

Where act by which
the death is caused



Where the degree of such intention or knowledge stands at zero, the act causing such death shall be deemed to be negligence and it shall amount to neither murder nor culpable homicide not amounting to murder. Every act causing death is not murder, indeed it may be an offence even lesser than culpable homicide, such as, hurt or any injury through negligence. All acts, causing death are not necessarily murder or culpable homicide, though all acts, amounting to murder or culpable homicide cause death. The Supreme Court has expressed its regret that the distinction between murder and culpable homicide not amounting to murder is often lost sight of resulting in undue liberality in favour of undeserving culprits and emphasised that ‘ except in cases covered by the five exceptions mentioned in Section 300 of the Penal Code culpable homicide is murder if the act by which the death is caused is done with the intention of causing death, or if the act falls within any of the three clauses of Section 300, namely, 2ndly, 3rdly, and 4thly.

Where the accused brought to the police station was beaten by the constables with the intention to cause such bodily injury as the constables knew would cause his death, the injuries would fall under clause 2ndly of Section 300. The distinction between murder and culpable homicide, between the grave and simple forms has been well set out in the well-known leading case of Reg. v. Govinda The accused knocked his wife down, put one knee on her chest, struck her two three violent blows on the face with a closed fist causing extravasation of blood resulting in her death.

The issue was whether the offence disclosed by the facts was murder or culpable homicide. Judgment.—Melvill, J., on reference of this issue to him for opinion held it to be culpable homicide not amounting to murder as there

was no intention to cause death and bodily injury was not sufficient in the ordinary course of nature to cause death. He drew up the distinction between culpable homicide and murder in the following tabular form: Section 299 Intention: A person commits culpable homicide, if the act by which the death is caused is done— Subject to certain exceptions culpable homicide is murder, if the act by which the death is caused is done— (a) With the intention of causing death; (b) With the intention of causing such bodily injury as is likely to cause death Section 300: (1) With the intention of causing death; (2) With the intention of causing such bodily knows to be likely to cause the death of the person to whom the harm is caused; (3) 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; (4) With the knowledge that the act is so imminently dangerous that it must in all probability cause death or such bodily injury as is likely to cause death.