

# KUMARI CHANDRA V STATE OF RAJASTHAN: THE CASE THAT SABOTAGED THE UNDERLYING PRINCIPLE OF INSANITY

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## ABSTRACT

*The underlying principle of the defence of insanity is that no insane person should be punished for a crime that he did not intend to do. Since, criminal justice system works on the belief that punishing an innocent person is a grave violation of the basic human rights of an individual, this defence gives an absolute exemption from liability. One of the cornerstones of this defence is that it is not concerned with medical insanity but legal insanity. Legal insanity is a question of fact and not a question of law. Unfortunately, there is no golden scale to measure the mental state of a person. Hence, it has to be decided by looking into facts and surrounding circumstances of the case. There have been several cases pertaining to insanity and there have been several instances in the past where the defence has been pleaded as a measure to escape liability. Hence, it is imperative for the judges to apply their judicial mind before reaching a conclusion rather than deciding it according to their whims and fancies.*

*Kumari Chandra v State of Rajasthan is one such case, which has caused huge turmoil and chaos among academicians and legal professionals. In this case, the Rajasthan High Court accepted premenstrual stress syndrome as a valid defence under Section 84 of the Indian Penal Code 1860. The judgment is problematic due to the irrational and unjustified reasoning adopted by the judges to decide the case. This case has opened a Pandora's box and has made Section 84 susceptible to misuse. The author, in this case comment, attempts to analyse the flaws in the judgment with the help of judicial precedents.*

## CASE ANALYSIS

Name of the Case: - *Kumari Chandra v State of Rajasthan*<sup>1</sup>

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<sup>1</sup> *Kumari Chandra v State of Rajasthan* 2018 (3) RLW 2382 (Raj).

### **PROVISIONS INVOLVED**

1. Indian Penal Code, 1860: Sections 84, 302, 307, 364, 374.
2. Code of Criminal Procedure, 1973: Section 374.

### **BRIEF FACTS AND PROCEDURAL HISTORY OF THE CASE**

1. Kumari Chandra went to the school of three children namely Udhavdas, Deoki and Omprakash. She pretended that she would show them the temple of Nasia. On reaching the spot, she pushed them into the well situated near the temple of Nasia.
2. Out of the three children, Omprakash died due to drowning while others sustained injuries. They were rescued by the village people.
3. During trial, the accused denied the charges against her and claimed a defence of insanity under section 84 of the Indian Penal Code. She contended that she was suffering from Premenstrual Stress Syndrome.
4. The trial court convicted her for the offences under sections 302, 307 and 374 of the Indian Penal Code (hereinafter the IPC) and sentenced her for the offence under Section 302 of the IPC to undergo life imprisonment.
5. She appealed before the High Court of Rajasthan and hence this appeal.

### **ISSUE BEFORE THE COURT**

1. Whether a female suffering from Premenstrual Stress Syndrome (hereinafter PMS) can claim the defence of insanity?

### **HOLDING OF THE COURT**

1. The court while dealing with PMS as the defence of insanity reached the following conclusions:
2. The court held that despite the fact that law regarding PMS as a defence of insanity was not much developed in India, the accused did have a right to plead the defence by showing that she was suffering from PMS at time of commission of the offence.
3. The court concluded that since the accused was suffering from PMS at the time of the commission of the offence, she is eligible to plead the defence of insanity.
4. The court set aside the order of conviction passed by the trial court and acquitted her.

## ANALYSIS OF THE JUDGMENT

The problematic and irrational reasoning adopted by the Court in this case has created a lot of space for misuse of section 84 of the IPC. The reasoning adopted has set a bad precedent for the cases pertaining to PMS as a defence of insanity. It has completely sabotaged the underlying principle of insanity as a defence. This case is an epitome of absolute non-application of the judicial mind. The major flaw in the reasoning adopted is that the judgment derives its basis from law of other countries. There is absolutely no justification for allowing this defence for a female suffering from PMS under Indian law. Adding to the dilution of the defence, the court has also equated medical insanity with legal insanity. It has been a settled principle in *Surendra Mishra v State of Jharkhand*<sup>2</sup> that only legal insanity is accepted as a defence under section 84 of IPC. The court made a grave mistake by juxtaposing legal insanity with medical insanity. The flaws adopted in the reasoning by the court are discussed below:

### WRONG INTERPRETATION OF SECTION 84

Section 84 of the Indian Penal Code gives absolute exemption from criminal liability. The Section can be deciphered into two essential ingredients:

1. A person is incapable of knowing the nature of the act at the time of doing it due to unsoundness of mind.
2. A person, at the time of doing it, is incapable of knowing that he is doing what is either wrong or contrary to law.

We have seen a gross misinterpretation of section 84 in the case of *Ashiruddin Ahmed v The King*.<sup>3</sup> In this case, the court interpreted section 84 in such a way to include three ingredients to it. According to the judges, following were the three ingredients of Section 84:

1. A person is incapable of knowing the nature of the act at the time of doing it, due to unsoundness of mind.
2. A person, at the time of doing it, is incapable of knowing that he is doing what is wrong.
3. A person, at the time of doing it, is incapable of knowing that he is doing what is contrary to law.

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<sup>2</sup> *Surendra Mishra v State of Jharkhand* (2011) 11 SCC 495.

<sup>3</sup> *Ashiruddin Ahmed v The King* 1949 CriLJ 255.

This interpretation is totally flawed and irrational. In case of *Bapu alias Gajraj Singh v State of Rajasthan*,<sup>4</sup> the court has clearly pointed out the correct interpretation of section 84. It was held that an accused can be exempted from liability of an act on the ground that at the time of commission of the act, the accused due to unsoundness of mind, is either incapable of knowing (i) the nature of the act, or (ii) that what he is doing is either wrong or contrary to law.<sup>5</sup> It was also held that an accused will not get protection under section 84 if he knew that what he was doing was wrong, regardless of the fact that he did not know that it was contrary to law, and also if he knew that what he was doing was contrary to law despite the fact that he did not know that it was wrong.<sup>6</sup> This is the settled position regarding the law of insanity.

The expression 'at the time of doing it' used in section 84 makes it clear that is associated only with legal insanity and not with medical insanity.<sup>7</sup> A clear line of demarcation can be drawn between the two based on the state of mind at the time of the commission of the offence.

In *Dahyabhai Chhaganbhai Thakker v State of Gujarat*<sup>8</sup>, the Supreme Court interpreted section 84 in a strict manner. The court deciphered legal insanity and medical insanity and stated that to set up the defence of legal insanity, it has to be ascertained whether at the time of the commission of the offence, the accused by reason of unsoundness of mind was unable to understand the nature of the act or what he was doing was either wrong or contrary to law.<sup>9</sup> In *Siddhapal Kamala Yadav v State of Maharashtra*, the court held that the mere fact that an accused has some mental illness and his brain is not all right, or that due to the mental ailments and physical illness his intellect has become weak and fragile and has affected his willpower and his emotions, cannot be sufficient to attract the application of this section.<sup>10</sup>

It is a well-established fact that the menstrual cycle is a natural cycle that females undergo. It is a natural process of every female's life. It cannot affect the mental cognitive faculties of a person to the extent that she becomes insane. Mental irritation or frustration cannot be a ground to avail the defence under section 84.

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<sup>4</sup> *Gajraj Singh v State of Rajasthan* (2007) 8 SCC 66.

<sup>5</sup> *ibid.*

<sup>6</sup> *ibid.*

<sup>7</sup> Indian Penal Code 1860, s 84.

<sup>8</sup> *Dahyabhai Chhaganbhai Thakker v State of Gujarat* AIR 1964 SC 1563.

<sup>9</sup> *ibid.*

<sup>10</sup> *Siddhapal Kamala Yadav v State of Maharashtra* AIR 2009 SC 97.

### NON-JUDICIAL APPLICATION OF MIND

Another controversial stand taken by the court in this case is that they approached the case without applying judicial mind. It blatantly failed to interpret the underlying principles of insanity. In the case of *Ramesh alias Ramesh Babu v State*,<sup>11</sup> the court held that mere abnormality of mind or delusion, or compulsive behaviour of a psychopath does not afford any protection under section 84.<sup>12</sup> Behaviour, which is antecedent and attendant, and subsequent to the event, must be taken into consideration.<sup>13</sup> In the present case, the accused deliberately pretended to the children that she is taking them to visit the temple and later on pushed them into the well. This deliberate act without a fraction of doubt proves that her act was pre-meditated and planned.

### DID NOT DISCUSS THE MOTIVE ASPECT

One of the major flaws in this judgment was not discussing or investigating the motive aspect of the case. The court at no point of time discussed whether there was any motive associated with the commission of the crime. The facts of the case show that the accused was not in good terms with the father of the children. The prosecutor highlighted the motive; however, the court did not pay any heed to the aspect. In the case of *Sherall Walli Mohammed v State of Maharashtra*<sup>14</sup>, the court has held that the mere fact that there was proof of motive on the part of accused to commit the offence would not necessarily mean that the accused was insane or did not have *mens rea*. In the present case, accused's act of pretending to go to the temple and tempting the children to show them the temple and pushing them into the well is evidence of her possession of *mens rea*. This clearly shows her motive and her preparedness associated with the crime. However, the court did not accept this stance put forth by the prosecutor.

### INVOKING MEDICAL INSANITY IN THE SCOPE OF LEGAL INSANITY

The court committed a mistake by invoking medical insanity in the guise of legal insanity. It is a well-established rule that for the application of insanity under section 84, only legal insanity would be accepted. The court did not discuss whether, at the time of the commission of the offence, she was suffering from such unsoundness by reason of PMS that she could not know the nature of her act, or what she was doing was

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<sup>11</sup> *Ramesh Babu v State* Appeal No (Crl) 731 of 2008.

<sup>12</sup> *ibid.*

<sup>13</sup> *ibid.*

<sup>14</sup> *Sherall Walli Mohammed v State of Maharashtra* 1972 CrLJ 1523 (SC).

either wrong or contrary to law. In another case of *Bapu Gajraj Singh v State of Rajasthan*,<sup>15</sup> the court held that to determine whether the benefit under section 84 could be given or not, the material time when the offence was committed is the crucial point of time.<sup>16</sup> While interpreting Section 84, it is very pertinent to note that it is not enough to prove that the accused had certain abnormalities or imbalance of mind. In the case of *TN Lakshmaiah v State of Karnataka*,<sup>17</sup> the court discussed the settled position of law relating to insanity. The settled position of law is that every man is presumed to have a sufficient degree of reason to be responsible for his acts unless and until the contrary is proved.<sup>18</sup> However, in this case, the court did not delve into the evidence to show whether the accused was of sound mind during the commission of the offense. The mere identification of the fact that the accused was suffering from PMS does not *ipso facto* make a person entitled to defence under section 84. The crucial question, which has to be answered, is that the cognitive faculties of the person should have been affected by PMS.

#### EXCESSIVE RELIANCE ON REPORTS AND JOURNALS

Another logical fallacy in *Kumari Chandra v State of Rajasthan* is that it has placed excessive reliance on the foreign journals and reports. The court though accepted the fact the law regarding PMS is not developed in India, still went on to decide the case based on foreign law. Insanity is a question of fact, which has to be decided based on facts and circumstances rather than deciding it based on foreign journals and reports. The facts are different in every case; therefore there are no golden scales to measure insanity. In the case of *Kamala Bhuniya v State of West Bengal*, the court has emphasised on the need of circumstantial evidence and suggested that it is not a layman's guess as to whether the person was suffering from mental illness at the time of the commission of offence.<sup>19</sup> The court must have looked into the surrounding circumstances to conclude.

#### IMPLICATIONS OF THE JUDGMENTS

##### SETS A WRONG PRECEDENT

The judgment acts as a wrong precedent in cases relating to PMS as a defence under section 84. This would open a Pandora's Box in relation to the misuse of section 84 and

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<sup>15</sup> *Gajraj* (n 4).

<sup>16</sup> *ibid.*

<sup>17</sup> *TN Lakshmaiah v State of Karnataka* (2002) 1 SCC 219.

<sup>18</sup> *ibid.*

<sup>19</sup> *Kamala Bhuniya v State of West Bengal* 2006 CriLJ 998.

can act as a dilution to the basic principle of section 84. Defence of insanity is awarded only as a tool to prevent the implication of punishment on insane persons. It is already stated that PMS is a natural process in the life of every female. It is also a well-established fact that around 70-90% of females undergo PMS in their life cycle, out of which 60% have mild symptoms of it while the remaining 40% have moderate symptoms. Female do become irritable and violent but whether that violent act can be exonerated on the ground of insanity is a boiling question. This judgment has created an atmosphere where any female suffering from PMS can plead insanity and get away with it easily. The judgement gives unnecessary protection to a female suffering from PMS which might result in irrational acquittals of a females committing offences during PMS. This would result in the travesty of justice.

## CONCLUSION

The grant of defence of insanity in the present case raises many serious concerns. This does not only dilute the underlying principle behind the defence of but also gives a wide space for misuse of defence of insanity. The author is struggling to find the reason as to why the Rajasthan High Court relied on foreign journals and reports rather than looking into the facts and circumstances surrounding the case. The court also failed to discuss the motive aspect in this case. Motive, though an essential ingredient, was not taken into consideration. Moreover, the court completely failed to decide the case on the merits of the case by applying the judicial application of mind. The author strongly believes that this case is based solely on an irrational and unjustified reasoning, which sabotaged the sole objective of section 84.