BLOGS

Difference between Culpable Homicide and Murder

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Homicide is the killing of human being by a human being. It is categorized by degree of intention, knowledge or recklessness with which a particular homicide is committed.

CULPABLE HOMICIDE

Principle: Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as 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

Following are the essential ingredients of culpable homicide:

1. Whoever causes death: the offence is complete as soon as any person is killed i.e. it is immaterial that if the person whom the accused intended to kill was not killed but some other person was killed. The death must be the proximate result and not a remote consequence of the violence i.e. the act must be causa causans and not merely causa sine qua non. If death is caused by words deliberately used by a person with the intention or knowledge of causing that result, the person shall be liable for culpable homicide.
2. Act done with intention to cause death: intention does not assume the existence of some previous design, it means an actual intention, the existing intention of the moment and it is proved by the accused and the circumstances of the case. Everyone must be presumed to intend the normal consequences of his act. In determining the question of intention the nature of the weapon used, the part of the body on which the blow was given, the force and number of blows shall be taken into consideration.
3. Intention of causing such bodily injury as is likely to cause death: if a person did not intend to cause death but he had an intention to cause such bodily injury which is sufficient to cause death in its consequence then also the person shall be liable for the culpable homicide.

4. Knowledge that such act is likely to cause death: knowledge is the awareness of the consequences of an act. A person who voluntarily inflicts injury which is sufficient in ordinary course of nature to cause death i.e. death will be the most probable result shall be liable for culpable homicide. A rash act by which death is caused imports knowledge of likelihood of causing death.
5. A person who causes bodily injury to another who is laboring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death i.e. the death at the time when it occurs is not caused solely by the disease and such bodily injury must have accelerated the infirmity which caused into death. However it is important that the accused knew about the condition of the deceased was such that his act was likely to cause death.
6. The accused shall be responsible for the natural consequences of his conduct and he cannot take the excuse that by resorting to proper remedies and skillful treatment the death might have been prevented. Even if the victim dies because of the wrongful treatment given by good faith by a competent doctor, it cannot absolve the guilt of the accused.
7. If any part of that child has been brought forth, though the child may not have breathed or been completely born and the death is caused of such child, the person shall be liable for culpable homicide.

MURDER

Culpable homicide shall be murder if:

1. If the act by which the death is caused is done to cause death with the intention of causing death. In determining the question of intention the nature of the weapon used, the part of the body on which the blow was given, the force and number of blows shall be taken into consideration.

The degree of criminality is higher in case of murder as compared to culpable homicide. The intention to kill is so explicit that an ordinary man could readily appreciate and understand

1. With the intention of causing such bodily injury as the offender knows to be likely to cause the death: there is intention to cause particular injury which turns out to be likely to cause death i.e. the intention of the accused was to cause such bodily injury which he knew is likely to cause death. The death could be the probable result of the injury caused.

2. 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: there was an intention on the part of accused to inflict the particular injury found on the body of the victim and in the light of medical evidence such injury was sufficient in the ordinary course of nature to cause death. The accused need not have knowledge as to whether the injury intended to cause would have been sufficient in the ordinary course of nature to cause death. Once the intention to cause such bodily injury is proved which is subjective to the offender then rest of the inquiry is purely objective in reference of medical evidence as to whether the injury intended to cause would have been sufficient in the ordinary course of nature to cause death.
3. Imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death: an imminently dangerous act is done in general and the person committing such act knows that it is likely to cause death. The knowledge on the part of offender must be of highest degree of probability.

Culpable homicide is a genus and murder is its species. To make a person liable for murder it is necessary to first prove him guilty of culpable homicide.

If the person is proved guilty of murder beyond reasonable doubt then he can take a defense of the following exceptions and then he shall be charged for culpable homicide only:

- Grave and sudden provocation which would deprive any reasonable man of his power of self control. Also there must not be sufficient time for the passion caused by the provocation to cool down. When the provocation is provided from the side of the accused himself, he cannot claim any benefit of this exception.
- The excessive exercise of the right of private defense provided the accused caused the death of the accused without premeditation and had no intention of doing more harm than was necessary for the purpose of defense. The right commences as soon as reasonable apprehension of danger arises and ceases when the apprehension ceased.
- If the person accused is a public servant and in good faith he commits an act which was lawful and necessary to discharge his duties. The public servant should not have any ill-will against the deceased.
- An act committed in a sudden fight in the heat of passion provided that the offender did not take any undue advantage nor acted in a cruel manner. Also, it is immaterial which party offers

provocation or commits the first assault. There has to be a bilateral transaction in which blows are exchanged wherein there is no time for passion to cool down.

A person who commits culpable homicide not amounting to murder shall be punished with 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 to cause 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.

According to Section 302 of IPC, the punishment for murder is the death penalty or imprisonment for life and also liable to pay fine.

Section 301 of IPC provides for transfer of malice i.e. if 'A' makes a thrust at B and C throwing himself between the two dies. 'A' will be guilty of killing C as if he had been liable against B as one cannot be condemned if his mens rea relates to one crime and actus reus to different crime. The difference of person can make no difference in the offence or its consequences. The culpable homicide committed by the offender shall be of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

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