

**Basis: criminal
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Basis: Insanity means and includes both mental derangement and imbecility.

Insanity is a defence to criminal responsibility. The basis therefore is that such a person is not of sound mind is non compos mentis. That is to say, he does not know the nature of the act he is doing or what is either wrong or contrary to law. This section deals with a deficiency of will due to weak intellect, and lays down the legal test of responsibility in cases of alleged unsoundness of mind. Insanity can be defence only when an accused is in such a State of mind arising from the disease as to be incapable of deciding between the right and wrong. Test of Insanity in Law: Unsoundness of mind non-compos mentis covers a wide range and is synonymous with insanity, lunacy, madness, mental derangement, mental disorder and mental aberration or alienation. The insane persons may be divided into four kinds: — (i) a lunatic; (ii) an idiot; (iii) one non compos mentis by sickness, or (iv) by drink.

A lunatic and an idiot, may be permanently so, or they may be subject to only temporary and occasional fits of malady. A person suffering from a total alienation of the mind is called 'insane' or 'mad', the term 'lunatic' being reserved for one whose disorder is intermittent with lucid intervals. An idiot is one who is of non-sane memory from his birth of perpetual infirmity, without lucid intervals.

A person made non compos mentis by illness is excused in criminal cases for such acts as are committed while under the influence of his disorder. '

Unsoundness of mind' naturally impairs the cognitive faculties of the mind and exempts a person from criminal responsibility. ' Whether a person, who,

under an insane delusion as to the existing facts, commits an offence in consequence thereof is, therefore, to be excused, depends upon the nature of the delusion. If he is labouring under a partial delusion, and it is not in other respects insane he must be considered in the same situation as to the responsibility as if the facts, with respect to which the delusion exists, were real.

If a person afflicted with insane delusion, in respect of one or more particular subjects or persons, commits a crime, knowing that he was acting contrary to law, but did the act complained of with a view, under the influence of insane delusion, of redressing or revenging some supposed grievance or injury or of producing some public benefit, he is nevertheless punishable according to the nature of the crime committed. Section 84 lays down the legal test of responsibility in cases of alleged unsoundness of mind, and it is by that test, as distinguished from medical test, that the criminality of an act is to be determined. The mere fact that on former occasions he had been occasionally subject to insane delusions or had suffered from derangement of mind and subsequently he had behaved like a mentally deficient person is per se insignificant to bring his case within the exemption. The antecedent and subsequent conduct of the man is relevant only to show what the state of his mind was at the time when the act was committed. In other words, so far as Section 84 is concerned, the Court is only concerned with the state of mind of the accused at the time of the act. It is clear that it is only that unsoundness of mind which materially impairs the cognitive faculties of the mind that can form a ground for exemption from criminal responsibility.

The nature and the extent of the unsoundness of mind required must reach that stage as would make the offender incapable of knowing the nature of his act or that he is doing what is either wrong or contrary to law. In *Madhukar G. Nigade v. State of Maharashtra*, the High Court of Bombay held that in order to get the benefit of Section 84 of the Indian Penal Code, it has to be brought on record that at the time when the said offence was committed, the accused was mentally not fit to understand the consequences of his action and was of unsound mind at that time. Legal and Medical Insanity: The difficulty in dealing with the subject of insanity has been felt by the jurists for want of medical knowledge and the controversy between the medical and the legal profession of the subject. Medical men say that the insane should be free from legal punishment as the nature of the disease is most obscure and the symptoms vary.

They thought of law as a rule of barbarism and crime as a disease. They also misunderstood of authority of the judge-made law on which the law relating to insanity is based. The legal insanity is different from the medical insanity. In a case of legal insanity it is to be proved that the insanity is of a degree that, because of it, the man is incapable of knowing the nature of the act or what he is doing is either wrong or contrary to law.

In other words, his cognitive faculties are such that he does not know what he has done or what will follow from his act. Therefore, there can be no legal insanity unless the cognitive faculty of the mind is destroyed as result of unsoundness of mind to such an extent as to render the accused incapable of knowing the nature of the act that what he was doing was wrong or

contrary to law. The capacity to know a thing is quite different from what a person knows. The former is potentiality while the latter is a result of it.

If a person possesses the former, he cannot be protected in law, whatever might be the result of his potentiality. In other words, what is protected is an inherent or organic incapacity, and not a wrong or erroneous belief which might be the result of a perverted potentiality. A person might believe so many things. His beliefs can never protect him once it is found that he possessed the capacity to distinguish between right and wrong. If his potentialities lead him to a wrong conclusion, he takes the risk and the law will hold him responsible for the deed which emanated from him.

What the law protects is the case of a man in whom the guiding light that enables a man to distinguish between right and wrong and between legality and illegality is completely extinguished. Where such right is found to be still flickering, a man cannot be heard to plead that he should be protected because he was misled by his own misguided intention or by any fancied delusion which had been haunting him, and which he mistook to be a reality. Our beliefs are primarily the offspring of the faculty of intuition. On the other hand, the content of our knowledge and our realisation of its nature is born out of the faculties of cognition and reason.

The Courts are concerned with the legal and not with the medical view of the question. A man may be suffering from some form of insanity in the sense in which the term is used by the medical men, but may not be suffering from the unsoundness of mind as is described in Section 84. If the facts of a particular case show that the accused knew that he had done something

wrong it did not matter how though he might be insane from the medical point of view he could not be exonerated under Section 84. Test: There are various degrees of insanity known to medical men or psychiatrists; but law does not recognise all kinds of insanity. Legal insanity as contemplated by Section 84 is that unsoundness of mind, in which a person completely loses his cognitive faculties and is incapable of knowing the nature of his act or that what he was doing was either wrong or contrary to law.

The facts were that after injuring a person with an axe, the accused wanted to assault another person who snatched away the axe from the accused. The accused then fled away. This conduct of the accused rules out that he did not know the nature of the act; on the contrary it is shown that he apprehended that those present would catch and punish him.

In the circumstances, the plea of insanity fails. 1 The test for exemption from conviction and punishment on the ground of insanity is the legal test laid down in this section and not the medical test of insanity. On an analysis of Section 84, one gets three classes of legal insanity: — (1) A person is incapable of knowing the nature of the act, i. e., the physical acts he is doing. (2) A person is incapable of knowing that he is doing wrong. (3) A person is incapable of knowing that what he is doing is contrary to law. The first one refers to the offender's consciousness of the bearing of his act on others, on those who are affected by it, the second and the third to his consciousness of its relation to himself.

The word " wrong", in the section means moral wrong, and no legal wrong, because if, the word " wrong" is interpreted as meaning " contrary to law",

those words being already in this section, the word “ wrong” becomes redundant. The mere fact that the accused was feeling giddy at the time, or that he was not feeling well for the last one month or that he was running after village children or cattle does not establish that he was non compos mentis or of unsound mind and required exemption from penal liability. In *Kamala Bhunia v. State of West Bengal*, the Calcutta High Court has held that to extend benefit of Section 84 of the Indian Penal Code the Court must be satisfied that at the time of commission of the offence the accused was suffering from mental illness or was in such a state of insanity that the accused was not capable of understanding the consequence of wrongful act done by her/him. The object of the legal test, as distinguished from the medical test is to determine the criminality of an act to ascertain how far a guilty intent of knowledge can be attributed to a person of unsound mind.

Section 84, in substance, is the same as the McNaughtett Rules, which in spite of long passage of time are still regarded as the authoritative statement of the law as to criminal responsibility. Although no hard and fast rule can be laid down and the conclusion would vary according to the facts and circumstances of each case, certain broad test based on objective standards are generally looked into by Courts. These are antecedent and subsequent conduct of the person accused of the offence. Though such conducts is not per se enough, but is relevant only or show what the state of mind of the accused was at the time of the commission of the act. Some indication of the precise state of the offender’s mind at the time of the commission of the act is often furnished by the words of the offender used while committing the act or immediately before or after the commission.

Speaking generally, the pattern of the crime, the circumstances under which it was committed, the manner and method of the execution, and the behaviour of the offender before or after the commission of the crime furnish some of the important clues to ascertain whether the accused had no cognitive faculty to know the nature of the act or that what he was doing was either wrong or contrary to law.