

knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2.—Culpable homicide is not murder if 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.

Illustration

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.—Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, 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 due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation 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.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

Illustration

A, by instigation, voluntarily causes, Z, a person under eighteen years of age to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder."

1102. Culpable homicide by causing death of person other than person whose death was intended.—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.

1103. Punishment for murder.—(1) Whoever commits murder shall be punished with death or imprisonment for life, and shall also be liable to fine.

(2) When a group of five or more persons acting in concert commits murder on the ground of race, caste or community, sex, place of birth, language, personal belief or any other similar ground each member of such group shall be punished with death or with imprisonment for life, and shall also be liable to fine.

COMMENTS

(Based on Notes on Clauses of the Bill)

It seeks to provide punishment for murder which shall be punished with death or imprisonment for life, and also fine. Sub-clause (2) further provides that when a murder is committed by a group of five or more persons acting in concert on the ground of race,

1. Corresponds to Section 301 of the Indian Penal Code (45 of 1860).
2. Corresponds to Section 302 of the Indian Penal Code (45 of 1860).

caste or community, sex, place of birth, language, personal belief or any other similar ground each member of such group shall be punished with death or with imprisonment for life and shall also be liable to fine.

¹104. Punishment for murder by life-convict.—Whoever, being under sentence of imprisonment for life, commits murder, shall be punished with death or with imprisonment for life, which shall mean the remainder of that person's natural life.

COMMENTS

(Based on Notes on Clauses of the Bill)

It seeks to provide that whoever, being under sentence of imprisonment for life, commits murder, shall be punished with death or with imprisonment for life, which shall mean the remainder of that person's natural life.

²105. Punishment for culpable homicide not amounting to murder.—Whoever commits culpable homicide not amounting to murder, shall be punished with imprisonment for life, or imprisonment of either description for a term which shall not be less than five years but which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years and with fine, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

³106. Causing death by negligence.—(1) Whoever causes 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 five years, and shall also be liable to fine; and if such act is done by a registered medical practitioner while performing medical procedure, he shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Explanation.—For the purposes of this sub-section, “registered medical practitioner” means a medical practitioner who possesses any medical qualification recognised under the National Medical Commission Act, 2019 (30 of 2019) and whose name has been entered in the National Medical Register or a State Medical Register under that Act.

(2) Whoever causes death of any person by rash and negligent driving of vehicle not amounting to culpable homicide, and escapes without reporting it to a police officer or a Magistrate soon after the incident, shall be punished with imprisonment of either description of a term which may extend to ten years, and shall also be liable to fine.

COMMENTS

(Based on Notes on Clauses of the Bill)

It seeks to provide that whoever causes 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 five years and shall also be liable to fine. It further provides that whoever causes death of any person by rash and negligent driving of vehicle not amounting to culpable homicide and escapes without reporting it to a police officer or a Magistrate soon after the incident, shall be punished with

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1. Corresponds to Section 303 of the Indian Penal Code (45 of 1860).
 2. Corresponds to Section 304 of the Indian Penal Code (45 of 1860).
 3. Corresponds to Section 304A of the Indian Penal Code (45 of 1860).