



BNS – GENERAL EXCEPTION

Q. 'A' who suffered from a long illness became 'non-compos' and committed murder of B. Can he claim benefit under the exception dealt with in Section 22 of BNS?

A. : Facts: 'A', suffered from a long illness and became 'non-compos' and committed murder of B.

Issue: Can he claim benefit of exception under Section 22 of BNS?

Analysis: By applying Section 22 in the present facts, it can be inferred that 'A' can very well claim the benefit of exception. At the time of commission of the act which resulted in death of 'B', 'A' by reason of unsoundness of mind, was incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law. Therefore, **his act which resulted in the death of 'B' would not amount to the offence of murder punishable under Section 103(1) of BNS.**

Due to illness over a long period of time, he became a person of unsound mind. He had no mens rea to commit the offence of murder. While doing the act by which the death of 'B' is caused, neither he had any intention of causing death nor any intention of causing such bodily injury as the he knows to be likely to cause the death of 'B'.

Conclusion: To successfully claim the defence under Section 22, 'A' has the burden to prove that due to unsoundness of mind, he was incapable of understanding as to what he was doing and what would be the consequences of his acts. He would not be exempted if he knew that what he was doing was wrong.

Q. 'A' under influence of madness attempts to kill 'B'. What offence, if any, is committed by 'A'?

A. : Facts: 'A' under influence of madness attempts to kill 'B'.

Issue: What offence if any, is committed, by A?

Analysis: 'A' has not committed any offence as it is clear that during attempt to kill 'B', 'A' was under influence of madness. If the prosecution successfully discharges the burden to prove the guilt of 'A' as per, Section 104 of the Bharatiya Sakshya Adhiniyam, he can take the defence under Section 22. He has to discharge the burden of proof as per Section 108 of the Bharatiya Sakshya Adhiniyam, not beyond all reasonable doubt but on a balance of probabilities. He has to prove that he has no mens rea to commit the offence of attempt to murder 'B'. In order to save himself from criminal liability, 'A' has to prove that due to influence of madness, he was neither capable of knowing the nature of his act; nor capable of knowing that what he was doing was either wrong or contrary to law.

Conclusion: If A is able to prove then he is not liable for any offence.