

Nanney Khan Vs. State

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Court : Delhi

Decided On : Jan-15-1986

Reported in : 1986(10)DRJ208

Judge : R.N. Aggarwal and; Malik Sharief-Ud-Din, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 84

Appeal No. : Criminal Appeal No. 71 of 1982

Appellant : Nanney Khan

Respondent : State

Judgement :

(1) The question that arises for consideration is as to whether the accused - will be entitled to the benefit of exception under Section 84 of Indian Penal Code. We may notice the law on the subject which is very clear. The legal conception of insanity differs considerably from the medical conception. It is not every form of sanity or madness that is recognised by law as a sufficient excuse. The best law on the subject we may notice is embodied in the case of Daniel Me Maghten. The learned Judges in that case inter-alia laid down as under :

'EVERY man is to be presumed to be sane and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary be proved to their jury's satisfaction, and that to establish a defense on the ground of insanity, it must be

clearly proved that, at the time of committing the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong.'

(2) Section 84 Indian Penal Code has incorporated this definition of unsoundness of mind and in a catena of judgments the highest court of this country has held that under Section 84 Indian Penal Code the crucial point of time at which unsoundness of mind be established is the time when the act constituting the offence is committed and that the burden of proving that the accused is entitled to the benefit of this exception, is upon him. In the present case the defense even though has asked questions from PW-1 about the previous unsoundness of mind of the accused, has not either from Public Witness -I or from Public Witness -I 3 or even from the expert witness enquired as to what was the mental condition of the accused at the time of commission of the crime. Dw 3 has also spoken about the past mental unsoundness of the accused. The accused has also not set up such a defense. In our view, therefore, the accused is not entitled to the benefit of Section 84 IPC.

(3) We are, therefore, of the view that the case against the appellant is amply proved and he has been rightly convicted and sentenced to imprisonment for life. The appeal is dismissed.

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