

How Criminals Use Insanity as Defense as A Loophole

KHUSHI OBEROI

Bharati Vidyapeeth Deemed University

Abstract— *The law is formed for the people and by the people. The law works under the systematic process written and formed by the Legislature acting with the support of the Judiciary. The purpose of law is to provide justice to the victims and provide punishment to the criminals. The criminals are not those who does wrong with the people but the criminals are those who thought of doing wrong with others. As the law says, a crime consists of two things Mens Rea and Actus Reus. The Mens rea is the intention to commit a crime and the Actus Reus is the act in the crime. The court does not declare that every person who is standing in the position of accused is actually the accused. The person who is in apprehension of being an accused is considered to be innocent until he's being proven guilty by relevant evidences and witnesses. The Insanity is the best term that explains that every criminal act starts with the mind. An insane person can never be considered guilty of an offence even though he has committed a rigorous offence. But sometimes criminals misuse this term to save themselves from punishments. Insanity is quite challenging to be proved because generally it is seen in the movies that to prove in the court that their act was under Insanity, they can be saved from the punishment which does not provide justice to the victim and his family.*

I. INTRODUCTION

The Indian Penal Code penalizes criminals for their criminal acts. The criminal acts as per IPC are those acts which are mentioned in the Indian Penal Code 1860 but in layman language we could say “any act that could harm or disrupts another person’s mental and emotional peace is a crime”. There is a principle, “*Actus Non Facit Reum Nisi Mens Sit Rea,*” which in the literal sense, it explains the meaning that an act does not make an offender liable for his act without a guilty mind or intention to act upon. The Intention or guilty mind (*Mens Rea*) of the offender is an integral part of the act while committing a crime.

The defense of insanity is a law that protects a person who is incapable of understanding the nature of the act done by him

Criminals are those as per law who act with the intention to provide harm to another person. The criminals can be said not guilty only in some cases. They can be:

1. Acting under Self defense
 2. Intoxicated
 - 2.1 Intoxication if involuntary can be taken as defense for the act
 - 2.2 Intoxication if voluntary can depend on the circumstances <https://blog.ipleaders.in/insanity-defence-indian-penal-code/>
 3. Insanity
 - 3.1 At the time of the act
 - 3.2 Medical history
- Insanity can be the best defense for the criminals to prove themselves not guilty but it is quite challenging to prove insanity in the court.

II. WHAT IS INSANITY?

Insanity is a state of an unsound mind. It restricts the ability to think and acknowledge the nature of the circumstances and its consequences.

Insanity includes Detachment from reality, Paranoia, Depression, Hallucinations and many more which prevents a person to see or think with the present mind. Nevertheless, it should be understood that the makers of the Indian Penal Code 1860, preferred to use the expression “Insanity of mind” instead of the term “Insanity.” Insanity is a scope that is very limited, while the mind’s insanity covers a large area.

For example, a person who has a medical history of depression murders his wife under influence of his mind. He will not be guilty by law.

Some Principles of Insanity:

1. Not every insanity is a legal insanity. The incapability to know the nature of his act or the consequences of it.
2. The legal insanity is generally hard to prove as the burden of proof is on the accused.

3. The court must consider whether the accused has suffered from any legal insanity at the time when the offence has occurred.

Essential Ingredients of Section 84 of IPC 1860

- Unsoundness of Mind/Mental Instability
- Intention or Lack Of Motive Or A Trifle Matter
- Legal And Medical Insanity

3.1 Insanity related to Law

In IPC 1860, Insanity is explained under Section 84. It says that any person who lacks the knowledge of the nature and the consequences of his act is considered to be protected under the reference to Insanity.

Insanity is proven by two ways under Section 84 of IPC.

- By medical history
- At the time of the act

By Medical History

A person who is under medication consulted by a proper doctor or psychologist can be considered as the defense for the accused person.

But the advocate has to prove their medical condition by providing evidences to the court in documentation form of his medical report. This can be proved easily in the court.

At the time of the act

The person who has been accused might not have any medical history of Insanity or of any medication but has suddenly got an attack of mental instability or got triggered by some nerve can be considered under this provision.

For example, A man who has no medical history of Insanity but suddenly one day got triggered by his trauma and acted under his mental instability and injured his maid by knife.

Here, the man can take his insanity as a defense.

3.2 Insanity providing support to criminals

The criminals are called criminals for a reason because they act against the law. The medical reports can be made fake. The act can be done while check-up.

Because all the act was in the mind. The criminal's mind plays with other's mind. The criminals use insanity as a defense but it can be misused as well which mostly the accused does. They try to manipulate the facts which hinders the court to provide justice to the victim. It leads to loopholes in defense of the criminals.

III. LOOPHOLES

- The criminal gets protected when he proves himself under medical history if he provide a fake medical report to the court as an evidence.
- The criminal can be saved by giving a plea that they acted upon the influence of a triggered thought. This is generally difficult to prove by the opponent counsel as here the opponent has to prove that the accused has not acted under triggered thought.
- The manipulation of facts by the criminal while

IV. CASE LAWS

1. Mc'Naghten Case:

Principles laid down in the Mc'Naghten Case:

1. Every accused is considered innocent until proven guilty.
2. To establish the defense of insanity, it must be clearly proved that at the time of committing the crime, the person was not in correct state of mind so as he could not distinguish the nature and consequences of the act he was acting upon.
3. If he did have the knowledge of the act, but he did not know that the act he was doing was wrong, he'll be innocent.
4. The test of Intention to commit of the act is in the power to distinguish between right and wrong.

2. State Of MP V. Ahamdullah

In the above case, the accused had murdered his mother- in- law to whom he bore ill-will in the connection with his divorce.

It was proved by the court that he acted with intention at night trespassing into the house by scaling over a

wall with the aid of a torch light and entered the room where the deceased was sleeping.

All this showed that the crime was committed not in a sudden mood of insanity, but the accused had the intention and knowledge to murder the deceased. He preceded by careful planning and exhibiting clear calculation in the execution of the offence and directed it against the deceased person who was considered to be his enemy. Then again, there was a mood of exultation which the accused exhibited after he had to put out her life.

In these circumstance, it was held by the Supreme Court that by rejecting his plea of insanity and convicted the accused of the offence of murder (setting aside the acquittals of both the session court and the high court) and sentenced him to rigorous imprisonment for life.

3. Dayabhai Chhaganbhai Thakkar V. State Of Gujarat

In the above case, the accused was charged and convicted under the Indian Penal Code under section 302 for the Murder of his wife.

The accused killed his wife by inflicting her with 44 knife injuries on her body. The accused raised the plea of insanity at the trial court.

Trial court however rejected the contention on the ground that the statements made to the police immediately after the incident do not percept any sign of insanity. The conviction was given by the High court.

The accused made an appeal to the Supreme Court. The Supreme Court also upheld the conviction of the accused and laid down certain criteria according to which an accused is entitled to the defense under the provision.

It said that in determining whether the accused has established his case under the purview of Indian Penal Code, 1860 under section 84 that the court has to consider the circumstances which preceded, attended and followed the crime.

When determining the state of mind of the accused, the time when the crime was committed is decisive. The relevant factors are the motive of the crime, the previous mental state of the defendant, his mental state at the time of the crime, and the events that illuminate his mental state immediately after the incident.

4. Hazara Singh V. State

In the above case, Hazara Singh was under a delusional mental state that his wife was unfaithful to him. One day, being disturbed by those thoughts, he caused her death by pouring nitric acid on all over her body. Medical evidence showed that he knew what he was doing and had the regular knowledge of right and wrong of his act. He was convicted for murder.

5. Baijanti V. State

In the above case, the accused was suffering from TB and had a stomach pain for the last few months and one day he along with her infant he jumped into the well in which the incident the child lost her life but the lady accused was taken out alive.

On being prosecuted u/s 302 she pleaded insanity but the court refused as she had no kind of mental ailment at the time of committing the crime. However she was said to have committed the act with the knowledge that the death was likely to be caused thereby.

Hence her conviction was altered from u/s. 302 to one u/s 304 for committing the offence of culpable homicide not amounting to murder.

CONCLUSION

The criminals are the not the bad elements of the society. Every human has a bad side in themselves, it is just that they personate their unfair and wrong intentions over their good motives. The control over the wrong acts and intention to take revenge or jealousy can reduce the crime 80 percent on earth. The crime include the intention and the intention arises with the bad thoughts like jealousy, ego, revenge, inferiority or anger. The crimes against women will reduce when the thought of men and women change. The thoughts should be broad and accept that it is not the problem of the dress sense of women but the mentality of men and women who believe that

women's dress is the issue. The Insanity is not just the mental instability but it the thinking of the person who believes that the crime is instigated by the act but it is actually done by the small though in the mind that arises when a simple act has done in the life of the offender.