1991 Lah. 346.

(m) "wali" means a person entitled to claim qisas.

300. Qatl-i-amd.-- Whoever, with the intention of causing death or with the intention of causing bodily injury to a person, by doing an act which in the ordinary course of nature is likely to cause death, or with the knowledge that his act is so imminently dangerous that it must in all probability cause death, causes the death of such person, is said to commit qatl-i-amd.

COMMENTS

S. 300, Exception (iv) (old law), applicability of---Clearly attracted to case of murder out of sudden flare up and could be looked into as laid down in PLD 1976 SC 274, (Ali Muhammad Vs. Ali Muhammad) **2005 P.Cr.R.(B.pur) 222(c)**

Murder. There was no intention to kill. Act of causing injury was dangerous that caused the death of the deceased. Impugned sentence of life reduced to 14 years R.I. **2007 SLJ (Sukkur) 1237(c) = 2007 PLR (Sukkur) 1056(c). 2007 P.Cr.R. (Sukkur) 1402(c).**

Accused can come within the mischief of this section only if death direct-result of the injury. **PLD 1976 SC 377** ingredients of the offence are felonious intention and an injury causing the death. **PLD 1976 SC 377.** Mere altercation not sufficient to bring the matter within exception. **PLD 1962 Dacca 424** Culpable homicide may not be murder where the mental state is not of the special degree of criminality required by S.300, **1981 SCMR 329** No culpability in putting a person to death in execution of legal punishment. **PLD 1980 FSC 1**

The words `act' includes omissions as well (Section 33). An omission by which death is caused will be punishable as if death is caused directly by the act. Thus if a person neglects to provide his child with proper sustenance although repeatedly warned of the consequences and the child dies, it will be murder. **1873 5 NWFP 44**

Knowledge of the accused is a matter to be inferred from the circumstances, for it being a state of mind, is very difficult to be proved otherwise. Where two men pursued an old man and each of them gave him a blow on the head with such force that his skull was cracked, held, both were guilty of murder. **(1947) 49 PLR 305.** Similarly, when four men beat another so severely that death ensued from injuries received, held that they must be presumed to have known that by such acts they were likely to cause death and the offence of murder was not reduced to culpable homicide not amounting to murder by the absence of intention to cause death. **1865 4 WR (Cr.)33**

Where, as a result of lathi injuries, two ribs were fractured, pleura was injured and there was puncture and laceration of lung it was held that injuries were sufficient in the ordinary course of nature to cause death and the offence was that of murder. **(1945) Nag.931, Babn Lal**

It may, however, be noted that knowledge of the accused is to be presumed only in such cases where the nature of injuries is so serious that death is the most likely result.

Clause 3. **With the intention of causing bodily injury.....sufficient in the ordinary course of nature to cause death**--According to this clause, the injury caused must be sufficient to cause death in the ordinary course of nature, whether the offender knows it or not.

'Sufficient to cause death' is a stronger term than "likely to cause death" which appears in Section 299. As distinguished from Clause 2 above, this clause indicates a greater degree of probability of death.

It may be noted that where the injury is likely to cause death, it is culpable homicide; where it is an injury which the offender knows to be likely to cause death it is murder (vide Clause 2) and here also (i.e. when the injury is sufficient to cause death) the act amounts to murder. Thus, in order to convict a person under this clause, following points have to be proved-

(1) such bodily injuries as are sufficient in the ordinary course of nature to cause death.

(2) intention to cause such bodily injuries,

(3) the death of the victim as a result of injuries.

Where the injuries are sufficient to cause death is a matter of medical opinion. An injury may not be sufficient in the ordinary course of nature to cause death & yet the death may ensue. On the contrary, the injury may be sufficient in ordinary course of nature to cause death but the death may not ensue, for example timely treatment may save the life. Where death does not ensue, there is no offence except that of causing injuries. But where death does ensue, it is to be seen whether injuries were sufficient in ordinary course of nature. If the answer is yes, the man will be guilty of murder. It will be no defence to say that life could be saved by proper medical treatment.

The next thing to be considered is the expression `in the ordinary course of nature'. It means that the probability of death shall be judged according to ordinary course of nature'. without taking into consideration the human efforts to save the life or carelessness accelerating the death. If injuries are sufficient to cause death and death does follow, the offender is guilty of murder.

Intention is also not less important. It should be gathered from the facts and circumstances of the case. The nature of injuries is one basis of ascertaining what the intention was but it is not the only basis. It is not impossible that intention was to inflict another injury and some other injury was actually inflicted. The Court must always decide whether the injury inflicted was actually intended by the accused. It is to be borne in mind that the accused cannot be punished for murder if the injury (though sufficient to cause death and it did cause death) was not inflicted with the intention of inflicting such bodily injury as was sufficient to cause death. The nature of the weapon used, the force exercised and the specific part of the body where the injury is caused are useful guides in ascertaining the intention.

Where the accused savagely attacked and wounded with a hatchet their cousin who was laid up with fever in consequence of the wounds for over 40 days and ultimately died of blood-poisoning, it was held the accused were guilty of murder. **1919 S.105 Nuro** But where the medical evidence showed that injuries inflicted were not necessarily sufficient in the ordinary course of nature to cause death and death was due to meningitis and compression of brain which had no direct connection with the injuries, held, the offence fell under section 326 and not under section 302. **1934 Lah 368 Chaman Dasa.**

Prosecution must prove firstly, the bodily injury, secondly its nature and thirdly that there was an intention to inflict that particular bodily injury i.e., it was not incidental or un-intentional, in order to bring the case under this clause. Once these elements are proved, it must be proved also that the injury is sufficient to cause death in the ordinary course of nature. This part is purely objective and inferential and has nothing to do with the intention of the offender. Once these four elements are established by the prosecution the offence is under section 300 (thirdly). It does not matter that there was no intention to cause death or that there was no intention even to cause injury of a kind that is sufficient to cause death in the ordinary course of nature. Once the intention to cause the bodily injury actually found to be present is proved the rest of enquiry is purely objective and the only question is whether the injury is sufficient in the ordinary course of nature to cause death. **1958 SC 465.**

Clause 4. 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 without any excuse.--An accused is also guilty of murder if his act (causing death or bodily injury resulting in death) falls under this clause. But this clause cannot be applied until it is clear that Clauses 1,2 and 3 of the section fail to suit the circumstances. **1887 PR No.62 of 1887, Chuffar.**

For the applicability of this clause there should be--

(1) knowledge that the act is so imminently dangerous that in all probability it must cause death or injury resulting in death, and

(2) the act must have been done without any excuse.

This clause is distinguishable from the other clauses insofar as it requires `knowledge' (and not intention as in other clauses) of every probability of death. Mere knowledge of likelihood of death will not amount to murder though. To constitute murder under this clause, the knowledge should be that of every likelihood and the act must be imminently dangerous. Moreover it should also have been committed without any excuse for incurring the risk of causing death.

This clause appears to be designed to provide for those cases where the act endangers the lives of so many e.g. by firing at a mob (vide illustration (d)] by poisoning a well etc., etc. In such cases, the imminently dangerous act, with all the probability of causing death or such bodily injury as is likely to cause death is treated equal to deliberate intention.

Where the act is so imminently dangerous, the accused must be presumed to know of all the probability of death. **1888 Un rep (Cr). C 411.** Who strikes another on his throat with knife must be taken to know the consequences of his act. **(1929) 8 Pat 911** Where a woman, ill treated by her husband, jumped down into well with a baby in her arms as a result of which the baby died (though she recovered) held, the act of jumping was imminently dangerous and she was liable under this clause. **1940 All 647** A

person administering poison like arsenic to another must be presumed to know that the act is imminently dangerous and in all probability it must cause death. **AIR 1957 Pat 462**

Exception 1.--(Grave and Sudden Provocation). It provides that the act (of causing death) will not amount to murder if it was done under grave and sudden provocation which deprived the act or of the power of self-control.

To invoke the aid of this exception--

(1) The provocation must be grave and sudden;

(2) Due to the gravity and suddenness of the provocation, the accused should have been deprived of power of self-control;

(3) Provocation must not have been sought by the accused himself nor should it be a voluntary provocation (vide proviso 1);

(4) Provocation received by anything done in obedience to law or by a public servant in lawful exercise of his power, will be no defence (vide proviso 2);

(5) Provocation caused by another in lawful exercise of his right of private defence, will also be no defence to the charge (vide proviso 3);

Provocation must be grave and sudden.--It is an important circumstance which, if proved, grants complete immunity from the charge of murder and reduces the offence of murder to culpable homicide not amounting to murder. This exception affords a complete defence to a charge of murder provided loss of self-control by grave and sudden provocation, is established and it is also established that the provocation was not voluntarily sought or given by an act done in obedience to law or in private defence.

Provocation means rousing the anger. A man is said to be provoked when his anger is roused. 'Provocation is some act or series of some acts done.....which would cause in any reasonable person, and actually causes in the accused, a sudden and temporary loss of self-control rendering the accused so subject to passion as to make him or her for the moment not master of his mind.....". **(1949) 1 All ER 932. Duffy.** Thus it is clear that provocation of any degree is not sufficient. It must be such as deprives the accused of his power of self-control. It must be such as will upset not merely a hasty, hot-tempered and hypersensitive person but would upset also a person of ordinary sense and calmness. That is to say besides being grave and sudden it must be such as to cause reaction of the type which the section requires (i.e. which causes loss of power of self-control). The law, however, takes into consideration, only normal persons and not abnormal ones who may react abnormally.

The first and foremost condition is that provocation must be grave and sudden. **AIR 1974 SC 2281** If it is only grave but not sudden or only sudden but not grave, it will be of no help. It must be grave and so grave as to cause loss of power of self-control. Then it must be sudden also i.e. there should be no premeditation. The accused must have been provoked suddenly and gravely. In the leading case, **1942 LR (AC) 1** it was observed that provocation alone is not sufficient to reduce the crime of murder to manslaughter. It must be such as temporarily deprives the person provoked of his power of self control. On facts of the case it was held that aiming a blow with hand or first would not constitute provocation of a kind which would justify the sudden use of a lethal weapon. Being struck with shoes on the face will be grave (also sudden) provocation. **1950 All 960** But where the accused struck the deceased in the neck with the hatchet because the deceased had said to the accused. "Hai too Pura Chamar" it was held that the provocation was not grave and sudden and the accused was guilty of murder. **1954 ALJ 253**

But killing one's beloved found in the act of adultery with another man, will not attract the exception. **(1938) 18 Pat 101.**

Mere sight of enemy, do not cause grave and sudden provocation. But presence of stranger at night in the house for committing adultery or any offence may cause grave and sudden provocation. **23 WC 50** Similarly being struck with shoes on the face on intervening in an altercation between two other persons will cause grave and sudden provocation. **1950 All 960.**

The threat of wife to leave the appellant for ever without any prior reason and removing `thali' from her neck (indicating separation of marital tie] was held to be provocative. **AIR 1966 Ker 258** Admission

but exceeded the right of private defence. But the act (i.e. killing) should not have been a premeditated one, nor more than such harm as is necessary (for the purposes of private defence) should have been intended to be caused. Further the act must also have been done in good faith.

For right of private defence of person and property, see Sections 96 to 106.

The burden of providing that the accused caused death in exercise of his lawful rights of private defence is on the accused. If the accused exercised his rights in good faith, without premeditation and without intending to cause more harm than was necessary, he cannot be held guilty of any offence. If he causes death, which is deemed by the Court to be an excess of right of private defence, he shall be guilty of merely culpable homicide.

But if the exercise of the right of private defence is not "in good faith and without premeditation", the case cannot be taken out of the offence of murder. **1970 SC (Cr.) 376.**

Where it was established that the accused were in actual possession of the land and complainants' party arrived with lathis, trespassed into the land with a view to dispossess the accused, held, the accused acted in exercise of right of private defence of property, although they had exceeded the right and as such they were liable only for culpable homicide and not murder. **1976 SC (Cr.) 689**

It may be remembered that the law does not confer a right of self defence on a man who goes and seeks an attack on himself by his own threatened attack on the other. Accused cannot be allowed to commit homicide on the pretext of self-defence. In other words, an aggressor cannot avail the plea of self-defence. One cannot take shelter behind the plea of self defence in justification of the blow which he struck during the encounter, if he provokes an attack, brings on combat and then says his opponent. **8 All 635**

To sum up, there should exist 4 conditions before the taking of life can be justified on the ground of self-defence, viz.--

(1) The accused must be free from fault in bringing about the encounter.

(2) There must be present an impending peril to life or great bodily harm either real or so apparent as to create honest belief of an existing necessity.

(3) There must be no safe or reasonable mode of escape by retreat.

(4) There must have been a necessity for taking life. **1959 Cr.LJ 901.**

Act of public servants etc.--According to this exception, public servants and persons aiding public servants acting for the advancement of public justice are protected from being punished for murder if they exceed the powers given to them by law and cause death. But the protection is available only if they act in good faith believing the act to be lawful and necessary for the due discharge of their duties and without any ill-will.

Where the constable resorted to firing under orders of a superior and none of them believed that it was necessary to fire held the act was not protected. **(1898) 21 Mad, 249**

Sudden fight without taking undue advantage.--This is another exception which, if the case falls under it, reduces the offence from murder to mere culpable homicide. According to it, if death is caused in a sudden fight, in the heat of passion upon a sudden quarrel, the act does not amount to murder provided the accused does not take undue advantage or acts in a cruel or unusual manner. Thus the exception requires four things--

(a) sudden fight,

(b) heat of passion,

(c) sudden quarrel (i.e. absence of premeditated plan),

(d) absence of undue advantage, and cruel or unusual manner.

Sudden fight means that the fight should not have been prearranged. It should not have been the result of a pre-plan or premeditated scheme. In such a sudden fight it is immaterial as to which party commits the first assault or which party offers the provocation (See explanation attached to this exception). **1957 SC 469.**

unless he is proved to have an ulterior motive to involve the accused in the case. **PLD 2004 SC 663**

303. Qatl committed under 'ikrah-i-tam or ikrah-i-naqis'.-- Whoever commits qatl,

(a) under ikrah-i-tam shall be punished with imprisonment for a term which may extend to twenty-five years but shall not be less than ten years and the person causing ikrah-i-tam' shall be punished for the kind of qatl committed as a consequence of his ikrah-i-tam; or

(b) under `ikrah-i-naqis' shall be punished for the kind of qatl committed by him and the person causing `ikrah-i-naqis' shall be punished with imprisonment for a term which may extend to ten years.

COMMENTS

Ikrah-i-tam.-- *Three requirements (i) putting any person, his spouse or any of his blood relations within the prohibited degree of marriage in fear of instant death; or (ii) instant permanent impairing of any organ of the body; or (iii) instant fear of being subjected to sodomy or zina-bil-jabr.* ***PLD 1997 Lah. 110.***

Qatl. (Punishment/confession) *Appellant got his confessional statement recorded just after three days of his arrest, as such, it could be safely concluded that confessional statement was voluntarily. Though the said confessional statement was retracted but apparently there was no sign of torture on person of appellant. High Court could not doubt truthness of facts narrated in confessional statement as said confessional statement was exhaustive in nature and contained such facts which were in exclusive knowledge of appellant. Said confessional statement further corroborated by medical evidence and circumstantial evidence could be safely relied. In absence of any other evidence confession of accused was to be considered in toto. In his confessional statement appellant had narrated circumstances forcing him to commit murder of deceased. Appellant was about 20 years old which means that at time of committing of offence he was 18/19 years old a grown young man who was subjected to sodomy when he was child but deceased continued his shameful act for about 7/8 years, even not stopped to commit sodomy though appellant had grown up. Further held, appellant had committed offence punishable under Section 302(c), P.P.C.. Trial Court found appellant guilty under Section 303(a), P.P.C. providing punishment for committing Qatl in Ikrah-e-Tam which section was not applicable in instant case. Appellant who was forced by circumstances to cause death of deceased has exceeded his right of self-defence available to him under Section 100, P.P.C.. Impugned conviction was altered from S. 303(a), P.P.C. to that of 302(c), P.P.C. and appellant was sentenced to 7 years' R.I.. Conviction altered/sentence reduced.* ***2009 PLR (D.I.Khan) 821(b)***

Provision of. *Said section provides punishment for a person who commit Qatl under Ikrah-e-Tam as well as for the person who causes such Ikrah-e-Tam, therefore, if he commits murder of that person who had put him, his spouse or any of his blood relations within the prohibited degree of marriage in fear of instant death or instant permanent impairing of any of the organ of body or instant fear of being subjected to sodomy or zina-bil-jabr, the said clause would not be attracted otherwise the second part*

COMMENT

Qisas–*Execution of.--* *Qisas is to be executed by a functionary of the Government as* ...ed under S. 314, P.P.C. ***PLD 1996 S.C. 1***

315. **Qatl shibh-i-amd.--** Whoever, with intent to cause harm to the body or ...t of any person, causes the death of that or of any other person by means of a ...pon or an act which in the ordinary course of nature is not likely to cause death ...ct to commit qatil shibh-i-amd.

be guilty of qatl shibh-i-amd.

COMMENTS

In order to establish offence under Section 315 if was necessary to prove that accuse pregnant at the relevant time and that she did some act before the birth of the child, calcula prevent the child from being born alive or to cause it to die after its birth and it was further necess the prosecution to establish that the said act of the accused was done with the said intention and good faith to save her own life. Prosecution produced no evidence to prove ingredient of Section 3 such conviction could not be maintained. ***1984 PSC FSC 832***

Non-production of most natural and independent witness of occurrence leads to the presumption that he was not supporting the prosecution case. ***1998 P.Cr.L.J. 1384***

316. Punishment for Qatl Shibh-i-Amd.-- Whoever commits Qatl Shibh Amd shall be liable to Diyat and may also be punished with imprisonment of eith description for a term which may extend to [129][twenty-five years] as Tazir.

COMMENTS

Opinion. *Opinion of Medical Board showed that accused was suffering from cardiac disea Accused could not be denied concession of bail because once a person was found to be sick and infi then his case would be covered by second Proviso to S. 497, Cr.P.C. and it would not be open to t Court to quantify his sickness and infirmity. Accused was admitted to bail during pendency of appe suspending his sentence.* ***2004 YLR (Lah) 1825***

Qatl Shibh-i-Amd.-- *Section 316 has no application where a free fight ensues witho premeditation out of a sudden impulse.* ***2001 P.Cr.L.J. 954.*** *Evidence furnished by interested witnesse related to the victim or deceased cannot be discarded merely for the reason of relationship but it corroboration has to be sought from other evidence available on record.* ***2002 P.Cr.L.J. 388***

Appreciation of evidence. *Dying' declaration found sufficient corroboration from other evidence especially that of lady doctor who after exhumation, had conducted post-mortem on dead-body of deceased and from Chemical Examiner's report. Dying declaration was alleged to have been made to prosecution witness who was mother of the deceased. Defence had neither disputed presence of mother of deceased in the house wherein deceased breathed her last nor the fact that she met deceased prior to her death, had been challenged. Mother of deceased could not be termed as an interested witness, because interested witness was one who had his own motive to falsely implicate accused, was partisan, biased or prejudiced and predisposed towards a party and prompted and wayed away by a cause against accused, but nothing of the sort had been brought on record against aid witness. Even otherwise relationship, in itself, was not a yardstick or standard for discarding vidence which otherwise was trustworthy and in a case of a single accused, relatives of deceased ould rarely replace or spare culprit actually responsible for the crime. Alleged delay in lodging F.I.R. ad satisfactorily been explained. Mother of deceased having herself seen accused committing Zina ith deceased, it could not be said' that it was unwitnessed occurrence. Involvement of female co- ccused who carried out mechanical abortion of deceased, could not have been ruled out. Accused in rcumstances were rightly convicted and sentenced.* ***2006 P.Cr.L.J. (Federal Shariat Court) (a) 662***

317. Person committing qatl debarred from succession.-- Where a erson committing qatl-i-amd or qatl shibh-i-amd is an heir or a beneficiary under ll, he shall be debarred from succeeding to the estate of the victim as an heir or a eneficiary.

COMMENT

Succession.-- *If the accused who were sons of the deceased had killed their father on land dispute they, as heirs of deceased, could be debarred from inheritance of property of the deceased according to Islamic Law. Where deceased was not issueless, real sister of the deceased could not be termed as legal heir of the deceased and according to Islamic Law sons and daughters of the deceased were legal heirs of the deceased.* ***2001 P.Cr.L.J. 1636***

318. Qatl-i-khata. Whoever, without any intention to cause the death of or cause harm to, a person, causes death of such person, either by mistake of act or by mistake of fact, is said to commit qati-i-khata.

Illustrations

(a) A aims at a deer but misses the target and kills Z who is standing by. A is guilty of qatl-i-khata.

(b) A shoots at an object to be a boar but it turns out to be a human being. A is guilty of qatl-i-khata.

COMMENTS

'Act'.-- *'Act' depicts intention of doer, who is supposed to know possible consequences of his 'act' but doer of a 'rash and negligent act', shows his recklessness and indifference about its consequences.*

Qatl-i-khata.-- *Scope of Qatl-i-khata is limited to causing death of a person either by mistake of act or by mistake of fact which could be termed as murder by mistake without there being any intention of committing murder at all--Plea of grave and sudden provocation on the ground of abusive language does not bring the case of accused within the four corners of Qatl-i-khata as contemplated under S. 318, P.P.C.* ***PLD 1996 S.C. 1 (p. 27)*** *Accused not doing unlawful act but negligent in his duty--Such act falls u/S. 318, P.P.C.* ***1999 MLD 2271*** *Rifle had gone off accidently. No offence, case covered by S. 80, PPC.* ***PLD 2000 Lah. 425***

319. Punishment for qatl-i-khata.-- Whoever commits qatl-i-khata shall be liable to diyat:

Provided that, where qatl-i-khata is committed by any rash or negligent act, other than rash or negligent driving, the offender may, in addition to diyat, also be punished with imprisonment of either description for a term which may extend to five years as ta'zir.

COMMENTS

Case, therefore, was justifiably held to fall within the scope of S. 318, PPC and conviction of accused u/S. 319, PPC and the punishment awarded to him thereunder were upheld in circumstances. However, imposition of six months' R.I on non-payment of Diyat by the accused was set aside being contrary to the provisions of S. 331(2), PPC and instead he was directed to be confined in jail as if sentenced to simple imprisonment until payment of Diyat in full. Appeals were disposed of with the said modification. ***2010 SCMR (b) 748***

Petitioner/complainant, by way of Crl. Misc. in High Court, called in question impugned order of ATC of granting of pre-arrest bail to said respondents in the case and requiring other said respondents to furnish bail bonds. Validity. There was no complaint before the ATC. ATC had taken cognizance of the offence on the incomplete Challan submitted by the Police Officer concerned. It thus was one u/s. 190(1)(b), Cr.P.C. and not u/s. 204, Cr.P.C.. Impugned view of ATC that it had acted u/s 204, Cr.P.C. while issuing process to said respondents was fallacious or wrong. ATC had not only erred in confirming the interim pre-arrest bail granted to said respondents but also asking other said respondents to furnish bail bond and dismissing the complainant application for setting aside of said order. Impugned order set aside/Application accepted/case remanded. ***2005 P.Cr.R. (Lah) 641(2)***

320. Punishment for qatl-i-khata by rash or negligent driving.-- Whoever commits qatl-i-khata by rash or negligent driving shall, having regard to the facts

Death by rash and negligent driving. *High ... payment of ... imprisonment awarded by Trial Court to four years' imprisonment but ... Leave to appeal was granted by Supreme Court to consider whether the High Court had appraised the ... evidence on record with a view to determining the question of rash and negligent driving by the ... on the date of occurrence.* ***2000 SCMR 1355*** *Conviction under S. 320 for killing two persons ... accident released on bail on ground that offence under S. 320 was bailable and also for reason that ... release would practically facilitate & enable him to earn for payment of Diyat.* ***NLR 2001 Crl. 158***

Rash driving.-- *Does not contemplate mens rea* ***1986 P.Cr.L.J. 330****. Not the speed but negligent ... act constitutes offence.* ***PLD 1997 Pesh. 13****. Ocular testimony interested and partial cannot be relied ... upon without irrefutable corroboration.* ***PLD 1997 Kar. 146***

Applicant/owner by way of Crl. Misc. in High Court sought reduction the said amount of surety ... returning of vehicle in question. Validity. Said bus was retained as a result of accident which took place ... between the bus and the coach. In such a situation the vehicle could not be said to have been used by ... the accused for the commission of said offence. Said vehicle could be identified through its registration ... number or producing the Registration Book of vehicle without producing the said vehicle in Court. After ... accident the owner was entitled to get his vehicle repaired. Amount of surety reduced on return of the ... vehicle. Order accordingly. Accident case/return of vehicle the owner on reduction in surety amount ... ordered by High Court. ***2005 PLR (Larkana) 1356 = 2005 SLJ (Larkana) 1132***

Incident took place while accused was driving the oil tanker recklessly in rash and negligent ... manner and hit the jeep wherein complaint, deceased and others were travelling. Co-accused, who was ... owner of the oil tanker in question was neither present at the spot at the alleged time of incident nor had ... participated in the incident in any manner. ***2008 YLR ((Kar.) 456***

321. Qatl-bis-sabab.-- Whoever, without any intention to cause death of, or ... cause harm to, any person, does any unlawful act which becomes a cause for the ... death of another person, is said to commit qatl-bis-sabab.

Illustration

A unlawfully digs a pit in the thoroughfare, but without any intention to cause ... the death of, or harm to, any person. B while passing from there falls in it and ... killed. A has committed qatl-bis-sabab.

COMMENT

Suspension of sentence. *Offence under Section 321, P.P.C. Impugned sentence of Diyat ... suspended in appeal.* ***KLR 2010 Cr.C. (Lah) 1***

Nothing was available to show that construction of wall was being raised under an approved ... ut it was a Katchi Abadi and accused being owners of the property were not expected to use ... aterial for their own construction. Only it was by chance that the lady was passing through the ... nd received injuries by falling of the wall under construction which resulted in her death. Dece ... efore death had denied that any threats were given to her by the accused and according to her ... afterthought on the part of complainant. Even otherwise no occasion existed for issuance of ... reats and no proof was produced for the same. In absence of any motive or enmity, it appeared ... se of further inquiry as contemplated under S. 497(2), Cr.P.C. Bail was granted to accu ... cumstances. ***2004 YLR (Kar) 1111***

"Qatl-bis-sabab" and Qatl shibh-i-amd.-- *Distinction.* ***PLD 1994 Lah. 442.***

322. Punishment for qatl-bis-sabab.-- Whoever commits qatl-bis-s ... all be liable to diyat.

COMMENT