



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Appeal No. 289 of 2021

Shivlal Kawalsingh Taram,
Aged 32 Years,
Occ. Cultivator,
R/o. Ganeshpur, Tah. Korchi,
Dist. Gadchiroli.

... Appellant

- Versus -

State of Maharashtra,
Through P.S.O. Korchi,
Tah. Korchi, Dist. Gadchiroli.

... Respondent

Mr. R. M. Patwardhan, Advocate (Appointed) for the appellant
Mr. K. R. Lule, APP for the State/respondent

**CORAM : ANIL L. PANSARE AND
RAJ. D. WAKODE, JJ.**

DATED : 08-12-2025

ORAL JUDGMENT (Per : ANIL L. PANSARE, J.)

The appellant is aggrieved by judgment and order dated 24-3-2021 passed by the Sessions Court, Gadchiroli in Sessions Case No. 91/2020 holding appellant guilty of offence punishable under Section 302 of the Indian Penal Code (IPC).

2. Briefly stated, the allegation against the appellant is that on 25-5-2020, at the backside of his house, he has committed murder of

his own wife, namely, Hemlata Shivilal Taram by inflicting blows of sickle on her head, hands and back. The report was lodged by P.W. 2, who is appellant's aunt. She was residing adjacent to the house of appellant.

3. Our attention is invited to the report lodged by her, wherein in paragraph no. 2 of the report, she stated that appellant used to look here and there like a mad person. His relatives, on number of occasions, made attempt to take appellant to doctor for treatment, however, he used to run away. He was taken to the village priest. He, however, abused the priest and the persons taking him to priest and thereafter used to run away. With this history, she has lodged report on 26-5-2020 stating therein that while appellant's wife was cleaning utensils, for no reason, appellant inflicted multiple blows on her person by means of sickle. His wife succumbed to injuries. Appellant was apprehended by relatives at the spot. Accordingly, evidence is led. P.W. 2 in her cross-examination admitted that the appellant was behaving like an insane person.

4. The argument is that since it was known to the Investigating Officer that appellant had history of insanity, it was his duty to refer the appellant to medical examination and to place on record the evidence that the appellant did not suffer from any insanity.

5. Learned counsel for the appellant has invited our attention to the judgment of the Supreme Court in the case of ***Bapu alias Gujraj Singh Vs. State of Rajasthan [(2007) 3 SCC (Cri) 509]***. The relevant observations find place in paragraph nos. 8, 11 and 12 which read as under :-

"8. Under Section 84 IPC, a person is exonerated from liability for doing an act on the ground of unsoundness of mind if he, at the time of doing the act, is either incapable of knowing (a) the nature of the act, or (b) that he is doing what is either wrong or contrary to law. The accused is protected not only when, on account of insanity, he was incapable of knowing the nature of the act, but also when he did not know either that the act was wrong or that it was contrary to law, although he might know the nature of the act itself. He is, however, not protected if he knew that what he was doing was wrong, even if he did not know that it was contrary to law, and also if he knew that what he was doing was contrary to law even though he did not know that it was wrong. The onus of proving unsoundness of mind is on the accused. But where during the investigation previous history of insanity is revealed, it is the duty of an honest investigator to subject the accused to a medical examination and place that evidence before the Court and if this is not done, it creates a serious infirmity in the prosecution case and the benefit of doubt has to be given to the accused. The onus, however, has to be discharged by producing evidence as to the conduct of the accused shortly prior to the offence and his conduct at the time or immediately afterwards, also by evidence of his mental condition and other relevant factors. Every person is presumed to know the natural consequences of his act. Similarly every person is also presumed to know the law. The prosecution has not to establish these facts.

11. The section itself provides that the benefit is available only after it is proved that at the time of committing the act, the

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 that even if he did not know it, it was either wrong or contrary to law then this section must be applied. The crucial point of time for deciding whether the benefit of this section should be given or not, is the material time when the offence takes place. In coming to that conclusion, the relevant circumstances are to be taken into consideration, it would be dangerous to admit the defence of insanity upon arguments derived merely from the character of the crime. It is only unsoundness of mind which naturally impairs the cognitive faculties of the mind that can form a ground of exemption from criminal responsibility. Stephen in History of the Criminal Law of England, Vol. II, page 166 has observed that if a persons cut off the head of a sleeping man because it would be great fun to see him looking for it when he woke up, would obviously be a case where the perpetrator of the act would be incapable of knowing the physical effects of his act. The law recognizes nothing but incapacity to realise the nature of the act and presumes that where a man's mind or his faculties of ratiocination are sufficiently dim to apprehend what he is doing, he must always be presumed to intend the consequence of the action he takes. Mere absence of motive for a crime, howsoever atrocious it may be, cannot in the absence of plea and proof of legal insanity, bring the case within this section. This Court in Sherall Walli Mohammed v. State of Maharashtra : (1972 Cr.LJ 1523 (SC)), held that : (SCC p.79)

"The mere fact that no motive has been proved why the accused murdered his wife and children or the fact that he made no attempt to run away when the door was broken open, would not indicate that he was insane or that he did not have necessary mens rea for the commission of the offence."

12. Mere abnormality of mind or partial delusion, irresistible impulse or compulsive behaviour of a psychopath affords no protection under Section 84 as the law contained in that section is still squarely based on the outdated M'Naughton rules of 19th

Century England. The provisions of Section 84 are in substance the same as those laid down in the answers of the Judges to the questions put to them by the House of Lords, in M' Naughton's case. (1843) 4 St. Tr. (NS) 847. Behaviour, antecedent, attendant and subsequent to the event, may be relevant in finding the mental condition of the accused at the time of the event, but not that remote in time. It is difficult to prove the precise state of the offender's mind at the time of the commission of the offence, but some indication thereof is often furnished by the conduct of the offender while committing it or immediately after the commission of the offence. A lucid interval of an insane person is not merely a cessation of the violent symptoms of the disorder, but a restoration of the faculties of the mind sufficiently to enable the person soundly to judge the act; but the expression does not necessarily mean complete or perfect restoration of the mental faculties to their original condition. So, if there is such a restoration, the person concerned can do the act with such reason, memory and judgment as to make it a legal act; but merely a cessation of the violent symptoms of the disorder is not sufficient."

Thus, the Supreme Court has examined scope of Section 84 of IPC where a person is exonerated from liability for doing an act on the ground of unsoundness of mind if, at the time of doing the act, is either incapable of knowing (a) the nature of the act, or (b) that he is doing what is either wrong or contrary to law. As such, the onus to prove unsoundness of mind is on the accused, the Supreme Court, however, also held that where during the investigation, previous history of insanity is revealed, it is the duty of an investigator to subject the accused to a medical examination and place that evidence before the Court and if this is not done, it creates a serious infirmity in the

prosecution case and the benefit of doubt has to be given to the accused. The Court further held that such onus has to be discharged by producing evidence as to the conduct of the accused shortly prior to the offence and his conduct at the time or immediately afterwards, also by evidence of his mental condition and other relevant factors.

6. In the present case, unfortunately the appellant was never subjected to the medical test and, therefore, his status of mind at the time of commission of offence is not known to anybody. The fact, however, remains that the Investigating Officer was aware right from day one that the appellant had some behavioral issues and that his behaviour indicated insanity. In the circumstances, it was the duty of the Investigating Officer to refer the appellant to medical examination to understand his mental status as regards commission of offence. Having not done so, there is inherent defect in prosecution's case. We therefore, need not go into other details since it is admitted that in the evidence of prosecution witnesses, this aspect has been not brought on record through any witness.

7. That being so, the benefit of doubt will have to be given to the appellant. The appeal is accordingly allowed. The appellant shall be released from jail, if there is no other legal impediment. Before releasing, he shall, however, be subjected to medical examination to

Regional Mental Hospital, Nagpur. If the report of medical examination indicates that his mental status is normal, then he shall be released forthwith from the jail. If the report, however, certifies that his mental status is not normal, he shall be referred to mental asylum or Regional Mental Hospital, Nagpur for his ailment by the jail authorities and shall be released only after his treatment is over. This exercise shall be carried out within three weeks from today.

8. All concerned to act on authenticated/uploaded copy of the judgment.

9. Fees of appointed counsel for the appellant shall be quantified and paid in accordance with law.

(RAJ D. WAKODE, J.)

(Anil L. Pansare, J.)

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