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CULPABLE HOMICIDE VS MURDER UNDER BNS: DRAWING THE LEGAL LINE

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INTRODUCTION

Culpable Homicide and Murder both are important and comprehensive topics yet among the most confusing in criminal law. The criminal law in India deals with these particular sections the most. It is also said that a good lawyer is someone who saves their client from murder and reframe the case as culpable homicide instead of murder. Culpable Homicide under BNS is defined in Section 100 whereas Murder is defined under Section 101.

Is every act of killing murder? Or sometimes is it just culpable homicide? There is a very thin line between the two and the actual difference lies itself in the definition of both the sections i.e. 100 and 101.

OFFENCES	SECTION UNDER BNS, 2023
CULPABLE HOMICIDE	SECTION 100
MURDER	SECTION 101
CULPABLE HOMICIDE BY CAUSING THE DEATH OF THE PERSON OTHER THAN PERSON WHOSE DEATH WAS INTENDED	SECTION 102
PUNISHMENT FOR MURDER	SECTION 103
PUNISHMENT FOR MURDER BY LIFE CONVICT	SECTION 104

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PUNISHMENT FOR CULPABLE HOMICIDE	SECTION 105
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CULPABLE HOMICIDE

The word Culpable is derived from the Latin word ‘culpabilis’ which means worthy of blame and the word Homicide is derived from a Latin word “homo” which means a man and “caedere” which means to kill. When combined the definition of culpable homicide is an act of killing a human being.

BNS under CHAPTER VI Section 100 briefly defines Culpable Homicide as; Whoever, causes the death by doing an act with the intention to cause 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. To understand this let us break the definition into various parts and such parts will act as the essentials of culpable homicide:

ESSENTIAL INGREDIENTS OF CULPABLE HOMICIDE

1. Death is caused by a person.
2. Intention of a person to cause the death.
3. Or the intention of causing such an injury which is likely to cause the death of a person
4. The person committing the offence has the knowledge that his act is likely to cause the death of a person.

Example: A gets into a fight with B and punches B, with such severe blow B falls and hits his head and dies.

With the definition there also comes 3 very important explanations provided under BNS

EXPLANATION 1: A PERSON WHO CAUSES BODILY INJURY TO ANOTHER WHO IS LABOURING UNDER A DISORDER, DISEASE OR BODILY INFIRMITY, AND THEREBY ACCELERATES THE DEATH OF THE OTHER, SHALL BE DEEMED TO HAVE CAUSED HIS DEATH.

EXAMPLE: An old man with a heart condition is pushed; he dies of shock.

EXPLANATION 2: WHERE DEATH IS CAUSED BY BODILY INJURY, THE PERSON WHO CAUSES SUCH BODILY INJURY SHALL BE DEEMED TO HAVE CAUSED THE DEATH, ALTHOUGH BY RESORTING TO PROPER REMEDIES AND SKILFUL TREATMENT THE DEATH MIGHT HAVE BEEN PREVENTED.

EXAMPLE: A stabbing victim dies due to delayed surgery — attacker is still responsible.

EXPLANATION 3: THE CAUSING OF THE DEATH OF A CHILD IN THE MOTHER'S WOMB IS NOT HOMICIDE. BUT IT MAY AMOUNT TO CULPABLE HOMICIDE TO CAUSE THE DEATH OF A LIVING CHILD, IF ANY PART OF THAT CHILD HAS BEEN BROUGHT FORTH, THOUGH THE CHILD MAY NOT HAVE BREATHED OR BEEN COMPLETELY BORN.

This means that if a child dies in the womb of the mother, then it does not attract the offence of culpable homicide, but as soon as the baby is born, even any part of his body is out and it is after then the child dies it will amount to culpable homicide.

EXAMPLE: A pregnant woman is attacked. The baby is born alive but dies soon after due to injuries from the attack.

* This **can be culpable homicide**, because the child **was born alive** and then died due to the injury.

PUNISHMENT FOR CULPABLE HOMICIDE

BNS under Section 105

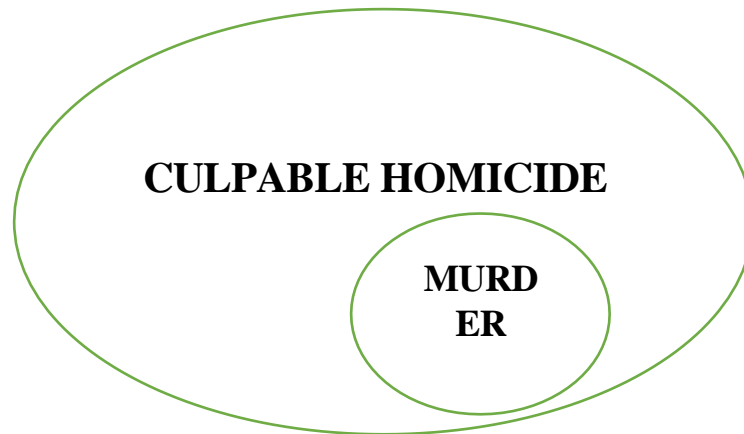
Culpable homicide not amounting to murder is punishable with:

- Life imprisonment, or
- 5 to 10 years of imprisonment, and
- Fine, depending on whether the act was done with intention or just knowledge.

ONE ACT, TWO LABELS: THE THIN LINE BETWEEN CULPABLE HOMICIDE AND MURDER

The question in everyone's mind arises is that what is the difference between culpable homicide and murder, but actually the question itself is wrong or framed wrongly. The reason is in the case of **RAMPAL SINGH V STATE OF U.P. 2012 AIR SCW 4211** it was stated by the honourable court that **Culpable Homicide is the Genus and Murder is the Species.**

Let's understand this with an example; mango is a fruit in this case mango is the species and fruit is the genus, also we can say that every mango is a fruit, but not every fruit is a mango similarly; **Every Murder is Culpable Homicide but, every Culpable Homicide is not Murder.** This analogy, accepted by courts like in **Rampal Singh v. State of U.P. (2012)**, helps simplify how murder is a specific and aggravated form of culpable homicide.



- So now the real question that should be asked is the difference between Culpable homicide amounting to murder and Culpable homicide not amounting to murder.

CULPABLE HOMICIDE AMOUNTING TO MURDER (MURDER)

Section 101 BNS defines Murder as;

- If the act by which the death is caused is done with the intention of causing death; or
- If the act by which the death is caused is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom harm is caused; or
- If the act by which the death is caused is done 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; or
- If the person committing the act by which the death is caused, knows that it is so imminently dangerous that it must, in all probability, cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

WHEN HOMICIDE BECOMES MURDER: SECTION 101 BNS EXPLAINED

Now to understand this in simple context, **MURDER IS AN AGGRAVATED FORM OF CULPABLE HOMICIDE.**

Culpable Homicide becomes murder when it completes all the essential ingredients of culpable homicide (as discussed above) along with the essential ingredients of murder, let's look at the ingredients of Murder;

ESSENTIAL INGREDIENTS OF MURDER

1. Death of a person is caused
2. The Intention is to cause such bodily injury that the offender knows will cause the death
3. Bodily injury is such that even in ordinary course of nature it will cause death
4. The intention is such that in all probability it will cause the death of the person to whom harm is caused



ALL THE INGREDIENTS OF CULPABLE HOMICIDE i.e.

1. Intention of causing death
 2. Bodily injury which is likely to cause death
 3. Knowledge that such act will likely cause death
- Therefore, we can say that murder is the aggravated form of culpable homicide and when the degree of crime is high it is then the culpable homicide amounts to murder.

EXCEPTIONS OF WHEN CULPABLE HOMICIDE IS MURDER

There are 5 exceptions where culpable homicide will not amount to murder such exceptions are as follows;

EXCEPTION 1: GRAVE AND SUDDEN PROVOCATION

When the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos;

- (a) that the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person;
- (b) that the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant;
- (c) that the provocation is not given by anything done in the lawful exercise of the right of private defence.

EXCEPTION 2: PRIVATE DEFENCE EXCEEDED

When the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

EXCEPTION 3: ACT OF A PUBLIC SERVANT

When the offender is a public servant or aids a public servant acting for the advancement of public justice, and exceeds the powers given to him by law and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

EXCEPTION 4: SUDDEN FIGHT

When the death is caused in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.

EXCEPTION 5: CONSENT OF THE PERSON KILLED

When the person whose death is caused, being above eighteen years of age, suffers death or takes the risk of death with his own consent.

PUNISHMENT FOR MURDER

Section 103 defines the punishment for murder as;

- Death or life imprisonment, and fine
- If committed by a group on discriminatory grounds (e.g., caste, religion), all members are liable for the same punishment.

PUNISHMENT WHEN MURDER IS COMMITTED BY LIFE CONVICT

Section 104 BNS defines punishment by life convict as;

- Death or life imprisonment; which shall extend to natural life

JUDICIAL INTERPRETATION: DRAWING THE LINE THROUGH LANDMARK CASES

• R V. GOVINDA (1876) ILR 1 BOM 342

In this case, the accused, Govinda, had a quarrel with his wife and, in a fit of anger, struck her, threw her down, and stamped on her, leading to her death. The court held that although he caused bodily harm, there was no intention to kill and the injury was not sufficient in the ordinary course of nature to cause death. Therefore, it was classified as culpable homicide not amounting to murder, not murder. This case is significant as it helped clarify the thin line between Sections 100 and 101 of the BNS, particularly the role of intention and severity of injury.

• K.M. NANAVATI V. STATE OF MAHARASHTRA (AIR 1962 SC 605)

In this famous case, Nanavati, a naval officer, shot his wife's lover after learning about their affair. He claimed it was a crime of sudden passion (grave and sudden provocation). However, the Supreme Court held that there was a time gap between the discovery and the killing, allowing him to cool off, and the murder was thus not provoked in the legal sense.

The Court ruled it as murder, not culpable homicide, rejecting the protection of Exception 1 to now Section 103 BNS.

• STATE OF MADHYA PRADESH V. JAGDISH (2009) 9 SCC 495

This case involved a sudden, unplanned fight where the accused struck the deceased during a quarrel. The Court found no evidence of premeditation or cruel conduct, and held that the act fell

under Exception 4 to Section 103 BNS — death caused in a sudden fight without undue advantage or cruelty.

The offence was classified as culpable homicide not amounting to murder.

CONCLUSION

The difference between culpable homicide and murder isn't always loud or obvious sometimes, it lies in the quiet details: intent, knowledge, timing. What may seem like a simple act of violence becomes complex when viewed through the lens of law and humanity. Writing this article helped me understand how

deeply the law tries to balance justice with compassion — and that's the kind of lawyer I hope to be one day. One who doesn't just know the law, but feels the weight of it.

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