



CULPABLE HOMICIDE AND MURDER

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Abstract

Law is an important mechanism for regulating a society. It also brings about a social change. India is a country of various diversities. The legislature after keeping in mind the various factors like languages, caste, demographic factors, etc., time and time again introduce various tools for the effective regularization of society. Penal laws are one of them which provide for the punishment to the culprits who have done something wrong. Indian Penal Code, 1872 is the most important of them. The sections in the code are exhaustive and are interlinked with others as well. The most technique among most of them all is the difference between Section 299 & 300. Law students are often confused while trying to find out the difference between the two sections in respect of their clauses. There is a very thin line of distinction which separates the two. The supreme court has many occasions visited the provision of the code and marked the basic difference between the two. In this report I have tried to highlight some of the legal precedents which will help you to understand the difference between the two.

The major difference lies in the fact that in murder the act is done with an intention of causing any bodily injury which itself is sufficient to cause death of a person whereas in a case of a Culpable Homicide, the act is performed with intention to cause bodily

injury which is likely to cause death of a person.

Introduction

Section 299 of Indian Penal Code and Section 300 of Indian Penal Code deals with the concepts of Culpable homicide that doesn't amount to Murder. Both mean, to harm a person but there are certain things that make Murder differ from Culpable homicide. Hence, the problem arises here in the fact that both Murder as well as Culpable homicide are concepts that relate to harming a person, but the difference shall be decided based on the final outcome of a certain act.

Section 302 of Indian Penal Code deals with punishment for Murder where the convict of a Murder is punished with death or imprisonment of life and shall also be liable to fine. Murder is a cognizable offence and it is non-bailable. And Section 304 of Indian Penal Code says about punishment for Culpable homicide not amounting to Murder. Where punishment for Culpable homicide is imprisonment for life or imprisonment for a period of 10 years and shall also be liable to fine. Culpable homicide is also a cognizable offence and it is a non-bailable offence as well.

Murder and Culpable homicide can be differentiated with certain points. Also, there are certain ingredients to say that the act of a person or a suspect is said to constitute a Murder as well as a Culpable homicide that does not amount to Murder. The common ingredients are "actus reus" and "mens rea" where the person would have caused harm to a person by a certain act. As above discussed, the difference lies in the knowledge of the outcome of the act he or she does. This paper



aims to analyze the differences between Murder and Culpable homicide in detail which in addition will study the ingredients of Murder and the ingredients of Culpable homicide too.

Culpable Homicide (Section 299):

Homicide means killing a human being either by lawful means or by unlawful means. Whereby the lawful homicide comes under the ambit of general exceptions in Indian Penal Code under Section 76- 106. And the next one is the unlawful homicide which comes under the category of offences against human body in which Section 299 of IPC specifically deals with Culpable homicide which does not amount to Murder, then Section 300 of IPC talks about Murder and lastly Section 304A which deals with the concept of Death by negligence in which death would be caused by any rash or negligent act.

When dealing with concept of Culpable homicide, Section 299 of Indian Penal Code comes into play. This section says that whoever causes death to a person by doing certain act with any intention of causing death or with the knowledge of doing such act to cause death to a person is said to be an offence of Culpable homicide. There are certain exceptions to this concept and they are to be broadly discussed below: Culpable homicide when not amounts to murder – A Culpable homicide does not amount to murder is the offender acts without a self-control by a sudden provocation and that act amounts to death of a person by mistake or by an accident. Here the provocation is not voluntary and such provocation should not be against anything in law or against a public serving who is in lawful exercise or his

powers and also one should not be provoked against anything done in lawful exercise of any right of private defense.

A Culpable homicide does not amount to Murder when an act is done with an intention of good faith with effect of any probate defiance of person or private defense of property, where it exceeds the power which is given to him by the provisions of law and thus causing death of a person against whom he is exercising such right of private defense without any intention of causing more harm than necessary at that point of time for the purpose of private defense.

Culpable homicide will not amount to Murder when the offender, in case of being a public servant or a person serving and acting for the advancement of public justice or aid for public does any act that exceeds the powers which are given to him by law and by that act any death is caused which he is believed to be in good faith and to be lawful of necessary for the discharge of his duty without ill-will towards the person.

Culpable homicide does not amount to Murder when it is said to be committed without any premeditation or as a sudden fight in any heat of passion which is a result of a sudden quarrel and where the offenders taken any undue advantage or having acted upon in a cruel or unusual manner.

Murder (Section 300):

Murder, this term traces its origin from the Germanic word *moorth* where it means secret killing. Murder means when one person is killed with an intent of another person with any malice or a forethought. It can also be said as a serious offence when compared to Culpable homicide. Moreover, an offence



will not amount to Murder unless it includes an offence which falls under the definition of culpable homicide. To broadly explain, we can say that Murder is a species where Culpable homicide is a genus.

The Culpable homicide amounts to murder except in some cases, wherein the act which caused murder should be done with an intention to cause death or Such intention of causing death should cause a bodily injury to that person or If such intention of causing death causes a bodily injury and that bodily injury must have caused the death of that person or He must have the knowledge that the act he has done is immediately dangerous in all probable sense to cause death or a bodily injury that is likely to cause death of a person. And it is a crime to commit an act, even after knowing that the act he does is a risk of causing death or such injury.

Essentials

Ingredients or essentials of Culpable Homicide:

The following are the essentials of culpable homicide:-

- 1) Causing of death of a human being;
- 2) Such death must have been caused by doing a act;
- 3) The act must have done :
 - a) With the intention of causing death; or
 - b) With the intention of causing such a bodily injury as is likely to cause death; or
 - c) With the knowledge that the doer is likely, by such act, to cause death.

Ingredients or essentials of Murder:

The following are the essentials of the Murder:-

- 1) Prosecution must establish, quite objectively, that a bodily injury is present.
- 2) The nature of the injury must be proved. These are purely objective investigation.
- 3) It must be proved that there was an intention to inflict that bodily injury, that is to say that it was not accidental or unintentional, or that some other kind of injury was intended.

Cases

Culpable Homicide:

- In *Kusa Majhi v. State of Orissa*¹, the deceased admonished her own son for not going for fishing with the co-villagers. Infuriated on this the accused, the son, brought an axe and dealt blows on her shoulder and she died. There was no pre-plans or premeditation. The blows was not her on neck or head region. The accused dealt blows to cause bodily injury which was likely to cause death and he dealt blows on the spur of moment and in anger. Therefore, it was held to be a case of culpable homicide falling under this section.

- In *Munnial's*² case, the accused on the chest of the D and began strangle him and did not desist despite intervention by his relations. D died owing to internal bleeding due to rupture of the spleen which was enlarged. It was shown that the other injuries were not sufficient to cause death had the spleen not been ruptured. The fact of the spleen being enlarged was not known to the accused. Here the accused was held a guilty of culpable homicide under the second part of Section 304. D, as a bulger breaks into a house carrying an unloaded pistol which he intends to use frighten the inmates of the house should be detected. The owner of the house

¹ 1985 Cri. L.J. 1460.

² *Munnial*, A.I.R. 1943 All. 853.



confronts the bulgur who thereupon points the empty gun on him. The owner dies for fright. In this case D would be a liable for culpable homicide not amounting to murder second part of section 304.

Murder:

- In *Namdeo v. State of Maharashtra*³ the appellant Namdeo and the deceased Nianji were residing in one and the same village and relation between them were stained. The reason was that the accused suspected that some of his animals died due to witch-craft played by the deceased. On October 25,2000, the deceased, Nianji was sleeping in the backyard of his house. At about 2.00 to 3.00 am, Sopan, PW-6 son of deceased Nianji heard shouts of his father calling "Bapare, Bapare". On hearing the cry sopan and his wife rushed towards the back of his house where his father was sleeping. PW-6, sopan show that the accused was giving the blows on the head of his father nianji. On seeing Sopan accused fled away from the pace taking axe in his hands. Sopan chased him but could not catch him. The medical opinion was that the injury was sufficient in the ordinary course on nature to cause death of the victim. The Supreme Court held that considering the nature of weapon used by the accused and the vital part of the body of the deceased chosen by him for inflicting injury, it was clear that the intention of the accused was to cause death of the deceased. Therefore, in the circumstances of the case it was covered by Section 300 of the Indian Penal Code.
- In *Veku alias Velumurgan v. State through Inspector of Police*⁴, it was alleged that accused person armed with knives and sticks assaulted deceased and informant. Injured

was sole eye witness to occurrence and he has given in the detail role played by the each of accused person. His presence at a time of occurrence cannot be ruled out in a view of injuries sustained by him. In this case occurrence take place in the evening whereas FIR was logged after six hours in night. Deceased and informant sustained multiple injuries. Normal conduct of human being is to save their lives and rush then to hospital. When Sub-Inspector of police come to know about the incident he went to hospital and it is in hospital that informant had given report to police. Delay in lodging first information in no way affects credibility of the case prosecution. It was held thar testimony of eye witness is reliable and corroborated by medical evidence. Further, evidence of doctor who recorded dying declaration of deceased also lends support to the case of prosecution. Therefore, convicting of accused person was held proper. If a person stabs another in the abdomen with sufficient force to penetrate the abdominal wall and the internal viscera he must be held to have intended to cause injury sufficient in the ordinary cause of nature to cause death.

Distinction between Culpable Homicide and Murder

Culpable Homicide	Murder
A person commits culpable homicide, if the act by which the death is caused is done	Except in the cases hereinafter expected culpable homicide is murder, if the act by which death is caused is done

³ 2007 Cri. L.J. 1891 (S.C.).

⁴ 2012 I Cri. L.J. 1228 (S.C.)



a) with the <i>intention</i> of causing death;	1) with the <i>intention</i> of causing death;
b) with the <i>intention</i> of causing such a bodily injury as it likely to <i>cause death</i> ;	2) with the <i>intention</i> of causing such bodily injury as the <i>offender known to be likely</i> to cause the death of the person to <i>whom the harm</i> is caused; 3) with the <i>intention</i> of causing bodily injury to any person, and the bodily injury intended to be inflicted is <i>sufficient in the ordinary course of nature</i> to cause death;
c) the <i>knowledge</i> that he is likely by such act to cause death.	4) with the knowledge that the act is so <i>imminently dangerous that it must in all probability cause death</i> , or such bodily injury as is likely to cause death.

caused the death or bodily injury have been ascertained. If the intention or knowledge is higher, then, the case would fall under the ‘murder’ or otherwise, it would fall under the ‘culpable homicide.

Conclusion

There is a thin line difference between culpable homicide and murder. Culpable homicide is a gene while murder is the species. Murder includes culpable homicide but, culpable homicide does not include murder in all cases. Culpable homicide is a wider term than murder. To decide whether a particular act falls under the domain of murder or culpable homicide first of all the facts have to be ascertained and then intention and knowledge of the person who