

A comparative study of culpable Homicide and Murder

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ABSTRACT

Law is an important mechanism for regulating a society. It also brings about a good 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 introduced 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 technical amongst them all is the difference between s. 299 and s.300 (Culpable Homicide & Murder respectively). 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 had on many occasions visited the provision of the code and marked the basic different between the two. In this report I have tried to highlight some of the legal precedent which will help you to understand the difference between the two.

299	300
a. Whoever causes death by doing an act:	1. Act done with the intention of causing death, or
b. intention of causing death, or with the intention of causing such bodily injury as is likely to cause death	2. 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 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 in the ordinary course of nature to cause death, or
c. or with the knowledge that he is likely by such act to cause death	4. in all probability, cause death, or such bodily injury as is likely to cause death

1. Introduction

In IPC the provisions which are related to murder and culpable homicide are the most complicated and technical that they tend to create confusion. As we know that every murder is culpable homicide but every culpable homicide is not murder. Culpable Homicide is a genus whereas murder is its species. Section 299 defines Culpable Homicide whereas Section 300 defines Murder. If culpable homicide is proved and it falls within any of the four clauses mentioned in s.300 it is murder and if any of them falls within the exception of S.300 it will amount to culpable homicide not amounting to murder. If a person is held guilty of Murder under s. 300 he ought to be punished under s. 302 which provides for the punishment of murder while if it amounts to culpable homicide not amounting to murder then, depending upon the gravity of the offence, the culprit can be punished under section 304, which provides for the punishment for culpable homicide not amounting to murder.

The following are essential ingredients of culpable homicide:-

1. Death of a person must have occurred, here person means a human being
2. It must be an act of another person which has caused the death
3. The act causing death should have been done with
 - the intention of causing death or

- with the intention of causing such bodily injury as is likely to cause death
- or with the intention that such act is likely to cause death.

There are particularly three degrees of culpable homicide:-

- 1st degree punishable under Section 302
- 2nd degree punishable under section 304 I
- 3rd degree punishable under section 304 part II.

The difference between the two sections is only in the difference in the degree of intention and knowledge of the culprit. The greater degree will render it in section 300 and a lower degree of intention and knowledge will render it in under section 299.

2. Identifying the difference between S. 299 and S 300 IPC

1. The first step to ascertain whether it is an act of the accused which has resulted in death of a human being.
2. The second step is to establish whether the act of the accused would amount to culpable homicide, in other

words is the act of the accused is covered under any exception that is to say from section 76 to 106 of IPC

3. Now the intention and the knowledge of the accused is ascertained. In this the gravity of the intention and the knowledge whereby he intended to cause the death of the deceased is ascertained.
4. After that it is ascertained whether the act is covered under any of the cl. 1 to 4 of section 300 of IPC, if not then the offence will be culpable homicide not amounting to murder.
5. At last it is now ascertained that whether it comes under any of the exception of section 300 if it not then it amounts to murder and liable to be punished under Section 302 and if it is covered under any of the exception then it will be culpable homicide not amounting to murder and will be punished under section 304.

3. Section 299 (a) and 300(1)

In **Rawalpenta Venkalu versus State of Hyderabad AIR 1956 SC 171** there was a long standing dispute of a land between the accused and the deceased. On the day unfortunate day the accused went to the deceased home and lock the door from outside and set his hut on fire whereby causing his death. When the other villagers tried to stop them from doing this illegal act some other person which were with the accused stop them. All were convicted under Section 302 of IPC and in appeal when the matter came before the Supreme Court it was alleged by the appellants that they didn't have the requisite intention to cause the death. They were there only because they were trying to threaten the deceased so that he can give back the possession of the disputed land. The Supreme Court in this case held that all the circumstances led to a clear fact that the accused had intention to kill the accused. The supreme court emphasize that there is a great degree of intention as compared to the intention that is mentioned under section 299 of IPC. It was of first degree of culpable homicide which is punishable under Section 302. Held that the accused are guilty of Murder

4. Section 299(b)& 300 (2) & (3)

In **Kapur Singh vs State of Pepsu AIR 1956 SSC 654** the accused was trying to take revenge of the injuries which were caused by the deceased to his father some

one year ago. On the unfortunate day the deceased was going through his village and meanwhile the accused with his companions accosted him and start beating him mercilessly. The accused inflicted as many as 18 injuries on the arms and the legs of the deceased with a gandasa. Thereafter the accused absconded and the person on whom injuries were inflicted died. He was now convicted under Section 302. Matter came up before the bench of Justice N.H. Bhagwati which turn their conviction under Section 302 (2) into S. 304-I. Justice Bhagwati said that none of the injuries which were as many as 18 but none was on the vital organ of the deceased. From this it is clear that the accused didn't want to kill the deceased so the injuries work collectively responsible for the death of the accused.

In **State of Andhra Pradesh versus R. Punniya**, Justice RS Sarkaria made some following observations. Here are some key points from the judgment:-

- Culpable homicide is genus and murder is its species. All murder are culpable homicide but not vice versa.
- S. 299(b) doesn't speak of knowledge as provided under section 300 (2).
- Section 299(b) is different from 300 (2) in terms of degree of probability of death. Under section 299 it is low while in under section 300 it is high. Clause 3 of section 299 and clause 4 of section 300 IPC

In **Emperor versus Dhirajia AIR 1940 All 486** there was some altercation between the husband and the wife the husband starting beating her wife and after sometime the wife found some opportunity to run and ship with her baby and starting running towards the railway tracks. She felt that she is being chased down by somebody and feeling unsafe of herself and her child, she jumped into the well in order to protect herself. Unfortunately the child died. Now she is being prosecuted u/s 302 for the death of a child. The Lower court convicted her u/s 302 but the Supreme Court turned her conviction from u/s 302 to u/s 304 II. The court emphasized that it is not a case which deserves a severe punishment. The unfortunate woman was in fear and what to protect herself and her 8 month old child so the conviction under section 304 is made.

References

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