

witnesses stated that he ran from one place to other and on his way he assaulted five persons indiscriminately without any rhyme or reason. The evidence shows that appellant had developed insanity since long and entitled to the benefit of this section.¹⁴⁷ Accused chopped off his wife's head, with a chopper. After the occurrence, in a very unusual and abnormal manner, holding the head and the chopper in each of his hands, he walked down the road and ultimately reached the police station. Though this, by itself, would not be sufficient to come to any conclusion but taken along with the other circumstances of the case would clearly point to the validity of the defence put forward on behalf of the accused.¹⁴⁸

[s 84.7] Epilepsy, Epileptic fits and Section 84.—

Epilepsy usually occurs from early infancy, though it may occur at any period of life. Individuals, who have had epileptic fits for years, do not necessarily show any mental aberration, but quite a few of them suffer from mental deterioration. Religiosity is a marked feature in the commencement, but the feeling is only superficial. Such patients are peevish, impulsive and suspicious, and are easily provoked to anger on the slightest cause. Epileptic psychosis is that which is associated with epileptic fits. This may occur before or after the fits, or may replace them, and is known as pre- epileptic, post-epileptic and masked or psychic phases (psychomotor epilepsy).¹⁴⁹

Where the accused committed the murder without any motive under the influence of an epileptic fits, he was entitled to get the benefit under [section 84, IPC, 1860](#).¹⁵⁰ But if at the time of the crime he was not acting under epileptic automatism, mere past history of epilepsy will not absolve the accused from liability.¹⁵¹

[s 84.8] Irresistible impulse.—

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a psychopath affords no protection under section 84 as the law contained in that section is still squarely based on the outdated M'Naughten Rules of 19th Century. 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'Naughten's case. 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.¹⁵²

[s 84.9] Nervousness.—

The fact that the accused became nervous after raping a six-year-old girl and in that state of mind killed her, was held to be not sufficient to establish insanity. The Court reduced the death sentence to life imprisonment and added that nervous psychosis may become in circumstances a kind of insanity.¹⁵³

[s 84.10] Homicide by 'ganja' smoker.—

In a case of *ganja* addict before the Supreme Court, the accused had killed his wife and children ranging one –16 years with knife. Death sentence was confirmed by the High

Court. The accused had not raised the defence of unsoundness in Courts below. The Supreme Court got the enquiry conducted by police after a plea was raised at the SLP stage. The enquiry report and evidence of family members and other witnesses revealed the addiction and on-going treatment. He was not allowed the benefit of section 84. The state of mind on the day of the incident is the crucial factor. The State of mind on other days is relevant only if such evidence would help determining the state of mind at the crucial moment.^{154.}

[s 84.11] Insane delusion.—

The accused killed two women by cutting their necks with an axe without any reason. Evidence showed that he suffered from similar attacks of disorder earlier too. After the incident he was heard saying that he was haunted by a God to do what he did. The plea of insanity was accepted and the accused was directed to be kept in a mental hospital.^{155.} The accused killed seven persons including his wife and two children with an axe. He also killed the cattle which came his way. There was no provocation. It was brutality *simpliciter*. The evidence on record showed that he was not of sound mind. The death sentence awarded to him was set aside. He was acquitted under the benefit of this section.^{156.} Mere abnormality or partial delusion, irresistible impulse or compulsive behaviour of a psychopath affords no protection under [section 84 of the Penal Code](#).^{157.}

[s 84.12] Paranoid schizophrenia.—

Paranoid schizophrenia, in the vast majority of cases, starts in the fourth decade and develops insidiously. Suspiciousness is the characteristic symptom of the early stage. Ideas of reference occur, which gradually develop into delusions of persecution. Auditory hallucinations follow which in the beginning, start as sounds or noises in the ears, but afterwards change into abuses or insults.^{158.} In paranoid schizophrenia, the person affected lives in a state of constant fear being haunted by the belief that he is being poisoned, some noxious gases are blown into his room and that all are plotting against him to ruin him. The patient gets very irritated and excited owing to equally painful and disagreeable hallucinations and delusions.^{159.} The accused was convicted for having murdered his wife in a brutal manner. He raised the plea of insanity. It came out from evidence that he was suffering from leprosy and insanity from sometime past. The medical opinion was that he was suffering from paranoid schizophrenia which is a form of paranoid psychosis. The plea was allowed. But he being not in a fit state of mind to judge his own welfare or take care of himself without medical aid, the Court directed him to be detained in safe custody under medical supervision and not to be released till medical evidence of social fitness.^{160.} The evidence on record shows that on the day of the incident, when the appellant was examined by doctors, he was found to be suffering from paranoid schizophrenia. He had delusions and persecutory ideas with no insight in his illness. From this, an inference can reasonably be drawn that the accused was under paranoid delusions at the time that he committed the offence.^{161.}

[s 84.13] Burden of proof.—

The Supreme Court defined the doctrine of burden of proof in the context of the plea of insanity in the following propositions:-

- "(1) The prosecution must prove beyond reasonable doubt that the appellant had committed the offence with the requisite *mens rea*; and the burden of proving that always rests on the prosecution from the beginning to the end of the trial.
- (2) There is a rebuttable presumption that the appellant was not insane, when he committed the crime, in the sense laid down by [section 84 of the IPC, 1860](#): the appellant 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 rests upon a party to civil proceedings.
- (3) Even if the appellant was not able to establish conclusively that he was insane at the time he committed the offence, the evidence placed before the court by the appellant or by the prosecution may raise a reasonable doubt in the mind of the court as regards one or more of the ingredients of the offence, including *mens rea* of the appellant and in that case the court would be entitled to acquit the appellant on the ground that the general burden of proof resting on the prosecution was not discharged".¹⁶².

It has been held that merely because an injured witness, who may legitimately be classified as an interested witness for obvious reasons, may have stated that the appellant was not of unsound mind, cannot absolve the primary duty of the prosecution to establish its case beyond all reasonable doubt explaining why the plea for unsoundness of mind taken by the accused was untenable.¹⁶³.

The burden of proving the existence of circumstances bringing the case within the purview of section 84 lies upon the accused under [section 105 of the Indian Evidence Act](#). Under the said section, the Court shall presume the absence of such circumstances.¹⁶⁴. But the burden on the accused cannot be equivalent with the burden of proof on the prosecution and cannot be rated higher than the burden on a party to a civil proceeding where a finding can be based upon preponderance of probabilities. There is no conflict between the general burden which is always on the prosecution and which never shifts and the special burden which rests on the accused to make out the defence of insanity.¹⁶⁵. Sometimes the facts may in themselves be sufficient to discharge the burden which lies on the accused. This possibility was recognised by the Supreme Court in *Ratan Lal v State of MP*.¹⁶⁶. The accused-appellant was kept in police custody for ten days and only then it was felt that he needed medical examination. There was no evidence on record to show what his condition was during those ten days and why he was not examined earlier. This conduct on the part of the police, neither to arrange his examination nor permit him to do so, brought about such a gap of time between the incident and examination that his condition at the time of the incident was no longer capable of being precisely determined. As against this police inaction, the defence pointed towards the conduct of the accused before the incident and some statements of witnesses which supported the instable condition of the accused. This was held to be sufficient to discharge the burden which lies on the accused and his acquittal was upheld by the Supreme Court. Going by this case in *Tukappa Tamanna Lingardi v State of Maharashtra*,¹⁶⁷. the Bombay High Court found evidence of insanity from a narration of the facts themselves. Mere oral statements of witnesses cannot give rise to an inference that the appellant was of unsound mind at the time of commission of offence. Plea of the accused does not come within exception contemplated under [section 84 of IPC, 1860](#).¹⁶⁸. [IPC, 1860](#)

Where there was no satisfactory evidence of the previous history of the accused or his subsequent conduct and the only fact on record was that ghastly murders were committed without motive, it was held that the burden of proof as to plea of insanity was not discharged. However, because of the absence of motive, premeditation and any weapon, killings being done with stone pieces, death sentence was converted into life imprisonment.¹⁶⁹. Where, on the other hand, a father killed his son and then danced

around, moving towards his house threatening others, facts spoke for themselves so as to discharge the burden of proof as to insanity, the accused was acquitted and ordered to be detained in a mental home.^{170.}

Mere eccentric behaviour, like drowning one's own two and a half-year-old child to death, does not discharge this burden which is essentially on the accused and requires him to show all the ingredients of the defence to the extent at least of making them probable at the time of the commission of the act. Previous history and subsequent conduct are only relevant facts in the determination of the condition at the material time.^{171.}

The mere absence of *motive* is not sufficient to bring the case within the scope of section 84.^{172.}

[s 84.14] Sentencing.—

The accused was charged with offences under sections 427, 302, 307, 451, etc. Medical evidence showed that he was a person of unsound mind at the time when the offences were committed. The accused, therefore, could not be detained in prison. He was directed to be put in a mental hospital. The authorities were further directed to follow the procedure prescribed by [section 335, Code of Criminal Procedure, 1973 \(Cr PC, 1973\)](#).^{173.}

[s 84.15] Sentencing.—Battered woman syndrome.—

The accused woman pleaded guilty to manslaughter on an indictment for murder. She was a young woman aged 20. She began a sexual relationship with the deceased when she was 14 and began to live with him when she was 16. She had a miscarriage and on two occasions took overdoses. The deceased became violent towards her two or three times each week. She sought psychiatric help and on two occasions came to the attention of the police. In 1998 she decided to end the relationship and there was an argument which developed into a fight. She picked up a knife and waved it at the deceased, telling him to leave. There was a further struggle during the course of which the deceased received a fatal knife wound to his back. She immediately shouted for help and was found in an extremely distressed condition. When she was examined, she was found to be extensively bruised. A psychiatrist who examined her found that she exhibited a number of features of the "battered woman's syndrome", including chronic depressive illness, a feeling of hopelessness and despair, and inability to act effectively or to see an escape from her situation, and feelings of self-blame, shame and a poor sense of self-worth. A second psychiatrist found a degree of clinical depression which amounted to abnormality of mind. She was sentenced to four years' detention in a young offender institution. Her appeal against the sentence was allowed. In the light of the evidence, the Court reached the conclusion that there were in the present case those exceptional circumstances which would allow the Court to take the unusual course of passing a sentence other than custody. The accused woman had been subject from a young age to persistent and prolonged violence from a man older than herself who was domineering and demanding. Since her arrest she had made remarkable progress, and a custodial sentence would be likely to damage and possibly bring to an end that rehabilitation. She had served the equivalent of a sentence of 12 months and it was appropriate to give her the opportunity to continue her progress. The Court accordingly quashed the sentence of four years' detention in a young offender institution and substituted a probation order.^{174.}

[s 84.16] CASES.—Defence not made out.—

Accused came to the house one day prior to the occurrence, demanded money and threatened the deceased of grave consequences and on the next day, when the demand was not fulfilled, he trespassed into the house, pushed away PWs 1 and 2, bolted the door from inside and inflicted repeated *aruval* blows on the deceased that resulted into her death. All these aspects also show that at the relevant time, he was not insane as claimed by him.¹⁷⁵ Accused committed murder of two persons and caused injuries to another. Testimony of witnesses was found cogent and reliable and there was no material on the basis of which it could be inferred that at the time of commission of offence the accused was of unsound mind to such an extent that by reason of such unsoundness, he was incapable of knowing the nature of the act or knowing that he was doing what was either wrong or contrary to law, plea of insanity rejected.¹⁷⁶ Mere taking treatment earlier in Mental Hospital itself is not sufficient proof of total insanity of person.¹⁷⁷

The accused killed his wife and daughter with an axe. He attended *Kirtan* (rendering of religious hymns) a night before. He carried the corpses in a hand-cart and made his statement before the police. His confessional statement was recorded by a competent judicial magistrate. He found no noticeable abnormality of mind or mental disorderliness. Even on his examination under [section 313, Cr PC, 1973](#), he showed a soundness of mind. It was held that he was not entitled to the benefit of section 84.¹⁷⁸

[s 84.17] When to be pleaded.—

The plea cannot be raised for the first time before the Supreme Court for which no foundation was established before.¹⁷⁹

[s 84.18] Investigation of offence vis-à-vis the general exceptions—

The duty cast upon the investigating officer to investigate into the mental condition of the accused is very important. The Supreme Court held that, 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.¹⁸⁰ The Division Bench of High Court of Kerala observed that even if all the acts constituting an offence as per definition in [IPC, 1860](#) are committed by a person, if an investigating officer finds on investigation that by reason of unsoundness of mind, accused was incapable of knowing the nature of the act, or that he was doing what is either wrong or contrary to law, as stated in [Section 84 IPC, 1860](#), he shall not file a charge sheet against such person.¹⁸¹ The Court also held that the investigating officer is bound to investigate and confirm that despite what is contained in the "General Exceptions", acts committed by accused shall constitute offence under [IPC, 1860](#).¹⁸² But the Single Bench of the High Court of Kerala, later, held that the ingredients of section 84 can only be taken as a defence during trial and it is not possible to throw out the Final Report in a case on the ground that the concerned accused was suffering from legal insanity.¹⁸³

[s 84.19] Procedure.—

Chapter XXV of [Cr PC, 1973](#) deals with provisions as to accused persons of unsound mind.^{184.}

1. *Shankar Narayan Bhadolkar v State of Maharashtra*, [AIR 2004 SC 1966](#) [[LNIND 2004 SC 1370](#)] : [2004 Cr LJ 1778](#) : (2005) 9 SCC 71 [[LNIND 2004 SC 1370](#)] .
2. The [Indian Evidence Act](#), I of 1872, section 105.
3. *Musammatt Anandi*, (1923) 45 All 329 ; *Babulal*, 1960 Cr LJ 437 (All).
4. *A K Chaudhary v State of Gujarat*, 2006 Cr LJ 726 (Guj).
5. *A K Chaudhary v State of Gujarat*, 2006 Cr LJ 726 (Guj).
90. *State of Rajasthan v Shera Ram*, (2012) 1 SCC 602 [[LNIND 2011 SC 1192](#)] : [AIR 2012 SC 1](#) [[LNIND 2011 SC 1192](#)] : (2012) 1 SCC (Cr) 406.
91. *R v Daniel McNaughten*, 1843 RR 59 : 8ER 718 (HL).
92. *Sudhakaran v State of Kerala*, (2010) 10 SCC 582 [[LNIND 2010 SC 1046](#)] : [AIR 2011 SC 265](#) [[LNIND 2010 SC 1046](#)] : 2011 Cr LJ 292 .
93. *State of Maharashtra v Govind Mhatarba Shinde*, 2010 Cr LJ 3586 (Bom).
94. *State of Orissa v Duleswar Barik*, 2008 Cr LJ 1065 (Ori) relied on *ShamaTudu v State*, 1987 Cr LJ 618 (Ori).
95. *Dahyabhai*, 1964 (2) Cr LJ 472 (SC); *Lonimohon Das*, 1974 Cr LJ 1186 (Gau); *Gunadhar Mondal*, 1979 Cr LJ NOC 178 (Cal); *Kesheorao*, 1979 Cr LJ 403 (Bom); *Lala Sk.*, 1983 Cr LJ 1675 (Cal); *Balu Ganpat*, 1983 Cr LJ 1769 (Bom); *Paramal Raman v State of Kerala*, 1992 Cr LJ 176 Ker; *Bai Bamilaben v State of Gujarat*, 1991 Cr LJ 2219 Guj; *Shama Tudu v State*, 1987 Cr LJ 618 Orissa; *Sheralli Walli Md v State of Maharashtra*, [AIR 1972 SC 2443](#) : 1972 Cr LJ 1523 ; *Qyami Ayatu v State of MP*, [AIR 1974 SC 216](#) [[LNIND 1973 SC 242](#)] : 1974 Cr LJ 305 . In *Shama Tudu v State*, 1987 Cr LJ 618 , the Orissa High Court cited the following cases in which the plea of insanity was accepted : *Mitu Khadia v State of Orissa*, 1983 Cr LJ 385 : 1983 Cut LR (Cr) 108; *Khageshwar Pujari v State of Orissa*, 1984 Cr LJ 1108 : 1984 (1) Ori LR 142 ; *Sundar Bairagi v State*, 1984 Cr LJ 124 ; *Bata v State*, 1985 (2) Ori LR 398 . The plea was negated in the following cases; *Nakul Chandra v State of Orissa*, 1982 Cr LJ 2158 : (1982) 54 Cut LJ 195; *Kusa Majhi v State*, (1985) 59 Cut LT 203 : 1985 (1) Crimes 520 : 1985 Cr LJ 1460 : [AIR 1985 SC 1409](#) [[LNIND 1985 SC 227](#)] . *State of MP v Digvijay Singh*, [AIR 1981 SC 1740](#) [[LNIND 1978 SC 324](#)] : 1981 Cr LJ 1278 , prosecution case proved.
96. *Siddhapal Kamala Yadav*, [AIR 2009 SC 97](#) [[LNIND 2008 SC 1992](#)] : (2009) 1 SCC 124 [[LNIND 2008 SC 1992](#)] ; *Sanna Eranna*, 1983 Cr LJ 619 (Kant); *M Parvaiah*, 1985 Cr LJ 1824 (AP); *Kuttappan*, 1986 Cr LJ 271 (Ker).
97. *State of Maharashtra v Govind Mhatarba Shinde*, 2010 Cr LJ 3586 (Bom).
98. *State of Maharashtra v Govind Mhatarba Shinde*, 2010 Cr LJ 3586 (Bom).
99. *Bhikari*, [AIR 1966 SC 1](#) [[LNIND 1965 SC 57](#)] . Absence of motive is one of the factors to be taken into account. *Subbigadu v Emperor*, [AIR 1925 Mad 1238](#) [[LNIND 1925 MAD 157](#)] : 1926 (27) Cr LJ 46 ; *Ujagar Singh v State*, [AIR 1954 PEPSU 4](#) : 1953 Cr LJ 1859 . But this is only one factor among others. See *Amrit Bhushan Gupta v UOI*, [AIR 1977 SC 608](#) [[LNIND 1976 SC 458](#)] : 1977 Cr LJ 376 ; *Ram Bharose v State of MP*, 1974 Jab LJ 348 ; *Peeru Singh v State of MP*, 1987 Cr LJ 1781 MP.

100. *Bapu v State of Rajasthan*, (2007) 8 SCC 66 [LNIND 2007 SC 774] : JT 2007 (9) SC 110 : 2007 AIR (SCW) 3808 : 2007 (7) SCR 917 [LNIND 2007 SC 774] : (2007) 8 Scale 455 [LNIND 2007 SC 774] : (2007) 3 SCC (Cr) 509.
101. *Kuttappan v State of Kerala*, 1986 Cr LJ 271 (Ker).
102. *Siddhapal Kamala Yadav*, AIR 2009 SC 97 [LNIND 2008 SC 1992] : (2009) 1 SCC 124 [LNIND 2008 SC 1992] .
103. *Surendra Mishra v State of Jharkhand*, AIR 2011 SC 67 : (2011) 11 SCC 495 [LNIND 2011 SC 27] : (2011) 3 SCC(Cr.) 232.
104. *Sudhakaran v State of Kerala*, (2010) 10 SCC 582 [LNIND 2010 SC 1046] : AIR 2011 SC 265 [LNIND 2010 SC 1046] : 2011 Cr LJ 292 .
105. *State of Maharashtra v Govind Mhatarba Shinde*, 2010 Cr LJ 3586 (Bom).
106. Available at : <http://lawcommissionofindia.nic.in/1-50/Report42.pdf> (last accessed in July 2019).
107. *Bapu v State of Rajasthan*, (2007) 8 SCC 66 [LNIND 2007 SC 774] : (2007) 3 SCC (Cr) 509 : (2007) 4 KLT 63 [LNIND 1985 KER 300] .
108. Third question and answer in *M'Naughton's case*, (1843) 4 St Tr (NS) 847, 10 Cl & F 200; *Tola Ram*, (1927) 8 Lah 684. *Jaganath Das v State*, 1991 Cr LJ (NOC) 32 Cal.
109. *Harka v State*, (1906) 26 AWN 193. *Hari Singh Gond v State of MP*, (2008) 16 SCC 109 [LNIND 2008 SC 1728] : AIR 2009 SC 31 [LNIND 2008 SC 1728] : 2009 Cr LJ 346 : (2008) 3 KLT 969 [LNIND 2008 SC 1728] , Mere abnormality of mind, partial delusion, irresistible impulse or compulsive psychopathic behaviour affords no protection under section 84. It is only unsoundness of mind which naturally impairs the cognitive faculties of mind which can justify exemption under section 84. *Bapu v State of Rajasthan*, (2007) 8 SCC 66 [LNIND 2007 SC 774] , time factor, time of the offence is crucial.
110. *Sheralli Wali Mohammed v State of Maharashtra*, (1973) 4 SCC 79 : 1972 Cr LJ 1523 .
111. *Govindaswami Padayachi*, (1952) Mad 479; *Ahmadullah*, (1961) 3 SCR 583 [LNIND 1961 SC 29] : (1961) 2 Cr LJ 43 : AIR 1961 SC 998 [LNIND 1961 SC 29] ; *Dahyabhai*, AIR 1964 SC 1563 [LNIND 1964 SC 88] : 1964 (2) Cr LJ 472 ; followed in *Narain v State*, 1991 Cr LJ 1610 All, the accused murdering the Imam of a masjid, acquitted because of proven insanity. *AG Bhagwat v UT Chandigarh*, 1989 Cr LJ 214 P&H, no insanity at the time of attack.
112. *Ajaya Mahakud v State of Orissa*, 1993 Cr LJ 1201 (Ori).
113. *S Sunil Sandeep v State of Karnataka*, 1993 Cr LJ 2554 (Kant).
114. *State of Punjab v Mohinder Singh*, (1983) 2 SCC 274 : 1983 SCC (Cr) 402 : 1983 Cr LR (SC) 187 . In a similar acquittal, the HP High Court ordered that the accused be confined to mental hospital so that he would pose no danger to public. *Krishan Dutt v State of HP*, 1992 Cr LJ 1065 HP.
115. *SW Mohammed*, 1972 Cr LJ 1523 : AIR 1972 SC 2443 .
116. *Oyami Ayatu*, 1974 Cr LJ 305 : AIR 1974 SC 216 [LNIND 1973 SC 242] . See also *Gunadhar Mondal*, 1979 Cr LJ NOC 178 (Cal), *Kesheorao* 1979 Cr LJ 403 (Bom). *Basanti v State*, 1989 Cr LJ 415 (Ori), woman jumped into well with her children, rescued, voluntarily explaining her conduct, no insanity. *Parapuzha Thamban v State of Kerala*, 1989 Cr LJ 1372 (Ker); *Munilal Gupta v State*, 1988 Cr LJ 627 (Del); *Meh Ram v State*, 1994 Cr LJ 1897 (Raj).
117. *Bapu v State of Rajasthan*, (2007) 8 SCC 66 [LNIND 2007 SC 774] : (2007) 3 SCC (Cr) 509 : (2007) 4 KLT 63 [LNIND 1985 KER 300] .
118. *Kader Hasyer Shah*, (1896) 23 Cal 604 , 607; *Kalicharan*, (1947) Nag 226.
119. *Gedka Goala*, (1937) 16 Pat 333.
120. Stephen : *History of the Criminal Law*, vol II, p 166.

121. *Raghu Pradhan v State of Orissa*, [1993 Cr LJ 1159](#) (Ori).
122. *Brushabha Digal v State of Orissa*, [1993 Cr LJ 3149](#) (Ori).
123. *Ashok Dattatraya v State of Maharashtra*, [1993 Cr LJ 3450](#) (Bom).
124. *Amruta v State of Maharashtra*, [1996 Cr LJ 1416](#) (Bom).
125. *Tola Ram v State of Rajasthan*, [1996 Cr LJ 8](#) (Raj). For a case of pretended insanity, see *Nathu Bapu Mhaskar v State of Maharashtra*, [1996 Cr LJ 2121](#) (Bom).
126. *Paras Ram v State of Punjab*, [\(1981\) 2 SCC 508](#) : 1981 SCC (Cr) 516. *Gulab Manik Surwase v State of Maharashtra*, [2001 Cr LJ 4302](#) (Bom) the conduct of assaulting his wife in broad day light within the sight of his relatives and leaving behind the blood stained axe on the spot, the Court said, was a sign of abnormalcy. The accused was given the benefit of doubt. *Laxmandas Mangaldas Manikpuri v State of Maharashtra*, [1997 Cr LJ 950](#) (Bom), no trace of insanity in the conduct of the accused either before or after killing his wife. Defence under section 84 not available.
127. *Marimuthu v State*, [2009 Cr LJ 3633](#) (Mad).
128. Fourth question and answer in *M'Naughton's case* (1843) 4 St Tr (NS) 847; *Ghatu Pramanik*, [\(1901\) 28 Cal 613](#) .
129. First question and answer in *M'Naughton's case*, sup. *Durga Domar v State of MP*, [\(2002\) 10 SCC 193](#) , the accused killed in ferocious manner 5 children belonging to his close relatives, Courts below sentenced him to death, he could not engage a counsel. In this state of things, the judicial conscience of the Supreme Court compelled it to seek medical opinion regarding the mental condition of the accused.
130. *Madesh v State by The Inspector of Police*, [2014 Cr LJ 96](#) (Mad).
131. *M'Naughton's case*, (1843) 4 St Tr (NS) 847, 10 Cl & F 200.
132. *State of Maharashtra v Umesh Krishna Pawar*, [1994 Cr LJ 774](#) (Bom).
133. *Kalicharan*, (1947) Nag 226.
134. *Ganesh Shrawan*, [\(1969\) 71 Bom LR 643](#) .
135. *SW Mohammed*, [1972 Cr LJ 1523](#) : [AIR 1972 SC 2443](#) . See also *Mitu Khadia*, [1983 Cr LJ 1385](#) (Ori).
136. In the matter of *Lakshman*, [1973 Cr LJ 110](#) (Mad).
137. *Prakash*, [1985 Cr LJ 196](#) (Bom). *Krishan Dutt v State of HP*, [1992 Cr LJ 1065](#) (HP), medical evidence and manner of commission showed insanity, acquittal.
138. *Velusamy*, [1985 Cr LJ 981](#) (Mad).
139. *Baswant Rao*, (1948) Nag 711.
140. *Sukru Sa*, [1973 Cr LJ 1323](#) (Ori); *Kesheorao*, [1979 Cr LJ 403](#) (Bom); *Lala Sk*, [1983 Cr LJ 1675](#) (Cal); *Rajan v State*, [1984 Cr LJ 874](#) (Ker); *Kusa Majhi*, [1985 Cr LJ 1460](#) (Ori). *Sudhir Ch Biswas v State*, [1987 Cr LJ 863](#) Cal.
141. *Siddheswari Bora*, [1981 Cr LJ 1005](#) (Gau).
142. *State of Assam v Inush Ali*, [1982 Cr LJ 1044](#) (Gau).
143. *Sita Ram v State*, [2011 Cr LJ 1082](#) (All); *Leena Balkrishna Nair v State of Maharashtra*, [2010 Cr LJ 3292](#) (Bom).
144. *Lakshman Dagdu*, (1886) 10 Bom 512.
145. *Nivrutti*, [1985 Cr LJ 449](#) (Bom).
146. *Debeswar Bhuyan v State of Assam*, [2012 Cr LJ 274](#) (Gau). See also *Laxman Gagarai v State of Orissa*, [2012 Cr LJ 44](#) (Ori).
147. *State of Orissa v Kalia Alias Debabrata Maharana*, [2008 Cr LJ 3107](#) (Ori).
148. *Kuttappan v State of Kerala*, [1986 Cr LJ 271](#) (Ker).

149. *State of Rajasthan v Smera Ram*, (2012) 1 SCC 602 [LNIND 2011 SC 1192] : AIR 2012 SC 1 [LNIND 2011 SC 1192] : (2012) 1 SCC (Cr) 406 **relied on** Modi, *Medical Jurisprudence and Toxicology*, 24th Edn, 2011.
150. *Satwant Singh*, 1975 Cr LJ 1605 (P & H). *R v Sullivan*, (1983) 2 All ER 673 , epilepsy is a disease of the mind, but it is not that of madness, though the effect produced on the mind is the same because it is difficult to convict a person who is himself a victim of psychomotor epilepsy.
151. *State of MP v Ahamadulla*, 1961 (2) Cr LJ 43 : AIR 1961 SC 998 [LNIND 1961 SC 29] .
152. *Bapu v State of Rajasthan*, (2007) 8 SCC 66 [LNIND 2007 SC 774] : JT 2007 (9) SC 110 : 2007 AIR (SCW) 3808 : 2007 (7) SCR 917 [LNIND 2007 SC 774] : (2007) 8 Scale 455 [LNIND 2007 SC 774] : (2007) 3 SCC(Cr) 509; *Lok Bahadur Dahal v State of Sikkim*, 2012 Cr LJ 4996 (Sik); *Marimuthu v State*, 2009 Cr LJ 3633 (Mad); *Siddhapal Kamala Yadav*, AIR 2009 SC 97 [LNIND 2008 SC 1992] : (2009) 1 SCC 124 [LNIND 2008 SC 1992] ; *Ramadhin v State of MP*, 1995 Cr LJ 3708 (MP).
153. *Riyasat v State of UP*, 1993 Cr LJ 2834 (All).
154. *Jagdish v State of MP*, (2009) 9 SCC 495 [LNINDORD 2009 SC 210] : (2010) 1 SCC(Cr) 21 : AIR 2010 SC (Supp) 373.
155. *Niman Sha v MP*, 1996 Cr LJ 3395 (MP); *Venugopalan Venu v Kerala*, 1996 Cr LJ 3363 (Ker). *Raval Mohanbhatt v State*, 1998 Cr LJ 4325 (Guj).
156. *State of Jharkhand v Madras Nayak*, 2003 Cr LJ NOC 197 : 2003 AIR Jhar HCR 653.
157. *Siddhapal Kamala Yadav*, AIR 2009 SC 97 [LNIND 2008 SC 1992] : (2009) 1 SCC 124 [LNIND 2008 SC 1992] .
158. *Shrikant Anandrao Bhosale v State of Maharashtra*, AIR 2002 SC 3399 [LNIND 2002 SC 606] : (2002) 7 SCC 748 [LNIND 2002 SC 606] .
159. *Debeswar Bhuyan v State of Assam*, 2012 Cr LJ 274 (Gau).
160. *Jagannath Das v State*, 1991 Cr LJ (NOC) 32 (Cal). *SK Nair v State of Punjab*, AIR 1997 SC 1537 [LNIND 1996 SC 1829] : 1997 Cr LJ 772 : (1997) 1 SCC 141 [LNIND 1996 SC 1829] , the plea of paranoid, facts established that he understood the implications of the acts at the time of the incident plea not sustainable. *Ram Swarup Thakur v State of Bihar*, 2000 Cr LJ 426 (Pat), the accused killed his own son of 3 years old for no reason. He was in mental hospital for two years, not a normal man at the time. No evidence from prosecution as to his state of mind. Acquitted. *Shrikant Anandrao Bhosale v State of Maharashtra*, AIR 2002 SC 3399 [LNIND 2002 SC 606] : (2002) 7 SCC 748 [LNIND 2002 SC 606] , another case of paranoid schizophrenia, the accused killed his wife in day light, made no attempt to hide or run away, mental unsoundness before or after occurrence was proved. The benefit of section 84 was granted. Also see *Sudhakaran v State of Kerala*, (2010) 10 SCC 582 [LNIND 2010 SC 1046] : AIR 2011 SC 265 [LNIND 2010 SC 1046] : 2011 Cr LJ 292 .
161. *Tikaram Krishnalal Pandey v State of Maharashtra*, 2013 Cr LJ 2410 (Bom).
162. *Dahyabhai Chhaganbhai Thakkar v State of Gujarat*, AIR 1964 SC 1563 [LNIND 1964 SC 88] ; *Sudhakaran v State of Kerala*, (2010) 10 SCC 582 [LNIND 2010 SC 1046] : AIR 2011 SC 265 [LNIND 2010 SC 1046] : 2011 Cr LJ 292 ; In *State of H v Gian Chand*, AIR 2001 SC 2075 [LNIND 2001 SC 1124] : (2001) 6 SCC 71 [LNIND 2001 SC 1124] : 2001 Cr LJ 2548 : (2001) 1 SCC(Cr) 980, the Supreme Court set aside the High Court Judgment by holding that the High Court misapplied the *Dahyabhai Judgment* (*Supra*).
163. *Devidas Loka Rathod v State of Maharashtra*, AIR 2018 SC 3093 [LNIND 2018 SC 311] .
164. *Gelsing Pida Pawar v State of Maharashtra*. 2010 Cr LJ 4097 (Bom); *Leena Balkrishna Nair v State of Maharashtra*, 2010 Cr LJ 3292 (Bom); *Sarat Chandra Sahoo v State of Orissa*, 2010 Cr LJ 3084 (Ori)].

165. *Shivraj Singh v State of MP*, 1975 Cr LJ 1458 , the accused failed to make out his defence. Similar observations occur in *State v E Lemon*, AIR 1970 Goa 1 : 1970 Cr LJ 36 ; *Balogopal Re*, 1976 Cr LJ 1978 ; *Dulal Nayak v State of WB*, 1987 Cr LJ 1561 Cal, striking twice on head with the leg of cot, intention clear. *Omkarlal v State of MP*, 1987 Cr LJ 1289 MP. *TN Lakshmaiah v State of Karnataka*, (2002) 1 SCC 219 [LNIND 2001 SC 2360] , the Court has to examine the accused's claim having regard to his entire conduct up to commencement of the proceedings before the trial Court. The accused murdered his wife and son and took the plea that he acted under a spell of insanity. He led no evidence to that effect. Also his conduct was that of a fully conscious man. *Bapu v State of Rajasthan*, (2007) 8 SCC 66 [LNIND 2007 SC 774] , explanation of the type of burden of proof which lies on the accused; *Bihari Lal v State of HP*, 2006 Cr LJ 3832 HP, the accused has to prove his mental condition of insanity. He cannot draw any benefit from adverse medical opinion.
166. *Ratan Lal v State of MP*, AIR 1971 SC 778 [LNIND 1970 SC 487] : 1971 Cr LJ 654 .
167. *Tukappa Tamanna Lingardi v State of Maharashtra*, 1991 Cr LJ 2375 (Bom).
168. *Kirtanram Mansai Uranv v State of MP*, 2011 Cr LJ 4658 (Chh).
169. *Bhan Singh v State of MP*, 1990 Cr LJ 1861 (MP).
170. *Elkari Shankari v State of AP*, 1990 Cr LJ 97 AP. See also *Uchhab Sahoo v State of Orissa*, 1989 Cr LJ 168 (Ori), evidence created a doubt that the accused might have been under a spell of madness.
171. *Narayan Chandra Dey v State*, 1988 Cr LJ 387 (Cal). See also *Santosh Kumar Sarkar v State*, 1988 Cr LJ 1828 Cal.
172. *Bapu v State of Rajasthan*, (2007) 8 SCC 66 [LNIND 2007 SC 774] : (2007) 4 KLT 63 [LNIND 1985 KER 300] . There has to be absence of *mens rea* and not mere absence of motive.
173. *Chandrashekar v State*, 1998 Cr LJ 2237 (Kant). See also *Raval Mohanbhai Laxmanbhai v State*, 1998 Cr LJ 4325 .
174. *R v Feel (Taramary)*, (2000) 2 Cr App R (S) 464, [CA (Crim Div)].
175. *Mariappan v State of TN*, 2013 Cr LJ 2334 (SC) : 2013 (6) Scale 18 .
176. *Turam Sundi v State of Jharkhand*, 2011 Cr LJ 1872 (Jha); *Madhusudan v State of Karnataka*, 2011 Cr LJ 215 (Kar); *C T Raveenran v State of Kerala*, 2011 Cr LJ 14089 (Ker).
177. *Nand Lal v State of Rajasthan*, 2011 Cr LJ 3686 (Raj); *Babasaheb Thombre v State of Maharashtra*, 2008 Cr LJ 2935 (Bom)].
178. *Dhaneswar Pradhan v State of Assam*, 2003 Cr LJ 733 (Gau).
179. *PSVLN Sastry v Advocate General HC of AP*, (2007) 15 SCC 271 .
180. *Apu @ Gajraj Singh v State of Rajasthan*, (2007) 8 SCC 66 [LNIND 2007 SC 774] : 2007 (3) RCR (Criminal) 343.
181. *Shibu v State of Kerala*, 2013 (4) KLJ 300 : 2013 (4) KLT 323 [LNIND 2012 KER 968] (Ker DB).
182. *Ibid*.
183. *Ashok Kumar R v State of Kerala*, 2016 Cr LJ 4765 (Ker) : 2016 (4) KHC 232 .
184. Section 328-339.