

LAW CAPSULE

For Law Competitive Exams

HOMICIDE



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Section 299 to Section 311 of Indian Penal Code

Section 299 of Indian Penal Code, 1860 describes Culpable Homicide. Essential ingredients of Culpable Homicide are:

- There must be a death of a person
- The death should have been caused by the act of another person
- The act causing death should have been done
 - With the intention of causing death
 - With the intention of causing such bodily injury as likely to cause death
 - With knowledge that such act is likely to cause death

Section 300 of Indian Penal Code, 1860 describes Murder.

Culpable homicide is murder, if it is done with-

- (1) Intention to cause death
- (2) Intention to cause bodily injury knowing that the injury caused is likely to cause death
- (3) Intention of causing bodily injury sufficient in the ordinary course of nature to cause death
- (4) (a) Knowledge that the act is so imminently dangerous that in all probabilities it will cause death or bodily injury likely to cause death; and
(b) Such act should be without justification

Culpable homicide will not be murder, if it is :

Exception 1 – On grave and sudden provocation

Explanation:

- (a) The provocation should not be voluntarily sought or deliberately caused by the accused
- (b) Should not be a result of act done by Public Servant or in obedience to law
- (c) Not be in self defense

Whether a particular act is grave and sudden is a question of fact

Exception 2- In exercise of right of private defence of person or property (and without pre-meditation and without intention)

Exception 3-

- (a) An act done by a public servant or in aiding a public servant
- (b) Acting in advancement of public justice
- (c) Such act of the public servant is in excess of powers conferred on him but exercised in good faith
- (d) And such act is necessary to discharge duty
- (e) And is without ill will

Exception 4-

- (a) A sudden fight without premeditation
- (b) The offender should not take undue advantage or act in a cruel or unusual manner

Explanation: Who started the fight or quarrel is not material

Exception 5- Death caused to a person above 18 years of age with his consent

Distinction between Murder and Culpable Homicide

Three degrees of Culpable Homicide

- Of lowest degree punishable with fine or with imprisonment up to a limit of 10 years or with both [Section 304, Part 2]
- Of middle degree punishable with imprisonment up to 10 years or for life, to either of which fine may be added [Section 304, Part 1]

Of highest degree of murder, punishable with death or for life to either of which fine may be added [Section 302]

True difference is only the difference in degree of intention and knowledge

Greater Degree of intention and knowledge – Murder

Lesser degree of intention and knowledge – Culpable Homicide

Stages to prove Murder

Accused had done an act which caused death

To prove intention, must not fall under exceptions

Clauses 1-4 of Section 300 of IPC adjudged

Five exceptions would also be adjudged

Comparison of Section 299 with Section 300

Intention to kill – Section 299 (a) compared with Section 300 (1)

Intention to cause bodily injury likely to cause death – Section 299 (b) compared with Section 300 (2) and (3)

Knowledge of death - Section 299 (c) compared with Section 300 (4)

Encounter Deaths

Encounter deaths treated as homicide and can be enquired if found suspicious and not justified

Following procedure to be followed in cases of encounter death:-

Information of encounter must be registered

Investigation must be done about the information received

Police party of same station, investigation should be by other agency such as CID

Compensation to dependents or prosecution of police officer based on result of investigation

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