

Battered Woman Syndrome: Can be Recognized as a Valid Defense or Not?

Akshat Gautam^{1,*}

Abstract

Some battered women who have killed or tried to kill their abusive companions are currently furnished a criminal protection that rests on the justification of the act they have devoted as important to guard themselves or someone else (generally their children) from additional damage or dying. Often referred to as battered girl self-protection, the protection has been delivered through legal professionals on behalf of their customers to illustrate to the judge and jury that residing in home violence has the sort of fundamental effect on a girl's kingdom of thoughts that it is able to make an act of murder justifiable, even if the primary study the information does now no longer look like conventional confrontational self-protection, together with while the person is resting, sleeping, or in any other case now no longer without delay engaged in beating her for the time being of the murder incident. Prior to the creation of this new view on antique protection, most ladies who admitted the acts that led to the person's death had been instructed through their legal professionals that that would have no protection and had been advocated to plead guilty to murder. In a small variety of instances, while a battered girl was given any protection at all, it changed into generally a few shapes of insanity.

Keywords: Sleeping, together with while the person is resting, recognized, battered woman syndrome

INTRODUCTION

Women today, either on television or social media, are being victimized. According to reports and data, the world is becoming more unpredictable, particularly for women. In the present time, self-defense. Most of this violence is intimate accomplice violence. Worldwide, nearly one-third (27%) of women aged 15 to 49, who have been in a relationship, report that they have experienced some form of physical and/or sexual violence perpetrated by their intimate partner. Violence can negatively influence ladies' bodily, mental, sexual, and reproductive health and might increase the risk of obtaining HIV in a few settings.

Domestic abuse, additionally called [1] "home violence" or "intimate companion violence," may be described as a sample of conduct in any courting that is used to advantage, or keep energy, and manage an intimate companion. Abuse is any physical, sexual, emotional, monetary, or mental movement or threat of movement that affects another person. This consists of any behaviors that frighten, intimidate,

terrorize, manipulate, hurt, humiliate, blame, injure, or wound someone. Domestic abuse can happen to anyone of any race, age, sexual orientation, religion, or gender. It can arise in a variety of relationships, including those between couples who are married, living collectively, or dating. Domestic violence affects human beings of all socioeconomic backgrounds and training levels.

*Author for Correspondence

Akshat Gautam
E-mail: Akshat.gautam@law.christuniversity.in

¹Student, School of Law, CHRIST (Deemed to be) University, Delhi-NCR, India

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Battered Woman Syndrome ("BWS") is a psychological theory. *Why abused women continue to stay in abusive relationships and why they may*

be forced to kill their partners despite allegedly having other means of escape available. The High Court of Guwahati, recognizing that battered women may be forced to let their husbands die because of domestic violence, has quashed Manju Rakula's murder charges against the State of Assam, *Majnu Lakra vs State of Assam* [2]. Manju Lakula was convicted of manslaughter, which does not amount to murder. In this case, Manju Lakra was subjected to continued acts of domestic violence. One time, she could not stand the violence anymore, so she grabbed a piece of wood that her husband was hitting and hit him. He succumbed to his injuries. This is a landmark ruling, as it is the first reported case in India in which an abused woman who murdered her partner was defended by provocation.

SELF-DEFENCE

The use of self-defense is considered impractical because the fact that an abused woman has murdered her partner is inconsistent with traditional notions of self-defense. For example, women who have been physically abused often resort to killing bats after the attack is over or when there is no obvious immediate threat. It is also alleged that she killed her husband, especially after the attack. Here are four key characteristics that must be met for successful self-defense:

1. The belief that the defendant was under imminent threat of unlawful physical harm.
2. The use of reasonable force to counter the imminent threat.
3. The defendant cannot be the aggressor.
4. No safe means of retreat. This defense has traditionally been used when a suspect faces an imminent threat and uses assault to inflict harm on the attacker.

BATTERED WOMEN SYNDROME

The Battered Women Syndrome is a time that refers to the sample of behavioral and mental signs and symptoms which can be discovered in girls who have suffered and are dwelling in an abusive relationship. It is taken into consideration a mental principle explains that why a battered female is forced to bear all the violence and afterward it forced her to kill her batterer. In India, there is no statutory reputation of the Battered Women Syndrome, however there is a sure example wherein Indian Court has decreased the punishment for girls laid low with violence. Battered Women Syndrome changed into coined with the aid of using Lenore E. Walker to explain and recognize the mental kingdom of girls who suffers from intimate companion violence It refers to the reactions that can be mental and behavioral as displayed with the aid of using girls who are subjected to severe, long time home abuse, verbal harassment, the danger of punishment, sexual and bodily abuse.

The Battered Woman Syndrome is a psychological theory developed by Dr. Lenore Walker explains why abused women choose to kill their abusive partners rather than simply abandon them. She developed a theory examining cycles of abuse known as the “*Walker Cycle Theory*” [3]. Walker Cycle Theory describes her three different stages of a typical batting relationship. The first is the “rising tension” stage, in which men and women fight each other. This leads to the “acute stroke,” a second stage in which the thug is filled with uncontrollable anger and rage. These two phases are followed by a phase of “loving reflection.”

Regret his actions, apologize repeatedly, and promise not to do it again. This acts as a “positive reinforcement to keep the relationship going.” But this is an ongoing cycle of violence that soon culminates in a stage of heightened tension. This cyclical violence leads to “learned helplessness,” which was introduced by psychologist Martin Seligman. They do not abandon their abusers because they are in a hopeless situation beyond their control. According to Walker, beaten women who are out of control of the abused situation gradually become passive, believing that escape is impossible, even when they can objectively escape. The motivation and determination to get out of the relationship is diminished. Bound by uncontrollable socioeconomic factors, these women are caught in a cycle of violence. In addition, BWS creates a sense of helplessness in believing that remedy does not reach abused women. Hopelessness and learned helplessness can lead abused women to view the death of their abuser as a final and sure-fire solution to the cycle of violence. Not all abused women kill their

abusive partners to escape the relationship. However, it is important to note that the difference between an abused woman who is forced to kill and a woman who does not lie is in the behavior of men as opposed to that of women. The frequency and degree of violence endured by abused women determines whether they are compelled to kill their abusive partners.

SELF-DEFENCE AND BATTERED WOMEN

Reasonable Man to Reasonably Abused Woman: To impose an analysis of what a reasonable person would perceive as danger when trying to evaluate whether the woman had a reasonable perception. In the judgement of *State v. Kelly* [4], the New Jersey, the supreme gave an emerging understanding on battered woman's syndrome testimony to justifications. Kelly held that a suitable justification may offer expert testimony on battered woman's syndrome to aid a jury in understanding how a cycle of abuse may support a woman's claim that her belief of reverse action was reasonable. To find whether the woman was in imminent danger or not. In reference to Kelly, recently, in *State v. McClain* [5], the Supreme Court interpreted Kelly in a way that the limited applicability of battered woman's syndrome evidence is irrelevant to whether a woman acts in the history of abusive cycle pattern or experiences. McClain judgment constructed an objective of reasonableness, rendering it sterile, unrealistic, and divorced from the social view.

Abused women feel unsafe during periods of calm between episodes of abuse. This is because in her two phases at the beginning of the cycle she is constantly in a state of anxiety and fear. Seeing a peaceful suspension as the only opportunity to defend themselves against larger and stronger men, abused women called for a strike. In this case *State vs Wanrow* [6], when the Washington Supreme Court expanded objective tests to consider the circumstances surrounding defendants. According to the court, this extension was important for jurors to "follow the defendant's footsteps as closely as possible and determine the nature of the crime in that light." From this point of view, therefore, a rational person in his position is always afraid of imminent harm, thereby fulfilling the first element of self-defense.

PROVOCATION

This is one of the most common defenses of abused women charged for murder. This is a partial defense that reduces murder to manslaughter, which is not murder in India. Although the basics of traditional provocation defenses are similar in Britain and India, defenses are deployed differently in Britain, eventually being superseded by defenses against loss of self-control. Advances in BWS theory have also contributed significantly to legislative change and evidence practice in Victoria, Australia. The traditional definition of provocation is *R. v. Duffy* [7], in it, "a provocation is an act or series of acts performed by a dead person toward the accused that causes a sudden and temporary loss of self-control in a reasonable person and actually renders the accused very in addition, Section 3 of the Homicide Act changed this, leaving it up to a jury to determine whether a "reasonable man": would have behaved in such a manner.

Nature of Provocative Act

Beaten women often resort to violence after long-term victimization through their partners. However, it is not clear whether the legal understanding of this test includes cumulative violence over the duration of the relationship, or arbitrarily includes only recent brawls, focused only on the night events that led to Thorton's violence, and showed no tendency to include months of exposure to violence. In [8] *R vs Davis* [9], it was judged "too lenient to take into account the deceased's behavior during the year prior to the murder." The need for a "sudden" reaction relies on "instant heat" to kill "ruthlessly" while eliminating the emotions and characteristics of the abused woman, clarifying the masculine nature of this defense.

Relevant Legal Situation

This element leaves the court free to consider different aspects of the situation. Courts, however, tend to exclude various aspects and course of events by relying solely on facts. Judges tend to frame their

interpretations in ways that stifle the perspective of the abused woman while guiding the jury, such as by labelling the deceased as “vulnerable.”

Defendant’s Sensibility

The defendant’s emotional and psychological perceptions of BWS and “learned helplessness” should be considered in determining the applicability of the ground of provocation as a defense.

PROVOCATION IN INDIA

The offence committed amounts to culpable homicide not amounting to murder in India if the offender loses his or her power over self-control due to a grave and sudden provocation. In *K.M. Nanavati v. State of Maharashtra* [10], 96 the Supreme Court laid down guidelines for what constitutes “grave and sudden” provocation, which are as follows:

1. Whether a reasonable man from the same class of society would lose his self-control in a similarly placed situation.
2. Words and gestures may also, under certain circumstances, cause “grave and sudden” provocation.
3. The mental state of the accused due to a previous act of the victim may be considered to determine whether the antecedent act provoked the accused to commit the offence.
4. The offence committed should be rooted back to an act of passion and not occur after a lapse of time.

Although the exception to Section 300 of the Indian Penal Code appears to be restrictive in nature, the Court has extended the exception ejusdem Generis to the existing exceptions, and under Exception 1 of Section 300 of the Indian Penal Code, the term “continuous provocation.” The Court then noted that neither premeditation nor illness were included in all exceptions, and that there were no exceptions where both act or omission were present, and continued. It concluded that provocation could be invoked within Exception 1 of Section 300 of the Indian Penal Code. So, it was assumed that a long course of action could also lead to a serious and sudden provocation. The first type is trendy exceptions which might be laid down in Section 76 to 106 and the second one states approximately the set of unique statutory exceptions which might be furnished for Section 300 that defines murder. But it is miles visible that there may be no specific statutory reputation of Battered Women Syndrome below Indian law. Under the Indian Penal Code, not one of the exceptions is visible to be prima facie relevant withinside the case that consists of battered offenders.

ELEMENTS OF BATTERED WOMEN

Cyclical Violence Theory

Cycle theory helps clarify the rational use of force against attacks. In anticipation of a stronger, larger male, or an otherwise physically intimidating and abusive male attack, abused women are more likely to be caught in a potentially deadly cycle of violence. Subtle changes in the abuser’s behavior are to the abused woman a clue that another attack is imminent, but to the third party, that change is insignificant and may be insufficient to generate rational fear, thereby satisfying the second essential characteristic.

Learned Helplessness Theory

Beaten women develop “learned helplessness,” a similar condition depressed because they do not withdraw from the relationship. According to in *State v. Kelly* [11], the New Jersey Supreme Court recognized this, stating that some women were “depressed, humiliated, and paralyzed because of their inability to anticipate or control violence,” the inability to take any action to ameliorate or modify the violence. The socioeconomic and cultural norms of battered women determine whether battered women can withdraw. Thus, coupled with socioeconomic and cultural pressures, especially in India, the “learned helplessness” has led abused women to stay in abusive relationships and to defend themselves.

Issues of Neutrality and Objectivity of the Professional

It is not uncommon for abuse to escalate to homicidal levels after separation and during divorce, it is important to understand the powerlessness and danger of a professional objective and neutral attitude

towards battered women seeking help. It is important. One area of damage that often occurs after repeated trauma is the victim's inability to recognize neutrality. The beaten woman rates everyone with whom she interacts in significant ways either for or against. This means that professionals who try to act neutrally and objectively are more likely to be mistakenly perceived as targeting women and hurt them or even hurt them.

WHY DIDN'T SHE LEAVE?

Asking this question assumes that leaving stops the violence. But over a decade abused women and their children has shown that ending an abusive relationship does not end the violence. It is a dangerous time and lasts at least two years after a breakup. Most abused women who believe they killed in self-defense report an escalation of male violence shortly before the incident that led to the murder. Sometimes this escalation of her husband's abuse occurs when her husband perceives her emotional withdrawal or preparation for a breakup. Other cases arise in custody and visitation issues when they have young children. Yet others kill the man after learning he is abusing children. In any case, the difference between abused women who kill and women who are less concerned with male behavior than females, more sensitive than non-abused women.

BATTERED WOMEN IN INDIA

Madras High Court upheld "Nallathangal's Syndrome." As the Indian version of the battered female syndrome. The Madras High Court has classified Nallatungal's ballad as "Nallatungal Syndrome," commuting the sentence of an abused woman who was forced to attempt suicide with her child. *Suyambukkani vs. State of Tamil Nadu* [12], Suyambukkani could not stand her husband's cruelty and jumped into a well with her children. Her children died while she survived. She was charged with murder and attempted suicide. The court of first instance found her guilty of murder, and on appeal the High Court of Madras ruled her conduct an exception to provocation, given the compelling circumstances in which she was compelled to do so. It ruled that it did. In *Amutha vs State* [13], Amutha survived, and her daughters did not. The court debated the ongoing provocations and granted bail because the prima facie evidence case went in their favor. Court rules "Nallathangal's Syndrome."

A woman's natural reactions and her social environment. It was found that the intent was not to cause the death of children, but to end the suffering and cruelty that children would face after death. In the *Manju Lakra case* [14], the Guwahati High Court, citing the "Nallathangal's Syndrome," noted the sequence of acts that constitute protracted provocations, and thus serious provocations, sudden provocations. Another interesting observation in this judgment is the analogy between the crime of death by dowry set out in Section 304B of the Indian Penal Code and an abused woman killing her abused partner. The court did not say that the circumstances were unlikely to prompt the woman to attempt suicide, but it was just as likely that the woman would engage in aggression against the perpetrator rather than harming herself.

Nallathangal's Syndrome; Indian Version of BWS

Nallathangal's Syndrome is the Indian version of BWS. The Madras High Court used the ballads of Nallathangal's to devise the "Nallathangal's Syndrome" for women who are forced to commit suicide or murder their children to escape the horrors of the violence they face. In a Madras High Court ruling, the Guwahati High Court dropped the murder charges against Manju Lakra, deeming it an act committed because of continued provocation. Noting that a beaten woman could, under the same facts and circumstances, turn her back on her attacker instead of committing suicide, the court ruled that a similar exception should apply.

Criticism; "Nallathangal's Syndrome"

In the *Madras Supreme Court and the Guwahati Supreme Court* have exercised it ignores violence as a conducive factor because it mentions or mentions a ballad where a woman commits suicide because she cannot bear the misery and pain of poverty but does not mention that women are exposed to violence. Decisions are not to be celebrated. First, "Nallathangal's Syndrome" stems from the belief that women are being abused.

Killing herself and possibly her children to escape her misery. No signs of violence and no responsibility for an abusive partner. In *Manju Lakra*, the frame of reference is a woman who chooses to kill her assailant to end the violence rather than kill herself. Moreover, the decision depends on whether the particular way women respond is the “right way” given India’s sociocultural environment. This stereotypical approach ignores doctor’s approach. Lenore Walker defined the characteristics of an abused woman. Nallathangal syndrome does not take into account women’s potentially different responses, nor does it comprehensively capture the different stages of an abusive relationship, unlike abused woman syndrome.

Second, the Manju Lakra judge said, “It is a judicial exaggeration to interpret serious and sudden provocation to include protracted provocation. The use of this defense is unacceptable for multiple instances of continued abuse.” This would exclude abused women who respond after. In addition, the applicability of sustained provocations described in *K.M. Nanavati v. Maharashtra* [15] is also largely influenced by male-centered views. K.M. Fourth Principle [16], Nanavati clearly states that no time should pass between the attack and the provocative antecedent act. Manju Rakula retaliated at the time of abuse.

Despite all criticism, the case is the first step in discussing abused women who murder their partners in India. The use of “*Nallathangal’s Syndrome*” [17] and provocation in such cases has yet to be tested by the Supreme Court, reiterating the need for debate on the protection of abused women.

CONCLUSION

Currently, in India, due to the existence of legislation, it is a provocation to be available to abused women seeking revenge. However, provocation is limited by the fact that there is no time lag between provocation and retaliation. This clearly ignores the experiences and behavioral patterns of abused women. Moreover, Indian jurisprudence on BWS has not progressed beyond “Nallathangal’s Syndrome.” A comprehensive discussion of its interactions with the law should be initiated.

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