



“INSANITY, MENTAL TRAUMA, CRIME AND THE LAW”

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Abstract

Insanity is nothing but madness or craziness, which describes a spectrum of individuals and group behaviors that are characterized by some abnormal mental or behavioral pattern. Insanity in other words can be stated to be as violation of societal norms or approved do's and don'ts which a person or persons may not obey, and become danger to them and others. Such individuals may first become juvenile offenders and ultimately may become potential criminals in future and threat to society. Law provides to a society approved do's and don'ts. Those individuals who do not observe legalized norms of behaviors are offenders under law and are punished as per legal provisions established by the country for maintaining law and order in the society. In the present paper the relationship and impact of insanity and mental trauma on crime scenario in India in the contemporary society and the situation of existing laws to deal with the same has been analyzed and presented. Mental trauma leading to dowry death is another reason of such crimes which has also been touched upon and discussed.

Key Words: Insanity, Unsoundness of Mind, Abnormal Behavior, Crime, Law and Order, Contemporary Society.

Introduction

Insanity is a purely legal term denoting a condition in which a person lacks criminal responsibility and cannot be convicted for his/her criminal act (Miller-Keane, 2003). Insanity may be genetic or acquired due to some environmental or external factors. An insane person is of unsound mind shows erratic behavior. He/she does not observe do's and don'ts of the society. His/her behavior is always abnormal and unbecoming of a normal human being. It can be manifested as violations of societal norms and law of the land, and a person becomes danger to self or to others. People, with such erratic behavior start committing crimes at juvenile stage and become juvenile offenders, later, they become criminal and hardened criminals. They develop anger in no time if their wishes are not fulfilled and become violent. When such people accused and prosecute for their criminal acts. During trial, if court notices any behavioral abnormality in accused's conduct or reported by the investigative officer. Often Courts ordering for a psychological evaluation of such accused before trial. If report suggest any form of behavioral abnormality or presence of severe mental disorder that may render his/her cognitive abilities at the time of the commission of the act, Courts take a sympathetic view on the crimes committed by them and in most of the cases they are acquitted by the courts of law on the pretext of insanity. Indian Penal Code (IPC) Section 84 (India G. O., 1860) provides immunity to those offenders who at the time of the commission of the act are suffering from unsoundness of mind.

Mental trauma is also known as emotional and psychological trauma which results from extraordinarily stressful events or situations. The people who experience or witnessed a traumatic events such as natural disaster, a serious accident, a terrorist act, war/combat, or rape or who have been threatened with death, sexual violence or serious injury may develop Posttraumatic stress disorder (PTSD) (Association A. P.). There is a relationship between traumatic experiences and criminal behaviour (v, 2011) (V, 2012), studies



revealed higher prevalence of Post-traumatic Stress Disorder in that offender's population (Association A. P., 1994,).

A strong body of research has documented the relationship between trauma/child abuse and subsequent aggressive and criminal acts (G., 2001) (Smith C. A, 2005) (Skowrya K. R, 2006).

Impotency is an inability to develop or maintain a penile erection sufficient to penetrate and complete an intercourse. In criminal courts the potency is examined in the cases of rape, sexual assault, molestation, and sodomy (K Matiharan, 2010).

Are such case laws tenable in each and every case or should each and every case be viewed and treated as a separate entity is the subject matter of discussion in the present paper. A few case examples are presented in this paper. The mental trauma also leads to heinous crimes like rape, killing and homicides has been discussed.

Case-I

(K.) A 55 year old, lady professor of management in a university was found murdered in her house. Her dead body was lying on the back side 'Varanda' of her house. Sixty five injuries of knife, sickle, 'Gainti' and hammer were found present on her body. All these weapons of offence were found blood stained in her house. Her head was found crushed with a flower vase and brain matter had come out. The blood stains at the place of occurrence, on the weapons and garments of the lady were all found to be of human origin and as per blood group analysis matched with the victim.

On examination of house a stereo was found broken in the house. Some salad pieces were found scattered on the floor the blood stains from the kitchen and floors of the room were found wiped off with wet garments and the garments were found washed in the washing machine. Traces of blood were detected on the floor of kitchen, rooms and the washing machine on chemical testing.

A few blood stained fingerprints were present on the handle of the weapons of offence which was photographed and compared with the fingerprints of the son of the victim. All the fingerprints matched with her son. Likewise the blood stained bare foot impressions present on the floor were also matched with the son of the victim which proved beyond doubt that the son of the victim and was the perpetrator of this crime.

He was got medically examined and was stated to be schizophrenic person who had committed the murder in anger state of mind. He also admitted his guilt. He was tried by the court and was found guilty but was acquitted on medical grounds of insaneness. If he was insane, how could he had a sense of destroying the evidence that is, washing the blood stained garments in the washing and wiping off the blood stains from the floor of the house?.

Case-II

A Girl, 5 years of age was missing from her house since 3 pm. The parents started searching her and continued searching the following night also. It was the next day morning that her dead body was found lying in a mustard field on the outskirts of "Gurgaon city in Haryana besides Delhi-Jaipur highway". The spot was examined by the police and the forensic team was called from FSL, Haryana, Madhuban, Karnal for the purpose. On examination by forensic experts, it was found that the garments of the girl were not in position, but, were found disturbed. The underwear was found torn and lying on the side. There was bleeding from the private parts. In the right fist of the victim a few strands of grey and black



hair were found clinched. Some shoe prints were found present in the mud nearby, which were lifted with POP (Plaster of Paris) and were also photographed. Tyre marks of a Rickshaw were observed on the “Katchcha Road” which were also lifted with the help of POP and were also photographed.

On the basis of the tyre marks of Rickshaw, tyre of different rickshaws in the city pulled by middle aged persons having a mixture of grey and black hair were examined and compared with the tyre marks lifted from the spot. One person was identified who's shoe prints tallied with the shoe prints present on the spot. The person was interrogated by police and he admitted that he has committed the sexual assault with the girl and killed her at the place where the body was found lying.

On laboratory examination, the hair recovered from the fist of the deceased appeared to be similar with the hair of the person “the Rickshaw puller” identified from the shoe prints. The blood stains found on the rickshaw and the garments of the accused as per blood grouping tallied with the victim. Definite opinion could not be given on hair as the hair strands were insufficient for the purpose.

The case was put on trial. All evidences were against the accused, but, the medical report of the person stated that he was insane person and thus was acquitted by the trial court. The relatives of the accused submitted medical treatment record of the person and stated that he was a run away from home due to insanity.

Case-III

(R, 1993), (Arun, 1998) In a village of Solan District of Himachal Pradesh, a person set on fire the cowshed made of thatches during one night. Two cows were tied in the cowshed which were saved by the neighbors. The old parents of the person were also sleeping in the inner compartment of the cowshed. A heap of wheat straw (Fodder) was also lying in the inner compartment of the cowshed. The fire was so extensive that it could not be extinguished by the villagers and the old parents of the person got burnt inside and only partially burnt bones were left. The spot was examined by a team of forensic experts who found partially burnt human bones with cut marks. A dried pool of blood was present on the floor. A blood stained ‘drat’ weapon of offence was also recovered from the burnt debris. The weapon had human blood stains which as per DNA examination compared with the DNA of old couple, who had got burnt inside matched. From all angles it was found to be a homicide case and the cowshed was put on fire by the son of the old couple to destroy evidence. He was arrested and charge-sheeted. The motive behind the crime was that the parents wanted to give the land/ property to their daughter and not to the son. During trial the defence brought insanity report of accused from a private doctor and argued for his acquittal, but the trial court questioned the insanity report and the person was convicted for life imprisonment.

Case-IV

One eminent doctor, a medical practitioner, worked in a city. The doctor was very rich and popular in the city. He had a big farm on the outskirts of the city, where he has kept three servants to look after the farm and the agriculture. There was a tubewell in a room of the farm and the some accommodation for the servants to live there. The doctor use to visit the farm usually on Sunday, but also visited occasionally in between to check-up whether the farm servants are properly taking care of crops or otherwise. One day, he went to the farm for a surprise check he found all the three farm servants sleeping during the day and were not working. He got angry and started scolding and abusing them. During this process, one of them went inside the tubewell room and brought licensed DBBL gun of the doctor, which was hanging from a peg in the tubewell room.



He aimed the gun at the doctor and shouted 'I will kill you'. The doctor fell down on the ground and died at once on the spot. The gun was empty and was not loaded. The spot was visited by the police and the forensic experts. All the three farm servants narrated the same story on interrogation by police. No other incriminating evidence could be found on the spot. There was a great hue and cry and agitation in the city in the protest against the death of the doctor.

The postmortem report revealed the cause of death was "Death due to shock and hemorrhage caused by mental trauma". The persons (Three farm servants) were subjected to psychological interrogation and lie detector test, but no other incriminating evidence came to light. The farm servant who had soughed on the doctor and aimed the gun was arrested and his confession statement was taken by the police. He was challaned by the police. During trial, he stated before the court that the confession statement was taken by the police under threats and pressure. He denied that he had killed the doctor. He and all other two farm servants denied in the court that if any servant had brought the gun and aimed at the doctor. All the three were acquitted in the case due to the lack of evidence against them and giving them benefit of doubt.

It is pertinent to mention here that the gun was also examined for the presence of fingerprint, but all the print present on the gun were found smudged. The investigating officer (IO) has handled the gun with his bare hands without wearing gloves before the arrival of the forensic team and hence the fingerprints were overlapped and smudged. Had the fingerprints been decipherable and tallied with the suspect the case could have ended in conviction? The DNA technology was not in existence at that time.

Material and Methods:

The material for the present study has been the crime cases, examined at the scene of crime as given examples as case I & IV in the present paper. The method used for the study is the observational method with which the physical or the forensic evidences were located, lifted and preserved and examined in the laboratory and court judgments in these cases.

Result and Discussion:

The examination and the observations in different cases revealed that there may be any valuable evidences against the accused(s), which proved beyond doubt that the person put on trial after charge-sheet was the perpetrator of crime. But on the pretext on insanity the accused(s) were acquitted by the courts of law. Likewise, in sexual assault cases the accused acquitted in a number of cases either on the basis of insanity reports or on the basis of the report on impotency.

The point of discussion here are if the reports of insanity or impotency or unable to perform sexual assault are subsequent to the occurrence of crime. These could be manipulated just to defend the accused(s) on these grounds. The point of contention is as to whether the accused was insane on the date and time of commission of crime is not certified by the psychological examiners. Likewise, the doctors conducting medico-legal examination of a sexual assault do not certify if the person was impotent or unable to carry on sexual assault on the date and time of the crime has taken place. In the case no-II accused has received benefit on the ground of his past mental illness and the phenomenon of run away from home.

At the time of trial accused was suffering from mental illness or at the time of criminal act he committed. To justify or prove insanity in the court of law these questions need to be satisfied. Even Sec-84(India G. o., 1960) also says that unsoundness of mind should be as such as that can destroy the



cognitive faculty of the person. Hence a proper psychological evaluation is required to prove the legal insanity.

Chapter-II, 3 (b) of the Mental Health Care Act- 2017 says Mental illness of a person shall not be determined on the ground of non-conformity to moral, social, cultural, work or political values(Pathare, 2017).

The courts need adjudicate in such cases on the basis of holistic records of the disease and the other evidences to prove or disapprove the same. The reports pertaining to insanity and impotency need to be reviewed thoroughly the verbal statements must be verified with physical evidence for a deep insight into the facts for the effective adjudication of such cases.

The forensic evidence when examined in situ at the scene of crime speaks in itself regarding the modus operandis of crime.

Conclusion

The evaluation of physical /forensic evidence vis a vis insanity and impotency need to be more meticulous and scrutiny in the courts of law so as to properly adjudicate the heinous crimes like sexual assaults and the homicides. The presentation of evidence by the prosecution to the honorable courts in such cases should be detailed even if the doctors giving reports of the insanity and impotency have to be cross examined in person.

In dowry death cases, there are allegations and counter allegations through oral statements by the accused(s) and the relatives of the victims. Their oral statements should be verified on the basis of holistic forensic evidence available in the case.

Indian Criminal Justice System has been often criticized by the researcher and the practitioners especially for the utilization of Sec-84 IPC. It is always considered that Indian criminal justice system is not much interested in the understanding of new advancements in the field of psychiatry and neuroscience. However, the advancements in psychiatry, neuroscience, neuroimaging or medical sciences in general, cannot be ignored(Shekhar, 2020).

Ethical clearance

I, Mr. Mahesh Tripathi, Assistant Professor of Forensic Clinical Psychology, School of Forensic Science & Risk Management, Rashtriya Raksha University, Gandhinagar, undertake and ensure that we both the authors in the manuscript have agreed for authorship, read and approved the manuscript and given consent for submission and subsequent publication of the manuscript in this journal.

Source of funding: Self

Conflict of Interest: Nil



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