2025:CGHC:42335-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 242 of 2023

Ramdas Lakda S/o Sarodhan Aged About 32 Years R/o Village Belbahara, Mauharipara, Chowki Koda, Police Station Jhagrakhand, District Korea Chhattisgarh

... Appellant(s)

versus

State Of Chhattisgarh Through The P S Jhagrakhand, District Korea Chhattisgarh

... Respondent(s)

For Appellant(s)	:	Mr. Vivek Sharma, Advocate
For Respondent(s)	:	Mr. Nitansh Jaiswal, Panel Lawyer

Hon'ble Shri Ramesh Sinha, Chief Justice and
Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on board

***Per* Ramesh Sinha, C.J.**

21.08.2025

1. This criminal appeal filed by the appellant-accused under Section 374(2) of Cr.P.C. is directed against the impugned judgment of conviction and order of sentence dated 30.11.2022, passed by the

learned Second Additional Sessions Judge, Manendragarh, District- Korea (C.G.) in Sessions Trial No. 61/2017, whereby the appellant-accused has been convicted for offence under Section 302 of the IPC and sentenced to undergo rigorous imprisonment for life and fine of Rs.500/-, in default of payment of fine, to further undergo additional rigorous imprisonment for 7 days.

2. Case of the prosecution, in brief, is that Sumitra was married as per social customs with Ramdas of Village Belbahra, Mauharipara, they have two children from their married life, a boy Deepak aged about 7 years, a girl aged about 4 years. One of Sumitra's sisters was also married to Mangal Say of Mauharipara in village Belbahara. Both their houses are nearby. Ramdas did not do any work and used to drink alcohol. When Sumitra stopped him from doing this, he used to fight and beat her almost everyday. On 20/03/2017 at about 9 PM, on hearing loud cries and screams from Sumitra's house, Mangal Say went running to her house and saw Ramdas standing in the courtyard of his house in front of the kitchen with a *tangi* in his hand. Ramdas's father Sarodhan and grandfather Supet were also standing there. When Mangal Say asked Sarodhan and Supet, they told him that Ramdas had killed his wife Sumitra by hitting her with a *tangi* in the kitchen. Sumitra's dead body was lying in the kitchen. Mangal Say went inside the kitchen and saw that Sumitra was lying dead on the floor near the kitchen stove. There was a long deep cut mark on her neck. A lot of blood had come out of her neck and

had flowed on her face and floor. Seeing this, Mangal Say got very scared and ran to his house and told everything to his wife and also told everything to Bhanwar Singh, brother of the village Sarpanch and went with him to register a report of the incident at the police post at 1.50 pm that night. Based on his report, Rural Murder Intimation No. 0/2017 under Section 174 Cr.P.C. was registered and Rural Complaint No. 0/2017 under Section 302 IPC was filed against Ramdas and the matter was taken into investigation/investigation.

3. On the basis of rural intimation registered in outpost Koda on Rural Intimation No. 0/2017, in police station Jhagrakhand, Merg Intimation No. 8/2017 was registered and on the basis of rural complaint registered in outpost Koda, Crime No. 49/2017 was registered in police station Jhagrakhand. After information, on the night of the incident, the in-charge of the police post Koda, Assistant Sub-Inspector Dharmendra Banerjee, along with constable No. 49, reached the spot. Due to darkness and night, it was not possible to inspect the spot and the dead body. To keep the spot and the dead body safe, the police locked and sealed it in the presence of witnesses and remained deployed at the spot for security. The next day on 21/03/2017 at 10.50 a.m., the lock of the spot was removed and the seal was removed. The panchanama proceedings were conducted by giving notice to the witnesses to be present in the panchanama proceedings of Sumitra's body. On the basis of the memorandum statement of Ramdas, property was

seized from him. During investigation/investigation, Ramdas was found to have committed a crime, so he was arrested on 21/03/2017 and produced in the court of Judicial Magistrate First Class, Manendragarh on 22/03/2017, his first remand was obtained and after necessary investigation, charge-sheet was filed against him on 29/05/2017. Since the case was triable by the Sessions Court, the case was surrendered to the Sessions Court on 30/05/2017.

4. When the charge-sheet under Section 302 of the Indian Penal Code, 1860 was read out to the accused, he denied committing the crime. The accused was cross examined under Section 313 Cr.P.C. In the cross examination, he stated that he was innocent and that he had been falsely implicated. When the accused was presented in defence, he expressed that he would not give defence evidence.

5. The trial Court upon appreciation of oral and documentary evidence available on record, by its judgment dated 30.11.2022, convicted the appellant for offence under Section 302 of the IPC and sentenced him as aforementioned, against which, this criminal appeal has been filed.

6. Mr. Vivek Sharma, learned counsel appearing for the appellant submits that the learned trial Court is absolutely unjustified in convicting the appellant for offence under Section 302 of the IPC, as the prosecution has failed to prove the offence beyond

reasonable doubt. He further submits that if the case of the prosecution is accepted as it is, then also the appellant is said to have caused injuries to the deceased in spur of moment and inebriated condition. There was no motive or intention on the part of the appellant to cause death of the deceased and only on account of sudden quarrel, under heat of passion and in anger, in inebriated condition, the appellant caused injuries to the deceased, which caused his death. Learned counsel for the appellant urged that: (a) there was no premeditation; (b) the incident ensued during a sudden domestic quarrel; (c) the appellant was inebriated; (d) the assault consisted of a single blow; and (e) intention to cause death is absent; at best knowledge can be imputed. Therefore, the case of the present appellant falls within the purview of Exception 4 to Section 300 of IPC and the act of the appellant is culpable homicide not amounting to murder and, therefore, it is a fit case where the conviction of the appellant for offence under Section 302 of the IPC can be converted/altered to an offence under Section 304 (Part-I or Part-II) of the IPC. Hence, the present appeal deserves to be allowed in full or in part.

7. On the other hand, learned State counsels for the respondent/State supports the impugned judgment and submits that the appellant has caused murder of deceased by deadly attacking her with *tangia* due to which, she succumbed to her injuries, therefore, the learned trial Court has rightly convicted the

appellant under Section 302 of the IPC and it is not a case where the appellant's conviction under Section 302 of the IPC can be altered/converted under Section 304 Part-I or Part-II IPC and as such, the instant criminal appeal deserves to be dismissed.

8. We have heard learned counsel appearing for the parties, considered their rival submissions made herein-above and also went through the records with utmost circumspection.

9. The first question for consideration would be whether the deceased died under unnatural circumstances ?

10. In this regard, Dr. S.K. Tiwari (PW-16) states that the application for postmortem of Sumitra was sent by the outpost in-charge Koda to the Community Health Center, Manendragarh (Ex.P-28). He further states that the postmortem examination was started by Dr. Dharmendra Banerjee at 2.00 pm on 21/03/2017. In the external examination of the dead body, it was found that the deceased was wearing a blue colored saree and brown colored blouse, on which blood stains were present, there was an incised wound of two and a half by one inch on the left side of the neck of the deceased, which was near the oblique ear. It was present from the back to the joint of the chest and neck. The depth of the wound was so much that the blood vessels, windpipe and food pipe were also cut. The depth was till the spinal cord of the neck, the wound appeared to have been caused by a sharp weapon. The death of the deceased was due to excessive bleeding due to

the serious and deep injury present in the neck which was within 15 to 20 hours of death and was of homicidal nature, the postmortem report is Exhibit P-29. The statements of this witness are confirmed by the postmortem report Exhibit P-29.

11. Thus, the report (Ex.P-29) taken by Dr. Dharmendra Singh is irrefutable. The witnesses who reached the spot immediately after the incident and the witnesses of the dead body panchanama, Mangal Say (PW-1), Sarodhan (PW-2), Smt. Santoshi (PW-3), Supet Lakra (PW-4), Santram (PW-5), Samaru Lal (PW-1), Pratap Singh (PW-10) also said that they had seen a cut on the neck of the deceased and excessive bleeding at the spot of incident, which proves that the nature of death of Smt. Sumitra was homicidal.

12. Now, the question for consideration would be whether the accused-appellant herein is the perpetrator of the crime in question.

13. In this regard, Mangal Sai (PW-1) stated that on the day of the incident he was in his house and at about 9.00 pm he heard a loud cry, then he ran to Sumitra's house, reached her courtyard and saw that Ramdas was standing near the kitchen with a *tangi* in his hand, blood was visible on the *tangi*, Ramdas's father Sarodhan and his elder father Supet were also standing in the courtyard, he asked them what happened, then they told that Ramdas has killed his wife with the *tangi*, Sumitra was lying dead

in the kitchen, Ramdas had cut Sumitra's neck with the *tangi*, a lot of blood was flowing from the cut part of the neck, seeing which he got scared and ran to his house and told his wife, after that he told the whole thing to his neighbor Santram and went with him to the Sarpanch's house. Sarpanch was not at home, so his elder brother Bhanwar, after telling the entire incident to Singh, he went with him to the police post Koda and reported. On the basis of his report, Murga Intimation (Ex.P-2) and Rural Complaint (Ex.P-1) were registered at the police post Koda. The statements of this witness have been supported by Sarodhan (PW-2), Mrs. Santoshi (PW-3), Supet Lakra (PW-4), Santram (PW-5), Bhanwar Singh (PW-6), Danish Sheikh (PW-13). The statements of these witnesses are confirmed by Rural Merg Intimation (Ex.P-2) and Rural Complaint (Ex.P-3).

14. This fact was irrefutable in the cross-examination, which proves that on the night of the incident at about 9.00 pm he heard the sound of crying and shouting from Ramdas's house, and when he went to his house to see, deceased Sumitra was lying dead in the kitchen. On asking Ramdas's father Sarodhan and grandfather Supet, they told that Ramdas had killed his wife Sumitra with a *tangia*, he went to the Koda outpost along with Bhanwar Singh and gave this information, on his report a rural death intimation and rural complaint were registered.

15. Danish Sheikh (PW-13) stated that on 21/03/2017 at 3.00 pm, the

outpost in-charge Koda Assistant Sub-Inspector Dharmendra Banerjee prepared the Panchnama (Ex.P-6) regarding sealing the kitchen accident site of the house of deceased Sumitra located in village Belbahra, Mauharipara. The statements of this witness have been supported by independent witnesses of the Panchnama Mangal Say (PW-1), Samaru Ram (PW-1), Pratap Singh (PW-10). The statements of these witnesses are confirmed by Exhibit P-6. This fact is irrefutable, which proves that the incident took place on 20/03/2017 at around 9.00 pm. When the incident was reported at 1.30 am on 21/03/2017 at the Koda Police Outpost, the in-charge of the Koda Police Outpost along with his staff reached the spot at night. Since it was not possible to take action at night, the spot was sealed and Panchnama (Exhibit P-6) was prepared.

16. Dr. S.K. Tiwari (PW-16) stated that Dr. Dharmendra Singh had sealed the sari, blouse, clothes and blood sample of the deceased and handed them over to the constable. Anil Dubey (PW-2) has supported the statements of this witness and said that the sealed material given to him by the medical officer was seized as per Exhibit P-11 when presented before the outpost in-charge Koda. In the postmortem report and postmortem report, it is mentioned that the deceased was wearing a blue coloured saree and a brown coloured blouse. Hence, after the postmortem of the dead body, the saree, blouse worn by the deceased and her blood sample have been seized as per Exhibit P-11.

17. Danish Sheikh (PW-13) stated that on 21/03/2017 at 16.00 hrs., when the accused Ramdas was taken into custody by the outpost in-charge Dharmendra Banerjee and questioned in front of witnesses Pratap Singh, Samaru, he gave a memorandum statement (Ex.P-12) that he had hit his wife Sumitra on the neck below the head with an iron *tangi*, had kept the iron *tangi* hidden in the house inside his house out of fear, and that he would go and bring it out. The statements of this witness have been supported by independent witnesses Samaru Lal (PW-9), Pratap Singh (PW-10) of the memorandum.

18. Danish Sheikh (PW-13) has stated that on 21/03/2017 at 17.30 hrs., accused Ramdas took out from his house Mauharipara Belbahra an iron *tangi* which had blood on it, which had a brown coloured bamboo cane attached to it, whose total length is 35 inches, the thickness of the upper part of which is six and a half cm and the thickness near the pass is about 7 cm, which has 3 knots and 4 edges, the length of the iron *tangi* by its width is 1 inch, the total length of the tangi is 12 cm, the total length of the pass 5 cm from top to bottom, the length of the *tangi* from the edge to the edge is 7 cm. On presenting this, it was seized in front of witnesses by the outpost in-charge Koda Dharmendra Banerjee as per Exhibit P-13. The statements of this witness have been supported by independent witnesses of seizure, Samaru Lal (PW-9), Pratap Singh (PW-10). The statements of these witnesses are confirmed by seizure sheet Exhibit P-13. D.R. Tandon (PW-14)

has also said that the application for query of the seized *tangi* was given to the Community Health Center, Manendragarh and Dr. S.K. Tiwari (PW-16) has also said that the seized *tangi* was presented to Dr. Dharmendra Singh for query, which proves that the *tangi* was seized from the accused Ramdas on the basis of his memorandum.

19. Dr. S.K. Tiwari (PW-16) has stated that on 25/04/2017, a written complaint was received by Dr. Dharmendra Singh to query the seized *tangi* and give a report. Dr. Dharmendra Singh examined and gave a report as Exhibit P-30. A report has been given that the deceased may have died due to the seized *tangi*, this fact is not refuted in the cross-examination, which proves that on application for query of the seized *tangi*, Dr. Dharmendra Singh gave a report as Exhibit P-30.

20. Smt. Santoshi (PW-3) has stated in her cross-examination that Sumitra used to tell her that after drinking alcohol the accused used to fight and beat her, which shows that after drinking alcohol the accused used to fight and beat his wife Sumitra.

21. Immediately after the incident, the accused's father Sarodhan and his elder father Supet Lakra were the first to reach the scene of the incident. Sarodhan (PW-2) has stated in his testimony that on the day of the incident, he had dinner and slept in his house at night. His brother Supet Lakra was also in his house. Ramdas and his wife Sumitra were in a separate room. At about 11 o'clock in

the night, on hearing a loud sound, he came out of his room and went near the door of Ramdas's room and forcibly opened it. He saw that Sumitra was lying on the ground, her throat was cut and blood was oozing out. His son Ramdas was standing at the side with a sickle in his hand. Sumitra had died. Then he came out and raised an alarm. Mangal Sara (PW-1) has supported the statement of this witness and said that at night when he was going out of his house, he saw that he had come out of the house and was crying When he was there, he heard a loud cry. He rushed to Sumitra's house. When he reached the courtyard, he saw that Ramdas was standing near the kitchen with a sickle in his hand. Blood was visible on the sickle. Sumitra was lying dead in the kitchen. Sumitra's neck was bleeding profusely. Ramdas had cut Sumitra's neck with a sickle. Immediately after the incident, the accused's father Sarodhan and Mangal Sai saw the accused with a *tangia* in his hand. The accused was in his room with his wife. Hence, all the circumstances of the case indicate that the accused himself killed his wife by hitting her with a *tangia*.

22. The aforesaid finding brings us to the next question for consideration, whether the case of the appellant is covered within Exception 4 to Section 300 of the IPC vis-a-vis culpable homicide not amounting to murder and his conviction can be converted to Section 304 Part-I or Part-II of the IPC, as contended by learned counsel for the appellant ?

23. The Supreme Court in the matter of **Sukhbir Singh v. State of Haryana**[1] has observed as under:-

> "21. Keeping in view the facts and circumstances of the case, we are of the opinion that in the absence of the existence of common object Sukhbir Singh is proved to have committed the offence of culpable homicide without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and did not act in a cruel or unusual manner and his case is covered by Exception 4 of Section 300 IPC which is punishable under Section 304 (Part I) IPC. The finding of the courts below holding the aforesaid appellant guilty of offence of murder punishable under Section 302 IPC is set aside and he is held guilty for the commission of offence of culpable homicide not amounting to murder punishable under Section 304 (Part I) IPC and sentenced to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.5000. In default of payment of fine, he shall undergo further rigorous imprisonment for one year."

24. Further, the Supreme Court in the matter of **Arjun v. State of Chhattisgarh**[2] has elaborately dealt with the issue and observed in paragraphs 20 and 21, which reads as under :-

> "20. To invoke this Exception 4, the requirements that are to be fulfilled have been laid down by this Court in

1 (2002) 3 SCC 327

2 (2017) 3 SCC 247

Surinder Kumar v. UT, Chandigarh [(1989) 2 SCC 217 : 1989 SCC (Cri) 348], it has been explained as under : (SCC p. 220, para 7)

> “7. To invoke this exception four requirements must be satisfied, namely, (I) it was a sudden fight; (ii) there was no premeditation; (iii) the act was done in a heat of passion; and (iv) the assailant had not taken any undue advantage or acted in a cruel manner. The cause of the quarrel is not relevant nor its I relevant who offered the provocation or started the assault. The number of wounds caused during the occurrence is not a decisive factor but what is important is that the occurrence must have been sudden and unpremeditated and the offender must have acted in a fit of anger. Of course, the offender must not have taken any undue advantage or acted in a cruel manner. Where, on a sudden quarrel, a person in the heat of the moment picks up a weapon which is handy and causes injuries, one of which proves fatal, he would be entitled to the benefit of this exception provided he has not acted cruelly.”

21. Further in Arumugam v. State [(2008) 15 SCC 590 : (2009) 3 SCC (Cri) 1130], in support of the proposition of law that under what circumstances Exception 4 to Section 300 IPC can be invoked if death is caused, it has been explained as under : (SCC p. 596, para 9)

> “9. …. '18. The help of exception 4 can be invoked if death is caused (a) without premeditation; (b) in a sudden fight; (c) without the offender's having taken undue advantage or acted in a cruel or unusual manner; and (d) the fight must have been with the person killed. To bring a case within Exception 4 all the ingredients mentioned in it must be found. It is to be noted that the “fight” occurring in Exception 4 to Section 300 IPC is not defined in the Penal Code, 1860. It takes two to make a fight. Heat of passion requires that there must be no time for

> the passions to cool down and in this case, the parties had worked themselves into a fury on account of the verbal altercation in the beginning. A fight is a combat between two or more persons whether with or without weapons. It is not possible to enunciate any general rule as to what shall be deemed to be a sudden quarrel. It is a question of fact and whether a quarrel is sudden or not must necessarily depend upon the proved facts of each case. For the application of Exception 4, it is not sufficient to show that there was a sudden quarrel and there was no premeditation. It must further be shown that the offender has not taken undue advantage or acted in cruel or unusual manner. The expression "undue advantage" as used in the provisions means "unfair advantage".

25. In the matter of **Arjun** (supra), the Supreme Court has held that if there is intent and knowledge, the same would be case of Section 304 Part-I of the IPC and if it is only a case of knowledge and not the intention to cause murder and bodily injury, then same would be a case of Section 304 Part-II of the IPC.

26. Further, the Supreme Court in the matter of **Rambir v. State (NCT of Delhi)**[3] has laid down four ingredients which should be tested to bring a case within the purview of Exception 4 to Section 300 of IPC, which reads as under:

> "**16.** A plain reading of Exception 4 to Section 300 IPC shows that the following four ingredients are required:
>
> (i) There must be a sudden fight;
>
> (ii) There was no premeditation;
>
> (iii) The act was committed in a heat of passion;

3 (2019) 6 SCC 122

and

(iv) The offender had not taken any undue advantage or acted in a cruel or unusual manner."

27. The distinction between intention and knowledge in the context of Section 299 and Section 300 IPC is crucial in determining the culpability of the appellant. Intention denotes a conscious desire to bring about a particular result, whereas knowledge implies awareness that a particular consequence is likely to ensue. In the present case, while the appellant's actions were undoubtedly culpable, the circumstances suggest that he did not intend to cause the death of his wife. However, it is evident that he knew that his actions were likely to cause harm.

28. Exception 4 applies where (i) the act is committed without premeditation, (ii) in a sudden fight, (iii) in the heat of passion upon a sudden quarrel, and (iv) without the offender having taken undue advantage or acted in a cruel or unusual manner. The Hon'ble Supreme Court has consistently applied Exception 4 in single-blow/limited-blow cases arising from sudden altercations lacking pre-planning, while carefully examining the seat of injury, weapon, force, and conduct before/after the event.

29. The dividing line between Part I and Part II of Section 304 turns on mens rea: Part I applies when there is intention to cause death or intention to cause such bodily injury as is likely to cause death; Part II applies where intention is absent, but the accused had

knowledge that death was likely.

30. Reverting to the facts of the present case, the following facts are salient:

- *No premeditation or prior motive has been proved by the prosecution.*
- *The incident occurred inside the home following a sudden quarrel late at night.*
- *The appellant was inebriated; the record contains evidence that alcohol use triggered quarrels (PW-3).*
- *There was one fatal blow with a household tangi; there is no evidence of repeated assault or pursuit.*

31. Now coming to the application of Exception 4, to the present facts, it is observed as follows:-

a). Suddenness & No premeditation: The quarrel ignited over drinking issue of the appellant at the house. There is no evidence of prior animus, surveillance, or procurement of weapon in advance.

b). Heat of Passion: Verbal altercation escalated quickly; the blow followed immediately; there is no cooling-off interval.

c). No undue advantage: The parties were similarly placed and there is no evidence that the appellant exploited a helpless victim or continued assault after incapacitation.

d). No cruel/unusual manner: The evidence discloses limited

blow and absence of stomping, repeated stabbing or torture-like conduct.

32. On these facts, the matrix of Exception 4 to Section 300 is prima facie satisfied, subject to the Court's assessment on "undue advantage" and cruelty. The baseline offence is culpable homicide, not murder.

33. Now when the matrix of Exception 4 of Section 300 is prima facie satisfied, the next question for consideration is whether the case falls under Section 304 Part I or Part II?

34. The medical opinion terms the injury sufficient in the ordinary course of nature to cause death. The blow was aimed at neck. Even in Exception 4 cases, where the seat of injury is vital and the force is forceful, Courts often infer intention to cause bodily injury likely to cause death and tends toward Part I. Further, where the seat is non-vital and fatality is by complication, Courts tend towards Part II (knowledge). However, each case turns on the manner of assault and appellant's conduct.

35. Here, the combination of (i) targeted strike to neck, (ii) the depth/force evidenced by internal damage, and (iii) the doctor's opinion that the injury was sufficient to cause death, allows a safe inference of intention to cause such bodily injury as is likely to cause death. At the same time, the absence of premeditation and the sudden quarrel bring the case out of Section 302 and within Section 304 Part I via Exception 4.

36. The Court is, therefore, satisfied that 304 Part I and not 304 Part II correctly captures the culpability.

37. The Hon'ble Apex Court in the matter of ***Anbazhagan v. State (2023 INSC 632)***, readily the matrix of Exception 4 of Section 300. Relevant paras of the judgment are reproduced hereinbelow:-

> *20. The word "intent" is derived from the word archery or aim. The "act" attempted to must be with "intention" of killing a man.*
>
> *21. Intention, which is a state of mind, can never be precisely proved by direct evidence as a fact; it can only be deduced or inferred from other facts which are proved. The intention may be proved by res gestae, by acts or events previous or subsequent to the incident or occurrence, on admission. Intention of a person cannot be proved by direct evidence but is to be deduced from the facts and circumstances of a case. There are various relevant circumstances from which the intention can be gathered. Some relevant considerations are the following:-*
>
> *1. The nature of the weapon used.*
>
> *2. The place where the injuries were inflicted.*
>
> *3. The nature of the injuries caused.*
>
> *4. The opportunity available which the accused gets.*
>
> *22. In the case of Smt. Mathri v. State of Punjab, AIR 1964 SC 986, at page 990, Das Gupta J. has explained the concept of the word 'intent. The relevant observations are made by referring to the observations made by Batty J. in the decision Bhagwant v. Kedari, I.L.R. 25 Bombay 202. They are*

as under:-

> *"The word "intent" by its etymology, seems to have metaphorical allusion to archery, and implies "aim" and thus connotes not a casual or merely possible result-foreseen perhaps as a not improbable incident, but not desired-but rather connotes the one object for which the effort is made-and thus has reference to what has been called the dominant motive, without which, the action would not have been taken."*

23. In the case of Basdev v. State of Pepsu, AIR 1956 SC 488, at page 490, the following observations have been made by Chadrasekhara Aiyar J.:-

> *"6. Of course, we have to distinguish between motive, intention and knowledge. Motive is something which prompts a man to form an intention and knowledge is an awareness of the consequences of the act. In many cases intention and knowledge merge into each other and mean the same thing more or less and intention can be presumed from knowledge. The demarcating line between knowledge and intention is no doubt thin but it is not difficult to perceive that they connote different things. Even in some English decisions, the three ideas are used interchangeably and this had led to a certain amount of confusion."*

24. In para 9 of the judgment, at page 490, the observations made by Coleridge J. in Reg. v.

Monkhouse, (1849) 4 COX CC 55(C), have been referred to. They can be referred to, with advantage at this stage, as they are very illuminating:-

> *"The inquiry as to intent is far less simple than that as to whether an act has been committed, because you cannot look into a man's mind to see what was passing there at any given time. What he intends can only be judged of by what he does or says, and if he says nothing, then his act alone must guide you to your decision. It is a general rule in criminal law, and one founded on common sense, that juries are to presume a man to do what is the natural consequence of his act. The consequence is sometimes so apparent as to leave no doubt of the intention. A man could not put a pistol which he knew to be loaded to another's head, and fire it off. without intending to kill him; but even there the state of mind of the party is most material to be considered. For instance, if such an act were done by a born idiot, the intent to kill could not be inferred from the act. So if the defendant is proved to have been intoxicated, the question becomes a more subtle one; but it is of the same kind, namely; was he rendered by intoxication entirely incapable of forming the intent charged?"*

25. Bearing in mind the test suggested in the aforesaid decision and also bearing in mind that our legislature has used two different terminologies 'intent' and 'knowledge' and separate punishments are provided for an act committed with an intent to

cause bodily injury which is likely to cause death and for an act committed with a knowledge that his act is likely to cause death without intent to cause such bodily injury as is likely to cause death, it would be proper to hold that 'intent' and 'knowledge' cannot be equated with each other. They connote different things. Sometimes, if the consequence is so apparent, it may happen that from the knowledge, intent may be presumed. But it will not mean that 'intent' and 'knowledge' are the same. 'Knowledge' will be only one of the circumstances to be taken into consideration while determining or inferring the requisite intent.

26. In the case In re ***Kudumula Mahanandi Reddi,*** *AIR 1960 AP 141, also the distinction between 'knowledge' and 'intention' is aptly explained. It is as under:-*

> *"Knowledge and intention must not be confused.*
>
> *17. …… Every person is presumed to intend the natural and probable consequences of his act until the contrary is proved. It is therefore necessary in order to arrive at a decision, as to an offender's intention to inquire what the - natural and probable consequences of his acts would be. Once there is evidence that a deceased person, sustained injuries which were sufficient in the ordinary course of nature to cause death, the person who inflicted them could be presumed to have intended those natural and probable consequences. His offence would fall under the third head of sec.*

300, I.P.C.

18. …..A man's intention has to be inferred from what he does. But there are cases in which death is caused and the intention which can safely be imputed to the offender is less grave. The degree of quilt depends upon intention and the intention to be inferred must be gathered from the facts proved. Sometimes an act is committed which would not in an ordinary case inflict injury sufficient in the ordinary course of nature to cause death, but which the offender knows is likely to cause the death. Proof of such knowledge throws light upon his intention.

19. ...Under sec. 299 there need be no proof of knowledge, that the bodily injury intended was likely to cause death. Before deciding that a case of culpable homicide amounts to murder, there must be proof of intention sufficient to bring it under Sec.300. Where the injury deliberately inflicted is more than merely likely to cause death' but sufficient in the ordinary course of nature to cause death, the higher degree of quilt is presumed."

It has been further observed therein as under:-

"26. ... Where the evidence does not disclose that there was any intention, to cause death of the deceased but it was clear that the accused had the knowledge that their acts were likely to cause death the accused can be held guilty under the second part of sec. 304, I.P.C. The contention that in order to bring the case under

the second part of sec. 304. I.P.C. it must be brought within one of the exceptions to sec 300, I.P.C. is not acceptable."

27. Thus, while defining the offence of culpable homicide and murder, the framers of the IPC laid down that the requisite intention or knowledge must be imputed to the accused when he committed the act which caused the death in order to hold him guilty for the offence of culpable homicide or murder as the case may be. The framers of the IPC designedly used the two words 'intention' and 'knowledge', and it must be taken that the framers intended to draw a distinction between these two expressions. The knowledge of the consequences which may result in the doing of an act is not the same thing as the intention that such consequences should ensue. Except in cases where mens rea is not required in order to prove that a person had certain knowledge, he "must have been aware that certain specified harmful consequences would or could follow." (Russell on Crime, Twelfth Edition, Volume 1 at page 40).

28. This awareness is termed as knowledge. But the knowledge that specified consequences would result or could result by doing an act is not the same thing as the intention that such consequences should ensue. If an act is done by a man with the knowledge that certain consequences may follow or will follow, it does not necessarily mean that he intended such consequences and acted with such intention. Intention requires something more than a mere foresight of the consequences. It requires a

purposeful doing of a thing to achieve a particular end. This we may make it clear by referring to two passages from leading text-books on the subject. Kenny in his Outlines of Criminal Law, Seventeenth Edition at page 31 has observed:-

> *"To intend is to have in mind a fixed purpose to reach a desired objective; the noun 'intention' in the present connexion is used to denote the state of mind of a man who not only foresees but also desires the possible consequences of his conduct..... It will be noted that there cannot be intention unless there is also foresight, since a man must decide to his own satisfaction, and accordingly must foresee, that to which his express purpose is directed..... Again, a man cannot intend to do a thing unless he desires to do it."*

29. Russell on Crime, Twelfth Edition, 1st Volume at page 41 has observed:-

> *"In the present analysis of the mental element in crime the word "intention" is used to denote the mental attitude of a man who has resolved to bring about a certain result if he can possibly do so. He shapes his line of conduct so as to achieve a particular end at which he aims..... Differing from intention, yet closely resembling it, there are two other attitudes of mind, either of which is sufficient to attract legal sanctions for harm resulting from action taken in obedience to its stimulus, but both of which can be denoted by the word "recklessness". In each of these the man adopts a line of conduct with*

the intention of thereby attaining an end which he does desire, but at the same time realises that this conduct may also produce another result which he does not desire. In this case he acts with full knowledge that he is taking the chance that this secondary result will follow. Here, again, if this secondary result is one forbidden by law, then he will be criminally responsible for it if it occurs. His precise mental attitude will be one of two kinds-(a) he would prefer that the harmful result should not occur, or (b) he is indifferent as to whether it does or does not occur."

30. The phraseology of Sections 299 and 300 respectively of the IPC leaves no manner of doubt that under these Sections when it is said that a particular act in order to be punishable be done with such intention, the requisite intention must be proved by the prosecution. It must be proved that the accused aimed or desired that his act should lead to such and such consequences. For example, when under Section 299 it is said "whoever causes death by doing an act with the intention of causing death" it must be proved that the accused by doing the act, intended to bring about the particular consequence, that is, causing of death. Similarly, when it is said that "whoever causes death by doing an act with the intention of causing such bodily injury as is likely to cause death" it must be proved that the accused had the aim of causing such bodily injury as was likely to cause death.

31. Thus, in order that the requirements of law with

regard to intention may be satisfied for holding an offence of culpable homicide proved, it is necessary that any of the two specific intentions must be proved. But, even when such intention is not proved, the offence will be culpable homicide if the doer of the act causes the death with the knowledge that he is likely by his such act to cause death, that is, with the knowledge that the result of his doing his act may be such as may result in death.

32. The important question which has engaged our careful attention in this case is, whether on the facts and in the circumstances of the case we should maintain the conviction of the appellant herein for the offence under Section 304 Part I or we should further alter it to Section 304 Part II of the IPC?

SECTIONS 299 AND 300 OF THE IPC:-

33. Sections 299 and 300 of the IPC deal with the definition of 'culpable homicide' and 'murder', respectively. In terms of Section 299, 'culpable homicide' is described as an act of causing death (i) with the intention of causing death or (ii) with the intention of causing such bodily injury as is likely to cause death, or (iii) with the knowledge that such an act is likely to cause death. As is clear from a reading of this provision, the former part of it emphasises on the expression 'intention' while the latter upon 'knowledge'. Both these are positive mental attitudes, however, of different degrees. The mental element in 'culpable homicide', that is, the mental attitude towards the consequences of conduct is one of intention and knowledge. Once an offence is caused in any of the three stated manners noted-above, it

would be 'culpable homicide'. Section 300 of the IPC, however, deals with 'murder', although there is no clear definition of 'murder' in Section 300 of the IPC. As has been repeatedly held by this Court, 'culpable homicide' is the genus and 'murder' is its species and all 'murders' are 'culpable homicides' but all 'culpable homicides' are not 'murders'. (see Rampal Singh v. State of U.P., (2012) 8 SCC 289)

34. In the case of State of Andhra Pradesh v. Rayavarapu Punnayya, (1976) 4 SCC 382, this Court, while clarifying the distinction between these two terms and their consequences, held as under:-

> *"12. In the scheme of the Penal Code, 'culpable homicide' is genus and 'murder' is species. All 'murder' is 'culpable homicide' but not vice-versa. Speaking generally, 'culpable homicide not amounting to murder'. For the purpose of fixing punishment. proportionate to the gravity of this generic offence, the Code practically recognises three degrees of culpable homicide. The first is what may be called 'culpable homicide of the first degree'. This is the greatest form of culpable homicide, which is defined in Section 300 as 'murder'. The second may be termed as 'culpable homicide of the second degree'. This is punishable under the first part of Section 304. Then, there is 'culpable homicide of the third degree'. This is the lowest type of culpable homicide and the punishment provided for it is, also, the lowest among the punishments provided for the three grades. Culpable homicide of this degree is punishable under the*

second part of Section 304."

35. Section 300 of the IPC proceeds with reference to Section 299 of the IPC. 'Culpable homicide' may or may not amount to 'murder', in terms of Section 300 of the IPC. When a 'culpable homicide is murder', the punitive consequences shall follow in terms of Section 302 of the IPC, while in other cases, that is, where an offence is 'culpable homicide not amounting to murder', punishment would be dealt with under Section 304 of the IPC. Various judgments of this Court have dealt with the cases which fall in various classes of firstly, secondly, thirdly and fourthly, respectively, stated under Section 300 of the IPC. It would not be necessary for us to deal with that aspect of the case in any further detail.

36. The principles stated in the case of Virsa Singh v. State of Punjab, AIR 1958 SC 465, are the broad guidelines for the courts to exercise their judicial discretion while considering the cases to determine as to which particular clause of Section 300 of the IPC they fall in. This Court has time and again deliberated upon the crucial question of distinction between Sections 299 and 300 of the IPC, i.e. 'culpable homicide' and 'murder' respectively. In Phulia Tudu v. State of Bihar, (2007) 14 SCC 588, this Court noticed that confusion may arise if the courts would lose sight of the true scope and meaning of the terms used by the legislature in these sections. This Court observed that the safest way of approach to the interpretation and application of these provisions seems to be to keep in focus the keywords used in the various clauses of these

sections.

37. This Court in Phulia Tudu (supra) has observed that the academic distinction between 'murder' and 'culpable homicide not amounting to murder' has always vexed the courts. The confusion is caused if courts losing sight of the true scope and meaning of the terms used by the legislature in these sections, allow themselves to be drawn into minute abstractions. The safest way of approach to the interpretation and application of these provisions seems to be to keep in focus the keywords used in the various clauses of Sections 299 and 300 of the IPC. The following comparative table will be helpful in appreciating the points of distinction between the two offences:-

Section 299	***Section 300***
A person commits culpable homicide if the act by which the death is caused is done-	*Subject to certain culpable homicide is murder if the exceptions act by which the death is caused is done-*
INTENTION	
(a) with the intention of causing death; or *(b) with the intention of such causing bodily injury as is likely to cause death; or*	*(1) with the intention of causing death; or* *(2) 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* *(3) 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
KNOWLEDGE	
(c) with the knowledge that the act is likely to cause death	*(4) with the knowledge that the act 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 is mentioned above.*

38. The Hon'ble Supreme Court, recently in the matter of ***Hare Ram Yadav v. State of Bihar***, reported in ***2024 INSC 936,*** has held that in cases of a sudden fight without premeditation, where the accused acted neither cruelly nor with undue advantage, the conviction under Section 302 IPC may be reduced to Section 304 Part I IPC. The Court directed immediate release of the appellant who had already served nearly 9 years and 10 months in prison as the period sufficed for the offense. Relevant paras of the judgment are quoted hereinbelow:

> *"12. Having said so, the next question that will be required to be considered is as to whether the conviction under Section 302 of the IPC needs to be maintained or*

altered to a lesser offence.

13. From the evidence of the first informant, which is on similar lines to the other witnesses, it would reveal that someone had taken out a brick from the pile of bricks. Those pile of bricks belonged to the appellant. Angered by this, the appellant started abusing the wife of Ranglal Yadav (PW-5). The wife of PW-5 objected and warned the appellant not to abuse her. It is further seen from the evidence of Bidya Sagar Yadav (PW-4) that the deceased told the appellant that if he has courage, he may dare to kill her. Thereafter, the appellant assaulted the deceased with the knife.

14. A perusal of the evidence would therefore, reveal that there was no premeditation. The incident occurred on account of a quarrel that erupted between the deceased and the appellant on a trivial issue. The appellant appears to have lost his control and assaulted the deceased with the knife.

15. We find that the incident has occurred on account of a grave and sudden fight in the heat of anger due to the provocation by the deceased. A perusal of the evidence would also reveal that it is a case of a single injury. There is no evidence to show that the appellant has acted in a cruel manner or has taken undue advantage of the situation.

16. In that view of the matter, we find that the appellant would be entitled to have the benefit of exception under Section 300 of the IPC.

39. The Hon'ble Supreme Court in ***Goverdhan & Another v. State of***

Chhattisgarh, 2025 SCC OnLine SC 69, while considering analogous circumstances, has categorically held that where the incident arises out of a sudden fight, without premeditation, in the heat of passion, and without the offender having taken undue advantage, the case falls within the ambit of Exception 4 to Section 300 IPC. In paras 14 to 17, the Court explained the absence of pre-planning and the suddenness of the incident. In para 19, the Court reiterated the legal position that such cases constitute culpable homicide not amounting to murder. Finally, in paras 21 and 22, the Court altered the conviction from Section 302 IPC to Section 304 Part I IPC and imposed a sentence of ten years' rigorous imprisonment. Relevant paras of the judgment are quoted hereinbelow:

> *"14. The High Court, after a detailed analysis of the evidence on record, repelled the contentions of the appellants and convicted them while acquitting Accused No. 3, their father, Chintaram, giving him benefit of doubt about his participation in the crime.*
>
> *15. Thus, the two appellants before us are impugning the judgment passed by the High Court upholding their conviction.*
>
> *16. The pleas of the appellants before us summarized as below:*
>
> > *(i) Since the third accused namely Chintaram, who is the father of the two appellants had been acquitted by the High Court on the same set of evidence on which the two appellants had been*

convicted, the two appellants should have also been acquitted on the ground of parity since there is no material difference in the nature and quality of evidence qua all the three accused.

(ii) That otherwise also, conviction could not have been sustained on the basis of the uncorroborated testimony of a sole eye witness, who is also an interested witness namely, Lata Bai (PW10), the mother of the deceased.

(iii) The Sessions Court had convicted the appellants primarily on the testimony of the Lata Bai (PW-10), the alleged eyewitness, though she could not have been an eye witness, as Santosh (PW-6), in his FIR mentioned that he informed about the incident to the mother and father of Suraj, which shows that Lata Bai (PW-10) only after being informed of the incident after the incident had occurred, came to know of the incident and hence, could not have seen the incident.

(iv) Further, the statement of Lata Bai (PW-10) was recorded after 5 days of the incident and the Prosecution has not explained the delay in recording her statement under Section 161 of the Code and in absence of a proper explanation, her statement is not reliable in connection with which the defence relied upon on the decision of this Court in State of Orissa v. Brahmananda Nanda, (1976) 4 SCC 288 wherein this Court held that failure to mention the names of the accused for one and half days is fatal.

(v) It was also contended that according to the Prosecution, the mother (PW-10) and father (PW-5) of the deceased were present but they made no attempt to intervene or try to rescue the victim which shows that, they did not witness the incident and hence the statement of Lata Bai is highly doubtful. In this regard, the defence had cited the decision of this Court in State of Punjab v. Sucha Singh, (2003) 3 SCC 153 wherein, it was observed by this Court that any father, worth the name, who was claiming to be present at the place of incident would not remain a mute spectator when his son is being inflicted as many as twenty-four injuries under his very nose.

(vi) It was also contended that there have been improvements, and embellishments in the testimony of Lata Bai (PW-10), thus rendering her evidence unreliable and not credible.

(vii) The appellants also have contended that almost all the non-official prosecution witnesses, except the mother, had turned hostile and had not supported the prosecution case including the informant Santosh (PW-6) and seizure witnesses, PW-2 and PW-12.

17. On the other hand, before us also, it has been contended on behalf of the Prosecution that as far as the two appellants are concerned, it can be said that the conclusion drawn by the Trial Court as well as the High Court is based on admissible and relevant evidence and as such their conviction cannot be said to be suffering from any illegality, and since there is no perversity in the finding arrived at by the two courts

below, this Court ought not interfere with the judgment of the High Court.

19. As per Section 3 of the Indian Evidence Act, 1872, a fact can be said to have been proved when, after considering the matters before it, the court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act up on the supposition that it exists. The court undertakes this exercise of examining whether the facts alleged including the particular criminal acts attributed to the accused are proved or not.

21. It will be relevant to discuss, at this juncture, what is meant by "reasonable doubt". It means that such doubt must be free from suppositional speculation. It must not be the result of minute emotional detailing, and the doubt must be actual and substantial and not merely vague apprehension. A reasonable doubt is not an imaginary, trivial or a merely possible doubt, but a fair doubt based upon reason and common sense as observed in Ramakant Rai v. Madan Rai, (2003) 12 SCC 395 wherein it was observed as under:

> *"24. Doubts would be called reasonable if they are free from a zest for abstract speculation. Law cannot afford any favourite other than the truth. To constitute reasonable doubt, it must be free from an overly emotional response. Doubts must be actual and substantial doubts as to the guilt of the accused persons arising from the evidence, or from the lack of it, as opposed to mere vague apprehensions. A reasonable doubt*

is not an imaginary, trivial or a merely possible doubt; but a fair doubt based upon reason and common sense. It must grow out of the evidence in the case."

22. While applying this principle of proof beyond reasonable doubt the Court has to undertake a candid consideration of all the evidence in a fair and reasonable manner as observed by this Court in State of Haryana v. Bhagirath (1999) 5 SCC 96 as follows:

"8. It is nearly impossible in any criminal trial to prove all the elements with a scientific precision. A criminal court could be convinced of the guilt only beyond the range of a reasonable doubt. Of course, the expression 'reasonable doubt is incapable of definition. Modern thinking is in favour of the view that proof beyond a reasonable doubt is the same as proof which affords moral certainty to the Judge.

9. Francis Wharton, a celebrated writer on criminal law in the United States has quoted from judicial pronouncements in his book Wharton's Criminal Evidence (at p. 31, Vol. 1 of the 12th Edn.) as follows: 'It is difficult to define the phrase "reasonable doubt". However, in all criminal cases a careful explanation of the term ought to be given. A definition often quoted or followed is that given by Chief Justice Shaw in the Webster case [Commonwealth v. Webster, 5 Cush 295: 59 Mass 295 (1850)]. He says:"It is not mere possible doubt, because everything relating to human affairs and depending upon moral evidence is open to some possible or

imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that consideration that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge.""

10. In the treatise The Law of Criminal Evidence authored by H.C. Underhill it is stated (at p. 34, Vol. 1 of the 5th Edn.) thus:

The doubt to be reasonable must be such a one as an honest, sensible and fair-minded man might, with reason, entertain consistent with a conscientious desire to ascertain the truth. An honestly entertained doubt of guilt is a reasonable doubt. A vague conjecture or an inference of the possibility of the innocence of the accused is not a reasonable doubt. A reasonable doubt is one which arises from a consideration of all the evidence in a fair and reasonable way. There must be a candid consideration of all the evidence and if, after this candid consideration is had by the jurors, there remains in the minds a conviction of the guilt of the accused, then there is no room for a reasonable doubt."

40. Similarly, in **Ramjeet Yadav & Another v. State of U.P**., (Criminal Appeal No. 226 of 2018), decided on 01.07.2025, the Allahabad High Court considered a situation where the accused had inflicted only a single blow on a vital part of the body but had refrained from inflicting any further injury. Relevant paras of the judgment

are quoted hereinbelow:-

“68. Again in Sankath Prasad v. State of U.P., (2020) 12 SCC 564, occasioned by the fact that the incident was caused at the spur of the moment and it was a fallout of an alteration, the charge under Section 302 IPC was converted to that under Section 304 Part I IPC. In that, it was observed as below :

"5. The facts, as they have emerged from the record, indicate that the incident had taken place on the spur of the moment and was a fallout of an altercation over the excavation of a mound by the brother of the appellant. This was objected to by the complainant Gaya Prasad (PW 1). The altercation resulted in the appellant going into his house and bringing out a country-made pistol. The son of the complainant -- deceased Uma Shanker intervened in the course of the altercation and was fired at, resulting in a single firearm injury leading to his death.

6. Having regard to the circumstances of the case, we are of the view that the conviction under Section 302 IPC should be converted to one under Section 304 Part I. We accordingly hold the appellant guilty of an offence under Section 304 Part I IPC and sentence him to imprisonment for a term of ten years."

Then in Shaikh Matin v. State of Maharashtra and another, (2020) 20 SCC 402, upon a single blow suffered by the deceased caused by heavy wooden lock, the charge of murder under Section 302 IPC was converted to that under Section 304 Part I IPC. In that, the Supreme Court observed as below :

"5. Taking into account the fact that the appellant-

accused had delivered only a single blow but on a vital part of the body of the deceased i.e. head and that despite opportunities he had refrained/restrained himself from inflicting any further injury on the deceased we are of the view that the present is not a case under Section 302 IPC. Rather, according to us, it would be more appropriate to hold that the appellant-accused is liable for the offence under Section 304 Part I IPC. We, therefore, convert the conviction of the appellant-accused to one under Section 304 Part I IPC. As the appellant-accused admittedly has been in custody for nearly nine years now we are of the view that the ends of justice would be met if the sentence is converted to the period of custody already suffered."

69. N. Ram Kumar Vs. State of U.P. (supra) the Supreme Court considered the law laid down in Anbazhagan Vs. State (supra). It also took note of the law laid down in the case of Basdev Vs. State of Pepsu; AIR 1956 SC 488 and Pulicherla Nagaraju@ Nagaraja Reddy Vs. State of Andhra Pradesh; AIR 2006 SC 3010 and also Pratap Singh @ Pikki Vs. State of Uttrakhand (2019)7 SCC 424 and Deepak Vs. State of Uttar Pradesh; (2018)8 SCC 228. Following those decisions, the Supreme Court observed in paragraph nos. 15,16,17 and 18 as below:-

"15. In the case of Basdev v. State of Pepsu, AIR 1956 SC 488 at page 490 the following observations have been made:

"Of course, we have to distinguish between motive, intention and knowledge. Motive is something which prompts a man to form an intention and knowledge is an awareness of the consequences of

the act. In many cases intention and knowledge merge into each other and mean the same thing more or less and intention can be presumed from knowledge. The demarcating line between knowledge and intention is no doubt thin but it is not difficult to perceive that they connote different things. Even in some English decisions, the three ideas are used interchangeably and this has led to a certain amount of confusion."

16. It requires to be borne in mind that the test suggested in the aforesaid decision and the fact that the legislature has used two different terminologies, 'intent' and 'knowledge' and separate punishments are provided for an act committed with an intent to cause bodily injury which is likely to cause death and for an act committed with a knowledge that his act is likely to cause death without intent to cause such bodily injury as is likely to cause death, it would be unsafe to treat 'intent' and 'knowledge' in equal terms. They are not different things. Knowledge would be one of the circumstances to be taken into consideration while determining or inferring the requisite intent. Where the evidence would not disclose that there was any intention to cause death of the deceased but it was clear that the accused had knowledge that his acts were likely to cause death, the accused can be held guilty under second part of Section 304 IPC. It is in this background that the expression used in Penal Code, 1860 namely "intention" and "knowledge" has to be seen as there being a thin line of distinction between these two expressions. The act to constitute murder, if in given facts and circumstances, would disclose that the ingredients of Section 300 are not satisfied and such act is one of extreme recklessness, it would not

attract the said Section. In order to bring a case within Part 3 of Section 300 IPC, it must be proved that there was an intention to inflict that particular bodily injury which in the ordinary course of nature was sufficient to cause death. In other words, that the injury found to be present was the injury that was intended to be inflicted. This Court in the case of Pulicherla Nagaraju @ Nagaraja Reddy v. State of Andhra Pradesh, (2006) 11 SCC 444 : AIR 2006 SC 3010 has observed:

"Therefore, the court should proceed to decide the pivotal question of intention, with care and caution, as that will decide whether the case falls under Section 302 or 304 Part I or 304 Part II. Many petty or insignificant matters -- plucking of a fruit, straying of cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion may be totally absent in such cases. There may be no intention. There may be no premeditation. In fact, there may not even be criminality. At the other end of the spectrum, there may be cases of murder where the accused attempts to avoid the penalty for murder by attempting to put forth a case that there was no intention to cause death. It is for the courts to ensure that the cases of murder punishable under Section 302, are not converted into offences punishable under Section 304 Part I/II, or cases of culpable homicide not amounting to murder, are treated as murder punishable under Section 302. The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances : (i) nature of the weapon used; (ii) whether the weapon

was carried by the accused or was picked up from the spot; (iii) whether the blow is aimed at a vital part of the body; (iv) the amount of force employed in causing injury; (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight; (vi) whether the incident occurs by chance or whether there was any premeditation; (vii) whether there was any prior enmity or whether the deceased was a stranger; (viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation; (ix) whether it was in the heat of passion; (x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner; (xi) whether the accused dealt a single blow or several blows. The above list of circumstances is, of course, not exhaustive and there may be several other special circumstances with reference to individual cases which may throw light on the question of intention. Be that as it may.

17. This Court in the case of Pratap Singh @ Pikki v. State of Uttarakhand, (2019) 7 SCC 424 had noticed that the deceased-victim had suffered total 11 injuries and had been convicted for offences under Section 304 Part-II/Section 34 IPC apart from other offences. It was noticed that some altercation took place and the groups entered into scuffle without any premeditation and convicted accused for the offence punishable under Section 304 Part-II/Section 34 IPC. Taking into consideration that the appellants therein were young boys and had served sentence of more than three years and five months and there was no previous enmity, persuaded this Court that the quantum of sentence is excessive and accordingly sentenced them

to the period already undergone for the offence under Section 304 Part-II/Section 34 IPC by observing thus:

"27. We do find substance in what being submitted by the learned counsel for the appellant and in the first place, it is to be noted that the trial Court, while awarding sentence to the appellant has not made any analysis of the relevant facts as can be discerned from the judgment (page 96-97 of the paper book) dated 12th January, 1998. Even the High Court has not considered the issue of quantum of sentence. From the factual position which emerge from the record, it is to be noticed that they were young boys having no previous enmity and were collectively sitting and watching Jagjit Singh night. On some comments made to the girls sitting in front of the deceased, some altercation took place and they entered into a scuffle and without any pre-meditation, the alleged unfortunate incident took place between two group of young boys and it is informed to this Court that the appellant has served the sentence of more than three years and five months. Taking into consideration in totality that the incident is of June 1995 and no other criminal antecedents has been brought to our notice, and taking overall view of the matter, we find force in the submission of the appellant that the quantum of sentence is excessive and deserves to be interfered by this Court."

18. In the case of Deepak v. State of Uttar Pradesh, (2018) 8 SCC 228 it came to be noticed by this Court that incident had taken place in the heat of the moment and the assault was by a single sword blow in the rib cage was without any premeditation and incident had

occurred at the spur of the moment, and thus inferred there was no intention to kill and as such the offence was converted from Section 302 IPC to Section 304 Part II IPC and the appellant was ordered to be released forthwith by sentencing them to the period of conviction already undergone. It was held:

"7. On consideration of the entirety of the evidence, it can safely be concluded that the occurrence took place in the heat of the moment and the assault was made without premeditation on the spur of time. The fact that the appellant may have rushed to his house across the road and returned with a sword, is not sufficient to infer an intention to kill, both because of the genesis of the occurrence and the single assault by the appellant, coupled with the duration of the entire episode for 1½ to 2 minutes. Had there been any intention to do away with the life of the deceased, nothing prevented the appellant from making a second assault to ensure his death, rather than to have run away. The intention appears more to have been to teach a lesson by the venting of ire by an irked neighbour, due to loud playing of the tape recorder. But in the nature of weapon used, the assault made in the rib-cage area, knowledge that death was likely to ensue will have to be attributed to the appellant. 8. In the entirety of the evidence, the facts and circumstances of the case, we are unable to sustain the conviction of the appellant under Section 302 IPC and are satisfied that it deserves to be altered to Section 304 Part II IPC. It is ordered accordingly. Considering the period of custody undergone after his conviction, we alter the sentence to the period of custody already undergone. The appellant may be

released forthwith if not required in any other case.9. The appeal is therefore allowed in part with the aforesaid modification of the conviction and sentence."

41. Section 86 IPC directs courts to assess whether the accused, though intoxicated, possessed the requisite intention/knowledge; voluntary drunkenness is no defence to liability, but it bears on intention. Recent pronouncements such as ***Velthepu Srinivas v. State of A.P., 2024 SCC OnLine SC 107***, reiterated that intoxication may dilute but does not erase intent. Where the blow is directed at a vital part, intention to cause such bodily injury as is likely to cause death can safely be drawn.

42. A deep neck cut on a vital part is undoubtedly sufficient in the ordinary course of nature to cause death. The issue is whether intention can be inferred in these circumstances. Given the heat-of-passion domestic quarrel, lack of pre-planning, intoxication, and the fact that a single blow was inflicted, we are not persuaded that the appellant intended to kill. However, striking the neck with a *tangi* demonstrates intention to cause such bodily injury as was likely to cause death. That squarely attracts Section 304 Part I IPC. (*Anbazhagan Supra*).

43. The record satisfies the four-part test of Exception 4 to Section 300 IPC: (i) sudden quarrel; (ii) absence of premeditation; (iii) act committed in the heat of passion; and (iv) no undue advantage or cruelty (there is no repetition of blows; the tangi appears to be a household weapon; the assault was momentary). As held in the

matter of ***Goverdhan*** (Supra), such circumstances convert the offence to culpable homicide not amounting to murder.

44. The evidence of habitual drinking and quarrels stated by PW-3 in her statement supports that the appellant was under the influence. While Section 86 IPC does not exonerate, it does not prevent drawing intention where the blow is aimed at a vital part. The consistent line in ***Anbazhagan*** (supra) is that a deliberate single strike on a vital region suffices to prove intention for the purposes of 304 Part I.

45. The recovery of the *tangi* (Ex.P-13) on the appellant's disclosure and the medical opinion (Ex.P-30) that the seized *tangi* could have caused the injury fortify authorship, but they do not elevate the act to murder given the sudden-fight, single-blow setting.

46. Thus, the occurrence happened without premeditation, during a sudden quarrel, in the heat of passion, with the appellant in an inebriated condition. The single blow on a vital part imputes intention to cause such bodily injury as was likely to cause death. Accordingly, the case falls under Section 304 Part I IPC.

47. Balancing these, and to mark societal censure while acknowledging mitigating factors, we consider rigorous imprisonment for 10 years under Section 304 Part I IPC to be just and proportionate.

48. Accordingly, the conviction of the appellant under Section 302 IPC is set aside. It is stated at the Bar that the appellant is in jail since

21.03.2017 and has completed more than 8 years of sentence. The appellant is convicted under Section 304 Part I IPC and sentenced to undergo rigorous imprisonment for 10 years. He is directed to serve out the sentence as modified above.

49. The criminal appeal is **partly allowed** to the extent indicated herein-above.

50. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the Appellants are undergoing the jail term, to serve the same on the Appellants informing them that they are at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

51. Let a copy of this judgment and the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.

Sd/-

(Bibhu Datta Guru)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

Manpreet

Headnote

“The academic distinction between 'murder' and 'culpable homicide not amounting to murder' has always vexed the courts. The confusion is caused if courts losing sight of the true scope and meaning of the terms used by the legislature in these sections, allow themselves to be drawn into minute abstractions.”