Culpable Homicide and Murder

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Problem Solving Exercise

(1) A saw X lying motionless on the bedroom floor of his wife B's 10th floor apartment. Believing X to be dead and fearing his wife's involvement in the murder, A pushed X out if the window of the room to give an impression of suicide. X died due to multiple fractures and shock on account of the fall from the 10th floor. Discuss the liability of A? (REFERENECE- NAWAZ V STATE- NO INTENTION OT KNOWLEDGE OF KILLING, HE THOUGHT ALREADY DEAD PERSON)

(2) A ravished his private secretary in a state of unconsciousness by administering a strong dose of chloroform. She failed to regain her consciousness and died. The doctor's opinion was that mere administration of chloroform was not sufficient to cause death in the ordinary course, but the shock of forcible ravishment on an unconscious person may at times lead to irreversible coma. Discuss the liability of A? NO INTENTION OR KNOWLEDGE OF KILLING + ORDINARY COURSE OF CIRCUMSTANCES, NO ONE WOULD DIE

State of Rajasthan v. Kanhaiya lal 2019 SC

The accused gave the blow by an axe, a deadly weapon and that too on the vital part of the body i.e. head. The main reason given by the HC while converting the conviction from Sec 302 to Sec 304 Part I of IPC i.e. it was a case of single blow.

But the SC observed that there is no fixed rule that whenever a single blow is inflicted, Sec 302 would not be attracted.

A single blow on the vital part of the body like head and that too by deadly weapon axe and used with force which proved to be fatal was sufficient to hold that it was a case of murder within the definition of sec 300 of IPC.

Exceptions to Sec 300 IPC

The following conditions must be complied with in order to invoke the benefits of this clause:-

(1) The deceased must have given provocation to the accused.

(2) The provocation must be grave.

(3) The provocation must be sudden.

(4) The offender, by reason of the said provocation, should have been deprived of his power of self-control.

(5) The accused killed the deceased during the continuance of the deprivation of the power of self-control.

The Supreme Court in **K.M. Nanavati vs State of Maharashtra** (AIR 1962 SC 605), has extensively discussed the law relating to provocation in India and observed that –

The test of "grave and sudden" provocation is whether a reasonable man, belonging to the same class to society as accused, placed in the situation in which the accused was placed would be so provoked as to lose his self-control.

- Words and gestures may also, under certain circumstances, cause grave and sudden provocation to an accused so as to bring his act under exception.
- The mental background created by the previous act of the victim may be taken into consideration in ascertaining whether the subsequent act caused grave and sudden provocation for committing the offence; and

- The fatal blow should be clearly traced to the influence of passion arising from the provocation and not after the passion has cooled down by lapse of time, or otherwise giving the accused room and scope for premeditation and calculation.

- In KM Nanavati, the court also made reference to **“The scope of doctrine of provocation”** as asserted by Viscount Simon in **Mancini v. Director of Public Prosecutions**, [1942] AC 1, which states thus:
- “Not all provocation will not commute the crime of murder to that of manslaughter. He further states that the provocation shall be such as to temporarily deprive the offender of his power of self-control and it is the result of which he commits the unlawful act which causes death.”

- Furthermore, by relying upon the ruling of **Court of Criminal Appeal in Rex v. Lesbini,** [1914] 3 KB 1116, wherein it was expressed that the test shall be applied on a reasonable man so that a person who is usually excitable or pugnacious is not entitled to rely on provocation which would not have led an ordinary person to act as he did.
- Also, the court in the above judgment provided for considerations of particular importance while applying the test, it includes:
- To consider whether a sufficient interval has elapsed since the provocation to allow a reasonable man to cool;
- The mode of resentment must bear a reasonable relationship to the provocation if the offence is to be reduced to manslaughter.

List of Cases:

K.M. Nanavati vs State of Maharashtra (AIR 1962 SC 605)

Muthu vs State of Tamil Nadu (AIR 2008 SC)

Nawaz v. The State, 2019 SC

Kandaswamy Ramaraj v. State by Inspector of Police, CBID 2019 SC

- The Supreme Court in **Muthu vs State of Tamil Nadu** (AIR 2008 SC 1) held that constant harassment may lead to deprivation of the power of self-control amounting to a grave and sudden provocation.