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**SUDHAKARAN V. STATE OF KERALA: A QUESTION OF
INSANITY**

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ABSTRACT

Insanity is one of the most commonly used general defences in Criminal law. To successfully avail the defence of Insanity, one needs to establish that the accused was unable to distinguish between right and wrong or that the accused was unknown of the fact that the act he is committing was either illegal or immoral. Criminal insanity is certainly different from medical insanity, and thus it is possible that a person who is medically insane may be convicted of an offence. In India, Section 84 of the Indian Penal Code provides for the defence of Insanity. In insanity, the accused is unable to form the required Mens Rea, a pre-requisite for any offence punishable under the law. From time to time, there have been various cases where the defence of Insanity has been taken, and there have been some landmark judgements on the same. Courts of various jurisdictions have provided for certain rules which act as guidelines in determining whether the accused could take the defence of Insanity successfully or not. One of the most common guidelines prevalent in India is the *M'Naghten's Test*. It is used in a variety of cases pertaining to the question of Insanity. This paper critically analyses the rule of criminal Insanity in India using the landmark case of *Sudhakaran v. State of Kerala*, which went into a detailed discussion regarding the issue of Insanity. In this case, Court elaborated on the preceding case laws and pronounced its judgement. The paper also talks about the various other tests prevalent in other countries as against the *M'Naghten's Test*.

INTRODUCTION

Whenever a question arises in courts as to whether the accused can successfully avail the defence of insanity, courts go through various points to reach a definite conclusion. One of the essential points that courts devised regarding insanity was that in order to avail the defence of insanity, it is not sufficient to prove that one was medically insane, but there needs to be a failure of cognitive faculty at the time of the commission of the Act. Another question is on whom the onus to prove one's insanity lies. From time to time, multiple courts answered these questions. However, certain judgements tend to answer these questions to act as a guiding light for other courts to decide on similar matters. One such case is *Sudhakaran v. State of Kerala*⁹⁴ which dealt with Section 84 IPC, which is the defence of insanity. This Paper decodes the particular case and provides a critical analysis of the same. In the process, it elaborates on various tests prevalent and used to determine criminal insanity.

CASE SUMMARY⁹⁵

Sudhakaran was charged under Section 302 IPC for murdering his wife by assaulting her with a chopper on her neck. According to the prosecution argument, one night, he killed his wife with the requisite intention, and after killing her, he came out of his house, holding his 8-month-old child in one arm and the murder weapon in another. While he was roaming around his neighbour's house, one of his neighbours saw bloodstain on his shirt and chopper. Immediately that neighbour communicated the incident to other neighbours, and they all went to Sudhakaran's house where they found his wife lying dead in a pool of blood. They also mentioned that Sudhakaran confessed his crime in front of them and asked one of them to look after his child since he was going to the police station. However, the defense's arguments stated that he was treated for 'paranoid schizophrenia' 11

⁹⁴ *Sudhakaran v. State of Kerala*, (2010) 10 SCC 582

⁹⁵ *Id.*



days after the murder took place. They also presented the point that he took treatment for a specific mental illness in 1985 (the alleged crime took place in 2000); however, he recovered from that illness completely. Both the Trial Court and the High Court rejected the defence of insanity pleaded by him under Section 84 IPC. The Supreme Court agreed to the stance taken by both the courts and concluded that due to lack of proper evidence, the defence could not be granted. While giving the judgement, Supreme Court pointed towards the *M'Naghten Case*⁹⁶ and also mentioned the five questions regarding insanity. The Apex Court then explained the concept of burden of proof under Section 105 IEA and took the reference of cases like *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat*⁹⁷ and *Ratan Lal v. State of M.P.*⁹⁸ and explained the burden of proof in cases relating to insanity.

CRITICAL ANALYSIS

In the first reading, *Sudhakaran judgement* may seem like a simple combination of various judgements like *M'Naghten*, and *Dahyabhai judgement*. However, when one reads this judgement keenly, it appears to be an amalgamation of some of the essential and relevant points required in an insanity case like, difference between legal insanity and medical insanity, onus of burden of proof, kind of evidence required to create reasonable doubt in mind of the Court.

Section 84 of the Indian Penal Code states, "Act of a person of unsound mind. –Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the Act, or that he is doing what is either wrong or contrary to law."⁹⁹ Defence of Insanity would come under *Doli Incapax* as an insane man is deprived of free will and thus cannot form *Mens Rea*, which is necessary for a crime.¹⁰⁰ Apart

from Section 84 IPC, Section 330 of the Criminal Procedure Code, 1973, states detention of insane persons in lunatic asylums.¹⁰¹ One of the most essential and initial cases regarding insanity was *Daniel M'Naghten's Case*.¹⁰² In this case, the accused Daniel M'Naghten shot Edward Drummond, the secretary of the then British Prime Minister Sir Robert Peel, by mistaking him for Sir Robert Peel. In the Court, he pleaded defence of insanity where it was stated that he was suffering from a delusion that Sir Robert Peel was the sole reason for all his problems. In order to solve the confusion relating to insanity, all 15 judges attended the House of Lords to clarify the law. There were five questions laid down before the Court, and those questions are known as *M'Naghten Test*. Numerous people appreciated this test however, several people have criticized the same. The *M'Naghten test* is followed in India, and Section 84 is based on the same. It is evident, as, in most cases, the Court has referred to the *M'Naghten Case* to differentiate between medical insanity and legal insanity. In fact, in *Sudhakaran v. State of Kerala*¹⁰³ The Court discussed all the five questions propounded by the House of Lords, and in Paragraph 32, they mentioned that the idea of Section 84 IPC is based on questions 2 and 3 of the *M'Naghten test*.¹⁰⁴ Though the *M'Naghten test* is accepted worldwide, there are certain criticisms and alternatives to the test. It can be observed that *M'Naghten test* is based on the principle that failure to understand the nature of the act is the primary symptom of any mental disorder.¹⁰⁵ However, there are many such mental disorder cases where patient's understanding of right and wrong remains intact but he does the act without forming any *mens rea* and simply under the effect of his illness. One of the most famous critics of *M'Naghten test* is the case of *Durham v. United States*.¹⁰⁶ The *Durham test* is considered as an

⁹⁶ Daniel M'Naghten's Case, (1843) 8 ER 718

⁹⁷ Dahyabhai Chhaganbhai Thakkar v. State of Gujarat, (1964) 7 SCR 361

⁹⁸ Ratan Lal v. State of M.P., (1970) 3 SCC 533

⁹⁹ INDIAN PENAL CODE, 1860, §84

¹⁰⁰ K.D. GAUR, TEXTBOOK ON INDIAN PENAL CODE 236 (7th ed., 2022)

¹⁰¹ CRIMINAL PROCEDURE CODE, 1973, §330

¹⁰² Daniel M'Naghten's Case, (1843) 8 ER 718

¹⁰³ Sudhakaran v. State of Kerala, (2010) 10 SCC 582

¹⁰⁴ *Id.*, ¶32

¹⁰⁵ Sharma, K. M. "DEFENCE OF INSANITY IN INDIAN CRIMINAL LAW." *Journal of the Indian Law Institute*, vol. 7, no. 4, Indian Law Institute, 1965, pp. 325–83 available at <http://www.jstor.org/stable/43949854>

¹⁰⁶ *Durham v. United States*, 214 F.2d 862



improvement in the *M'Naghten rule* and the rule states "an accused is not criminally responsible if his unlawful act was the product of mental disease or mental defect."¹⁰⁷ In *M'Naghten test*, one is not guilty only if, he or she is not able to differentiate between "right or wrong" however, under *Durham rule*, in order to get acquitted, one simply needs to prove that his act was due to any mental illness. Therefore, *Durham test* is considered as a broader test as compared to *M'Naghten rule*. After 1954, *Durham test* is followed and applied in many cases of USA. Although, *Durham test* is found to be better than *M'Naghten rule*, still it is prevalent only in some parts of USA whereas *M'Naghten test* is followed in most parts of the world including India.

Another critical point addressed in the *Sudhakaran case* was regarding the burden of proof. Section 105 of the Indian Evidence Act states that the burden of proof lies upon the accused to bring his/her case within any general exception or any special exception under IPC or any other statute.¹⁰⁸ In numerous cases, various courts explained and elaborated this section from time to time. In *K.M. Nanavati v. State of Maharastra*, Justice Subba Rao mentioned three situations where the burden of proof lies on the accused.¹⁰⁹ The three situations are namely:

- A statute may throw an entire burden upon the accused to prove his innocence. In these cases, the accused is presumed to be guilty. Example: - POCSO
- A statute may throw some certain burden on the accused, which may not touch any ingredient of the offence itself but will allow the accused case to fall within the exception. Example: - Section 77, 78, 79 of IPC.
- Statute throws the burden upon the accused, which brings his case within a certain exception and negates one or

more ingredients of the offence.

Example: - Section 80, 84 of IPC.

Another landmark judgement in terms of Section 105 IEA is *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat*.¹¹⁰ In this case, the Court dealt with the question of the burden of proof upon the accused to prove his case within the exception. In para 7, the Court explained the three propositions of the burden of proof.¹¹¹ Firstly, the prosecution needs to prove beyond reasonable doubt that the accused committed the offence with requisite mens rea. Secondly, the Court will presume that accused was not insane, which can be rebutted by the accused by providing relevant oral, documental, or circumstantial evidence; however, the burden of proof upon him is no higher than a party to a civil proceeding, that is the preponderance of evidence unlike beyond reasonable doubt which is in criminal proceedings. Thirdly, even if the proof placed by the accused does not conclusively establish that accused was insane at the time of the commission of the Act, but cast reasonable doubt in the minds of the Court relating to the fulfillment of one or more ingredients of the offence, the Court needs to acquit the accused because it would simply mean that prosecution was unable to prove the offence beyond a reasonable doubt.

The above-stated three principles of the *Dahyabhai case* have been reiterated various times in numerous courts of the country and have been relied upon extensively. The *Sudhakaran case* also used the same principles to deliver its judgement. *Sudhakaran judgement* is very relevant since, after this case, many courts have referred to this case along with *Dahyabhai judgement*, and none of both cases have been overruled till now. In *Debeswar Bhuyan v. State of Assam*, Guwahati High Court referred to Apex Court's decision in the *Sudhakaran case* along with various other cases and placed its reliance on the same principle regarding the burden of proof and

¹⁰⁷ *supra* see note 11

¹⁰⁸ INDIAN EVIDENCE ACT, 1872, §105

¹⁰⁹ *K.M. Nanavati v. State of Maharashtra*, 1962 Supp (1) SCR 567, ¶18

¹¹⁰ *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat*, (1964) 7 SCR 361

¹¹¹ *Id.*, ¶7



gave its decision accordingly.¹¹² Moreover, the Court explicitly mentioned, "The legal proposition that has stood the test of time is as had been enunciated in Dahyabhai Chhaganbhai Thakkar."¹¹³ Thus, it can be inferred that whenever a question arises regarding Section 105 IEA, courts follow the stance of the *Dahyabhai case*, which was elaborated in the *Sudhakaran case*. Another case is *Prakash Saha v. State of Sikkim*, where the Court followed the same theory regarding the burden of proof.¹¹⁴

Another interesting thing to note is that in both the cases, that is in *Debeswar case* and in the *Prakash Saha case*, the Court cited Paragraph 24, 25, and 28 of the *Sudhakaran case* where the Court discussed the witnesses presented by the defendant (Sudhakaran) and commented on the fact that how those witnesses were unable to create reasonable doubt. In Paragraph 28 of the *Sudhakaran case*, the Court also distinguished between medical insanity and legal insanity and explained that in order to avail the benefit of Section 84, one needs to prove that his cognitive faculties were impaired to such an extent that one could not understand the nature of the Act. In *Mariappan v. State of Tamil Nadu*, the Supreme Court relied on *Sudhakaran judgement*.¹¹⁵ Like Sudhakaran, in *Mariappan case* also, the accused suffered from "paranoid Schizophrenia." The Supreme Court used the *Sudhakaran case* to establish two significant points. Firstly, to explain the scope of Section 105 IEA;¹¹⁶ Secondly, to distinguish between medical and legal insanity (paragraph 28 of *Sudhakaran case*).¹¹⁷ Apart from these two points, courts also took into consideration the definition of "Paranoid Schizophrenia" as mentioned in the *Sudhakaran case* (as per Modi's Medical Jurisprudence and Toxicology 23rd edition). This case is one of the latest cases relating to Section 105 and Section 84, which was decided in the Supreme Court.

The latest case, which decided upon Section 84 IPC read along with Section 105 IEA, is *Ashok Singh v. State of Madhya Pradesh*, decided by the High Court of Madhya Pradesh.¹¹⁸ Like *Mariappan Case*, here also the Court applied the *Sudhakaran case* to elaborate the difference between legal and medical insanity.¹¹⁹ The Court referred to the entire discussion of the *Sudhakaran case*, which explained all the questions of the *M'Naghten case* and differentiated between legal and medical insanity.

Therefore, it can be inferred that decision given by the Court in *Sudhakaran v. State of Kerela* is applied by various courts throughout the country and is of great value. In a time span of 12 years, neither any High Court nor the Supreme Court overruled the decision of the *Sudhakaran case* or followed a contradictory stance as to what was taken in the case. Thus, it can be conclusively said that the stance taken in the *Sudhakaran case* is the "law of the land" regarding Section 84 IPC and Section 105 IEA.

CONCLUSION

*Sudhakaran v. State of Kerela*¹²⁰ is one of the most important and landmark cases in the history of the Indian Judiciary. After 2010, whenever a question arose as to the scope of Section 84 and upon whom the burden of proof lies regarding insanity, courts ultimately refer to the *Sudhakaran case*. This case clearly demarcates between legal and medical insanity. The judges explained the questions asked in the *M'Naghten case* in detail and also followed the stance taken in *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat*¹²¹ and *Ratan Lal v. State of M.P.*¹²² to decide upon whom the burden of proof lies. Another essential portion that the *Sudhakaran case* highlighted was to decide whether certain evidence is enough to create a reasonable doubt to accept Section 84 IPC as a valid defence. After going

¹¹² Debeswar Bhuyan v. State of Assam, 2011 SCC OnLine Gau 218

¹¹³ *Id.*, ¶36

¹¹⁴ Prakash Saha v. State of Sikkim, 2012 SCC OnLine Sikk 32

¹¹⁵ Mariappan v. State of Tamil Nadu, (2013) 12 SCC 270

¹¹⁶ *Id.*, ¶21

¹¹⁷ Mariappan v. State of Tamil Nadu, (2013) 12 SCC 270 ¶20

¹¹⁸ Ashok Singh v. State of M.P., 2021 SCC OnLine MP 2490

¹¹⁹ *Id.*, ¶52

¹²⁰ Sudhakaran v. State of Kerala, (2010) 10 SCC 582

¹²¹ Dahyabhai Chhaganbhai Thakkar v. State of Gujarat, (1964) 7 SCR 361

¹²² Ratan Lal v. State of M.P., (1970) 3 SCC 533



through all the relevant cases and materials, it can be concluded that the *Sudhakaran case* forms a perfect precedent regarding insanity.

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