



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Judgment reserved on: 08.10.2025

Judgment delivered on: 06.11.2025

+ CRL.A. 82/2025 & CRL.M.(BAIL) 148/2025

KESHAV @ SONU

.....Appellant

Versus

STATE (NCT OF DELHI)

....Respondent

Memo of Appearance

For the Appellant: Mr. Dhruva Bhagat, Advocate/DHCLSC

For the Respondent: Mr. Ritesh Kumar Bahri, APP with Mr. Akhilesh Tiwari, Ms. Divya Yadav and Mr. Lalit Luthra, Advs., Inspector Neeraj Kumar, PS Anand Parbat

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

1. Appellant, who has been held guilty for committing murder of his wife, assails his conviction and consequent order on sentence.
2. Facts lie in a very narrow compass.
3. Accused got married to Payal (deceased herein) in the year 2016. They were blessed with a daughter in the year 2017.
4. They used to reside at first floor of a house situated in Nai Basti, Anand Parbat, Delhi. It was a tenanted premises, their landlady being Smt. Sundari (PW2) residing at ground floor of the same building.
5. Incident is of 19.09.2019.
6. Complainant Smt. Sundari was cooking food in her home when, at about 09:30 P.M., she heard Payal crying "*aunty dekho inhone mere ko kya maar diya*". On hearing the same, Smt. Sundari, immediately,



rushed to first floor where she saw Payal bleeding. When asked, the deceased divulged that she had been stabbed with knife by the appellant and that she was feeling difficulty in breathing.

7. In the meantime, Mr. Krishan (PW-1) and Mr. Chander (PW-3) (sons of Smt. Sundari) reached there along with some other tenants.

8. The incident was immediately reported to the police. However, before their arrival, Payal was taken by Smt. Sundari and her son Chander to a nearby private hospital *Indu Polyclinic*, where they were advised to get her admitted in a hospital, having better facilities. Consequently, she was taken to *Jeewan Mala Hospital*, where she was declared brought dead.

9. ASI Parveen Kumar (PW-12) reached *Jeewan Mala Hospital*, where he met complainant Smt. Sundari. Her statement was recorded wherein she narrated the sequence of events as mentioned above and also revealed that the appellant was accustomed to drinking alcohol. In her supplementary statement, she also disclosed that when she had rushed upstairs upon hearing Payal's cries, she had seen the appellant in an intoxicated condition. On the basis of such statement, subject FIR was registered and investigation ensued.

10. It is further the case of the prosecution that when PCR team reached the spot, they found the appellant present at the scene of the incident who was stated to be in an inebriated condition. The PCR officials, namely ASI Jitender Singh and HC Satvir (driver) brought him to the Police Station immediately and handed him over to the Duty Officer for further necessary action.



11. During the course of investigation, the appellant was formally arrested, and upon interrogation, he made a disclosure stating that on 19.09.2019 at about 06:30 p.m., he had returned home from work and consumed liquor. At about 09:00 p.m., he noticed his daughter crying due to an injury on her finger. He, then, confronted his wife as to why she had not provided any first aid or medicine to the child, upon which she started arguing with him. Her confrontation infuriated him and in a fit of anger, he picked up a vegetable-cutting knife and stabbed his wife. He further stated that he, initially, thought it to be a minor injury, but when she started bleeding and shouting, he, out of fear and panic, put the knife beneath the gas stove.

12. On the basis of his such disclosure statement (Ex. PW10/E), knife in question was also recovered from the same place i.e. from beneath the gas-stove of his house.

13. The post mortem of the deceased was conducted on 20.09.2019 and the autopsy surgeon, in his report (Ex. PW-7/A), opined that the cause of death was the combined effect of *haemorrhagic* and *cardiogenic shock* resulting from the incised stab wound sustained by the deceased, which was sufficient in the ordinary course of nature to cause death. Significantly, no other injury was found on the body of the deceased, apart from the single stab wound, as described above.

14. In view of the aforesaid factual matrix, the appellant was sent up to face trial for the commission of offence punishable under Section 302 of the IPC.

15. A charge under Section 302 IPC was framed against him, to which he pleaded not guilty and claimed trial.



16. Prosecution was directed to adduce evidence and in support of its case, it examined twelve witnesses in all.

17. Appellant, in his statement under Section 313 of the Code of Criminal Procedure, 1973 (“Cr.P.C”). pleaded innocence. He, however, did not lead any evidence in defence.

18. Learned Trial Court, after analyzing the entire evidence and giving due consideration to the rival contentions, held that offence under Section 302 IPC was made out. It would also be worthwhile to mention that before the learned Trial Court, an argument was raised that even if the prosecution case was to be believed in its entirety, it was merely a case of *culpable homicide not amounting to murder* and, therefore, at best, the appellant could have been convicted under Section 304 IPC only. Such contention was, however, rejected by the learned Trial Court.

19. Arguments on sentence were heard and *vide* order dated 15.10.2024, appellant was sentenced to undergo imprisonment of life with fine of Rs. 10,000/- and in default thereof to undergo simple imprisonment for a period of one month. Recommendation was also made to *District Legal Service Authority, West*, in terms of Section 357-A (2) Cr.P.C., to decide the quantum of compensation and to disburse the same as per the provisions of *Delhi Victim Compensation Scheme, 2018*.

20. The challenge in the present appeal is to the aforesaid order of conviction and sentence.

21. During the course of arguments before us, learned counsel for the appellant submitted that the appellant does not dispute the



occurrence of the incident as such. However, it is contended that the same took place in the heat of the moment, during a sudden quarrel, and that the injury inflicted was unintended and without any premeditation. It is, therefore, urged that the present case would, at best, amount to culpable homicide not amounting to murder, punishable under Section 304 IPC. The sole endeavour of the defence is, thus, to demonstrate that the act of the appellant does not fall within the ambit of Section 302 IPC.

22. Mr. Dhruv Bhagat, learned counsel for the appellant, further submits that though the learned Trial Court had taken note of various circumstances suggestive of the offence being one under Section 304 IPC, it declined to hold so, primarily on the ground that the appellant had offered no explanation regarding the incident. He contends that the appellant never misled the investigating agency at any stage, and when his statement under Section 313 Cr.P.C. was recorded, he did not come up with the details about the sequence of events. Learned counsel vehemently contends that such silence could not have been treated as an adverse circumstance, particularly when the allegations in the charge-sheet very clearly indicative that the case was within the ambit of Section 304 IPC, rather than, Section 302 IPC. Reliance has been placed upon (i) *Chunni Bai vs State of Chhattisgarh*: 2025 INSC 577, (ii) *Vijay @ Vijaykumar vs. State Represented by Inspector of Police*: 2025 INSC 90, (iii) *A. Maharaja vs State of Tamilnadu*: 2008 INSC 1300, (iv) *Robin Massey @ Monu vs. State of NCT of Delhi*: 2025:DHC:5886-DB, (v) *Manga Ram vs. State*: 2025:DHC:972-DB,



and (vi) *Raju @ Chanakya vs The State (Govt. of NCT) Delhi: 2025:DHC:468-DB*.

23. All such contentions have been vehemently refuted by Mr. Ritesh Kumar Bahri, learned APP for the State, who submits that the learned Trial Court has appreciated and analyzed the evidence in its proper perspective. It is submitted that if the appellant intended to claim benefit of any of the exceptions carved under Section 300 IPC, the onus squarely lay upon him to establish and substantiate the same, and not upon the prosecution. To buttress his argument that the case of the appellant falls under the purview of Section 302 IPC only, learned APP places reliance on (i) *Virsa Singh vs State of Punjab: AIR 1958 SC 465* and (ii) *State of Karnataka vs Vedanayagam: 1995 SCC (1) 326*.

24. We have given our thoughtful consideration to the rival contentions, perused the record and considered the precedents cited before us. There can, certainly, be no debate or qualm with respect to the settled principles of law. However, each case has its own unique and uncommon factual matrix and, therefore, precedents cannot be applied mechanically, as one small difference in fact-situation can change the whole complexion of the case.

25. As already noted above, the incident, as such, is not disputed.

26. Though there was no eyewitness to the actual occurrence, the evidence on record reveals that immediately after the incident, PW-2 Smt. Sundari rushed to the first floor, brought the injured Payal downstairs, and took her to the hospital. The sons of Smt. Sundari,



namely PW-1 Krishan and PW-3 Chander, were present on the ground floor at that time and assisted their mother in shifting the injured.

27. The FIR was registered on the basis of the statement of PW-2 Smt. Sundari, which has been proved as Ex. PW-2/A.

28. In her deposition, PW-2 Smt. Sundari reiterated that on 19.09.2019 at about 9:30 p.m., while she was cooking food, Payal shouted from the first floor, saying “*Aunty dekho, inhone mere ko kya maar diya.*” On hearing this, the witness went upstairs and found Payal in the *verandah*, bleeding from her chest. Payal again uttered, “*Dekho aunty, inhone mujhe kya maar diya.*”. She also identified the appellant during the trial.

29. The case of the prosecution appears consistent and unswerving, and though there was no eyewitness to the incident of stabbing, it is evident that immediately after sustaining the injury, Payal raised an alarm, which drew the attention of her landlady.

30. Payal was crying, “*Aunty dekho, inhone mere ko kya maar diya,*” which assumes significance.

31. We lay emphasis on word “*inhone*” and in the normal parlance prevalent in certain families like the one in question, said word used by an Indian wife is, commonly, suggestive of her husband only.

32. Importantly, the appellant was present at the spot at the time of the incident, which fact stands admitted by both the prosecution and the defence.

33. We may hasten to add here that PW2 Smt. Sundari in her earliest statement (Ex. PW2/A) failed to mention about the presence of appellant at the spot but in her supplementary statement, she made



categoric revelation to the effect that when she had rushed upstairs, she had seen appellant there in a drunken state. PW2 Smt. Sundari has though deposed in synchronization with her first statement, fact remains that, in her deposition before the court, she did not whisper about the presence of the appellant at the spot. Fortunately, since said fact is not disputed by the defence, the above omission pales into insignificance.

34. ASI Jitender Singh and HC Satvir, who were on PCR duty, had reached the place of occurrence soon after the incident. They learnt that the injured had already been taken to the hospital by the landlady and her son, and that the husband of the injured, who was in an inebriated condition, was present in his room. Both the abovesaid PCR officials, then, brought the appellant to the Police Station and handed him over to HC Jairam Meena (PW-5), the Duty Officer.

35. Since ASI Jitender Singh and HC Satvir were the first ones who met the appellant immediately after the incident, they could have easily enlightened whether the appellant was under influence of alcohol or not. It is, somewhat, inexplicable as to why they were not even cited as witnesses. Since PW-2 Smt. Sundari did not make any whisper about the presence of the appellant at the spot, we do not find anything about physical or mental state of appellant, from her deposition either.

36. In such a situation, MLC of the appellant would have given us some insight about the same but we failed to find one in trial court record (TCR).



37. This compelled us to have a look on the case-diary which was found containing original MLC of the appellant. It was, however, neither produced nor proved during the trial. As per such MLC, appellant was brought to the hospital, next day at 2.20 PM and the observation appearing therein, about adverse event (A/E) regarding his respiration, is suggestive of his being under the influence of alcohol. We do not wish to comment whether the delay in his medical and non-production of his MLC during the trial was inadvertent or otherwise but in order to ensure fair trial, prosecution, besides citing said two PCR officials as its witnesses, should have also placed on record MLC of the accused, for due consideration of learned Trial Court.

38. There is no doubt that a sudden quarrel had erupted between appellant and his wife.

39. The relevant *roznamcha* entry i.e. GD No. 91A (Ex PW-5/A) clearly records that there was quarrel between husband and wife and upon such information only, the police had reached the spot. PW-1 Mr. Krishan deposed that he had informed the police that there was fight between appellant and his wife Payal, *albeit*, he did not witness any such fight with his own eyes. Testimony of PW-3 Mr. Chander also does not throw much light as he neither went upstairs nor heard shouts of Payal.

40. PW-2 Smt. Sundari, in her cross-examination, deposed that appellant and Payal were happily married and they used to live peacefully at first floor. There is no evidence to the contrary from the prosecution suggesting that there was any matrimonial discord



between the appellant and his wife. On the contrary, the evidence suggests that they were leading a cordial married life.

41. Mr. Bhagat, learned counsel for the defence, has submitted that there was sudden quarrel between the husband and wife and in the heat of passion, and while under the influence of liquor, the appellant picked up a vegetable-cutting knife and struck his wife. He remained at the spot and did not flee away and since the act was neither premeditated nor intentional, the case would, at best, fall under purview of Section 304 IPC. He argues that there was never any intention to cause death or any such bodily injury. It is also supplemented that 'intention' and 'knowledge' of the accused are subjective and invisible states of mind and their existence has to be gathered from bunch of circumstances.

42. We may refer to ***Pulicherla Nagaraju v. State of A.P.***, (2006) 11 SCC 444, wherein, it has been held that the intention of the accused constitutes the pivotal role in determining whether a particular case would fall under Section 302, Section 304 Part I, or Section 304 Part II of the Indian Penal Code. It was held that in order to ascertain whether any such accused possessed the requisite intention to cause death, it becomes essential to examine the attendant circumstances, including but not limited to the following:-

“29. 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 appellant 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 appellant 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 appellant 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."

43. In **Atul Thakur Vs. State of Himachal Pradesh & others**, 2018 (2) SCC 496, wherein, akin to the present case, there was a sudden altercation between the two persons. The accused therein, under the influence of alcohol, inflicted six knife blows upon the victim. The



Apex Court held that, in those given circumstances, the offence would, at best, fall under Section 304 Part II IPC and would not attract the rigours of Section 302 IPC. The relevant portion of the judgment reads as under:

“8. Notably, the evidence on record plainly establishes that a sudden fight took place between the appellant and Hitesh Thakur and in the heat of passion, the appellant assaulted Hitesh Thakur causing serious bodily injuries. There is no shred of evidence, much less even a remote suggestion that the appellant had assaulted Hitesh Thakur with an intention to cause his death. Though the High Court found the appellant guilty, it has not held that the bodily injuries caused by the appellant were with an intention to cause the death of Hitesh Thakur. The High Court overturned the finding recorded by the trial court regarding the nature of offence, principally on the ground that the appellant gave repeated knife-blows to Hitesh Thakur and Hitesh Thakur could not defend himself as he was unarmed. Thus, the appellant was found guilty of offence punishable under Section 302 IPC.

9. In other words, the controversy in these appeals boils down to the nature of offence and the sentence to be awarded in that behalf. As aforesaid, the evidence on record, as held by the two courts below and with which finding we are in full agreement, is that the appellant gave six knife-blows to Hitesh Thakur on the fateful night to which he succumbed. Thus, it is a case of homicidal death. However, there is no evidence that the injuries inflicted by the appellant were with an intention to cause the murder of Hitesh Thakur. On the other hand, the evidence clearly establishes that the appellant assaulted Hitesh Thakur without any premeditation. The whole incident took place suddenly and, in the heat of passion a sudden quarrel started as Hitesh Thakur, while smoking, blew smoke on the face of the appellant. Resultantly, the appellant got enraged. He told him that he was senior in age and thus should not smoke in his presence much less blow the smoke towards him. Then a sudden physical fight started



between them, in which the appellant, in heat of passion, gave six knife-blows to Hitesh Thakur on different parts of his body.

xxxxxx

12. Taking overall view of the matter, the facts of the present case warrant invocation of Exception 4 to Section 300 IPC. For, it is a case of culpable homicide not amounting to murder inasmuch as the incident happened on account of sudden fight between the friends who had gathered for a drink party arranged at the behest of Hitesh Thakur. There was no premeditation and the act done by the appellant was in the heat of passion without the appellant taking any undue advantage or acted in a cruel manner. The number of wounds caused by the appellant, it is a well-established position, by itself cannot be a decisive factor. The High Court committed manifest error in being influenced by the said fact. What is relevant is that the occurrence was sudden and not premeditated and the offender acted in the heat of passion. The evidence supports the case of the appellant in this behalf. The fact that the appellant used weapon such as knife, is also not a decisive factor to attract Section 302 IPC. Neither the use of a knife in the commission of offence nor the factum of multiple injuries given by the appellant would deny the appellant of the benefit of Exception 4.

13. Dealing with a somewhat similar situation, in Surain Singh v. State of Punjab [Surain Singh v. State of Punjab, MANU/SC/0399/2017 : 2017:INSC:323 : (2017) 5 SCC 796 : (2017) 3 SCC (Cri) 461], this Court has restated the settled legal position about the purport of Exception 4 to Section 300 IPC. Even in that case, the accused had repeatedly assaulted the deceased with a kirpan and caused injuries resulting into death. After restating the legal position, the Court converted the offence to one under Section 304 Part II instead of Section 302 IPC. Following the same legal principle and keeping in mind the factual position as unfolded, the view taken by the trial court of convicting the appellant for the offence punishable under Section 304 Part II, is unexceptionable.”



44. A careful consideration of the trial court record brings forth the following material aspects of the case: -

- (i) *Incident had taken place inside the house of the appellant.*
- (ii) *At the time of incident, besides appellant and his wife, no one, except their minor daughter aged two years, was present.*
- (iii) *There was sudden fight between appellant and his wife.*
- (vi) *Appellant was also under some influence of liquor.*
- (v) *In the heat of moment, appellant picked up a vegetable-cutting knife from the spot itself and gave solitary blow with the same.*
- (vi) *There is no evidence of any animosity between them and rather as per their landlady, they both were living happily.*
- (vii) *There is nothing to indicate that there was any pre-meditation or any intention to kill her.*
- (viii) *Appellant, after committing the incident, did not flee away and rather became shell-shocked and when the PCR officials reached at the spot, he did not show any kind of resistance and was taken to police station immediately. He cooperated during investigation as well.*
- (ix) *The information flashed to the Police Control Room was also indicating that a quarrel had taken place between appellant and his wife. *
- (x) *There is delay in his medical examination and his MLC, showing him drunk, was never produced during the trial.*
- (xi) *Appellant was residing at tenanted premises which merely comprised of one room and a vegetable-cutting knife was picked up during course of such quarrel and was used by the appellant while he was under influence*



of liquor.

45. Mr. Ritesh Kumar Bahri, learned APP for the State, contends that the appellant was mandated to explain the circumstances in which the quarrel originated, and since no such explanation was offered by him during the trial, it is too late in the day for him to now contend that his case falls under any of the Exceptions to Section 300 IPC.

46. Indubitably, if any general defence is taken by accused, or if during trial, any accused seeks to claim that his case falls within any of the Exceptions to Section 300 IPC, the onus to establish or probabalize such a plea lies upon him.

47. However, the situation would be, materially, different where the case set up by the prosecution itself suggests the existence of circumstances, bringing the act within the four corners of any such Exception.

48. Significantly, the prosecution has maintained complete silence on the aspect of motive. However, if the disclosure statement made by the appellant is to be believed, which the defence also seeks reliance upon, he had acted in a fit of rage after his wife failed to administer first-aid to their daughter. We are conscious that only that portion of a statement made before the police, which leads to any recovery, is admissible under law; however, in the present case, the appellant himself has invited attention to the remaining portion of his statement, and the prosecution, too, appears to have placed reliance thereon.

49. Learned Trial Court declined to hold it to be a case falling under Section 304 IPC, while observing as under:-

“....The weapon used in this case was a kitchen knife. It was not



brought by the accused from outside and picked up by him from the house itself. The accused only caused one stab injury and did not cause multiple injuries. The deceased was his wife and there is no evidence of prior enmity. The aforesaid circumstances might have brought the case of the accused u/s 304 IPC as there might have been the evidence that he did not have the intention to cause of the deceased or the injury which was sufficient to cause death in the ordinary course of nature. However, there is no evidence on the record to prove the same. The accused has failed to lead evidence or probablise the same by cross-examination of the prosecution witnesses. Thus, there is nothing on the record to suggest accused did not have the intention to cause injury to the deceased, which was sufficient in the ordinary course of nature to cause death.”

50. There is no eyewitness to the actual act of stabbing and since neither Smt. Sundari nor her sons made even a whisper regarding the presence of the appellant at the spot, there was no occasion for the appellant to have asked any questions or confronted them on those aspects.

51. Of course, during his examination under Section 313 Cr.P.C. the appellant could have offered some explanation regarding the genesis of the quarrel but in the given factual scenario, his silence cannot, by itself, be treated as an incriminating circumstance. Though accused has a “*right to remain silent*”, he is, generally, expected to explain incriminating evidence appearing against him. In certain cases, where there exists a missing link, such silence or a false answer may assume importance; however, in the present case, there is no such missing link. Hence, his silence alone cannot brand the occurrence as an act of murder and murder alone. Merely because he did not elucidate as to



what transpired that night, he could not have been held clothed with the culpable intention. The silence of the appellant carries no adverse significance when, the case itself, incontrovertibly, reveals offence of *culpable homicide not amounting to murder*.

52. We are cognizant of the fact that that there is no universal rule that whenever death results from a solitary blow, the offence must necessarily fall outside the ambit of Section 302 IPC. Even in cases where death ensues from a single injury, the appellant can still be held guilty of murder if the requisite intention or knowledge, as contemplated under Section 300 IPC, is established. Therefore, the fact of a single blow, by itself, cannot be treated as a determinative factor.

53. The relevant penal provisions are extracted as under:

“299. 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.*

Section 300. Murder.— *Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or*
Secondly.- 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

Thirdly.- 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

Fourthly.- 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.

302. Punishment for murder. — *Whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine.*

304. 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 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, or with fine, or with both, 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.”*

54. Further, section 300 enumerates five exceptions when any such culpable homicide would not amount to murder. Presently, we are concerned with Exception 4 which reads as under: -

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's having taken undue advantage or acted in a cruel or unusual manner.*

55. We have already noted that the act was committed in the heat of the moment, consequent upon a sudden quarrel. The appellant, who was in an inebriated condition, picked up a ‘kitchen knife’ lying at the



spot and inflicted a single blow. He did not attempt to flee away and rather appeared remorseful for his act. There was no previous enmity between him and his wife either. In ***Surinder Kumar v. Union Territory, Chandigarh***: 1989 SCC OnLine SC 117, in context of Exception 4 to Section 300 IPC, Supreme Court observed as under:-

“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 is it 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.”

56. All said requirements are found met.

57. Moreover, the appellant was not having any intent to commit murder or to cause such bodily injuries as would result in death.

58. Our foregoing discussion and the prosecution's own case is clearly suggestive of lack of any such intent.

59. Intention cannot be confused or equated with knowledge. While 'knowledge' would be bare awareness about the possible consequences which might ensue, 'intention' requires something more than the mere



foresight of the consequences, namely the purposeful doing of a thing to achieve a particular end. Thus, the above two terms, being distinct and dissimilar, are not interchangeable.

60. Herein, the act of stabbing was, though, without any intention but the element of knowledge was present.

61. Last clauses of Section 299 and Section 300 IPC postulate knowledge of the probability of the causing death, the difference being very subtle but clearly visible and palpable. The knowledge is present in both but to make it a case falling under murder, State has to show and demonstrate that such knowledge of ‘probability of death’ was of the ‘highest degree’.

62. When instead of it being ‘*certain*’, it is ‘*likely*’, then coupled with other attendant facts, it can be taken as a case of simple culpable homicide. Reference be made to ***Major Singh Vs. State of Punjab and Anr.***: (2022) 6 SCR 800.

63. Thus, upon a careful consideration of the facts, circumstances, and evidence on record, as well as the case set up by the prosecution, we are of the considered view that the present case falls not only under the last clause of Section 299 IPC but also within the ambit of Exception 4 to Section 300 IPC. The appellant never intended to kill his wife, *albeit*, he possessed knowledge that his such act was likely to cause death.

64. Resultantly, while allowing the appeal in part, we alter the conviction of appellant and, instead, hold him guilty under Section 304 Part II, IPC.

65. The sentence awarded to the appellant also stands modified to



simple imprisonment for a period of seven (7) years.

66. Needless to say, he shall be entitled to benefit of section 428 Cr.P.C.

67. We are not ordering any fine but as regards compensation, the recommendation of learned Trial Court shall be given effect to, if not already.

68. A copy of this judgment be sent to Superintendent, Jail for information, compliance and due communication to appellant.

69. Trial Court Record be sent back with copy of judgment.

(VIVEK CHAUDHARY)
JUDGE

(MANOJ JAIN)
JUDGE

NOVEMBER 6, 2025/dr/pb/kp