

CULPABLE HOMICIDE AND MURDER

Homicide means the killing of a man by man. The homicide may be lawful or unlawful. Culpable homicide means death through human agency punishable by law. All murders are culpable homicide but all culpable homicide is not murder. There are two classes of culpable homicide :

1. Culpable Homicide Amounting to Murder: It is known as simple murder.
2. Culpable homicide not amounting to Murder: There is necessarily a criminal or knowledge in both. The difference does not lie in quality, it lies in the quantity or degree of criminality closed by the act. In murder there is greater intention or knowledge than in culpable homicide not amounting to murder. The culpable homicide is defined in sec. 299 of the IPC which is as under:

CULPABLE HOMICIDE UNDER SEC.299 OF IPC

Whoever causes death by doing any act :-

- (i) With the intention of causing death
- (ii) With the intention of causing such bodily injury as is likely to cause death.
- (iii) With the knowledge that he is likely, by such act, to cause death commits the offence of culpable homicide.

ILLUSTRATION

'A' knows that Z is behind a bush, B does not know it. A intending to cause or knowing that is likely to cause Z's death induces B to fire at the bush. B fires and

kills Z. Here B may be guilty of no offence, but A has committed the offence of culpable homicide.

Here are the three explanations of this section which are as under :-

Explanation No. 1 : A person who causes bodily injury to another who is labouring under disorderly decay, or bodily infirmity and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation No. 2 : Where death is caused by bodily injury the person who causes such bodily injury shall be deemed to have caused death, although by resorting to proper remedy and skilful treatment, the death might have been prevented.

Explanation No. 3 : The causing of death of a child in the mother's womb is not homicide, but it may amount to culpable homicide to cause the death of a living child if any part of that child has been brought forth, though the child may not have breathed or been completely born.

Case: Kedar Parsad V/s State 1992:

It was held by the court that the first accused was liable U/s 304 and the other U/s 324 for causing hurt by dangerous weapon & the third U/s 323 for causing simple hurt only.

Case:- Ghansham V/s State of Maharashtra 1996 :

The accused husband stabbed his wife on chest resulting in her death on her refusal to have sexual intercourse with him. It was held that the act was done in sheer frustration and anger and so his liability was based on sec. 299(2) of IPC.

Case: Sarabjeet Singh Vs State 1994

The accused did not have good relation with complainant on account of sale transaction of piece of land. He went to the house and assaulted the complainant and his wife. He also picked up the infant child of the complainant and threw him down on the ground with force as a result of which the child died some time later. The accused was held guilty under sec. 304 Part-II.

When culpable homicide amounts to murder :

According to sec.300 of IPC except the exceptions culpable homicide is murder, it the act by which death is caused:

1. It is done with the intention of causing death or
2. It is done with the intention of causing such bodily injury as the offender knows that it is to be likely to cause the death of the person to whom the harm is caused.
3. If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient ordinary cause of nature to cause death
4. If the person committed the act knows that it is so imminently dangerous that it must in all probability, cause death or such bodily injury as is like to cause death; and commits such act without any excuse for incurring death or such injury as said above.

ILLUSTRATION:

A. A shoots Z with intention of killing him, Z dies in consequence, A commits murder.