

Quadrant II - Notes

Paper Code: LOCO112 / LOCO312

Module Name: Culpable Homicide and Murder

Module No: 22

Introduction

- Chapter 16 of Indian Penal Code, 1860
- Deals with offences affecting Human Body
- This chapter starts from Sec. 299 to Sec. 377
- Most heinous offenses affecting human body are Murder and next is culpable homicide
- Culpable means criminal
- Homicide means one person kills another person

Homicide is of two types

- Lawful and Unlawful
- Lawful homicide includes act of children, unsound person, intoxicate person, right of self or private defense etc.
- Unlawful homicide includes offense like Murder, Culpable Homicide, suicide, rape, kidnapping, hurt and grievous hurt
- This module deals with unlawful homicide

Introduction

- CH is genus and Murder is Species
- All murders includes CH but not all CH is Murder
- The distinction between CH and Murder has vexed the court for more than century
 - J. Melville was verbally and clearly set the distinction in
- *R v. Govinda (1876) ILR 1 Bom. 342*
 - Prisoner a young man of 18 yrs kicked his wife aged 15 yrs
 - Struck her several blows with his fist on the back
 - These blows have not caused her serious injury

- She fell on the ground and then the accused put one knee on her chest and struck her 2 to 3 blows on her face

Case Laws

- Sessions Judge and the assessors found the prisoner guilty of murder and sentenced him to death
- Before the High Court regarding confirmation there was difference of opinion between the Judges
- The main problem was what offence the prisoner had committed
- The case referred to a third Judge Melville. J
- He compared the provisions of Sec. 299 & 300 of IPC as follows
- Difference between CH and Murder

Intention

Knowledge

- Application of the principles
- Court applied the above principle differences
- To the case at hand R. v. Govinda
- Accordingly the court held that the accused was held guilty of the offence of CH not amount to murder
- He was sentenced to 7 years imprisonment
- It is for the court to decide on the facts of each case
- Whether the offence is Murder or CH not amount to murder

State of AP v. R. Punnaiah and others AIR 1977 SC 45

- The Indian Supreme Court laid down
- The same distinction as laid down in Govinda's case by J. Melville
- In relation to CH and murder
- Apex Court of India laid down the same principles as made by House of Lords

Punishment for Murder

Sec. 302

- Whoever commits murder shall be punished with death or imprisonment for life and shall also liable to fine
- This section provides punishment for murder

- Except in extreme circumstances the normal punishment under this section is death

Punishment for Murder

- Sec. 304
 - This section deals with two kinds of punishment in two different instances two parts – Part I and Part II

Conclusions

- It is very difficult to distinguish between CH and murder
- There is thin line between these two offenses
- The line very narrow, difficult to find out the gap between the two crimes
- Examples and judicial pronouncements will help us to understand the differences
- Due to experience people will find out the differences