2025 INSC 1107

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 5578 OF 2024

MANIKLAL SAHU **...APPELLANT**

VERSUS

STATE OF CHHATTISGARH **...RESPONDENT**

J U D G M E N T

J.B. PARDIWALA, J.

For the convenience of exposition, this judgment is divided into the following parts:-

INDEX

1. This appeal is at the instance of a convict accused and is directed against the judgment and order passed by the High Court of Chhattisgarh dated 30.07.2024 in Criminal Appeal No. 607 of 2023 (*hereinafter* referred to as "**Impugned Judgment**") by which the High Court partly allowed the Criminal Appeal filed by the appellant herein and altered the conviction of the appellant under Section 302 of the Indian Penal Code (for short, "**the IPC**") into one under Section 307 of the IPC.

2. It appears from the materials on record that four persons including the appellant herein were put to trial for the offence of murder of one Rekhchand Verma in the Sessions Case No. 21 of 2022 arising from the First Information Report bearing No. 0061 of 2022 dated 22.02.2022 registered with the Saja Police Station, District Bemetara, State of Chhattisgarh for the offence punishable under Sections 458, 294, 506(B) and 323 of the IPC respectively.

A. <u>FACTUAL MATRIX</u>

3. It is the case of the prosecution that on the fateful day of the incident the appellant herein along with three other co-accused trespassed into the house of the deceased and dragged him upto the terrace of the house and flung him down. After the deceased was thrown down from the terrace, the appellant and other co-accused assaulted him with sticks and fisticuffs. The injured was shifted to the hospital in a very critical condition. Dying declaration of the deceased was recorded *vide* Ex. P-22 in which he named the appellant herein and the other co-accused. The deceased also made oral dying declarations before the doctors who attended him medically in the hospital.

4. It appears that the injured Rekhchand Verma survived for about nine months from the date of the alleged incident. Ultimately, he died on 08.11.2022 on account of septicemia and pneumonia leading to cardiorespiratory arrest. In such circumstances, Section 302 of the IPC came to be added. The case was committed to the Court of Session. At the end of the trial, the appellant and the three co-accused came to be convicted of the offence of murder and were sentenced to life imprisonment.

5. The appellant herein along with co-accused, namely, Rupesh Kumar Sahu preferred Criminal Appeal No. 607 of 2023 in the High Court whereas the Criminal Appeal No. 866 of 2023 was preferred by Gulsan Sinha and Criminal Appeal No. 1151 of 2024 was preferred by one Chavendra Patel.

6. All the three criminal appeals referred to above were heard by the High Court and those were partly allowed *vide* the Impugned Judgment and order passed by the High Court. As stated above, the High Court altered the conviction of the appellant herein and the other co-accused from Section 302 of the IPC to one under Section 307 of the IPC and sentenced them to undergo 7 years of rigorous imprisonment and fine of Rs. 1,000/-.

7. In such circumstances referred to above, the appellant Maniklal Sahu is here before us with the present appeal.

B. <u>SUBMISSIONS ON BEHALF OF THE APPELLANT</u>

8. The learned counsel appearing on behalf of the appellant vehemently submitted that the High Court ought to have acquitted the appellant herein of all charges rather than altering the conviction from one under Section 302 IPC to Section 307 IPC.

The principal contention canvassed on behalf of the appellant herein is that the cause of death has no nexus with the injuries suffered by the deceased at the time of the alleged assault on him. In other words, the learned counsel laid much stress on the fact that the injured died after about nine months from the date of the incident. Second argument canvassed on behalf of the appellant is, that the eyewitnesses are not reliable witnesses. They are interested witnesses being PW-1 Satish Verma, brother of the deceased; PW-11 Vikas Verma, another brother of the deceased; and PW-12 Gautahiri Bai Verma, mother of the deceased. It was argued that they had no occasion to witness the alleged assault.

9. In such circumstances referred to above, the learned counsel appearing for the appellant would submit that there being merit in his appeal, the same may be allowed and the appellant may be acquitted of all the charges.

C. <u>SUBMISSIONS ON BEHALF OF THE STATE</u>

10. On the other hand, the learned counsel appearing for the State, while vehemently opposing this appeal, submitted that the High Court committed a serious error in altering the conviction under Section 302 of the IPC into one of attempt to commit murder punishable under Section 307 of the IPC.

11. However, the learned counsel fairly submitted that the State has not preferred any acquittal appeal in this regard. In such circumstances, he submitted that let the conviction of the appellant herein for the offence punishable under Section 307 of the IPC be maintained.

D. <u>ANALYSIS</u>

12. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the only question that falls for our consideration is whether the High Court committed any error in passing the Impugned Judgment and order?

13. We do not propose to reappreciate the entire oral evidence on record. We have looked into the oral testimonies of PW-1 Satish Verma, brother of the deceased; PW-11 Vikas Verma, another brother of the deceased; and PW-12 Gautahiri Bai Verma, mother of the deceased respectively. They are all eyewitnesses to the incident. There is no good reason for us to disbelieve or discard their evidence.

14. We only propose to examine in the present appeal whether the High Court committed any error in bringing the case within the ambit of "attempt to commit murder" punishable under Section 307 IPC on the ground that the deceased Rekhchand Verma died after a period of nine months from the date of the incident. Unfortunately, the exercise which we propose to undertake is ultimately going to be academic as there is no acquittal appeal filed at the instance of the State. However, we should not ignore or overlook the gross error committed by the High Court. We must explain, why the High Court is wrong in its view.

15. We must start with the medical evidence on record. The prosecution examined PW-9 Dr. Sheetal Kaushal. Dr. Sheetal Kaushal in his examination-in-chief has deposed under:-

01-"I was posted as Medical Officer at Community Health Centre Saja from 22.06.2020 to 16.06.2022.

02- On 22.02.2022 at 11.14 pm, the injured Rekhachand Verma, son of Radheshyam Verma, age 19 years, resident of Boratra, Police Station Saja, was brought to me for examination by constable Indraman Nishad number 274 of Police Station Saja at Community Health Center Saja, in which, during his examination, I found that:

1. *The said injured person said that he was pushed down from the roof and beaten up and the condition of the said injured person was serious and his blood pressure was very low. The said injured person was in a semiconscious state and the smell of alcohol was coming from his mouth.*

2. The above injured person had a lacerated wound measuring 8 cm x 0.5 cm x 1 cm in the temporal parietal region of his head, which was bleeding profusely.

3. The above patient was having pain in his throat and was having difficulty in moving his throat. I had advised him to get an X-ray done and also advised him to get his head checked by a neurosurgeon.

4. The injury was very serious so the correct opinion about the nature of the injury could have been given only after examination by a neurosurgeon and a radiologist. The condition of the patient was so serious that I advised him to be immediately taken to a higher centre.

5. The above injuries sustained by the above victim can be caused by falling from the roof and hitting the head with a hard or blunt object and the nature of the said injury can be determined only after treatment by the NCCT head and neurosurgeon and radiologist. In this regard, the medical examination report prepared by me is Ex.P. 06, part of which is signed by me.

03- On 25.02.2022, I was informed by the police station in-charge Saja by sending a memorandum that the injured Rekhachand Verma was referred to a higher center for advanced treatment and NCCT Head, Neurosurgery, Cervical X-ray was

advised, who was admitted to Mekahara Raipur on 23.02.2022, then to DKS Hospital Raipur and on 24.02.2022 he was admitted from DKS Hospital to MMI Hospital Raipur, where the victim is admitted in ICU. Whose MRI scan has been done, the part below the waist of the injured has become numb, due to which there is a possibility of spinal cord fracture, so give opinion on the following two points-

1. What is the nature of the injury suffered by the victim?

2. Was it possible for the injured person to die due to the injury?

I had written in reply to the above questions that, 1) "The nature of injury can only be determined by a Radiologist and Neurophysician and Neurosurgeon." and 2) "Yes, it was possible." The Curie report prepared by me in this regard is Ex.P. 07, which bears my signatures on parts A to A.

04- On 24,03,2022, the police station in-charge Saja sent a sealed stick along with a memorandum for testing and asked-

1. Could the injury sustained by Rekhachand Verma have been caused by the confiscated stick?

2. Are there blood stains on the said stick?

3. Any other opinions?

I had examined the sealed stick along with the above mentioned memorandum sent by the police station in-charge Saja, whose length and size I have mentioned by drawing its picture and after examining the said stick, my opinion is that 1) "Such injuries can be inflicted on the injured Rekhachand with this type of stick." and 2) "I did not find any blood stains on the stick." In this regard, the query report prepared by me is Ex.P. 08, which bears my signatures on parts A to A."

There is practically no cross examination of Dr. Sheetal Kaushal.

16. We now look into the evidence of Dr. Twinkle Chandrakar, PW-24. Dr. Chandrakar in her examination-in-chief has deposed as under:-

"*01- I am posted as Assistant Professor in Sri Sankaracharya Institute of Medical Science, Junwani Bhilai, District-Durg (CO) for the last two years.*

02- On 21.10.2022 at 10:35 P.M. the injured/deceased Rekhchand Lodhi father Radheshyam Verma age 22 years resident Boratara Tehsil Saja District Bemetara was brought to me for treatment at Shankaracharya Institute of Medical Science, Junwani Bhilai Hospital. On examining him I found that-

01. The condition of the said injured was very serious and he had no movement and sensation in both his legs due to which he was unable to walk and he had trouble breathing and his blood pressure was very low, he was not urinating and he was suffering from vomiting and diarrhea and he also had fever. The said injured had movement in both his hands.

02. There was a wound in the hip of the injured person which was filled with pus.

03. The injured person had weakness in both his hands and legs. The injured person had anaemia and there was swelling in his body.

04. The said injured person was being given oxygen with the help of a ventilator and medicines were being given to maintain blood pressure and due to blood loss, blood was transfused and antibiotics were given and the wound on his hip was being treated.

05. The patient's condition was not satisfactory and the patient was becoming unstable.

03- I had admitted the said injured/ deceased on 22.10.2022 in Shankaracharya Hospital Junwani, who died during treatment on 08.11.2022 due to Septic shock with bilateral pneumonia with post traumatic spinal cord injury with paraplegia with infected bedsore with hepatic dysfunction. The entire treatment of the said deceased Rekhachand was done by the medicine unit of the hospital under my guidance and his discharge summary has been prepared by Junior Doctor Richa Sharma, which is , Ex.P. 28, on which my

signature is on part A and my seal and seal are on parts B to B. Along with the said discharge certificate, the photocopy of the entire bedhead ticket related to the treatment of the said deceased in our hospital is of total 137 pages and a death certificate was issued by our hospital in relation to the death of the above deceased, the death certificate is Ex.P. 29, on which my signature is on part A to A and my seal and seal are on parts B to B.

04- On 29.11.2022, the police station in-charge of police station Saja sent letter no. / Th.Pr. / Saja / 702-A / 2022 regarding providing opinion by curating the discharge certificate and bedhead ticket of deceased Rekhachand Lodhi. In crime number 61/2022 of police station Saja and asked the following question-

1. On the night of 22.02.2022 at about 8 o'clock, the accused beat up Rekhachand Verma with sticks and fists and threw him from the roof onto the CC road with the intention of killing him, due to which his spine was fractured. The deceased died during treatment at Shankaracharya Hospital on 08.11.2022. Did the deceased die due to fracture in his spine?

2. If deceased Rekhachand died due to some other reason, please give your clear opinion?

05- In order to answer the said query, after examining the discharge certificate of deceased Rekhachand and the bed head ticket related to his treatment, I have given this statement that, 1) In the history of the said injured, on 22.02.2022, due to spinal cord injury, there was paraplegia and the said deceased had weakness in both hands and legs due to which the patient became bedridden and there was infection in the wound of his hip, due to which it is possible that the death of patient Rekhachand was due to spinal cord injury. 2) While answering the query question number 02 of the police station incharge, I have written such an opinion in my query report Ex. P. 30 which is the memorandum of the police station in-charge dated 29.11.2022 on the page that, A-Septic shock with Bilateral Pneumonia. B-Post traumatic Spinal Cord

injury with Paraplegia infected bedsore hepatic dysfunction. That is, the patient Rekhachand died due to the same reason which I have mentioned in the answer to query question no. 01. My signature is on parts A to A of the query report Ex. P. 30."

Once again, there is practically no cross examination of Dr. Twinkle Chandrakar.

17. In the last, we should look into the oral evidence of Dr. Abhishek Shrivastava, PW-28. Dr. Abhishek Shrivastava in his examination-in-chief has deposed as under:-

"01- I am posted as Senior Medical Officer In Government Hospital, Supela Bhilai, District Durg from 01.01.2021 till date.
02- On 09.11.2022 at 12:30 PM, deceased Rekhchand Radheshyam Lodhi, age 22 years, resident of Boratara, District Bemetara, was presented from Shankaracharya Hospital, father late Junwani, District Durg, for post-mortem by constable number 484 Evan Baghel of Police Outpost Smriti Nagar Police Station Supela, to Government Hospital, Supela Bhilai, District Durg. The said body was identified by Satish Lodhi, Rajendra Yadu and constable Evan Baghel.
03- The postmortem of the said dead body was started by me on 09.11.2022 at 12:30 P.M. The said dead body was of a male, which was wrapped in a white cloth and was lying straight on the postmortem table. The body of the said deceased was stiff and cold. <u>There was injury on the entire back portion of both the thighs of the said deceased and there was injury on his left ankle as well. There was bedsore on the entire lower back of the said deceased, the size of which was 4 x 3 cm.</u>
04- The deceased was of normal height and his skull, cranium, vertebrae, brain and spinal cord were congested. There was fluid present in the right and left lungs of the deceased. There was a clot in the heart of the deceased. The diaphragm, intestine, mouth and esophagus and pharynx of the deceased were normal and his spleen, kidney were pale and urinary bladder was empty and

genitals were normal. There was half-digested food in the stomach of the deceased and half-digested food and stool was also present in his small intestine and large intestine.

05- On the basis of the results and experience obtained from the postmortem of the said deceased Rekhachand, it is my opinion that the said deceased died of cardiorespiratory attack due to septic shock, which was caused by infection of the injuries in the body of the deceased. The time of death of the said deceased was between 18 to 36 hours and the injuries found on the body of the said deceased were before his death (antemortem). In this regard, the postmortem report prepared by me is Ex.P. 34, which bears my signatures on parts A to A, B to B and C to C.

Cross-examination by Shri Balram Sahu, Advocate for accused Gulshan and Chavendra:-

06- On being asked whether septic shock can occur in the absence of treatment) the witness said that it is possible if necessary antibiotics are not given during treatment."

(Emphasis supplied)

There is practically no cross examination of Dr. Abhishek Shrivastava.

18. Thus, the injured was brought to the hospital on 22.02.2022 in a very critical condition. According to Dr. Kaushal (PW-9), the injured was in a semi-conscious state. He was bleeding profusely due to a very serious head injury.

19. What is discernable from the medical evidence on record, in the form of oral testimonies of the three doctors referred to above, and the documentary evidence in the form of postmortem report and the injury certificate Exhibit P-34 is that the deceased died due to complications from paraplegia following spinal cord injury which

resulted in systemic infection and multi-organ failure. Exhibits P-28, P-29 and P-34 respectively make it clear. It is ultimately the septic shock resulting from infected pressure sores which in turn arose from the spinal injury sustained in the incident that proved to be fatal.

20. The deceased also suffered from pneumonia. According to the medical experts, this pneumonia was the direct result of the long drawn medical treatment which was given to the deceased over a period of nine months.

21. All the three medical experts examined by the prosecution are clear in their oral testimony that the deceased died during treatment on 08.11.2022 due to septic shock with bilateral pneumonia, post traumatic spinal cord injury with paraplegia and infected bedsores leading to hepatic dysfunction. The ocular version of the eyewitnesses corroborates with medical evidence on record.

22. Keeping the aforesaid in mind, we now proceed to consider the understanding of the High Court while altering the conviction.

i. When is an offence said to be made under Section 307 of the IPC

23. The High Court while altering the conviction under Section 302 to one under Section 307 of the IPC recorded the following findings as contained in paragraph 35 of the Impugned Judgment. Para 35 reads thus:-

> *"35. No doubt, the injuries caused by the appellants to the deceased were grievous in nature. He died due to septic shock with bilateral pneumonia with post traumatic spinal cord injury with paraplegia with infected bedsore with hepatic*

dysfunction. Due to spinal cord injury, there was paraplegia and the deceased had weakness in both hands and legs, due to which the deceased became bedridden and there was infection in the wound of his hip. Due to which, it is probable that the death of deceased Rekhchand Verma was due to his spinal cord injury. Rekhchand Verma was firstly referred to the Community Health Center, Saja, the doctor there referred him to Mekahara Hospital, Raipur and from there he was shifted to DKS Hospital and thereafter he was again shifted to MMI Narayan Hospital, Raipur and finally he was shifted to Shankaracharya Hospital, Durg where he died. As such, due to lack of proper treatment, he died after about 9 months of the incident. Therefore, the case of the appellants falls within the purview of Section 307 of the IPC and not under Section 302 of the IPC. Even otherwise, the trial Court has already convicted the appellants for offence under Section 307/34 of the IPC for the same offence, therefore, there is no necessity to convict them also for offence under Section 302/34 of the IPC."

24. We have noticed over a period of time that the courts get confused while determining the exact nature of offence, more particularly, when there is a long interval between the date the victim suffered injuries and the date of his death.

25. We must first look into the relevant provisions of the IPC. Sections 299, 300 and 302 of the IPC respectively read as under:-

"Section 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.

xxx

"Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death,

although by resorting to proper remedies and skillful treatment the death might have been prevented."

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—
2ndly.—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—
3rdly.—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—
4thly.—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.

xxx

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

26. To come within the definition of Section 299 IPC, the act of the accused should cause death and it must be (a) with the intention of causing death, or (b) with the intention of causing such bodily injuries as is likely to cause death, or (c) with the knowledge that he is likely by such act to cause death. The question when a person could be said to have caused death by his act needs to be answered taking into consideration the *Explanations 1* and *2* respectively to Section 299 of the IPC.

27. The simpler case is where death results directly and immediately from the act itself. Equally, when death ensues as a natural or necessary consequence flowing from that act, there can be no hesitation in holding that the act caused the death. For "*Thirdly*" of Section 300 to apply the requirement is, that the injury inflicted should be found sufficient in the ordinary course of nature to cause death, a high degree of probability, in the ordinary way of nature, that death would ensue on the injuries. The difficulty arises when there are recognisable contributory causes leading to death, and the Court is called upon to consider in such case the relative effect and strength of the different causes in bringing about the effect i.e., the death, and then to ascertain whether the responsibility of the death could be assigned to a particular act which is not as proximate, or immediate.

28. Section 307 of the IPC reads as under:-

> "*Section 307. Attempt to murder.—Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.*"

29. An offence under Section 307 IPC has the following essential ingredients:-

(i) The death of a human was attempted;

(ii) That the death was attempted to be caused, or caused in the consequence of the act of the accused; and

(iii) That the act was done with the intention of causing death; or that it was done with the intention of causing such bodily injury as:

a. the accused knew to be likely to cause death; or

b. was sufficient in the ordinary course of nature to cause death, or that the accused attempted to cause death by doing an act known to him to be so dangerous that it must in all probability cause:

i. death, or

ii. such bodily injury as is likely to cause death.

30. Thus, from the above, the most important ingredient to constitute the offence of attempt to commit murder punishable under Section 307 of the IPC is the intention or knowledge. To bring home guilt against an accused under this provision, it is necessary for the prosecution to establish that the *intention* of the accused was one of the three kinds mentioned in Section 300 of the IPC. A person commits an offence under Section 307 of the IPC when he has the intention to commit murder and in pursuance of that intention, does an act towards its commission irrespective of the fact whether that act is the penultimate act or not. The provision requires that the act must be done with such intention, or knowledge, or in such circumstances that if death be caused by that act, the offence of murder will emerge.

31. It is clear as noonday that causing an injury that would endanger life is not an essential condition for the applicability of Section 307 of the IPC. Even if the injuries inflicted are simple in nature, that by itself cannot be a ground for acquittal, if the offence otherwise falls under Section 307 of the IPC.

32. The word “intent” means design, or determination with which a person acts. It presupposes knowledge. It is the purpose to use particular means to effect certain result. The “act” referred in Section 307 of the IPC attempted to must be with the “intention” of killing a human. Intention is a state of mind which cannot be proved by direct evidence as a fact; it can only ordinarily be inferred from proved facts. It may be proved by *res gestae*, by acts or events previous or subsequent to the incident or occurrence, or on admission. We say so because it shows the presence of will in the act which consummates a crime. The relevant circumstances from which the intention can be gathered. We have supplied a suggestive, and not exhaustive list:-

    1. the nature of the weapon used;
    2. the manner in which the weapon was used;
    3. the part of the body where the injuries were inflicted;
    4. the nature of the injuries caused;
    5. the opportunity available which the accused gets.

33. We may quote with profit one very erudite decision of the High Court of in the case of ***Sreedharan* v. *State of Kerala***, reported in **1969 SCC OnLine Ker 46**, wherein the Court illustrated the metrics by which intention and knowledge can be inferred. It was held that intention can be inferred from the circumstantial evidence of the case, such as the motive, the preparations made, the declarations of the offender, the weapon used, the persistent of the assault, and the nature of the injuries inflicted, and its position. In the IPC, the word “intention” is understood in the context of the consequences of an act, and not in relation to the act. The Court lucidly elaborates that the presence of intention is gathered when an act is done deliberately or purposely, it is not

contingent on the resultant effect. Most importantly, the inference lies in reading of the consequences from the eyes of a reasonable man. The relevant observations read thus:-

> "*16. Intention and knowledge are a man's state of mind; direct evidence thereof except through his own confession cannot be had; and apart from a confession they can be proved only by circumstantial evidence. In other words, they are matters for inference from all the circumstances of the case such as the motive, the preparations made, the declarations of the offender, and, in the case of homicide, the weapon used, the persistence of the assault, and the nature of the injuries actually inflicted as also their location. In the case of what are generally described as unpremediated offences or as offences committed on the spur of the moment, intention may be contemporaneous with the physical act, at best of just an instant before, and is generally to be gathered from the nature and consequences of the act and the attendant circumstances. It is here that the much criticised maxim that every man is presumed to intend the natural and probable consequences of his act comes into play.*
>
> *17. Like most words, the word, "intention" is capable of different shades of meaning. In the Penal Code, 1860 it is used in relation to the consequences of an act, the effect caused thereby, not in relation to the act itself—the voluntariness required to constitute an act is implied by that very word. Thus, in the case of murder, the intention required is (omitting clause secondly of S. 300 which rarely comes into play) the intention of causing death or the intention of causing bodily injury sufficient in the ordinary course of nature to cause death, more or less the malice aforethought of the English law, the former being generally described as specific intent or malice and the latter as implied malice or sometimes as constructive malice, though the use of the latter term seems open to criticism. It seems to us clear from the illustrations to Ss. 88, 89 and 92, that the Code uses the word, "intention" in the sense that*

something is intentionally done if it is done deliberately or purposely, in other words, is a willed though not necessarily a desired result or a result which is the purpose of the deed. The surgeon of the illustrations certainly does not desire the harm that may be caused; nor is that his purpose. Nevertheless, the provisions of the sections show that he could have intended the harm, and is saved from being a criminal only by those provisions. Likewise a man who shoots another in the heart and kills him in self-defence might not desire, on the contrary might very much dislike, causing the latter's death. His purpose is not to cause death but to save himself. Yet his case falls squarely within the first clause of S. 300—he has undoubtedly caused death by doing an act with the intention of causing death—and is saved from being a murderer only by S. 100. Lang v. Lang(1955) A.C. 402 rather than Rex v. Steane(1947) K.B. 997 at 1004 or Hosegood v. Hosegood66 The Times L.R. 738 illustrate the sense in which the word, "intention" is used in S. 300 of the Penal Code, 1860—of course none of these cases was construing that statute. And, once you dispense with desire or purpose, it follows that foresight of the consequences of an act gains the upper hand in determining whether the consequences were intended or not. And, the foresight of a particular person is prima facie to be gauged by the foresight of an ordinary, reasonable man, in other words, by what is sometimes disparagingly referred to as the objective test or external standard—as if that were enough to condemn it—of the reasonable and probable consequences of the act."

(Emphasis supplied)

34. To justify a conviction under Section 307 IPC it is not essential that bodily injury capable of causing death should have been inflicted. Although, the nature of injury actually caused may often give considerable assistance in coming to a finding as to the intention of the accused, yet such intention may also be deduced

from other circumstances, and may even, in some cases, be ascertained without any reference at all to the actual wounds. The provision makes a distinction between an act of the accused and its result, if any. Such an act may not be attended by any result so far as the person assaulted is concerned, but still there may be cases in which the culprit would be liable under the provision. It is not necessary that the injury actually caused to the victim of the assault should be sufficient under ordinary circumstances to cause the death of the person assaulted. What the courts have to see is whether the act, irrespective of its result, was done *with the intention or knowledge* and under circumstances mentioned in the provision. An attempt in order to be criminal need not be the penultimate act. It is sufficient in law if there is present an intent coupled with some overt act in execution thereof.

35. An offence under Section 307 IPC is made out even though death does not ensue, more pertinently, even if no harm ensues. The phrase employed in the provision, "*if he by the act caused death*", imports that the act in question must possess the potential to cause death. An act intrinsically incapable of causing death cannot constitute the offence under this provision. We had the benefit of referring to ***Reg. v. Cassidy***, reported in (1867) 4 Bom. H.C. (Cr. C.) 17, which emphasizes upon the same in the following words:-

> *"The first two heads are framed under S. 307. The words of that section are:— "Whoever does any act with such intention or knowledge, and under such circumstances, that if he by that act caused death he would be guilty of murder, shall be punished, "& c. Now it appears to me, looking at the terms of this section, as well as at the illustrations to it, that it is necessary, in order to constitute an offence*

under it, that there must be an act done under such circumstances that death might be caused if the act took effect. The act must be capable of causing death in the natural and ordinary course of things; and if the act complained of is not of that description, a prisoner cannot be convicted of an attempt to murder under this section".

(Emphasis supplied)

36. This decision was criticised by Beaumont, C.J. in ***Emperor* v. *Vasudeo Balwant* Gogte** reported in **1932 SCC OnLine Bom 1**, but the learned Judge's conclusion expressed in the following words seems to us much the same:-

> "*But if you have an act done with a sufficiently guilty intention and knowledge and in circumstances which do not from their nature afford a defence to a charge of murder, and if the act is of such a nature as would have caused death in the usual course of events but for something beyond the accused's control which prevented that result, then it seems to me that the case falls within S. 337.*"

37. From the above exposition of law, there is no gainsaying that the assault shall be capable of causing death. In ***R.* v. *Whybrow*** (1951-35-Crl. Appl. 141) the accused by a device constructed by him administered electric shocks to his wife while she was in a bath. Parker, J. directed the jury that if he did so, intending to kill his wife *or to do her grievous bodily harm* he would be guilty of attempt at murder. The Court of Appeal held that this was a wrong direction. Observing that if the charge is one of attempt at murder, the intention to kill is the principal ingredient of the crime. Lord Goddard C.J., expressed himself thus:-

> "*Therefore, if one person attacks another, inflicting a wound in such a way that an ordinary, reasonable person must know that atleast grievous bodily harm will result and death results, there is the malice aforethought sufficient to*

> *support the charge of murder. But, if the charge is one of attempted murder, the intent becomes the principal ingredient of the crime. It may be said that the law which is not always logical, is somewhat illogical in saying that, if one attacks a person intending to do grievous bodily harm and death results, that is murder; but if one attacks a person and only intends to do grievous bodily harm, and death does not result, it is not attempted murder, but wounding with intent to do grievous bodily harm. It is not really illogical because, in that particular case, the intent is the essence of the crime while, where the death of another is caused, the necessity is to prove malice aforethought, which is supplied in law by proving intent to do grievous bodily harm.*"
>
> (Emphasis supplied)

38. In ***R* v. *Grimwood*** (1962-(3)-AER. 285), the accused had been convicted by the Central Criminal Court of attempt to strangle his wife with intent to murder her. No verdict was taken from the jury on two other counts, namely, attempt to suffocate his wife with intent to murder and assault occasioning her actual bodily harm. In the course of his direction to the jury the learned Judge, relying on ***Director of Public Prosecutions* v. *Smith*** (1961-AC. 290), observed:-

> "*He is put before you by his counsel as an ordinary normal minded man, and so you should take it in this case that he is an ordinary normal-minded man. The Law is that in the case of an ordinary normal man it does not matter what that man contemplates at the moment at all. The test is whether what he did was of a kind where death might well have been the natural and probable result of what he did.*"
>
> (Emphasis supplied)

39. On appeal from the above conviction, Lord Parker, C.J. delivering the judgment of the Court of Criminal Appeal observed that the

Court was clearly of the opinion that nothing that was said in ***Smith*** (*supra*) had any application to the offence of attempted murder. Adverting in particular, to the direction to the jury extracted *supra*, the Lord Chief Justice observed:-

> *"One further matter should be mentioned, and that is that certainly in regard to the first passage which I have quoted in the summing up it might well have led the jury to suppose that, even if they were satisfied that all that the appellant intended to do was to cause grievous bodily harm, yet if death might well result from such grievous bodily harm an intent to murder had been proved. That again, if that impression was conveyed, was quite clearly a wrong direction. In R. v. Whybrow1951-35-Crl. Appl. 141 Lord Goddard, C.J. dealt with that very point."*

ii. Application of *Theory of Causation* where death ensues after some delay

40. The theory of causation should be kept within reasonable limits at both ends. The question when there are latter complications would be, whether such complications are the natural or likely consequences of the injury, the ordinary course it takes before death causes. That the consequences are labelled as a supervening condition or disease, given a name and shown as the immediate cause of death will not efface from the chain of events and causes the original injury, if death is its ultimate result. At the end, all death is brought about by coma, syncope or asphyxia, the synchronised and interdependent functioning of the brain; the heart and the lungs maintaining life. Death may properly be attributed to coma, syncope and asphyxia, but the cause cannot stop there. The stoppage of one of them will be quickly followed by the stoppage of the action of others and by cessation of life. In ***Brintons Ltd.* v. *Turvey***, 1905 AC 230, 233, the Earl of Halsbury L.C. while considering the phrase "accident causing injury"

observing that "we must be on our guard that we are not misled by medical phrases to alter the proper application of the phrase, because the injury inflicted by accident sets up a condition of things which medical men describe as disease" stated:-

> *"An injury to the head has been known to set up septic pneumonia, and many years ago I remember when that incident had in fact occurred it was sought to excuse the person who inflicted the blow on the head from the consequences of his crime because his victim had died of pneumonia and not as it was contended, of the blow on the head. It does not appear to me that by calling the consequences of an accidental injury a disease one alters the nature or the consequential results of the injury that has been inflicted."*

41. In the same case at p. 234, Lord Mac-naghten observed:-

> *"The accidental character of the injury is not, I think, removed or displaced by the fact that, like many other accidental injuries, it set up a well known disease, which was immediately the cause of death, and would no doubt be certified as such in the usual death certificate."*

42. However, for culpability, as stated in ***Mayne's Criminal Law of India***, 4th Edn., at p. 477 "*it is indispensable that death should be connected with the act of violence not merely by a chain of causes and effects but by such direct influence as is calculated to produce the effect without the intervention of any considerable change of circumstances.*" The learned commentator referring to ***R. v. Holland***, (1841) 2 M and Rob 351; (1904) 1 Cri LJ 909, observed at page 476:-

> *"The real question was whether in the end the wound was the cause of death."*
>
> (Emphasis supplied)

43. He refers to *Explanation* 2 to Section 299 as substantially producing the rule enunciated in ***Male's Pleas of the Crown***, Volume I, page 28, to the following effect:-

> "*If a man receives a wound, which is not in itself mortal, but either for want of helpful applications or neglect thereof it turns to a gangrene or a fever, and that gangrene or fever be the immediate cause of death, yet this is murder or manslaughter in him that gave the stroke or wound, though it were not the immediate cause of his death, yet if it were the immediate cause thereof, and the fever or gangrene was the immediate cause of his death, yet the wound was the cause of the gangrene or fever, and so consequently is causa causans.*"
>
> (Emphasis supplied)

44. The learned author observes at p. 475:-

> "*Where an injury of a dangerous character has been inflicted, which might possibly not have been fatal, but the sufferer declines to follow proper treatment, or is injudiciously treated, or sinks under an operation which might possibly have been avoided, the person who inflicted the injury is considered in law to have caused the death which results.*"
>
> (Emphasis supplied)

45. In ***R.* v. *Holland*** (*supra*), the deceased who had received a cut on the finger did not follow the advice of the surgeon to have it amputated. Subsequently, lock-jaw set in because of which he died. Evidence was let in that if he had submitted to an operation, his life would probably have been saved. But Maule, J. held that that was no defence.

46. In ***Russel on Crime***, 12th Edn., Vol. 1 at page 28 it is stated:-

> "*There is however, the different, although allied, point that a particular man's conduct may not have been the sole cause of the actus reus, it may have been a contributory cause. In such circumstances,*

it would seem that a safeguard against injustice should take the form of a direction to the jury that they should not convict unless they are satisfied that actus reus would not have occurred but for the accused man's participation in the matter."

47. Proceeding it is observed:-

"*The actus reus, on the above definition is an event, and any particular event may be found to have been produced by the combined effect of a number of factors any one of which may be regarded as a cause of the event provided that this event would not have taken place had that factor not existed. In such a situation a man may be held to have caused the actus reus of a crime if that actus would not have occurred without his participation in what led upto it.*"

(Emphasis supplied)

48. Referring to indirect causation, it was observed by the Madras High Court **In *re, Maragatham***:-

"*But how far can indirect causation to be recognised as operative, in criminal jurisprudence? A glimmer of light is thrown upon this problem in the case law relating to explanation 2 to Section 299, I. P. C. If, after the blow or act of injury impugned as homicidal, a distinct set of circumstances arises causing. a new mischief, then the new mischief will be regarded as the causa causans and not the original blow: R. v. Flynn. (1867) 16 WR 319 IR, cited in Ratan's Culpable homicide p. 8". But the question is hardly free from subtle difficulties.*"

(Emphasis supplied)

49. The difficulty of deciding between proximate and remote cause or for finding out *causa causans* was cut through by the rule of English common law that a man who had received injury from another was not considered to have been killed by him, unless

death followed within a year and a day after the injury. But there is no such rule in the Indian Penal Code. While referring to the theory of causation which provided the simple test of guilty in the early period of criminal law, in ***Russel on Crimes***, 12th Edn., Volume 1, the learned author observes at page 28 that the drawing of a line between proximate causes and remote consequences is unscientific, but appeared to be the only way of avoiding decisions of a cruelty offensive to moral feelings before the doctrine of *mens rea* as a legally essentially ingredient in criminal liability appeared." The learned author states at p. 40:-

> *"The new test (foresight of consequences) is found in the requirement that the accused person, when pursuing the line of active conduct (or passive) in cases where there is a legal duty to action which resulted in the harm for which he is charged (i.e., the actus reus) must have been aware that certain sped fled harmful consequences would or could follow. Such a test arises naturally from the adoption of the ethical approach to the problem of crime, since in many minds it is hard to see any moral blame, meriting the infliction of punishment, in a man who has pursued a line of conduct without appreciating that it would produce mischievous results."*
>
> (Emphasis supplied)

50. In the footnote at page 412, the learned author observes that the unscientific differentiation between proximate and remote consequences of a man's conduct was probably due to the lack of clear definition of *mens rea* which would have rendered innocuous a remote claim of causation; since the more remote the cause the less possible it would be to establish that the prisoner intended or realised the result.

51. The problem of supervening cause intervening arose for consideration ***In re, Periaswami***, C.A. 166 of 1961 (Mad). In that case, the accused whipped out his knife and stabbed the deceased in his abdomen in the course of a sudden quarrel. The deceased had a tear in his stomach and an incised cut in the liver. He was under treatment for 17 days and was having a sinus through which he was discharging bile and some pus. Due to the constant discharge of bile and pus, the abdomen suddenly burst. The abdomen was sutured, but he did not recover. In the opinion of the doctor, the deceased would appear to have died of septic peritonitis as a result of the injuries to the stomach, liver and pancreas. It was contended for the accused that the deceased died not as a result of the wounds inflicted by the accused, but on account of some other causes, which intervened, in the course of treatment. After examining the case law, it is observed that the accused inflicted the injury on the vital part of the body, and that there was no definite evidence that death was due to other independent supervening causes. It was held that death was due to an injury which was sufficient in the ordinary course of nature to cause death, and that death was ultimately due to the supervening of septic peritonitis and the accused was directly responsible for causing death. It was found on the evidence, that, though there was culpable homicide, yet it was a case falling under Part II of Section 304 of the IPC.

52. The decision in ***Nga Moe* v. *The King***, AIR 1941 Rang 141, is again illustrative:-

> "*The injury indicted by the accused on deceased's head was not such as to entail any serious consequences to a person in normal health. The wound had healed up to the end of seven days in the hospital but the deceased had temperature*

and on this account was advised to remain in hospital until temperature had subsided. Contrary to medical advice, the deceased left hospital. Subsequently as a result of the formation of an abscess on the brain the deceased died. But no death would have resulted, if he had not insisted on leaving the hospital against medical advice. His death really ensued because of his weak physical condition due to his suffering from chronic malaria and because his powers of resistance to infection had been much lowered by that disease. No abscess would have formed on the brain if the deceased had been in normal state of health and he died from abscess and not from the injury which had only a remote connection with the abscess. The immediate cause of the deceased's death was his debilitated condition for which the injury was in no way responsible."

53. It was held in the circumstances that the accused was guilty of causing simple hurt punishable under Section 324 of the IPC. Dunkley, J. observed at P. 144:-

> *"Therefore, it cannot be held that the act of the appellant caused the death of the deceased. The only case in which the infliction of an injury of this nature under similar circumstances could be held to amount to culpable homicide or murder is a case falling within Clause 2 of Section 300, I. P. C. namely, if the act 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. If there had been evidence to show that the appellant was at the time aware of the state of the deceased's health and therefore knew that even a slight injury was likely to result in his death, his act might have been brought under this clause, but there is no such evidence."*
>
> (Emphasis supplied)

54. The following observations of Roberts, C.J. in the case are apposite in the circumstances of the present case. The learned Judge observed:-

> *"It really is plain common sense that, if a man strikes another such a blow as will not in the ordinary course of events cause more than simple hurt, he is answerable for causing simple hurt and, for no more. No doubt, the natural effect of some grave wounds, if not medically treated, is septic inflammation, if death proceeds from this in the ordinary course the offender is prima facie guilty of murder; if death is merely the likely result of such an injury, it is culpable homicide. But here the dangerous condition which supervened was an unlikely consequence of a blow comparatively trivial in character although the weapon was a dangerous one. The fact that a dangerous weapon is used is often and may be indeed generally, a matter to be taken into account in deciding questions of intention; but circumstances after cases, and, having regard to the medical evidence here as to the wound itself it is impossible to say that there was an intention to cause death. The offence could not therefore amount even to culpable homicide."*
>
> (Emphasis supplied)

55. The leading old case is **In *re, Doraswami***, reported in **1943 SCC OnLine Mad 208**, where the principle is thus enunciated:-

> "*In my view, the test is whether the cause of death is to be directly associated with the act. Whether it be a deliberate act in criminal cases or an accident in cases of workmen's compensation it is, I think, well known that the ultimate cause of death in a large number of cases is pneumonia. It would be a strange position if a man who inflicts a wound causing almost immediate death should be guilty of murder, whilst a man who inflicts a very similar wound from which pneumonia supervenes should not. On the facts of this case, it is clear to me that the deceased man, in spite of his physique which*

is said to have been exceptionally robust, died as a direct result of the injuries inflicted upon him by the appellant; and that the appellant intended his death is evident from the facts. The result was not as immediate as he intended and not perhaps quite in the manner that he intended. But in the process of nature, in spite of medical attention, one of the well known perils from a wound supervened, namely, blood poisoning, and the deceased died. The chain of causation is in my view direct."

(Emphasis supplied)

56. In ***Taylor's Principles and Practice of Medical Jurisprudence***, 11th Edn. Vol. 1, at page 232, it is stated:-

"*A wound may cause death either directly or Indirectly. A wound operates as a direct cause of death when the wounded person dies either immediately or very soon after its infliction, and there is no other cause of death. In wounds which cause death indirectly the deceased survives for a certain period, and the wound is complicated by inflammation embolism, pneumonia, tetanus, or some other mortal disease which is a consequence of the injury. Cases which prove fatal by reason of surgical operation rendered imperatively necessary for the treatment of injuries presuming that these operations have been performed with ordinary skill and care, also fall into this category.... It would be no answer to a charge of death from violence to say that there was disease in the body of the victim unless the disease was the sole cause of death.*"

(Emphasis supplied)

57. At page 238, the learned author observes:-

"Certain kinds of injuries are not immediately followed by various consequences: but an injured person may die after a long or shorter period and his death may be as much a consequence of the injury as if it had taken place on the spot. An aggressor is as responsible as if the deceased had been directly killed by his violence provided the fatal result can be traced to probable

> *consequences of the injury....Death may follow a wound, and be a consequence of that wound, at almost any period after its infliction. It is necessary however, in order to maintain a charge of homicide, that death should be strictly and clearly traceable to the injury. A doubt on this point must of course lead to an acquittal of the accused."*
>
> (Emphasis supplied)

58. Septicemia is described by the medical experts as the condition which results where the circulation becomes flooded with bacteria, either due to the failure of local defensive reactions at the site of infection or to delayed or inadequate treatment. According to the learned author, every penetrating wound except those inflicted by the surgeon is potentially infected, though a certain period elapsed before invading organisms actually establish themselves become embedded in the tissues to multiply and form toxins. [See: ***The Essentials of Modern Surgery by Handfield Jones and Pokitt, V Edn***]

59. In one of the recent pronouncements of this Court in ***Prasad Pradhan & Anr.* v. *State of Chhattisgarh***, reported in **(2023) 11 SCC 320**, this Court stated in paragraphs 30 and 31 respectively as under:-

> *"30. During the hearing, the appellants' counsel had urged that Vrindawan died 20 days after the attack, and the lapse of such a time shows that the injuries were not sufficient to cause death in the ordinary course of nature. On this aspect, there are several judgments, which emphasise that such a lapse of time, would not per se constitute a determinative factor as to diminish the offender's liability from the offence of murder to that of culpable homicide, not amounting to murder.[…]*

31. There can be no stereotypical assumption or formula that where death occurs after a lapse of some time, the injuries (which might have caused the death), the offence is one of culpable homicide. Every case has its unique fact situation. However, what is important is the nature of injury, and whether it is sufficient in the ordinary course to lead to death. The adequacy or otherwise of medical attention is not a relevant factor in this case, because the doctor who conducted the post-mortem clearly deposed that death was caused due to cardiorespiratory failures, as a result of the injuries inflicted upon the deceased. Thus, the injuries and the death were closely and directly linked."

(Emphasis supplied)

60. In the case of ***Sudershan Kumar* v. *State of Delhi***, reported in **(1975) 3 SCC 831**, this Court dealt with the case of acid pouring. In the said case, this Court was called upon to consider the question as regards the nature of the offence committed by the appellant therein in causing death of one Maya Devi by pouring acid on her body. After 12 days from the date of incident the victim therein died. It was argued on behalf of the appellant that death of Maya Devi was not the direct result of the injuries caused by the acid burns but was on account of some supervening circumstances not resulting from the injuries and, therefore, the appellant therein could not be held guilty of murder. This Court while negativizing such contention observed that the injuries caused by the appellant therein were sufficient in the ordinary course of nature to cause death and the appellant was accordingly held guilty of an offence punishable under Section 302 of the IPC.

61. In ***Patel Hiralal Joitaram* v. *State of Gujarat***, reported in **(2002) 1 SCC 22**, the interval between the date of the incident when the deceased sustained burns and the date of her death was

a fortnight. It was argued on behalf of the appellant therein that the death of the deceased had no direct nexus with the burn injuries as during the interregnum period some other complications cropped up as a result of which the victim succumbed. While negativizing such contention, this Court observed as under:-

> *"16. Harping on an answer given by PW 12 in cross-examination that death of the deceased had occurred due to "septic" learned Senior Counsel made out an argument that such septic condition could have developed on account of other causes. Mere possibility of other causes supervening during her hospitalisation is not a safe premise for deciding whether she would not have died due to the burns sustained on 21-10-1988. The cause of death can be determined on broad probabilities. In this context we may refer to a passage from Modi's Medical Jurisprudence and Toxicology, dealing with death by burns:*
>
> > *"As already mentioned, death may occur within 24 to 48 hours, but usually the first week is the most fatal. In suppurative cases, death may occur after five or six weeks or even longer."*
>
> *17. In Om Parkash v. State of Punjab [(1992) 4 SCC 212] the victim was set ablaze on 17-03-1979 and she sustained burns with which she died only 13 days thereafter. The assailant was convicted of murder and the conviction was confirmed by this Court.*
>
> *18. It is preposterous to say that the deceased in this case would have been healed of the burn injuries and that she would have contracted infection through some other causes and developed septicemia and died of that on 15-11-1988. Court of law need not countenance mere academic possibilities when the prosecution case regarding death of the deceased was established on broad probabilities as a sequel to the burns sustained by her. Hence we repel the contention of the learned counsel on that score."*
>
> (Emphasis supplied)

62. In ***State of Haryana* v. *Pala & Ors***., reported in **(1996) 8 SCC 51**, this Court had the occasion to explain the difference between the primary effect of the injuries and the secondary effect of the injuries. In the said case, the victim was hit on his head three times and after the victim had fallen the other accused had beaten him thrice on his chest and abdomen. The victim was taken to the hospital; he died several days later in the hospital. In the said case the doctor's opinion as regards the cause of death was as follows:-

> *"Cause of the death was due to Septicemia, which resulted as a result of the head injury and was sufficient to cause death in ordinary course of nature"*

63. It was contended on behalf of the accused before this Court that the offence would not fall under any of the limbs of Section 300 of the IPC. This question was considered in the light of further information given by the doctors which is as follows:-

> "*Septicemia is the direct result of the head-injury. This is not a disease. In other words, head injury is the cause of death.*"

64. The trial court convicted the accused applying Clause 3 of Section 300 under Section 302 of the IPC. On appeal the High Court applied *Exception* 4 to Section 300 IPC and altered the offence of murder into culpable homicide not amounting to murder and convicted the accused under Section 304 Part II of the IPC. In appeal before this Court, in paragraphs 3 and 4 respectively, of the judgment the Court held as follows:-

> "*3. On the other hand he contended that when death was due to septicemia, it cannot be referable to the cause of the death in the ordinary course of nature due to ante-mortem injuries and that, therefore, the offence of murder has not been made out. In support thereof, he sought to place reliance on Lyon's Medical Jurisprudence for India (Tenth*

Edition) at page 222. It is stated therein that "Danger to life depends, primarily, on the amount of haemorrhage, on the organ wounded, and on the extent of shock; secondarily, on secondary haemorrhage, on the occurrence of septicemia, erysipelas, tetanus, or other complications. In answering the question whether a wound is dangerous to life, the danger must be assessed on the probable primary effects of the injury. Such possibilities as the occurrence of tetanus or septicemia, later on, are not to be taken into consideration". Though the learned counsel had not read the latter part of the opinion, the medical evidence on record do clearly establish that septicemia is not the primary cause and the death was due to injuries caused to the deceased and they are sufficient to cause death in the ordinary course of nature. Septicemia would, therefore, not be taken into account.

4. Clause 3rdly of Section 300 IPC envisages that if the act 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, it would be murder coming under Section 300 IPC and that, therefore, it would not be culpable homicide under Section 299 IPC. When the accused emerged from their house and beat with deadly weapon on the head and other parts of the body and death occurred as a result of the injuries, it must be inferred that the attack on vital parts of the body was intended to be caused with an intention to cause death. Intention is locked up in the heart of the assailant and the inference is to be drawn from acts and attending circumstances."

(Emphasis supplied)

65. In ***Jagtar Singh & Anr.* v. *State of Punjab***, reported in **(1999) 2 SCC 174**, this Court was called upon to decide as to whether the offence would fall within the scope of Section 302 of the IPC when the death was due to septicemia. It was argued on behalf of the accused persons that septicemia had occurred because of the improper treatment given. It was further contended that if there

had been proper treatment the deceased would not have died. This contention was negatived by the Court referring to *Explanation* 2 to Section 299 of IPC which reads as follows:-

> *"Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skillful treatment the death might have been prevented."*

66. In paragraph 7 of the judgment this Court held as follows:-

> *"7. Having given our anxious consideration to the first contention of Mr. Gujral, we do not find any substance in it. It is true that Naib Singh died 16 days after the incident due to septicemia, but Dr M.P. Singh (PW 1), who held the post-mortem examination, categorically stated that the septicemia was due to the head injury sustained by Naib Singh and that the injury was sufficient in the ordinary course of nature to cause death. From the impugned judgment, we find that the above contention was raised on behalf of the appellants and in rejecting the same, the High Court observed:*
>
> > *"It is well settled that culpable homicide is not murder when the case is brought within the five exceptions to Section 300 Penal Code, 1860. But even though none of the said five exceptions is pleaded or prima facie established on the evidence on record, the prosecution must still be required under the law to bring the case under any of the four clauses, firstly to fourthly, of Section 300 Penal Code, 1860, to sustain the charge of murder. Injury 1 was the fatal injury. When this injury is judged objectively from the nature of it and other evidence including the medical opinion of Dr M.P. Singh (PW 1), we are of the considered view that the injury was intended to be caused with the intention of causing such a bodily injury by Harbans Singh, the appellant on the person of Naib Singh which was sufficient in*

the ordinary course of nature to cause death.…"

On a perusal of the evidence of PW 1 in the light of Explanation 2 to Section 299 IPC, we are in complete agreement with the above-quoted observations of the High Court."

(Emphasis supplied)

67. In the present case, as per the oral testimony of the three doctors referred to above, the cause of death of deceased Rekhchand was cardiorespiratory failure. The injuries suffered by him at the time of assault lead to septic shock with bilateral pneumonia, post traumatic spinal cord injury with paraplegia and infected bedsore hepatic dysfunction. The injuries suffered by the deceased were sufficient in the ordinary course of nature to cause death and would come under clause "*Thirdly*" of Section 300 of the IPC. The deceased ultimately died having not recovered from the injuries. The presence of the supervening cause in the circumstances will not, in our view, alter the culpability. In the case in hand, there had been no such considerable change of circumstances as to snap the chain of causation. It would have been quite a different matter if the original injuries had healed meanwhile or ceased to be dangerous to life and the fatal complications had set in unexpectedly. If that would have been so, the appellant herein would then at any rate be entitled to the benefit of doubt as to the cause of death.

68. We are taken by surprise as to on what basis the High Court has recorded a finding that the deceased succumbed to the injuries suffered by him due to lack of proper treatment. There is absolutely no evidence in this regard. Not a single suggestion in this regard was put by the defence counsel in the cross-examination of the doctors. Even otherwise this aspect is wholly

irrelevant in view of *Explanation* 2 to Section 299 IPC. In other words, according to the High Court, since, the deceased died after about nine months from the date of the incident due to lack of proper treatment the case is not one of murder. This finding in our opinion is erroneous. On one hand, the High Court believes that the cause of death was due to injuries suffered by the deceased, and on the other hand, takes the view that as he died after nine months due to lack of proper treatment the offence would fall within Section 307 of the IPC.

E. <u>CONCLUSION</u>

69. We may highlight few broad principles that the courts must keep in mind.

a. If it is proved that the injury was fatal and the intention was to cause death, though the death occurred after several days of septicaemia or other complications having supervened, yet it is undoubtedly a murder as it falls within the *first* limb of Section 300 of the IPC.

b. If it is proved that the injuries by themselves were sufficient to cause death in the ordinary course of nature, and if it is established that those injuries were the intended injuries, though the death might have occurred after septicaemia or other complications had supervened, yet the act of the accused would squarely fall under the *third* limb of Section 300 of the IPC and the accused is therefore liable to be punished under Section 302 of the IPC.

c. If it is proved that the injuries were imminently dangerous to life, though the death had occurred after septicaemia or other complications had supervened, yet the act of the accused would

squarely fall under the *fourth* limb of Section 300 of the IPC, provided, the other requirements like knowledge on the part of the accused, etc. are satisfied and so the accused would be liable to be punished under Section 302 of the IPC. Here also, the primary cause of the death is the injuries and septicaemia.

d. In judging whether the injuries inflicted were sufficient in the ordinary course of nature to cause death, the possibility that skilful and efficient medical treatment might prevent the fatal result is wholly irrelevant.

e. If the supervening causes are attributable to the injuries caused, then the person inflicting the injuries is liable for causing death, even if death was not the direct result of the injuries.

f. Broadly speaking, the courts would have to undertake the exercise to distinguish between two types of cases; *first*, where the intervening cause of death, like peritonitis, is only a remote and a rather improbable consequence of the injury; then it can be said that the injury is one which may, in particular circumstances, result in death, but which may not in ordinary course of nature be likely to lead to it. *Secondly*, where the complication which is the intervening cause of death is itself a practically inevitable sequence to the injury. In that event, the probability is very high indeed, amounting to practical certainty i.e., death is a result in due course of natural events. A deep abdominal thrust with a knife followed by injury to the internal organs is practically certain to result in acute peritonitis causing death. It is clearly a case of murder under Section 302 and not merely of culpable homicide.

g. Even when the medical evidence does not say that any one of the injuries on the body of the deceased was sufficient to cause death in the ordinary course of nature, yet it is open to the Court to look into the nature of the injuries found on the body of the deceased and infer from them that the assailants intended to cause death of the deceased. If none of the injuries alone were sufficient in the ordinary course of nature to cause the death of the deceased, cumulatively, they may be sufficient in the ordinary course of nature to cause his death.

h. What the courts must see is whether the injuries were sufficient in the ordinary course of nature to cause death, or to cause such bodily injuries as the accused knew to be likely to cause death although death was ultimately due to supervention of some other cause. An intervening cause or complication is by itself not of such significance. What is significant is whether death was only a remote possibility, or is one which would have occurred in due course.

i. To sum it up, where death is delayed due to later complications or developments, the courts should consider the nature of the injury, complications or the attending circumstances. If the complications or developments are the natural, or probable, or necessary consequence of the injury, and if it is reasonably contemplated as its result, the injury could be said to have caused death. If on the other hand, the chain of consequences is broken, or if there is unexpected complication causing new mischief, the relation of cause and effect is not established, or the causal connection is too remote then the injury cannot be said to have caused death. If the original injury itself is of a fatal nature, it makes no difference that death is actually caused by

a complication naturally flowing from the injury and not the injury itself, since causal connection is proximate.

70. In view of the aforesaid, all that we can say is that the High Court committed a serious error in bringing the case within the ambit of attempt to commit murder punishable under Section 307 of the IPC on the ground that the victim survived for almost nine months from the date of the incident, and died on account of pneumonia and other complications during the course of treatment and not due to the injuries suffered at the time of assault. We do not agree with the view expressed by the High Court in the Impugned Judgment and order.

71. In the circumstances referred to above, we reach the conclusion that there is no merit in the appeal and the same is accordingly dismissed.

72. Pending application, if any, also stands disposed of.

.....J
(J.B. PARDIWALA)

.....J
(R. MAHADEVAN)

New Delhi;
12th September, 2025.