

## **EXCEPTION TO MURDER**

Murder is a heinous crime punishable by the Indian Penal Code. Murder is defined in Section 300, which states that culpable homicide constitutes murder.

Section 302 specifies the penalty for murder. Section 300 provides for certain exceptions, such as culpable homicide that does not amount to murder, which is punishable under Section 304 of the Indian Penal Code. The following are the general exceptions to murder.

1. **SUDDEN AND GRAVE PROVOCATION:** When a person loses control due to a sudden and grave provocation and kills the person who gave the provocation or any other person as a result of a mistake or an accident, he is liable for the culpable not amounting to murder. The following are the necessary conditions:

- The deceased had provoked the accused.
- Provocation must be unexpected.
- Provocation must be severe.
- The accused had lost his ability to control himself.
- The accused must have killed the person who caused the provocation.
- The accused must not have malicious intent.

In the case of *K.M Nanavati vs. Maharashtra, 1962 SCR Supl. (1) 567*. This is a landmark case. The court stated that-

- Gestures and words in certain situations cause an accused to be provoked in such a way that his action falls under this exception.
  - To determine the sudden and grave provocation, a test is established to determine whether any other reasonable man with the same capacity and belonging to the same class or sections of society, if placed in the same situations as the accused, would be provoked to the point of losing self-control.
  - The victim's previous act must be considered in determining whether the subsequent act was sufficient to cause a sudden and grave provocation.
  - The fatal blow on the person who causes a sudden and grave provocation should be delivered immediately, not after he has had time to calm down or cool down.
2. **WHEN THE PERSON EXCEEDS HIS RIGHT OF SELF-DEFENCE:** When a person exercising his right to private defense of property or person in good faith exceeds the power granted to him, resulting in the death of the

# Exception To Murder

**C Cleary**



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