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Understanding Culpable Homicide in Criminal Jurisprudence

RIYA VERMA¹

ABSTRACT

Culpable homicide is a foundation concept In criminal law that denotes the unlawful killing of a human being with varying degrees of intention or knowledge. It occupies a nuanced space between lawful acts causing death or murder, making it a critical area for legal interpretation and judicial discretion. Under Indian penal code (IPC), culpable homicide is defined in section 299, while its more severe form murder, is detailed in section 300. The primary discretion lies the degree of intention and premeditation involved In The act. While all murders are culpable homicides, not all culpable homicide amount to murder.

The research explores the legal Parameters, interpretive challenges, and practical application of culpable homicide in contemporary criminal Justice system. The study examines how court assess the mental element (mens rea) – and the impact of mitigating circumstances such as provocation, self – defence, and lack of premeditation. It also Highlights how varying interpretation have influenced landmark judgement, often blurring the line between culpable homicide and murder.

The paper further investigates the implications of sentencing under section 304 of the IPC, which allows for differentiated punishment based on the degree of culpability. This tiered approach reflects the legal system 's efforts to deliver proportional justice by considering Both the act and the actors mindset.

In conclusion, culpable homicide represent a vital area in criminal law, demanding a careful and contextual understanding of human behaviour, intention, and consequence. It reflects the legal systems attempt to balance accountability with fairness, ensuring that justice is not only punitive but also equitable. This abstract sets the stage for a deeper investigation into the doctrinal and practical dimensions of culpable homicide with in modern legal frameworks.

I. INTRODUCTION

This paper cover a wide spectrum of offenses that can be committed against human life. The two essential ingredients of crime are *mens rea* and *actus reus*. *Mens rea* is guilty mind i.e., intention of committing a crime, while *actus reus* refers to the guilty act, which is a necessity

¹ Author is a student at CT University, Ludhiana, India.

in order to prove that a criminal act was committed. Guilty act can either be commission of an unlawful act, or omission of an act that a person was legally bound to do.

Section 299 and Section 300 of Indian Penal Code deal with murder. All murders are culpable homicides but all culpable homicides are not murders. Culpable Homicide is genus and murder is its species, thus, murder is a culpable homicide but all culpable homicide are not murder.

The word homicide is derived from Latin where homo means man while the meaning of cide is I cut. Thus, the killing of a man by a man is the meaning of homicide. Culpable homicide is punishable by law. Homicide can be lawful or unlawful. Culpable homicide is further divided into two categories:

- Culpable homicide amounting to murder.
- Culpable homicide not amounting to murder.

The term "Murder" traces its origin from the Germanic word "morth" which means secret killing. Murder means when one person is killed by another person or a group of persons who have a pre-determined intention to end life of the former. An offence will not amount to 'Murder' unless it includes an offence which falls under the definition of culpable homicide as per the definition of 'Murder' under IPC. All murders are culpable homicide but all homicides are not murders. Section 299 and Section 300 of Indian Penal Code deal with murder².

A. Aims and Objectives of the Study

The main aim of the study is to analyze in detail concept of murder and culpable homicide and distinction between culpable homicide and murder, which have been made by the parliament. This study also aim to compare the various provision relating to the offences against the human body. The objectives of this paper is to give detailed picture of the distinction between culpable homicide and murder, to carefully analyze various provisions that have been made in the law relating to offences against human body and to my find the legal views and finding of the courts which analyze the distinction in culpable homicide and murder in India.

B. Research Methodology

Doctrinal methodology refers to a way of conducting research which is usually thought of as "typical legal research". A doctrinal approach to the research will focus on case-law, statutes and other legal sources. It differs from other methodologies in that it looks at the law within

² Deshpande, P. (2020) *Difference between murder and culpable homicide, Crime - India*. Available at: <https://www.mondaq.com/india/crime/988662/difference-between-murder-and-culpable-homicide> (Accessed: 09 June 2025).

itself, a pure doctrinal approach makes no attempt to look at the effect of the law or how it applies, but instead examines law as a written body of principles which can be described and analysed using only legal sources.

C. Review of Literature

The history of the culpable homicide and murder law in India with enactment of the Indian penal code in 1860 (45 of 1860) covered under section 299 and 300. These provisions clearly distinct both the provisions from each other and distinguish the culpable homicide from the murder and also given five exceptions to the murder where it can be found that all murders are culpable homicide but all culpable homicide are not murder and further five exceptions to Section 300 help to distinct the culpable homicide and murder from each other.

II. ALL MURDERS ARE CULPABLE HOMICIDES BUT ALL CULPABLE HOMICIDES ARE NOT MURDERS

The saying that the all murder are culpable homicide but all culpable homicide are not murder seems true as the provision of the Indian Penal Code and section 300 mentions 5 exceptions where culpable homicide does not murder which prove the saying to its fullest :-

A. Culpable Homicide in the Exercise of Good Faith

Culpable homicide does not amount to murder if it is done in exercise of good faith in order to protect the private or public property. If the act committed by a person exceeds its power provided by law and kills someone in order to save someone or something, then the act does not amount to murder.

Illustration

Y attempts to horsewhip Z, not to cause grievous hurt to Z. Z takes out a pistol, Y persists to the assault. Z in good faith in order to prevent himself from being horsewhipped, shoots at Y, such that he dies because of that. Z is guilty of culpable homicide and not murder.

The act is punishable under Section 302 of IPC if it does not fall under the exception of Section 300 of IPC

B. Unintentional Death

Culpable Homicide by causing the death of the person other than the person whose death was intended (Section 301)

Under Section 301 of IPC, Culpable Homicide amounts to murder even if the person who was not intended to die, dies due to the act committed by the perpetrator, though he had planned to murder someone else.

In other words, there is no distinction in the eyes of law between cases where the death is caused to an intended person or whether it results in the death of an unintended person.

***Abdul Ise Suleman v. State of Gujarat, 1994*³**

In this case, the accused persons had freely fired on the fleeing complainant party in a commercial locality in the course of an altercation. In the first shot, the person was injured, while a ten-year-old son of a complainant was dead in the 2nd shot. It was held by the Supreme Court that the child death was intentional and hence applies Section 300 read with Section 301 of IPC.

C. Causing Death by Negligence (Section 304a)

Under Section 304A of IPC, if someone causes the death of another due to rash or negligent act that does not amount to culpable homicide, shall be punished with imprisonment which can extend up to two years or with fine or both.

The bare act provision of section 304A IPC is as under :

“Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

Cases

- *State of Karnataka v. Mohd. Ismail, 1988*⁴

In this case, a 28-year-old motorcyclist had pushed an 85-year-old man from behind. The old man died on spot due to head injuries attained at the time of the accident. The death was a result of rash and negligent conduct.

- *M.H. Lokre v. State of Maharashtra, 1971*⁵

In this case, the appellant who was not driving rashly was not held guilty under this section for causing the death of the person who came under the wheels of the vehicle while suddenly crossing the road. A man however vigilant and slowly he might be driving he cannot avert an accident if a person suddenly comes in front of his vehicle while suddenly crossing the road.

³ 1994 AIR 1910

⁴ 1988(3) KarLJ 141

⁵ AIR 1972 SC 221

D. Dowry Death (Section 304 B)

Bare provision of the Dowry death is as following:

(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death. Explanation.—For the purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

Section 304 B of IPC states that if within seven years of marriage a woman dies by a bodily injury or burns, or it is revealed that before the marriage the woman was exposed to cruelty or harassment by her husband or by any other relative of her husband, in connection to the demand of dowry then the death of the woman will be considered as the dowry death.

The punishment for Dowry death is imprisonment for a minimum of seven years or a maximum of imprisonment for life.

E. Attempt to Murder (Section 307)

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life], or to such punishment as is hereinbefore mentioned.

Attempts by life-convicts.-- When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.

Illustrations

(a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued A would be guilty of murder. A is liable to punishment under this section.

(b) A, with the intention of causing the death of a child of tender years, exposes it in a desert place A has committed the offence defined by this section, though the death of the child does not ensue.

(c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and, if by such firing he wounds Z, he is liable to the punishment provided by the latter part of ³[the first paragraph of] this section.

(d) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence defined in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section

Section 307 of IPC deals with an attempt to murder. Whoever commits an act with an intention or knowledge and under such circumstances, that causes the death of the person would be held guilty of murder and shall be punished with imprisonment for a term that can extend up to ten years, and shall be liable to fine, and if that act causes hurt to a person, the offender shall be liable to imprisonment for life, or such other punishment as decided by the Court of law.

F. Attempt to Commit Culpable Homicide (Section 308)

Under Section 308 of IPC, whoever commits an act with such intention or such knowledge and under such circumstances, and if that act causes death, he would be guilty of culpable homicide not amounting to murder and shall be punished with imprisonment that can extend up to three years, or with fine or both. If the act causes hurt to any person, the offender shall be punished with imprisonment that can extend to seven years or with fine or both.

Illustration

A due to sudden and grave provocation fires at Z. If Z dies due to this incident, A will be guilty of culpable homicide not amounting to murder.

G. Exceptions to the Murder

1. SUDDEN AND GRAVE PROVOCATION

EXCEPTION 1: SUDDEN AND GRAVE PROVOCATION

If the offender is deprived of the power of self-control due to sudden and grave provocation, and his act causes the death of the person who provoked or death of any other person by accident or mistake.

This exception is subject to a certain proviso, that is:

- That the provocation is not sought or is voluntarily provoked by the offender to be used as an excuse for killing or causing any harm to the person.
- That the provocation is not given by anything that is done in obedience to the law, or by a public servant while exercising the powers lawfully of a public servant.
- That the provocation is not done while doing any lawful exercise of the right of private defence.

Illustration

A is given grave and sudden provocation by C. A fires at C as a result of this provocation. A didn't intend or have knowledge that his act is likely to kill C, who was out of A's sight. A kills C. A is not liable to murder but is liable to culpable homicide.

Cases

- *K.M. Nanavati v. State of Maharashtra, 1961*⁶

In this case, the Supreme Court had extensively explained the law relating to provocation in India. It was observed by the Court:

- The test of "sudden and grave provocation" is whether a reasonable man, who belongs to the same society as the accused, is placed in the situation in which the accused was placed would have been so provoked as to lose his self-control.
- Under certain circumstances, words and gestures may also lead to sudden and grave provocation to an accused, so as to bring his act under an exception.
- The mental background of the victim can be taken into consideration, taking account of his previous act to ascertain whether the subsequent act leads to sudden and grave provocation for committing the offence.
- The fatal blow clearly should trace the influence of passion that arises from the sudden and grave provocation. It should not be after the provocation has been cooled down due to lapse of time, otherwise, it will give room and scope to the accused for altering the evidence.

- *Muthu v. state of Tamil Nadu, 2007*⁷

In this case, it was held by the Supreme Court that constant harassment might deprive the power of self-control, amounting to sudden and grave provocation

Essentials of this exception are –

⁶ 1962 AIR 605

⁷ SC, Appeal (Crl.) 1511 of 2007

- There must be a provocation
- The provocation must be grave and sudden
- By reason of such grave and sudden provocation the offender must have been deprived power of self-control.
- The death of the person who gave provocation or of any other person by mistake or accident must have been caused⁸.

2. SELF DEFENCE

EXCEPTION 2: WHEN THE PERSON EXCEEDS HIS RIGHT TO PRIVATE DEFENCE

Where the act is committed to defend them from further harm. If the accused intentionally exceeds his right to private defence, then he is liable to murder. If it is unintentional, then the accused will be liable to culpable homicide not amounting to murder.

Illustration

- X attempts to flog Y, not in a manner to cause grievous hurt to Y. A pistol is drawn out by Y, X persists the assault. Y believes that he had no way to prevent himself from being flogged by X, Y fires at X. X is liable to culpable homicide not amounting to murder.

Case

- *Nathan v. State of Madras, 1972*⁹

In this case, the landlord was trying forcefully to evict the accused. The accused killed the landlord while exercising his right to private defence. There was no fear of death to the accused as the deceased was not holding any deadly weapon that could have caused grievous hurt or death of the accused. The deceased had no intention to kill the accused, thus, the accused exceeded his right of private defence. The accused was liable to culpable homicide not amounting to murder

Essentials of this exception are –

- An act must be done in exercise of right to private defence of person or property
- Act must have been done in good faith.

⁸ Bhatnagar, P. (no date) *Analysis of section 300 (3) of IPC - Indian Penal Code, Analysis of Section 300 (3) of IPC - Indian Penal Code*. Available at: https://www.legalserviceindia.com/articles/cr_i_m.htm (Accessed: 09 June 2025).

⁹ AIR 1973 SC, 665

- The person doing the act must have exceeded his right given to him by law and have already caused the death.
- Act must have been done with premeditation and without any intention of causing more harm than was necessary in self defence.

3. ACT OF PUBLIC SERVANT

EXCEPTION 3: OFFENCE COMMITTED BY A PUBLIC SERVANT – CULPABLE HOMICIDE IN CASE OF PUBLIC SERVANT

The act is done by a public servant who is acting to promote public justice. If the public servant commits an act which is necessary to discharge his duty as is done in good faith and he believes it to be lawful.

Illustration

If the police officer goes to arrest a person, the person tries to run away and during that incident, if the police officer shoots the person, the police officer will not be guilty of murder.

Case

- *Dakhi Singh v. State, 1955*¹⁰

In this case, the appellant was the constable of Railway Protection Force, while he was on duty he killed a fireman unintentionally, while he was firing bullet shots to catch the thief. The constable was entitled to benefit under this section's benefit Essentials of this exception are-

- Offence committed by a public servant or by some other person acting in the aid of such public servant, in the advancement of public justice.
- Public servant or such other person exceeds the powers given to him by law.
- Death is caused by doing an act which he in good faith believes to be lawful and necessary for the discharge of his duty as such public servant.
- The act must have been done without any ill-will towards the person whose death is caused.
-

¹⁰ AIR 1955, 379

4. WITHOUT PREMEDITATION

EXCEPTION 4: DEATH CAUSED IN SUDDEN FIGHT- SUDDEN FIGHT

The sudden fight is when the fight is unexpected or premeditated. Both the parties don't have any intention to kill or cause the death of another. The fact that which party had assaulted or offered a provocation first is not important¹¹.

Case: *Radhey Shyam and Anr. v. State of Uttar Pradesh, 2018*¹²

In this case, the appellant was extremely angry when he got to know that his calf had come to the deceased place. The appellant started abusing the deceased, when it was tried to stop him, the appellant fired at the deceased. The deceased was unarmed at that time, thus the appellant had an intention to kill the deceased, hence, he was held liable to murder.

Essentials of this exception are-

- Death must be caused in a sudden fight
- Sudden fight must be without any premeditation.
- It must occur in the heat of passion upon sudden quarrel.
- The offender must have not taken undue advantage or must have not acted in a cruel or unusual manner.
- It is immaterial as to which party offered the provocation or committed the first assault.
- The fight must be with the person killed.

5. Consensual Homicide/Suicide Pacts

EXCEPTION 5: DEATH CAUSED OF PERSON CONSENTING TO IT: CONSENT

If the act is committed with the consent of the victim. The consent should be unconditional, unequivocal and without any sort of reservation.

When the person gives consent to cause his /her death then it will be a culpable homicide not amounting to murder.

Essentials of this exception are:-

- The age of the person whose death is caused is above the age of 18 years.
- Consent is given by the deceased.

¹¹ Negi, R. (2019) *Murder, Law Times Journal*. Available at: <https://lawtimesjournal.in/murder/> (Accessed: 09 June 2025).

¹² Allahabad High Court, criminal Appeal no. 1598 of 2002

- Consent needs to be free. it must be voluntary

That such consent was free and voluntary and not given through fear or misconception of facts.

Illustration

- A instigated F who was under 18 years of age, to commit suicide. F was incapable of giving consent to his own death. Therefore, A is guilty of murder.
- X killed his stepfather Y, who was old and infirm. X killed Y with his consent. This was punishable under Section 304.

H. Distinction between Culpable Homicide and Murder

As discussed above, the differences between the culpable homicide and murder has described provisionally and further the main points of difference between culpable homicide and murder are as following:

- Culpable homicide is wider than the term murder. Culpable homicide is therefore considered as the genus while as murder is regarded as a species. All murders are culpable homicide but all culpable homicides are not regarded as murder.
- Murder is an aggravated form of culpable homicide.
- In murder, the offender has a definite knowledge that the act would result in the death while as in culpable homicide the knowledge is not so definite.
- The probability of causing death is higher in murder than culpable homicide.

The table of distinction between culpable homicide and murder is described as following:

CULPABLE HOMICIDE		MURDER
1	Culpable homicide is wider term	Murder is narrower than culpable homicide
2	Culpable homicide is genus	Murder is species of culpable homicide
3	All culpable homicides are not regarded as murder	All murders are culpable homicide
4	In culpable homicide the knowledge that the act would result in the death	In murder, the offender has a definite knowledge that the act would result

	is not so definite	in the death
5	The knowledge that the act is likely to cause death	The knowledge that the act is dangerous that it must in all probability cause death.
6	Punishment is under Section 304 of IPC	Punishment is under Section 302 of IPC

III. LEGAL PROVISIONS OF CULPABLE HOMICIDE AND MURDER

A. Culpable Homicide

Section 299 of the Indian Penal Code defines Culpable Homicide as “Whosoever causes death by doing an act with the intention of causing death or with the intention of causing such bodily injury as it is likely to cause death or with the knowledge that he is likely by such act to cause death, commits the offence of Culpable Homicide.”

The essentials of Culpable Homicide are:

- Whoever causes death – Death means death of a human being. It does not include the death of an unborn child, but it may amount to culpable homicide to cause death of a living child if any part of the child has been brought forth. However, it’s not necessary that the person whose death has been caused must be the very person whose death was intended.
- By doing an act – death may be caused in number of ways such as by poisoning, starving, striking, drowning or communicating some shocking news etc. Act here includes illegal omissions. An omission is illegal if it be an offence and in some direction is a breach of law.
- Intention to cause death – Intention means the expectation of the consequence in question. when a man is charged with doing the act of which the probable consequence maybe highly injurious, the intention is inferred from the acts of the accused and circumstance of the case.

(b) With the intention of causing such bodily injury as is likely to cause death – The intention of the offender may not be to cause death; it would be sufficient if he intended to cause such bodily injury which was likely to cause death.

(c) With the knowledge that he is likely by such an act to cause death – Knowledge is a strong word and imports a certainty and not merely a probability. Here knowledge refers to the personal knowledge of the person who does the act.

Some of the examples of culpable homicide are –

- A lay sticks and turf over a pit, with the intention of causing death or with the knowledge that death is likely to be caused. Z believing the ground to be firm treads on it, falls in it and dies. Here A has committed culpable homicide.
- A kicked the abdomen of B with such a violence as to cause fracture in 2 ribs and rupture of spleen which was normal due to which B died. It was held that A knew that the abdomen is the most delicate and vulnerable part of human body and presumed to have kicked with the knowledge that by so kicking he was likely to cause death

Section 304 defines punishment for culpable homicide not amounting to murder – the punishment is of imprisonment for life or imprisonment which may extend to ten years and also be liable to fine

Case Law 1: Kusa Majhi v State of Orissa 1985 Cr. L.j 1460

The deceased admonished his own son for not going for fishing with the co-villagers. Infuriated on this the accused, the son brought an axe and dealt with the blows on his shoulder and he died. There was no pre plan of the offence. The blows were not on the neck or head region. The accused dealt blows likely to cause bodily injury which was likely to cause death and he dealt blows on the spur of moment and anger. Therefore, it was held to be a case of culpable homicide.

Case Law 2: Ganesh Dooley Tulsa I.L.R 20 All. 143

A snake charmer exhibited in public a venomous snake, whose fangs he knew had not been extracted and to show his skills without any intention to cause harm to anyone, placed the snake on head of one of the spectators. The spectator trying to push off the snake was bitten and died in consequence. The snake charmer was held to be guilty of culpable homicide not amounting to murder.

Case Law 3: Reg. v. Govinda (1877) ILR 1 Bom 342),

the accused had knocked down his wife, kept a knee on her chest and gave two to three violent blows with the closed fist on her face. This act produced extraversion of blood on her brain and afterwards, the wife died due to this. The act was not committed with the intention

of causing death and the bodily injury was not sufficient to cause death in the ordinary course of nature. The accused was liable to culpable homicide not amounting to murder

B. Murder

MURDER AS PER SECTION 300 OF THE INDIAN PENAL CODE

Section 300 of the IPC reads as follows: 300. Murder. —Except in the cases hereinafter excepted, culpable homicide is murder,

(Firstly)--if the act by which the death is caused is done with the intention of causing death, or—

(Secondly) —If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

(Thirdly) —If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

(Fourthly) —If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.¹³

If we analyze the definition under Section 300 of the IPC, culpable homicide is considered as murder if:

- The act is committed with an **intention** to cause death.
- The act is done with the **intention** of causing such bodily injury for which the offender has **knowledge** that it would **result in death**.
- The person has the **knowledge** that his act is **dangerous** and would **cause death** or bodily injury but still commits the act, this would amount to murder.

C. INGREDIENTS OF MURDER

1. **Act by which the death caused is done with the intention of causing death:** When an act is done with the intention of causing death, then it is culpable homicide amounting to murder. ‘Act’ includes illegal omission also. Death may be caused by illegal omission as well. It is the action of a person with the clear intention of killing a person.

¹³ The Indian Penal Code, Sec 300.

2. **With the intention of causing such bodily injury as the offender knows to be likely to cause death:** As per second clause of Section 300, if a person intentionally causes bodily injury, with the knowledge that such bodily injury will cause death of the person injured, then it will be culpable homicide amounting to murder. In case of offence falling under clause (2) of Section 300, there is first, the intention to cause bodily harm and next, there is the 'subjective knowledge' that death will be the likely consequence of the intended injury.

3. **With the intention of causing bodily injury to any person** – sufficient in the ordinary course of nature to cause death: According to clause (3) of Section 300, it is sufficient that there is intention to cause the bodily injury that was actually caused. The subjective factor ends with that. There need be no further enquiry whether the offender has the intention or the knowledge that such bodily injury should be sufficient in the ordinary course of nature to cause death

4. **Person committing the act known that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death :** Clause (4) of Section 300 applies to cases of dangerous action without an intention to cause specific bodily injury to any person e.g., furious driving or firing at a target near the public road. However, the act must be accompanied with the knowledge that the act was so imminently dangerous that it must in all probability cause (i) death, or (ii) such bodily injury as is likely to cause death.

Illustrations

- A shoots B with an intention of killing him. As a result, B dies, murder is committed by A.
- D intentionally gives a sword-cut to C that is sufficient to cause death of anyone in the ordinary course of nature. As a consequence, C dies. Here, D is guilty of murder though he did not intend to cause C's death.

Case law 1: B.N. Srikantiah v. Mysore State [AIR 1958 SC 672]

There were as many as 24 injuries on the deceased and of them 21 were incised. They were either on his head, the neck, or the shoulders or on the forearms. Since, most of the injuries were on vital parts and the weapons used were short, it was held that the intention of causing bodily injuries was established, bringing it under the cover of Section 300.

Case Law 2: State of AP vs M Sobhar Babu

Accused A1 And A2 entered the house of deceased armed to commit robbery. Accused on being overpowered by deceased caused the knife injury on the abdomen of the deceased. He also caused injury to sister of deceased who came to rescue the deceased. Co – accused also caused knife injuries on the legs of the deceased and threatened others with dire consequences. It was held that though accused came to commit robbery and common intention can be inferred from circumstances of the case. Intention can be gathered from circumstances as they arise even during the incident. As such the case was the accused will be held for murder¹⁴.

IV. ROLE OF JUDICIARY**A. Punishment for Murder (Section 302)**

The punishment for murder is provided under Section 302 of IPC. Under this section whoever commits murder is punished with

- Death
- Life imprisonment
- Fine

Section 302 of the Indian Penal Code is important in many ways. Individuals accused of committing murder are prosecuted under this section only. Furthermore, if in case an accused of murder has been proven guilty of the crime, section 302 prescribes the punishment for such offenders. It states that whoever has committed murder shall be punished either with imprisonment for life or the death penalty (depending upon the severity of the murder) along with a fine. The primary point of consideration for the Court, in matters related to murder, is intention and motive of the accused. This is why it is important that the motive and intention of the accused is proved in cases under to this section.

B. Punishment for Culpable Homicide - Section 304, IPC

Culpable homicide is not murder if it falls under any one of the five exceptions given under Section 300. For culpable homicide not amounting to murder, Section 304 of IPC describes the punishments as:

Whoever commits culpable homicide not amounting to murder shall be punished with

¹⁴ *Difference between murder and culpable homicide: Explained by: Roopali Lamba* (no date) *latestlaws.com*. Available at: <https://www.latestlaws.com/articles/difference-between-murder-and-culpable-homicide-explained-by-roopali-lamba> (Accessed: 09 June 2025).

imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death, or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

- Imprisonment for life or
- Imprisonment for either description of a term extending up to ten years and/or
- Fine.

C. Meaning of Expression "Beyond Reasonable Doubt"

Beyond a reasonable doubt is a legal standard of proof required to validate a criminal conviction in most adversarial legal systems. It is a higher standard of proof than the balance of probabilities (commonly used in civil matters) and is usually therefore reserved for criminal matters where what is at stake (e.g. someone's liberty) is considered more serious and therefore deserving of a higher threshold.

The prosecution in criminal matters typically bears the burden of proof and is required to prove its case beyond a reasonable doubt. This means that in order for a defendant to be found guilty the case presented by the prosecution must be enough to remove any reasonable doubt in the mind of the jury that the defendant is guilty of the crime with which they are charged.

For a doubt to stand in the way of conviction of guilt it must be a real doubt and a reasonable doubt. If the data leaves the mind of the trial judge in doubt, the decision must be against the party having the burden of persuasion. If the mind of the adjudication tribunal is evenly balanced as to whether or not the accused is guilty, it is its duty to acquit the accused.

D. Examining Rarest of the Rare Case in Imposing Death Penalty

Rarest of the rare case is the principle enshrined in *Bachan Singh v. State of Punjab (1980)* (2 SCC 684) which limits the vast discretion of the court in imposing death penalty. Death as a highest punishment was removed from being a general rule to being awarded only in exceptional circumstances and that too after recording the special reason for imposing the highest punishment which cannot be reverted under any circumstance after its execution. The phrase "rarest of the rare" case still remains to be defined while the concern for human life, the norms of a civilised society and the need to reform the criminal has engaged the attention of the courts. The sentence of death has to be based on the action of the criminal rather than

the crime committed. The doctrine of proportionality of sentence vis-a-vis the crime, the victim and the offender has been the greatest concern of the courts.

E. Punishment for Murder by Life Convict (Section 303)

Life convict is a person who is found guilty of a crime and is sentenced to life imprisonment by the Court. Section 303 of IPC provides that if any person commits murder who is sentenced with life imprisonment shall be punishable to death. Section 303 is only applicable to the person who is convicted under section 302 read with Section 34 or Section 302 read with Section 149. Section 303 makes capital punishment necessary for the person who is convicted for life imprisonment commits murder.

It was held by the Court that if a person is released by remission who was undergoing imprisonment for life for murder, is not considered under the sentence of imprisonment for life any longer. If the murder is committed during the period of remission, it will not be considered while giving punishment under Section 303 of IPC. Thus, the accused shall not be given imprisonment for life.

In the case of *Mithu v. State of Punjab*, 1983 the constitutional validity of Section 303 of IPC was questioned. Section 303 was held to be arbitrary and unconstitutional as it was held by the Court that mandatory death penalty to a life convict is arbitrary and unreasonable, due to:

- There is already a lot of stress that a life convict is exposed to in jail.
- No justification is found for prescribing a mandatory death sentence for the offence of murder that is committed inside or outside the prison by the person under life imprisonment.
- A standard mandatory sentence in the form of death fails to take into account the facts and circumstances of each act.

F. Landmark Judgments

Jag Mohan Singh v. State of Uttar Pradesh, 1972¹⁵

In this case, there was a murder which came up after the amendment of the Code of Criminal Procedure in 1973, where the death penalty was no longer a mandatory sentence for murder and it became subject to the discretion of the Court. The arguments were raised regarding the constitutionality of a death penalty, it was on the ground that a wide discretionary power vested with the Courts as there were no guidelines or standards. It was held that it violated Article 14, Article 19 and Article 21.

¹⁵ 1973 AIR 947

It was held by the Supreme Court that the Right to life was not a part of Article 19 and the death could not be called as unreasonable or opposed to public policy since it was the punishment which was part of the law even before the commencement and the legislature would be presumed to know its existence. And since it was not removed, it could be assumed that the legislature did not think of it as unreasonable.

Article 14 could hardly be invoked in matters involving judicial discretion, as each case would be peculiar to facts and circumstances. The discretion given to Courts to award a death sentence cannot be termed as unguided. The Code of Criminal Procedure lays down the detailed procedure about when a death sentence is imposed and following the procedure established by law cannot be held as unconstitutional.

Article 19

In this case, writ petitions were filed in the Supreme Court, challenging the constitutional validity of allowing the death penalty as an alternative to punishment for murder.

The significant changes from Jagmohan case to Bachan case was that the scope of Article 19 and Article 21 was expanded by the interpretation given in the Maneka Gandhi's case. By this time India had become a party to the International Covenant on Civil and Political Rights. It was held by the Court that the Covenant did not outlaw the death penalty.

If the freedom mentioned under Article 19 are infringed, then Article 19 can be invoked. Since the right to life is not covered under Article 19, it cannot be invoked to determine the constitutionality of Section 302 of Indian Penal Code, that provides death penalty as an alternative punishment to murder. Merely on the ground that the death penalty remotely affects the freedom under Article 19, the death penalty cannot be held to be unconstitutional.

The Court held that a pre-sentencing hearing introduced in The Code of Criminal Procedure was a mandatory requirement. It was made necessary to consider the circumstances of both crimes as well as the criminal.

Triveniben v. State of Gujarat and Ors, 1989

In this case, the appellant was given a death sentence. He was the main accused for conspiring and by impersonating a customs officer had murdered several persons, by abducting under the guise of interrogating officer in order to rob and then murder them. For eight years the accused was kept in solitary confinement. The appeal was that Article 21 was violated as there was a delay in execution.

It was held that the sentence imposed should be carried out under procedure established by law. If there is a prolonged delay irrespective of the cause in carrying out the execution, it has a dehumanizing effect, which violates Article 21 by unjustly depriving a person of his life and liberty.

If there is a delay beyond two years, it entitles a prisoner for quashing of a death sentence.

Sher Singh v. the State of Punjab, 1983

In this case, it was held that delay can be a ground for invoking Article 21 of the Constitution of India. There is no binding rule that the delay entitles a prisoner to quash the death sentence.

Rajendra Prasad v. State of Uttar Pradesh, 1979

In this case, it was discussed about the special situations to be considered before awarding the death penalty. It was held by the Court that not only the nature of the crime but also the various factors of criminals before awarding the death penalty.

Raju Jagdish Paswan v. The State of Maharashtra, 2019

In this case, the Trial Court had awarded the death sentence to the appellant, who committed rape of a nine-year-old kid. The same sentence was awarded by the High Court. On appeal in the Supreme Court, the punishment was reduced, since the death can only be awarded in rarest of rare cases. It was held by the Supreme Court that life imprisonment is a rule while the death sentence is an exception. The death penalty was not awarded by the Supreme Court in this case for reasons:

- There was no pre-planning for the murder.
- The person who committed the act was not a continuous threat to society.
- There was a lack of evidence by the State to prove that the person cannot be rehabilitated and reformed.
- The appellant was just 22 years of age while committing the crime.
- The basic principle is that human life is valuable and a death sentence should be awarded only when it is mandatory if there is no option for any other punishment and even in cases where the range of crime is heinous.

G. Most Famous Murder Case¹⁶

¹⁶ 11 most mysterious and sensational cases of murder in India (2017) *Indiatimes*. Available at: <https://www.indiatimes.com/culture/11-most-mysterious-and-sensational-cases-of-murder-in-india-334096.html> (Accessed: 09 June 2025).

Arushi Talwar case

The 14-year-old Arushi was murdered on 16th May 2008 along with Hemraj Banjade who was 45 years old then. There were a lot of suspects on the list of the accused including Arushi's parents. This case received a lot of media coverage and aroused public interest.

For a very long time, Arushi's parents had been held under custody. Still, it is not clear whether it was Arushi's parents or the other two servants that worked in her house. Though Arushi's parents have been acquitted, yet no one knows who killed Ayushi and Hemraj.

Jessica Lal murder case

The case got highlighted with the heading 'No one killed Jessica' in the year 1999. The eyewitnesses had amnesia and there was hardly anyone who came forward to give an account of how an aspiring model was shot dead. Later people came to know that it was the businessman Manu Sharma who was refused by Jessica to serve liquor had shot her dead.

Pradyum Thakur murder case

A student of II class, Pradyum Thakur was found dead in the washroom of Ryan's International School in Gurgaon. The kid who didn't cause any harm was thought to have been killed over a situation of sexual assault by a bus conductor, who got arrested but later it was found that the murder was committed by a student of 11th year, whom the Court said that he will be tried as an adult.

Sheena Bora murder case

Sheena Bora's mother Indrani Mukherjea was the real culprit who had planned the murder of her daughter Sheena Bora. It was claimed by Indrani Mukherjea that Sheena was her sister and she never admitted to having two children. The limelight was brought to the Murky Financial dealings of Indrani Mukherjea and her husband Peter Mukherjea.

Pramod Mahajan murder case

Pramod Mahajan was a politician in the Bharatiya Janata Party. He was killed in a broad daylight inside his house. April 2006 Pramod was shot dead by his brother, Pravin. After killing his brother, Pravin walked to the nearest police station to confess that he had shot his brother Pramod. Pravin was sentenced to life imprisonment and later on died due to brain haemorrhage.

Amar Singh Chamkila murder case

Amar Singh was a popular Punjabi singer, musician, songwriter and composer. Amar Singh along with his wife and two members of the band were killed on 8th March 1988, by a gang of unknown youths. No one got arrested even when they got killed in front of so many people and in broad daylight.

Sunanda Pushkar murder case

Wife of a former Indian diplomat and famous politician Shashi Tharoor's wife, Sunanda Pushkar was a renowned businesswoman. She was killed in Delhi's Leela Palace's hotel room. It is suggested in the report that when Shashi Tharoor saw Sunanda Pushkar, he assumed she was asleep and when she did not wake up, Shashi Tharoor informed the police.

She died after a day she had accused Pakistani journalist Mehr Tarar of stalking her husband on twitter. According to the post-mortem report, it was concluded that she had committed suicide. But the report from doctors of All India Medical Institute said that the death was due to drug overdose and she had injury marks on her body.

Neeraj Grover murder case

This case received a lot of attention due to how fatal it was. His body was firstly chopped into pieces and then later stuffed in three garbage bags and put on fire in the forest.

Neeraj's friend Maria Susairaj had filed a missing complaint in the police station. She was later found to be involved in the killing. It was discovered that Maria's boyfriend in a fit of rage had killed Neeraj suspecting that Maria was having an affair with Neeraj.

Sharath murder case

Sharath was a 19 years old son of an Income-tax officer who was killed in Bangalore. Sharath's body was found on the outskirts of the city near Ramohalli lake with his hands tied together. It turned out that the kidnappers had strangled Sharath to death and later on the same day they had dumped his body¹⁷.

The police found out that the kidnappers were friends of Sharath and his close friend Vishal was the one who had planned this murder and abduction to clear off the loan¹⁸.

¹⁷ K, P. (no date) *Friend plotted the kidnap and killing of I-T official's son*, *The New Indian Express*. Available at: <https://www.newindianexpress.com/cities/bengaluru/2017/sep/23/friend-plotted-the-kidnap-and-killing-of-i-t-officials-son-1661452.html> (Accessed: 09 June 2025).

¹⁸ *Sunanda Pushkar death case: Police files charge sheet in Sunanda pushkar death case in Delhi Court* (no date) *The Economic Times*. Available at: <https://economictimes.indiatimes.com/news/politics-and-nation/police-files-charge-sheet-in-sunanda-pushkar-death-case-in-delhi-court/articleshow/64159153.cms> (Accessed: 09 June 2025).

V. CONCLUSION & SUGGESTIONS

A. Conclusion

As discussed above, there is a thin line between Murder and Culpable Homicide. The courts have time and again taken efforts to differentiate between the two offences the end result of the two being same, intention behind the offence being the important factor of consideration. The entire case of the prosecution can be based on a single point i.e. "intention" and in the same way the entire case of the prosecution can be destroyed by the defence by proving "no intention"

B. Suggestions

As the prosecution has to prove their case beyond reasonable doubt till that situation the accused should be considered innocent thus the person accused of offence is not guilty unless he is proved guilty. The principle that Let hundreds of culprits got acquitted but one innocent should not be convicted. This principle should be the main course of justice and judicial system should always remember that we are under the legal obligation to save the innocent from being convicted and the thin line between Murder and Culpable Homicide put a big responsibility on the judiciary to save the innocent from being convict and the whole judicial system should follow this principle to save innocent from being convict.
