

A since he gave only  
one blow



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A headmaster administering reasonable and moderate punishment to a student to enforce discipline in the school cannot be held guilty under this section and is protected by section 88 of the Indian Penal Code.

Where the accused brothers, without having met before, converged on their sister who had instituted certain proceedings against them, with a view to teach her a lesson, and one of them, who was carrying a knife unknown to the others, gave a knife blow causing her death, it was held that he alone was guilty of culpable homicide not amounting to murder while the others were liable under section 323. Where the accused gave one fist blow on the abdomen of the deceased which resulted in haemorrhage and death, it was held that the circumstances were different and also the accused could not be said to have the intention or knowledge required under section 299, and since he gave only one blow in the heat of the moment when he was in an excited mood, he had committed an offence under section 323 only. Where the accused, a shopkeeper, in the heat of a sudden quarrel with his wife hit her by an iron weight of 200 grams on the head as a result of which she died, it was held that in view of the medical evidence which held it to be a simple injury, the accused could be convicted only under section 323. Where a village watchman seized trespassing cattle and was assaulted by six accused persons who tried to rescue the cattle from his possession, it was held that they had committed an offence under section 323 of the Code because even assuming that the watchman was mistaken about his authority to seize the cattle, the accused had no right to assault him but they should have proceeded in accordance with section 20, Cattle Trespass Act, 1871 under which the owner has not been given any right to use force. Where the

accused wife attacked her deceased husband by a brick causing his death but the medical evidence said that the injuries were simple in nature, it was held that the accused was guilty of voluntarily causing hurt as the circumstances were different and the requisite intention or knowledge for the offences of culpable homicide not amounting to murder and murder could not be imputed to the assailant. It has been held that where two accused persons attempted to rescue by force a relative of theirs from the lawful custody of persons who were taking him to the police station in connection with an offence committed by him, they were guilty under section 225 of the Code, and the word 'rescue' used in that section includes use of a certain amount of force, and, therefore, separate punishment under section 323 could not be awarded to him.

Where the accused gave a blow on the head of the deceased by a small stick resulting in his death, it could not be held that the accused had the requisite intention or knowledge to make him guilty of culpable homicide not amounting to murder, and the circumstances also being different, he could be convicted only under section 323. In another case, the revenue authorities had left a certain portion of land as public road for use of the villagers. The complainant encroached upon this land, cultivated it and grew paddy over it. The accused persons trespassed on to it and there was a fight between the trespassers and the encroachers in which some members of both sides received injuries and one person on the side of the encroachers was killed by the accused appellant. It was held that he was rightly convicted of murder while the others were guilty of committing hurt voluntarily and also with dangerous weapons in furtherance of common intention and also

for criminal trespass since the encroachers had a settled possession over the piece of land encroached upon by them. Where the four appellants started stacking bajra near the deceased's hut who objected and two of them armed with lathis thrashed him while the other two also joined in the beating resulting in his death, it was held that all the four appellants were guilty of voluntarily causing hurt in furtherance of common intention while the two armed with lathis were also guilty of committing murder in furtherance of common intention. In *Pirithi v.*

*State of Haryana* in the course of a quarrel between the accused and the deceased the accused kicked the deceased on his testicles. The deceased was not given medical treatment for two days. The medical opinion was that the death was due to Toximia because of gangrene which could be the result of injury to testicles. It was held that since the injury to testicles was not the direct cause of the death, the conviction deserved to be altered from under section 304 Part II to one under section 323 of the Code. In *Dunga Ram v.*

*State of Rajasthan* the High Court of Rajasthan held that where the accused inflicted a single lathi blow on the head of the deceased causing a simple injury but the deceased died because of intra-cranial hemorrhage, the accused not having knowledge that a single lathi blow could cause such internal injury resulting in death, his conviction under section 302 should be altered to one under section 323 of the Code. In *Pichapillai v. State* the accused gave a push on the chest of the deceased as a result of which he fell down on stone and died. It was held that there was no intention on the part of the accused to cause any injury or damage to the deceased, and his conviction under section 304 Part II was altered to one under section 323 of <https://assignbuster.com/a-since-he-gave-only-one-blow/>

the Code. The offence under section 323 is non-cognizable, bailable and compoundable, and is triable by any magistrate.