

LEGAL DIMENSIONS WITH REFERENCE TO INSANITY UNDER SECTION 84 OF THE INDIAN PENAL CODE

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ABSTRACT

This paper primarily focuses on the concept of the Legal dimensions with reference to the concept of Insanity defined under section 84 of the Indian Penal Code. This paper basically takes into consideration the various aspects of insanity that have been used till now in the court of law. It focuses on how the concept of insanity has been used as a major defence in the court of law, over the period of time. The paper commences with the introduction to the concept of insanity and gives a jist about what has been done in the paper and as to why it is done. Then it further proceeds towards its approach by explaining the historical background of the same. It discusses in this part that how insanity, was used in the past as a defence and how it is relevant in the present context and how it is used as a defence now, and how does it makes sense. Then it gives an introduction to the concept of insanity as defined under section 84 of the Indian Penal Code and then how people take insanity as a defence with regard to the offence or the crime that have operated. It then discusses the test of insanity, that how the law have defined the test of determining the level of insanity and also, that to which level the relief is granted with respect to the crime committed. Then it further proceeds with the concept of Medical insanity and discusses that how medical insanity is different from legal insanity. It then discusses various case laws that help us to understand the concept of insanity in a better legal sense and the application of insanity as a defence. Last but not the least, the paper sets in certain set of conclusions that are vital for the understanding of the concept of insanity under section 84 of the Indian Penal Code.

KEYWORDS: Legal Dimensions, Court of Law, Period of Time

RESEARCH METHODOLOGY

Scope and Objective of the Study

The object of the study is to analyze the legal dimensions with reference to the concept of insanity. It then also focuses on discussing how the dimensions of the crime and the society with respect to the concept of the insanity as defined under section 84 of the Indian Penal Code are changing especially when it comes to the changing crime methodologies and the new development in the society as well as the crime. A study of the provision of the IPC and the concept of the crime and society is conducted to find out the types of such crimes and development that led to the advancement in the crime, that the criminals are taking insanity as a defence for the criminal offence that they have committed and then various attempts have been made to make suggestions which can bring reform in the condition of Indian Penal Code so as to bring it at par with the modern development of the criminals, as far as the provision of insanity is concerned. The scope of the study is also to analyse that how the concept of the insanity has two different aspects, that is the medical aspect and the legal aspect and how are they different from each other. It also focuses on trying to bring out the psyche of the individual who has committed the crime and how he takes the plea of the concept of insanity. Another

objective is to figure out whether the test of insanity is at par with the developments taking place in the criminal society. However, the study is limited to the concept of Insanity as a major premise and crime and the society as a minor premise, so as to be really precise and clear in its approach.

RESEARCH METHODOLOGY

The methodology adopted is largely analytical and descriptive. Reliance has been placed largely on secondary sources like books and articles. Sources like the journals, be it national, or international along with the online journals have been used in the formation of this article. The lectures and classroom discussion have been rich with valuable pointers and gave direction to the research.

CHAPTERIZATION

This project has been divided in chapters. It consists of following chapters, Introduction (Chapter I), Historical background (Chapter II), Insanity under Section 84 of the Indian Penal Code (Chapter III), Medical Insanity (Chapter IV), and Conclusion (Chapter V)

RESEARCH QUESTIONS

- What is Insanity ?
- What is the historical background of the concept of legal insanity and how have people used it overtime ?
- What is Insanity under Section 84 of the Indian Penal Code ?
- How is Insanity used as a defence ?
- Whether there exists a test of insanity to determine the level of insanity ?
- How is medical Insanity different from legal insanity ?
- What are the conclusions drawn ?

HYPOTHESIS

While attending to the concept of Crime in the Indian Society, some major issues that came into my mind is that what is the concept of the Insanity. An issue that arose was that whether insanity can be used as a defence in the court of law, as against the nature of offence that has already been committed by the accused and how and when is it available. Another issue that arose was whether there exists a test to determine the level or the intensity of the insanity and there are different punishments as against the determination of the insanity, as in if the person accused is the insane of the highest level, then will the punishment be given at all or if at all it is given to what extent it is given ? Another issue that arose is that whether there exists any difference between the medical insanity of the person and the legal insanity of the person and is it necessary that a person who is medically insane has to be legally insane or vice versa. This all will be dealt by us in the following paper and this paper will strictly adhere to the secondary sources of information, i.e. the books, articles, online information and the general knowledge of the author.

MODE OF CITATION

A uniform system of citation is followed throughout in the contents.

CH-1 INTRODUCTION

This chapter deals with the introduction to the concept of insanity and covers various aspects that the concept withholds within itself. We usually see that people in their day to day lives often call each other as insane or mad. We

usually see that this term "insane" is used in various connotations and circumstances, for instance, if people are laughing and kidding, they call each other names by calling the other one as insane or mad or out of senses, when one does not do something that is not in accordance with the societal laws, we call the other person as mad, insane or eccentric. But the question here that arises is that, whether the insanity that we use in our day to day language same as the insanity that is medically defined or legally defined and if not what is the difference between the medical insanity and legal insanity. It is amazing to realise that a single term "insanity" has so many different meanings to itself, though all of them are interconnected and somewhat have the same meaning but the place where they are used, makes a lot of difference. For example, if a term insane is used in a cabin of a doctor, then the term is being used for medical purposes, or if the term is being used in a courtroom the term is being used in the legal sense and have a legal meaning attached to it and does not certainly connote the usual slang that we people use in day to day lives. Now stepping a further towards the meaning of insanity in the legal sense. What is the meaning of insanity when used in legal context or in the legal connotations and how does it really makes a sense, and when did it come into force and where did it emerge from ?

How does the term insanity comes into the courtroom ? There have been instances when the offence has been committed by an individual and the person who has committed the offence has claimed the defence of insanity, that the person who has committed grave offence, is he or she sensible enough to understand the repercussions of the act that has been committed by the said person or was the person at the time of committing the offence was insane or was he insane from birth. Then how do we determine the level of insanity or the genuineness of insanity that the person is claiming. The concept of responsibility connects with our most fundamental convictions about human nature and dignity and everyday experience of guilt and innocence and blame and punishment. In the sense we are never so sure, that whether a person is insane or whether he is not and whether justice will be granted to the person aggrieved and the real insane will be left under the medical treatments, so that the person does not commit the offence or any other offence in rear future. There lies a heavy duty and responsibility on the judge, to dispense justice on the behalf of the judicial system. 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 du 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. The affirmative defence of legal insanity applies to this fundamental principle by excusing those mentally disordered offenders whose disorder deprived them of rational understanding of their conduct at the time of the crime. Hence it is generally admitted that incapacity to commit crimes exempts the individual from punishment. This is recognised by the legislation of most of the civilised nations, even in India, under section 84 of the Indian Penal Code (IPC) which deals with the "act of person of unsound mind" and discusses the concept of insanity as a defence. Insanity as a defence in the law courts can be beneficial for those who are actually insane but as a matter of fact and considering the human nature, it has been so far noted in many cases, that this defence is less of a defence and more of a convenience. It serves as a provision of convenience and is overpowered by the money and muscle power when it comes to the applicability of the defence. Incessant to so many misuses, there have been countries in the unites States such as the Montana, Idaho, Kansas and Utah which have banned the defence of insanity. However, when these countries have taken up the courage to ban the defence of insanity keeping in mind the regular misuse of the same, there have been many serious issues that have been raised by several departments such as the medical, psychological departments and the law professionals over the world, because banning the defence will simply be a disadvantage to the insane people or so to say those who are actually insane or of unsound mind. India, has however remained silent on the issue of banning insanity as a defence because not much material is available as far as the research work is concerned. However, few studies have been

conducted on exploring the clinical and psychological picture of the patients in the prison. A landmark study in the forensic psychiatry of Indian setting occurred in 2011, in which 5024 prisoners were assessed on semi structured interview schedule reported that 4002 i.e. (79.6%) individuals could be diagnosed as having a diagnosis of either mental illness or substance abuse. After excluding Substance abuse, 1389 (27.6%) prisoners still had a diagnosable mental disorder. Another gloomy study that portrays a depressing picture of patients in the forensic psychiatry settings and advocate for there is a need to streamline the procedure of referral, diagnosis, treatment and certification. This article primarily focuses on the semi structured assessment in the Indian context based on the landmark Supreme Court judgements. In addition, it also presents a model for evaluating a defendant's mental status examination and briefly discusses the legal standards and procedures for the assessment of insanity defence evaluations. This means that as far as the concept of insanity as a defence is concerned, there are really few research projects that suggest whether India should continue with the defence of insanity or India should adopt the same methodology as some states of the United States. This is a contentious issue to ponder upon, but as far as the Indian stand on the mentioned issue is concerned, India has always taken a neutral stand taking into consideration Part III of the Indian Constitution and the rights that have been granted to every individual. Every individual in India, is also given a right to present themselves in the court irrespective of any discrimination and therefore, India is quite on its stand on banning of the defence of insanity in India.

CH-2 HISTORICAL PERSPECTIVE OF THE TERM INSANITY

When we talk about the term insanity, we often wonder who was the first mad or insane and when did this concept arise and come from? When the Indian Penal Code explains the concept of Insanity and under what circumstances does it provide for the person to claim insanity as a defence and what were the historical evidences that led to the usage of the concept of the insanity.

In the year, 1843, Daniel Mc Naughten, a wood turner from Glasgow, shot and killed Edward Drummond mistaking him for Sir Robert Peel. Mc Naughten believed that he was prosecuted by the Tories, and evidence was brought to show that he had been totally deluded on this subject for some time. His state of mind was apparent from the outset when he had to be coaxed and finally tricked, into pleading "Not guilty". After hearing seven medical witnesses testify that he was completely insane, the judge stopped the trial, the jury brought in the special verdict without summing up and without retiring, and Mc Naughten was forcibly committed to the Bethlem Hospital. Immediately thereafter, five propositions were drawn which were called the Mc Naughten Rules. So, the first sight of the term insanity, came into being a few years ago when Mc Naughten case happened and Lord Macaulay was writing in his Draft Penal Code had excluded idiots, the delirious and the mad from criminal liability. It is still felt in many quarters that these provisions were clearer and caused lesser confusion than a person of unsound mind", a phrase clearly influenced by Mc Naughten. This was because the terms, 'Idiots, delirious and the mad' are easy to define and are separate terms whereas the term 'unsound mind' is more ambiguous in its approach and is somewhat vague when it comes to the explanation of the concept. An "unsound mind", making the act or unaware of the nature and the quality of his physical acts, sometimes "he must have thought, in striking his victim with an axe, he was chopping a piece of wood". Which means and conveys that a person of an unsound mind, is usually not aware of the nature of the act done by him and also the consequences of the same. It's like chopping a person with axe, thinking it to be a tree or a piece of wood. Well, that's quite conspicuous to know that insanity as a defence cannot be misled in the sense of the above cited example which means that if such a defence is given in the court of law and the court approves it to be genuine, how is it that the human rights and the fundamental rights guaranteed under

the Indian Constitution not violated?, it's like we are giving the criminals an opportunity to do a heinous act and then take the defence of insanity. M'Naughten in the year 1843, was soundly criticised from all quarters since then, our own Penal Code, for incorporating the present section 84, voluntarily or involuntarily influenced by M'Naughten in the year 1860 and in 1872 the Indian Evidence Act, with section 105 and section 45, were promulgated. To administer these two laws, the Criminal Procedure Code was enacted in 1898. Before the enactment of the 1898 Criminal Procedure Code, there was no uniform law of procedure for the whole of India. Since, we know that there were different presidencies and the laws for the courts there and the presidency towns were the same but there was no criminal law that bound the whole country into its purview.

The law relating to insanity in India is primarily influenced by the M'Naughten rules. These rules have been since then, criticised for being vague and obsolete in its approach and having its basis on misleading conceptions of insanity. So, in the practical sense, the traditional distinction between, 'organic illness' and the 'functional illness' seems no longer tenable. Which means that when we use the term Insanity, there are mostly two connotations of it, one the medical connotation and the other is the legal connotation which usually means that the person was insane or of unsound mind only at the time of committing the offence and has been suffering from the functional illness of insanity.

The modern studies of the brain structure are undertaken at a sub-microscopic level. The nerve centre of all this, so to speak, of all this activity, is the simple neurone, or the nerve cell that links the network with other nerve cells. Neurotransmission being modern talk, the conservative John Bull and his judiciary still did not take kindly to M'Naughten. In 1859, a judge ruled: "If an influence be so powerful as to be termed as irresistible, so much more the reason why we should not withdraw any of the safeguards tending to counteract it. There are three powerful restraints existing, all tending to assistance of the person who is suffering from such an influence - the restraint of religion, the restraint of conscience and the restraint of the law, but if the influence itself be held a legal excuse, rendering the crime un-punishable, you at once withdraw the most powerful restraint - that forbidding and punishing its perpetration". This means that if a person commits an act which is forbidden by the law, religion and the conscience, then the person will be punished for his or her offence but when the person is influenced by something which is not under the human control and the force is such that the punishment to such act would not be justifiable then the act committed will not be considered as an intentional act and the person may be left off on the behalf of the force, which in itself becomes a legal excuse.

These developments in the concept of insanity were taking place in England, and in spite of these developments we cannot afford to lose sight of the provisions of the chapter XXXIV in the Criminal Procedure Code, 1898, which in the sense governed the interpretation of M'Naughten or section 84 or the lunatic or the accused is of unsound mind. The Irresistible impulse test, which is also known as the 'Policeman at the elbow' law was formulated in the year 1922. This is a broadening of the test of insanity which will be covered under this project at a later stage, under the M'Naughten rules and stipulates that any act committed by the accused who harbours an irresistible impulse to do such an act due to a mental disease shall have the benefit of the defence of insanity. To psychiatrists, this interpretation is unsatisfactory as it covers only a small, special group who are mentally ill. Mentally abnormal offenders committee which was headed by Lord Butler recommended that a trial of the incompetent be deferred for a maximum of six months (two periods of three months each, an interstitial further hearing on incompetence to justify further deferment of the trial being required after three months) and if the incompetence remains and the prosecution wishes to proceed, a trial should be conducted "to the fullest extent possible having regard to the medical condition of the defendant". The Royal commission on capital punishment suggested that the jury must be satisfied that at the time of committing the act, the accused, as a result of the defect of the mind or

mental deficiency, i.e. the offender did not know the nature and the quality of the act, or, did not know that the act done was wrong or was incapable of preventing himself from committing the act. the fallout of this report was not a complete departure from the M'naughten rules as far as the English Courts were concerned but it had the effect of introducing a new defence, that of "Diminished responsibility", vide the Homicide Act, 1957.

CH- 3 INSANITY UNDER SECTION 84 OF THE IPC

The subject of criminal liability and mental illness is still an unsolved problem in the Indian context. When it comes to punishing the person who is claiming to be insane and it is conspicuous regarding the status of the insanity in the person then that is the time when the problem arises as in, whether to punish or not to punish, then the issue of human rights and fundamental rights steps in and then the issue of justice arises and so on and so forth the problem continues. As stated in the Introduction India, is still silent on the issue of when it comes to exploring the possibilities of the concept of insanity and whether the concept should be removed or not. The philosophical basis of the exemption of the insane person from punishment is perhaps traceable to the functional limitations of the retributive and the deterrent theories of punishment which in fact, inspire the formation of the Indian Penal Code. Coming to the concept of insanity at the first place, this part of the project talks about the concept at its detail and then further discusses the concept with its further dimensions.

Section 84 of the Indian Penal Code provides for the provision for the people of unsound mind, it states the following:-

Act of a person of unsound mind - 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 the law.

Section 84 states that the unsoundness of mind is a defence act of a person to a criminal charge on the theory that 'one who is insane has no mind and hence cannot have the necessary mens rea to commit a crime'. Being deprived of free will a mad man is placed in even the worse predicament than a child because the latter can at least control his will and regulate his conduct, whereas the former cannot. In fact, a mad man is punished by his own madness - *Furius furore sui punier*. Moreover, the act of an insane person being unintentional and involuntary, no court can correct him by way of punishment. But at the same time the society has to be protected against the attack of maniacs. Accordingly, a provision has been made under section 330 of the Criminal Procedure Code, 1973 for the detention of such persons in lunatic asylums.

Unsoundness of mind is commonly termed insanity and according to medical science, is a disorder of the mind which impairs the mental faculties of a man. In other words, insanity is another name for the mental abnormality due to various factors and exists in various degrees. Insanity is popularly denoted by idiocy, madness, lunacy, mental derangement, mental disorder and all the other forms of mental abnormality known to the department of medical sciences to describe a few. Thus, an uncontrollable impulse driving a man to kill or wound would come within its scope of the medical definition of the term insanity.

However, insanity in law differs markedly from the medical concept. Insanity in law means a disorder of the mind which impairs the cognitive faculty, i.e. the reasoning capacity of the man, to such an extent as to render him incapable of understanding the nature and consequences of his actions. It excludes from its purview insanity which would be endangered emotional or volitional factors. In other words, every aberrative act performed by the person cannot exempt

him from the criminal responsibility; it is only insanity of a particular or appropriate kind which is regarded as the insanity in law that will exempt a man from his criminal liability.

There is a test of insanity to measure the level of insanity that is allowed in the legal sense. The important questions that arise regarding insanity are:

(a) How is it to be detected and what should be the demarcating line between the sanity and the insanity in order to extend to a man the protection of law from criminal prosecution.

A number of tests have been given from time to time for this purpose and the kind and the degree of insanity available as a defence against the crime. But the most notable of all this right and wrong test formulated in the M' Naughten's case. In this as stated above in the introduction part, the law relating to the concept of insanity is to be found in the form of replies given by the 15 Judges House of Lords to the five questions put to them with a view to clarify the law on this particular subject. Over the time those questions and particularly the answers to the second and the third assumed great significance and vitality in as much as they find place in the Penal Code of almost all the countries in the world influenced by the common law.

The questions that were stated in the case were:-

Question II - What are the proper questions to be submitted to the jury when a person affected with insane delusions respecting one or more particular subject or person, is charged with the commission of the crime and insanity is set up as a defence? ;

Question III - In what terms ought the question to be left to the jury as to the prisoner's state of mind at the time when the act was committed ?

The answers to these questions were:-

To establish a defence on the ground of insanity, it must be clearly proved that at the time of committing the offence or the act the accused was labouring under such a defect of reason due to the disease of the mind as not to know the nature and the quality of the act he was doing, or if he did know it, that he did not know he was doing what was wrong. Section 84 of the Indian Penal Code has been drafted in the light of the replies to the second and the third questions, which is generally known as the M' Naughten Rules. However, the section uses a more comprehensive term, 'unsoundness of mind' rather than the term 'insanity'. As stated by Huda, the use of the word 'unsoundness of mind' has the advantage of doing away with the necessity of defining insanity and of artificially bringing within its scope different conditions and affliction of the mind which ordinarily do not come within its meaning, but which nonetheless stand on the same footing in regard to the exemptions from criminal liability.

Ingredients of Section 84

To invoke the benefit of section 84, it must be proved that at the time of the commission of the offence, the accused was insane and not of sound mind and that the unsoundness of mind was of such a degree and nature as to fulfil one of the tests laid down in the section. These are:

First the accused was incapable of knowing the nature of the act, and

Second, that the accused was precluded by reason of unsoundness of mind from understanding that what he was doing was either wrong or contrary to law.

It is only unsoundness of mind which materially impairs the cognitive faculties of the mind that can form a ground of exemption from criminal responsibility, the nature and the extent of the unsoundness of mind required being such as act would make the offender incapable of knowing the nature of the act, or that he is doing what is either wrong or

contrary to law.

In the case of Kader Shah A person strikes another, and in the consequence of an inane delusion thinks he is breaking a jar and it is similar to the example given above in the introduction part. This comes under the delusion part. He does not know the nature of the act or he may kill a child under an insane delusions that he is saving him from sin and sending him to heaven. Here, he is capable of knowing by reason of insanity that he is doing something which is morally and legally wrong.

In Ashiruddin v. The King, (1949), The Calcutta High Court allowed the defence of insanity under section 84 of the Indian Penal Code on the ground that the accused had sacrificed his son of five years while acting under the delusion of a dream, believing it to be right. The accused had dreamt that he was commanded by someone in paradise to sacrifice the son. The next morning he took the son to the mosque and killed him by thrusting a knife in his throat. He then went straight to his uncle but, finding a chaukidar nearby, took his uncle to a tank at some distance away and slowly related the story. On these facts, it was held by the bench of the Calcutta High Court that the case of insanity under section 84 of the IPC was made out.

It was held in this case that to enable an accused to obtain the benefit of section 84 he should be able to establish any one of the following three elements, viz.,

- That the nature of the act was not known to the accused, or
- That the act was not known by him to be contrary to law, or
- That the act was not known by him to be wrong.

On the above facts, the Bench held that the third element was established by the accused namely, that the accused did not know that the act was wrong. This was obvious on the ground that the accused was labouring under a belief that his dream was a reality.

CH- 4 MEDICAL INSANITY

Now that we have talked about the concept of legal insanity, let's talk about some medical insanity and get conversant with that too. Most people outside the world of forensic psychiatry steadfastly maintain that this topic is esoteric. We tend to agree with the opinion of the majority and in turn, decided to rely on Ralph Solvenko's extremely illuminative and illustrative essay, causation in law and psychiatry, he opines and states as follows :-

- Mental illness may simply coexist with criminality without having any casual significance,
- Mental illness may predispose towards criminality,
- Mental illness may inhibit criminal behaviour

It must also be noted that the commission of a crime may cause mental illness rather than mental illness being the cause of the crime; facing the prosecution of punishment is significant stressor and potentially pathogenic. Although there is a general agreement that individuals with certain characteristics of mental disorder are more prone to violence than other individuals, there is still debate concerning the prevalence of violent behaviour among the various diagnostic groups. Current data suggest that the schizo-affective diagnosis, paranoid features, psychotic symptoms and substance abuse may all be associated with greater risk of serious violence. Some of the medical conditions that qualify for establishing a successful insanity defence and those do not.

In the concept of the *Schizophrenia*, the Supreme Court in Mohinder Singh v. State has held that a person suffering from schizophrenia at the time of the incident is entitled to successfully claim the plea of insanity as has been ruled by the Bombay and the Rajasthan High Courts also.

The second type of disorder is the *Substance use disorder* i.e. the alcohol use - The Director of Public Prosecutions v. Beard it has been held that evidence of alcohol use which renders the accused incapable of forming a specific intent to constitute a particular crime should be taken into consideration with other facts proved in order to determine whether or not he had this intent, but evidence of alcohol use which falls short of proving such incapacity and merely establishes that the mind of the accused was so deeply affected by the drink that he more readily gave way to some violent passion does not rebut the presumption that a man intends the natural consequences of his actions.

Example of this is that a heavy and a habitual ganja smoker killed his wife and children because she prevented him from going to a particular village. It was held that until the accused habit of smoking ganja had induced him to such a state of mind as to make him incapable of knowing the nature of his act or criminality, he could not get the benefit of this section.

The third type of disorder is the *Delusional disorder*. In the case of the public prosecutor v. Shibo Koeri and Karma Urang v. State, the court has recognised what leading authorities call, melancholic homicidal mania and held the accused not guilty of murder, having given them the benefit of Section 84. The accused did not by reason of unsoundness of mind, know that what he was doing was wrong or contrary to law. Mere "morbid feelings" leading to murder does not attract the insanity defence, the authorities opined.

Another kind of disorder was the *Somnambulism*, that is the concept of sleepwalking, if proved, it would constitute the unsoundness of mind which attracts Section 84. In Paphi Ammal v. State of Madras, the accused who had recently given birth to a child, had jumped into a well at night along with the newborn. She was rescued but the baby died. charges of attempt to commit suicide and murder were framed and the insanity defence was raised on the ground of somnambulism but failed for lack of proof and adequate evidence.

Another type of disorder that is covered is *Epilepsy* ,i.e. the accused murdered his mother and wounded his step father without any apparent cause. After the murder accused hid in a ravine. the medical evidence showed that the accused was subject to epileptic fits. it was held that the accused was guilty of the acts charges but not so as to be responsible in law for action. Where the appellant had produced at the trial a discharge certificate from the army showing that he was released account of his suffering from epilepsy about fifteen years prior to the occurrence and it was clear from the prosecution evidence that the conduct of the appellant shortly prior to the, at the time of, and after the commission of the offence by him as well as his mental condition subsequently found by the medical examination were of such a nature that the appellant was of unsound mind on the account of his having fit of epilepsy at the time of occurrence, his conviction and sentence were set aside.

CH-5 CONCLUSION

Criminal responsibility should be taken into consideration while considering the concept of Insanity and therefore, the concept of defence of insanity is typically sceptical when it comes to its applicability. Like it has already been mentioned above there are certain dimensions and limitations to the concept and it only applies to certain medical concepts such as the schizophrenia, epilepsy and others. When it comes to discussing and concluding the topic of insanity, for a person to be insane or of unsound mind, there are certain legal dimensions too which he should be covering such as that he should have no knowledge of the nature of the act and the quality of the same and that in certain cases it has to be proved

that the person claiming insanity is that at the time of committing the act, the person should be insane. The onus of proof lies on the person claiming the defence that the conditions for claiming the defence are fulfilled. The concept of legal insanity and the medical insanity differs from the same concept that the onus of proof lies on the person claiming it and the person should be insane at the time of commission of the offence.

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