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"EXPLORING THE EXPLOITATION: THE INSANITY DEFENSE AS A LEGAL GAMBIT IN CRIMINAL CASES"

The defense of insanity, with its origins rooted in various landmark cases steeped in public scrutiny and controversy, continues to be a subject of fascination and debate within the realm of criminal law. The controversies and opinions of the critics have long dominated both the judicial structure and the public domain alike but they gain even more fervor when fueled with cases such as that of John Hinckley. The foundation of the defense of insanity is to safeguard those citizens of the society who because of some mental abnormalities are unable to comprehend the consequences of their actions. But the fact that in the real world, the role of insanity is complex and composite cannot be ignored. Since its inception, for centuries critics have argued how volatile the defense of insanity is and can be easily exploited at the expense of the criminals by mere exaggeration of their symptoms to evade being held liable for their actions. This blog delves into the defense of insanity as a legal gambit struck between its moral necessities and legal and ethical loopholes

Historical Background and Evolution of the Defense

The defense of insanity has reached its modern stage after evolving through various tests and was finally incorporated into the legal system across the globe. Over the years tests like the wild beast test, insane delusion test, and a test to distinguish between right and wrong were formulated¹. However, it was the ruling of the M'Naghten case that led to the compilation of the M'Nafghten rule which stands as the foundation of the defense in India. The case in itself caused public excitement and considerable furor². The M'Naghten though the most influential of them all was not the final test it was followed by the irresistible impulse test and the Durham Rule.

¹ Prof SN Mishra, Indian Penal Code, 22nd edition, 2018.

² PSA Pillai, Criminal Law, 356, 14th edition, 2019.

Legal Interpretation of the defense

Under the criminal law, an act will be considered as a criminal act if it is accompanied with criminal intent. The defense of insanity similarly hinges on the principle of mens rea furtherance with the criteria of necessity of mens rea the supporters of this defense place emphasis on maxims such as Furiosus Nulla Voluntas Est (a mad man is punished by his own mistakes) Furiosus Absentis Low Est (He is like one who is absent)³. The defense of insanity absolves the culprit of his charges either completely or partially as the situation demands due to his mental illness or unsoundness of mind. An insane person is incapable of forming a criminal intent.⁴

Insanity as a defense under the Indian Legal System-

The Indian Legal System also provides safeguards for the members of the society who suffer from any mental abnormalities. Section 84 of the Indian Penal Code of 1860 provides defense on the ground of unsoundness of mind whereas the Bhartiya Nyay Sanhita of 2023 provides a defense to the accused suffering from any mental illness under Section 22 of the act. It is a distinguishable point that the criminal law of India does not define unsoundness of mind or mental illness It has been observed by the obiter dicta and ratio decedendi of various Indian courts that they take unsoundness of mind to be equivalent to insanity. The Hon'ble Court in the case of Francis vs State of Kerala⁵ observed that "a mere warped or twisted mind, which many a criminal has can't qualify to be termed as 'unsound mind.'" The Indian Legal System distinguishes between medical and legal insanity. Legal Insanity is where there is complete impairment of the cognitive faculty of the mind.⁶

The criminal law puts the onus of proof to absolve the charges on the culprit itself. It is the accused who claims to have been suffering from any mental abnormalities at the time of the commission of the unlawful act who has to prove his claims beyond any reasonable doubt. Chapter 254 of CrPC provides an elaborate procedure that has to be taken into account while conducting trial of person of unsound mind

³ PSA Pillai, Criminal Law, 358,14th edition,2019 .

⁴ PSA Pillai, Criminal Law, 357,14th edition,2019.

⁵ Francis vs State of Kerala, AIR 1974 SC 228.

⁶PSA Pillai, Criminal Law,360, 14th edition,2019.

Insanity used as a legal gambit-

The present laws concerning the defense of insanity under the Indian Legal System have posed the threat of loopholes in ensuring justice. The critics for centuries have thundered down on the volatile nature of the defense. The defense of insanity in India where the criteria is unsoundness of mind is unclear on the matter and is left to the court's interpretation and discretion. Section 84 of the Indian Penal Code, 1860 has remained static for over 150 years since its incorporation even after the progress modern science has achieved in the field of psychiatry.⁷ The jurists contend that the term "unsound mind" opens up for vague interpretation in comparison with insanity. The term "unsound o mind' has become an umbrella term that now corporates varying mental conditions but has failed to keep up with the developments in psychology and psychiatry.⁸ The rulings and trials are based on the circumstances of the case.

The onus to prove by expert evidence that the accused suffers from mental illness will be on him.⁹ But what is ignored and should be put in the spotlight is the advancement of Technology and its easy accessibility enables everyone to be aware of the symptoms and diagnosis of any mental illness. The Supreme Court in the case of Devidas¹⁰ ruled that a poor person is not expected to maintain a proper record of their mental illness history and should be subjected to mental health evaluation. This gives them enough time to get their facts in line with the symptoms and diagnosis as made available over the internet by the experts themselves, Various web series and TV shows highlight the mindset of criminals where the use of the defense of insanity itself is premeditated. There have been instances wherein the court has absolved the accused of the charges based on the conduct of the person post the commission of the crime such as not fledging from the scene of the crime. While some courts rely on mere oral testimonies of the witnesses which can be easily manipulated by any powerful and well-financed accused. The courts of India have taken inconsistent approaches to establish whether the defense of insanity could be invoked or not has many times worked in the favor of the accused.

A mere preponderance of probability is considered enough to prove the unsoundness of mind which again leads to different treatment of the accused by different courts and inconsistent approaches dims the effectiveness of the law

⁷ PSA Pillai, Criminal Law, 364, 14th edition, 2019.

⁸ Law Commission of India, Indian Penal Code, Report No.42, 4.26 (June 1971) available at <https://lawcommissionofindia.nic.in/1-50/Report42.pdf>.

⁹ State of Rajasthan vs Shera Ram,(2012) 1 SCC 602,19.

¹⁰ Devidas Loka Rathod vs The State Of Maharashtra,2018, AIR 2018 SC 3093.

Conclusion-

The defense of insanity aims at providing defense to individuals grappling with mental illness or unsoundness of mind. The law however has been a topic of debate between critics and supporters accompanied by public furor and excitement alike. The Indian Jurisprudence specifically has posed itself as a model of inconsistent statutes and procedures in this matter. The defense of insanity is being overused and misused by the culprits at their whims due to the inconsistency and vagueness of the legal statutes on this matter. Over the years various legal systems such as that of Sweden, Kansas, Idaho, Utah, Germany, and Thailand have abolished insanity as a defense stating that the law was being overused and now provides for verdicts of guilty but mentally ill.

The new criminal law that is being incorporated in India i.e., The Bhartiya Nyay Sanhita of 2023 should align with the advancement of psychology and psychiatry and aim at providing a consistent legal framework. The interpretation of Section 22 of the new act should focus on striking a balance between safeguarding the individuals suffering from mental illness and upholding principles of justice to all.