The Insanity Defense: Related Issues, *Indian Journal of Psychiatry*, 58 (Suppl. 2), 191-198 (2016)
4. M. Vats, L. Rajpal, Legal Dimensions With Reference to Insanity Under Section 84 of the Indian Penal Code, *International Journal of Research in Humanities, Arts and Literature*, 5(3), 59-70 (2017)
5. S.B. Math, C.N. Kumar, S. Moirangthem, Insanity Defense: Past, Present and Future, *Indian Journal of Psychological Medicine*, 37(4), 381-387 (2015)
6. <http://www.legalserviceindia.com/legal/article-3098-judicial-approach-on-plea-of-insanity-in-india.html>
7. https://blog.ipleaders.in/insanity-defence-indian-penal-code/#Misuse_of_Insanity_as_a_Defence
8. <https://www.clawlegal.org/editorial/right-to-equality-of-women-at-workplace-where-does-india-stand-2/>
9. <https://timesofindia.indiatimes.com/city/mumbai/insanity-plea-saves-killer-twice-over/articleshow/64938975.cms>
