Ratan Lal vs The State Of Madhya Pradesh on 17 December, 1970

Equivalent citations: AIR1971SC778, 1971(0)BLJR1034, 1971CRILJ654, (1970)3SCC533, [1971]3SCR251, AIR 1971 SUPREME COURT 778, 1971 ALL. L. J. 1251, 1971 BLJR 1034, 1971 JABLJ 688, 1971 MAH LJ 625, 1971 MPLJ 677, 1971 CRI APP R (SC) 80, 1971 MADLW (CRI) 277, 1971 3 SCR 251

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Bench: I.D. Dua, S.M. Sikri, V. Bhargava

JUDGMENT

S.M. Sikri, J.

1. This appeal by special leave is directed against the judgment of the High Court of Madhya Pradesh, Gwalior Bench, allowing the appeal of the State and convicting the appellant for having committed an offence punishable under Section 435, Indian Penal Code, and sentencing him to undergo imprisonment for one year. The only point involved in the present appeal is whether the appellant was a person of unsound mind within Section 84 of the Indian Penal Code at the time of the incident. The Magistrate held that he was not liable to punishment as he was insane at that time and did not know that he was doing anything wrong or anything contrary to law. The High Court, on the other hand, came to the conclusion that the case of the appellant did not fall within the exception created by Section 84, I.P.C.

2. It is now well-settled that the crucial point of time at which unsoundness of mind should be established is the time when the crime is actually committed and the burden of proving this lies on the accused. (See State of Madhya Pradesh v. Ahmadullah In D.C. Thakker v. State of Gujarat it was laid down that "there is a rebuttable presumption that the accused was not insane, when he committed the crime, in the sense laid down by Section 84 of the Indian Penal Code : the accused may rebut it by placing before the court all the relevant evidence-oral, documentary or. circumstantial, but the burden of proof upon him is no higher than that which rests upon a party to civil proceedings." It was further observed :

> The crucial point of time for ascertaining the state of mind of the accused is the time when the offence was circumstances which preceded, attended and followed the mind as to be entitled to the benefit of Section 84 of the Indian Penal Code can only be established from the circumstances which preceded, attended and followed the crime.

3. The learned Counsel contends that if regard is had to the circumstances which preceded attended and followed the crime it would be clear that the accused is entitled to the benefit of Section 84 of the India Penal Code.

4. The prosecution case is that on January 22, 1965, the appellant set fire to the grass lying in the khalyan of Nemichand at the time of the setting of the sun. He was caught at the spot while setting fire. On being asked why he did it the accused said; "I burnt it and do whatever you want." The accused was arrested on January 23, 1965, and he remained in police custody till February 2, 1965, when it was found that the accused needed medical examination, and accordingly the District Magistrate ordered that he be medically examined. No explanation has been given why he was kept in police custody all that time. There is no evidence either to indicate as to his condition from the time of his arrest to the time when his case was referred for medical examination. These facts were within the knowledge of the police and we should have expected that the prosecution would lead evidence regarding his condition during this time. Further, the police made it impossible for the appellant to prove his mental condition at the time of the incident by keeping him in their custody from January 23 to February 2, 1965, not having him examined and not sending him to judicial custody earlier where he would have been examined by the jail doctor.

5. On February 20, 1965, V.S. Vaidya, Assistant Surgeon, Civil Hospital, Vidisha, reported to the Jailor, Sub Jail, Vidisha, as follows :

> Subject, In Ref. to your letter No. 295 dated 8-2-1965. Sir, Ratanlal Prisoner was kept under observation as in door patient during this time. He was keeping silent, he never used to reply any question so in my opinion he. should be refd. to some specialist for further investigation and needful.

6. On February 22, 1965, Y.D. Kamran, Civil Surgeon, Vidisha, reported as follows :

> Shri Ratanlal, undertrial. was examined by me. He does not appear to be deaf or dumb, but is mentally retarded. He should be referred to Superintendent, Mental Hospital, Gwalior, for expert opinion.

7. On March 29, 1965, Dr. B. Shah. Psychiatrist and Superintendent, Mental Hospital, Gwalior, reported as follows :

> This is to certify that Shri Ratanlal s/o Kishanlal who has been kept under observation in this hospital from 18-3-1965 to 29-3-1965 is-a person of unsound mind, in terms of Indian Lunancy Act; 1912. He is not dangerous and/or violent by reason of Lunancy and thus unfit to be at large. The report is based on the following facts observed here :
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> (1) Remains depressed. (2) Does not talk.
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> (3) He is a case of Maniac depressive. (4) Psychosis and needs treatment.

8. On April 28, 1965, another report was given that he was still a person of unsound mind in terms of Indian Lunancy Act, 1912, but was better though still confused, and further that treatment was being continued and it may take 4 to 6 weeks more for recovery.

9. The defence also led evidence as to his condition before the incident in question. Shyamlal, D.W. 1, son-in-law of the appellant stated that "the accused was not feeling well for 2-3 years. He was in such a condition that if he is sitting will remain sitting. If he is to go then he will go and if he wishes to fall in the river then he will fall. Such was the conditions of his mind that he used to set fire in his own clothes and house." He further stated that on the day of the incident the appellant did not allow anybody to enter life house and had put a lock on the house and his children took their food outside, and the accused did not talk to anybody. He further stated that "prior to this incident the accused was being taken to Bhopal after tying him for the treatment of mind. He was also taken to Bhavera but the accused did not improve." In cross-examination it was brought out that "prior to the setting of fire the accused was neither got admitted in the government hospital nor any report was lodged in the police station." No cross- examination was directed to ascertain the nature of his illness or to bring out that he was otherwise sane.

10. Another witness, Than Singh, D.W. 2, (the appellant is his maternal uncle) stated that the appellant "used to do whatever he thought. He used to run away wherever he liked. He used to jump in the river also. He used to enter the house of anybody. He used to lock his house. His children used to lie hungry outside. He used to set fire in his clothes also. On the day of occurrence the condition of the accused was worst. He did not speak to anybody on that day." The witness, however, admitted that the accused had not been taken to Government hospital.

11. The Trial Court also mentioned that Moolchand, P.W. 3, Madora, P.W. 4, and Dharma, P.W. 6, admitted that the appellant remained in the khalyan throughout the period that the grass was burning till the chowkidar took him to thana and did not utter a word and did not try to run away.

12. The Trial Court, relying on the evidence of Shyamlal, D.W. 1, Than Singh, D.W. 2, and the behavior of the accused on that day came to the conclusion that the accused was insane. He also relied on the certificates issued by the doctors, mentioned above. He further found support in the absence of motive for the crime. He also relied on the fact that the appellant's khalayan adjoined the khalayan which was set on fire by him and if the appellant had been sane he would not have taken the risk of having his own khalayan burnt, which was most likely.

13. The High Court, with respect, erred in differing from the Trial Court. The High Court observed that the appellant had not examined in defence any expert in mental diseases to substantiate his plea of legal insanity. It is expecting rather a great deal from a poor villager that he should produce experts in mental diseases, specially in view of the certificates issued by the Medical authorities after he was arrested. The High Court further erred in holding that the medical reports were of no evidential value It is true that the reports speak of the mental state of the accused at the time when the reports were issued but the High Court failed to note that the appellant was in police custody from January 23, 1965, and the police could have produced evidence to show that he was absolutely sane till the day when they sent him for medical examination.

14. The High Court thought that the evidence of the two defence witnesses only suggested an irrational behavior on the part of the accused. The High Court failed to note that, according to D.W. 2, the appellant used to set fire to his own clothes and house end this could hardly be called irrational; it is more like verging on insanity.

15. The High Court also felt it rather unsafe to rely on the testimony of the two defence witnesses because such evidence could always be procured. It was also impressed by the fact that there was no independent witness forthcoming nor was there any evidence showing that the accused was taken to Bhopal or Gwalior for treatment. The High Court observed :

> Apart from this, these witnesses merely suggest that there was irrational behavior on the part of the accused. But it has not been proved that he entertained any homicidal tendencies. The evidence adduced is merely conduct not confirming to the accepted pattern of human behavior. Such evidence is inadequate to establish that there was such an impairment of cognitive faculties of the accused as to render him legally insane.
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> With respect, it is not necessary that every insane person should have homicidal tendencies. In this case he is not charged for an offence involving homicide but arson.

16. Although the High Court discarded the medical evidence, it took account of its own observations, when it stated :

> We had an opportunity to observe the accused, who was produced before us by the learned Counsel, and he appeared to be a man of normal understanding. We also find that in answering questions which were put to him by the court under Section 342, Cr.P.C.., the accused showed intelligence and care.
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> With great respect, these are irrelevant considerations. The appeal was heard on April 25, 1968, and the incident occurred on January 22, 1965. A person can surely improve within three years.

17. We are inclined to agree with the conclusion arrived at by the learned Magistrate. We hold that the appellant has discharged the burden. There is no reason why the evidence of Shyam Lal, D.W. 1, and Than Singh, D.W. 2, should not be believed. It is true that they are relations of the appellant, but it is the relations who are likely to remain in intimate contact. The behavior of the appellant on the day of occurrence, failure of the police to lead evidence as to his condition when the appellant was in custody, and the medical evidence indicate that the appellant was insane within the meaning of Section 84, I.P.C.

18. We accordingly allow the appeal and acquit the appellant of the offence under Section 435, I.P.C, because at the time of the incident he was a person of unsound mind within the meaning Section 84 of the Indian Penal Code. His bail bond shall stand cancelled.