

CLAT 2019



Law of Crimes

Session 7 : Culpable Homicide & Murder

7.1 Culpable Homicide

- 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.

Illustrations:

(a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(b) A knows Z to be behind a bush. B does not know this. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(c) A, by shooting at a fowl with intent to kill and steal it, kills B who is behind a bush; A did not know that B was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

Ex-1

Principle: A person is guilty of culpable homicide amounting to murder, if the act by which the death is caused is done with the intention of causing death.

Facts: A was hiding behind a bush to catch some rabbits. B also came to the same place for hunting with his gun. When B noticed some movements near the bush, he thought that it was an animal and fired a shot. A was killed by the shot. The police sought to prosecute B for murder.

- (a) B would not be liable for murder, because he did not have the intention to kill A.
- (b) B would be liable for murder because he should have taken care to find out the target before shooting.
- (c) B would not be liable for murder, because it was too much to expect B to identify the target before shooting.

Ex-1 **Answer: (A)****➤ Explanation:**

The principle states that for culpable homicide amounting to murder, the person must have done the act with the intention of causing death. B is not guilty of culpable homicide amounting to murder. There was no intention on the part of B to kill A as he thought that there was an animal and hence he fired a shot. Option (c) is not the correct option as it is not related to the principle given to us.

Ex-2

Principle: A man is guilty of culpable homicide amounting to murder, if the act by which the death is caused is done with the intention of causing murder.

Facts: A is suffering from jaundice and inflammation of the brain and B knows this condition very well. Once they had a heated argument on some issue and A slapped B in anger. B lost his self-control and dealt a severe blow on A's head. As a result, A died. The police sought to prosecute B for murder.

- (a) B was liable for murder, because he knew A's delicate condition.
- (b) B was liable for murder, because he acted in self defense.
- (c) B was not liable for murder because he did not have the intention to kill A.

Ex-2 **Answer: (C)****➤ Explanation:**

Its clear from the facts that B knew A's condition and during a heated argument when A slapped B in anger, B lost his self control and dealt a severe blow on A's head. The key part here is that 'B lost his self-control and dealt a severe blow on A's head'. It is not enough for us to assume that B caused death with the intent to murder because there is no clear plan to cause grievous harm to A. The injury to A took place during a heated argument and hence option (c) is the most appropriate answer.

Ex-3

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.

Facts: 'A' knows 'Z' to be behind a bush. 'B' does not know it. 'A', intending to cause, or knowing it to be likely to cause Z's death, induces 'B' to fire at the bush. 'B' fires and kills 'Z'.

- (a) 'B' has committed the offence of culpable homicide
- (b) 'A' has committed the offence of culpable homicide
- (c) Both 'A' and 'B' have committed the offence of culpable homicide
- (d) None of them has committed the offence of culpable homicide

Ex-3**Answer: (C)**

➤ ***Explanation:***

There are two conditions as per the principle.

- i) An act which resulted in death
- ii) Intent to cause death or injury likely to cause death or knowledge that the act will result in death

In the present case, although B does the act of firing at the bush, it was A who induced him to fire at Z as he knew Z to be behind the bush. It was his act of inducing B that resulted in Z's death. Hence option (b) is the most appropriate answer.

7.2 Murder

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

Illustrations:

- (a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.
- (b) A, knows that Z is laboring under such a disease that a blow is likely to cause his death and strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, does not know that Z is laboring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.
- (c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here, A is guilty of murder, although he may not have intended to cause Z's death.
- (d) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

Ex-4

Principle 1: To be held guilty of an offence, one should have done the act that causes the intended result

Facts: A with the intention to murder B stabs him repeatedly with knife. B is taken to hospital and is found out of danger. Thereafter, due to the negligence of the doctor, B's wounds are infected and he requires surgical intervention. During the surgical operation which required amputation of his injured and infected leg, B died on account of administration of general anesthesia.

- (a) A is guilty of murder of B.
- (b) A is not guilty of murder of B but may be guilty of attempt of murder.
- (c) A is not guilty of murder of B but may be guilty of causing hurt.

Ex-4 **Answer: (B)****➤ Explanation:**

A repeatedly stabs B with a knife. However, B was out of danger after he was taken to the hospital. The key part was that 'due to the negligence of the doctor, B's wounds are infected and he requires surgical intervention.' The principle states that to be guilty of an offence, one should have done the act that causes the intended result. B's death was a result of the doctor's negligence. A did the act with the intention of causing murder but B didn't die because of A's act. Option (c) is not the most appropriate answer as the facts state that A intended to murder B and stabbed him repeatedly with a knife and hence this is a case of attempt to murder.

Ex-5

Principle : Killing is not murder if the offender, whilst deprived of the power of self-control by intense and sudden provocation, causes the death of the person who gave the provocation.

Facts: : 'A', a man found his girlfriend sleeping, in her own bed room, with another man named 'B'. 'A' did not do anything but went to his home, picked a gun and cartridges, returned to the girlfriend's bed room with a loaded gun but found the place empty. After fifteen days he saw his girl friend dining in a restaurant. Without waiting for even a second, 'A' fired five bullets at his girlfriend who died on the spot.

- (a) 'A' did not kill his girlfriend under intense and sudden provocation.
- (b) 'A' could have killed 'B' instead of his girlfriend.
- (c) 'A' could have killed both 'B' and his girlfriend.
- (d) 'A' killed his girlfriend under intense and sudden provocation.

Ex-5 Answer: (A)

➤ ***Explanation:***

In this question, the death was not caused under sudden provocation.

For death to be caused under sudden provocation the following facts must be proved:

- 1) That the offender received provocation;
- 2) That the provocation was intense and sudden;
- 3) That the person was deprived of his power of self control;
- 4) That whilst deprived of his power of self control, he caused the death of the person who gave him provocation;

Here, 'A' can be said to be under sudden and grave provocation while he attempted to kill his girlfriend in the bedroom, but not when he actually killed his girlfriend (when he saw her dining in a restaurant) as there was a gap of fifteen days between the provocation and the actual act. Hence, 'A' is guilty of murder.

7.3

Culpable homicide by causing death of a person other than the person whose death was intended (Doctrine of Transfer of Malice)

- If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is 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.

7.4

Causing Death by Negligence

- Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

7.5

Dowry Death

- Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

**STUDY
MATERIAL/PRACTICE
SHEETS WILL BE
AVAILABLE ON
www.protalentdigital.com**





We Thank You for watching

PROTALENT TEAM

Nitin Parmar
Namrata Parmar

Vishal Bhakhar
Shehzad Vesuna
Chirag Kamani

M 401, Shiv Shakti Complex, Ram Chowk, Ghod Dod Road, Surat

9904788422 | 9374716149

www.protalentdigital.com

Subscribe our YouTube channel

Centres : SURAT ■ BHILWADA ■ UDAIPUR ■ AHMEDABAD