

### **Culpable Homicide : Murder and Not amounting to Murder**

Natural death, accidental death, suicidal death and homicidal death are the deaths extinguishing human life. Homicide can simply be defined as death of a person caused by another person and it is not an accidental death. The homicide becomes culpable when intention or knowledge of a person plays a vital role in ending the life of another person. Chapter XVI of the IPC “of offences affecting human body” starts with culpable homicide which is classified as one of the offence affecting life. Act of causing death in following three circumstances is defined as culpable homicide

1. Causing death by doing an act with intention of causing death.
2. Causing death with the intention of causing such bodily injury as is likely to cause death.
3. Causing death with the knowledge that he is likely by such act to cause death.

The explanations appended to the definition further illustrates the definition. The explanations further includes some instances of causing death, to explain broad ambit of culpable homicide. As per explanation 1. a person who causes bodily injury to a person labouring under disorder, disease or bodily infirmity, and thereby accelerates the death of that person shall be deemed to have caused his death. Explanation 2. says where death is caused by bodily injury, the person causing such bodily injury shall be deemed to have caused death, although there may be a possibility of prevention of death with immediate medical. Explanation 3. relates to legal definition of existence of life against whom crime under the Code may be committed. It says that causing death of foetus under womb is not homicide but it may amount to homicide when any part of the body of the child has been brought forth, though the child may or may not have breathed.

Dr Hari Singh Gaur classifies homicide as lawful homicide and unlawful homicide. As per him lawful homicide is excusable homicide.

- a. When death is caused by accident or misfortune while doing lawful act in lawful manner by lawful means without any criminal intention such death is covered under section 80 of IPC as an exception.
- b. Where the act is done in good faith for the persons benefit. This is covered under Section 92 of IPC as a exception.
- c. Where it is done by person who is mad or insane. Instances of these deaths are covered under 82 to 85 of the IPC

#### **Justifiable homicide :-**

- A. Death caused by person who is bound by law or believes himself to be bound by law causes.
- B. Death by a person justified by law or believes himself in good faith justified by law.
- C. By judge acting judiciously in exercise of any power which he possess or believes himself that he possesses.
- D. Death caused by person in persuasion of the judgement or order of the court.
- E. Death caused by person in good faith to avert other harm to person or property.
- F. Death caused by person exercising his right to private defence under section 100 of the IPC.

### **Unlawful homicides**

**Unlawful homicides are homicides made punishable under IPC.**

### **When Culpable Homicide is Murder**

Definition of murder under section 300 includes all the permutation of definition of culpable homicide. Causing death by bodily injury are further qualified and one more nature of causing death is added making the four modes of causing death as murder. First mode is of causing death with an intention of causing death and is kept as it is. In the second category it is qualified that if the act of causing death is done with the intention of causing such bodily injury as the offender knows is likely causing death of the person to whom the harm is caused. In this criteria both intention and knowledge are roped in. Further culpable homicide as mentioned in explanation 1 of Section 299 is brought under this mode of causing death. In the third mode, act of causing death done with the intention of causing bodily injury when the injury inflicted is sufficient in ordinary course of nature to cause death, though the knowledge is not explicitly mentioned. In the forth mode, act of causing death by causing some act with the knowledge that the act is imminently dangerous and in all probability it will cause death or to cause such bodily injury as is likely to cause death and the act is committed by such person without any excuse for incurring any risk of causing death or any injury.

The murder is one of the offences in IPC where death penalty is provided. The legislation created some exceptions. Though the death is caused as described in above four modes but it in order to brought out of the definition of murder it is required to be proved that it is covered by the exceptions. First exception relates to deprivation of power of self control by grave and sudden provocation. The person under this exception causes death which amounts to murder but he has caused the death when he is deprived of self control by grave and sudden provocation and death is caused of such person who has given such provocation. It is required that such provocation is not sought voluntarily. The provocation against act of public servant or anything done in obedience of law will not be considered as provocation under this exception. This exception also covers death of any other person by mistake or by accident. Exception two covers the death caused by the person exceeding right of private defence of person or property against whom he is exercising such defence and death is caused without premeditation without any intention of doing more harm then is necessary for the purpose of such defence. Exception three covers the act of causing death by public servant or a person aiding to public servant acting for the advancement of public justice but exceeding the power given to him by law. In this exception the death is caused without any intention and without ill will to person whose death is caused. The forth exception is causing death without premeditation in sudden fight in heat of passion upon a sudden quarrel where the offender has not taken undue advantage or acted in cruel or in unusual manner. Exception five relates to causing death of the person when the person is above the age of 18 years suffers death or takes the risk of death with his own consent.

### **Culpable homicide not amounting to murder**

This title itself create a confusion and keeps the students of law searching as where this class of culpable homicide is defined under IPC. In fact the definition of this class of culpable homicide is embodied in section 300 of IPC where the murder is defined and some instances of murders are carved away from the

definition of murder by mentioning them in the exceptions. So all the instances of death which are enumerated in exception of Section 300 will absolve the offender from the ambit of punishment under section 302 of IPC but bring them within the ambit of causing culpable homicide not amounting to murder. Section 304 of IPC prescribes punishment for culpable homicide not amounting to murder. Section 304 again classifies the instances of culpable homicide not amounting to murder in two different classes and prescribes two different punishments to these culpable homicides.

In the first part of section 304, act of causing death with intention of causing death and act of causing death by causing such bodily injury as is likely to causing death are covered and made punishable with imprisonment for a term with imprisonment for life or which may extend up to 10 years. So the first two instances of causing death under the definition of culpable homicide under section 299 of IPC are made punishable in first part of section 304. Second part of section 304 prescribes punishment of imprisonment which may extend for term of 10 years for causing death with the knowledge that it is likely to cause death but without any intention to cause death, or to cause such bodily injury with the intention of causing death. So the second part of section 304 excludes the act of causing death with intention to cause death and it will be applicable when death is caused when the person causing death knows that the act of him is likely to cause death. Here the cases such as public servant firing a bullet to deter the mob and causing death of any member of mob, is covered under this definition. A person firing a bullet at 'X' to cause his death but causes death of 'Y' by mistaken identity will also covered under the section 304 of IPC.

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