# IPC Section 308: Attempt to commit culpable homicide.

## IPC Section 308: Attempt to Commit Culpable Homicide  
  
Section 308 of the Indian Penal Code addresses the offense of attempting to commit culpable homicide. It recognizes that even unsuccessful attempts to cause death, where the offense doesn't qualify as attempted murder, still pose a significant threat and warrant punishment. This section bridges the gap between acts that constitute attempted murder and those that are classified as causing hurt.  
  
\*\*The Text of Section 308:\*\*  
  
"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 culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."  
  
  
\*\*Breaking Down the Elements of Section 308:\*\*  
  
1. \*\*Intention or Knowledge:\*\* The core of this offense lies in the accused's \*mens rea\* – their guilty mind. The prosecution must prove either:  
  
 \* \*\*Intention to cause death or such bodily injury as is likely to cause death:\*\* This means the accused acted with the purpose of causing either death or an injury that they knew was likely to result in death. This intention, however, falls short of the specific intent required for murder.  
  
 \* \*\*Knowledge that the act is likely to cause death:\*\* This signifies that the accused was aware that their act was likely to cause death, even if that wasn't their primary intention.  
  
  
2. \*\*Act Towards Commission of Culpable Homicide:\*\* The accused must have performed an act that goes beyond mere preparation and moves towards the actual commission of culpable homicide. This act must be sufficiently proximate to the intended crime, demonstrating a clear progression from planning to execution.  
  
  
3. \*\*Circumstances Constituting Culpable Homicide Not Amounting to Murder:\*\* The act, had it resulted in death, must have fallen within the definition of culpable homicide not amounting to murder as outlined in Sections 299 and 304 of the IPC. This generally involves causing death without the specific intentions required for murder, such as cases where the accused acted in the heat of passion or with sudden provocation.  
  
  
4. \*\*No Actual Death:\*\* Section 308 specifically addresses \*attempts\* to commit culpable homicide. If the victim dies, the offense becomes culpable homicide not amounting to murder.  
  
  
5. \*\*Hurt Caused:\*\* The section differentiates the punishment based on whether the attempt resulted in any hurt to the victim:  
  
 \* \*\*If no hurt is caused:\*\* The punishment is imprisonment up to 3 years, a fine, or both.  
  
 \* \*\*If hurt is caused:\*\* The punishment is imprisonment up to 7 years, a fine, or both.  
  
  
\*\*Important Considerations and Judicial Interpretations:\*\*  
  
\* \*\*Distinction from Attempted Murder:\*\* The critical difference between Section 307 (attempt to murder) and Section 308 lies in the \*degree of intention or knowledge\*. In attempted murder, the intention or knowledge must meet the higher threshold required for murder under Section 300. In attempted culpable homicide, the intention or knowledge is less severe, aligning with the criteria for culpable homicide not amounting to murder.  
  
  
\* \*\*Proving Intention/Knowledge:\*\* The prosecution must establish the accused's intention or knowledge beyond a reasonable doubt. This can be inferred from the nature of the act, the weapon used, the area of the body targeted, and the surrounding circumstances. Statements made by the accused, witness testimonies, and medical evidence can also be crucial.  
  
  
\* \*\*Beyond Preparation:\*\* Similar to attempted murder, the act must go beyond mere preparation. The courts have consistently emphasized that preparation alone, however extensive, does not constitute an attempt. The act must be sufficiently proximate to the intended crime, demonstrating a clear move towards its commission.  
  
  
\* \*\*Proximity Test:\*\* The "proximity test" is employed to assess whether an act constitutes an attempt. The act must be so close to the intended outcome of culpable homicide that it can be considered part of the execution of the criminal plan. The closer the act is to the intended result, the stronger the case for an attempt.  
  
  
  
\*\*Examples Illustrating the Application of Section 308:\*\*  
  
\* \*\*Scenario 1:\*\* A, in a sudden fit of rage during an argument, attacks B with a stick, intending to cause him grievous hurt. B manages to dodge the blow, and no injury is caused. A can be charged under Section 308 as the act, had it resulted in death, could have constituted culpable homicide not amounting to murder.  
  
  
\* \*\*Scenario 2:\*\* C, knowing that D is allergic to peanuts, deliberately adds peanuts to D's food, intending to cause him discomfort. D consumes the food and suffers a severe allergic reaction but survives. C could be charged under Section 308 as the act, if it had resulted in death, might have been culpable homicide not amounting to murder.  
  
  
  
\*\*Distinguishing Attempted Culpable Homicide from Other Offenses:\*\*  
  
\* \*\*Causing Hurt (Sections 319-338):\*\* The distinction lies in the \*severity of the injury\* and the \*intention/knowledge\* of the accused. Causing hurt typically involves less serious injuries and may not involve the intention or knowledge that the act is likely to cause death.  
  
  
\* \*\*Rash or Negligent Act Endangering Human Life (Section 336):\*\* This section deals with acts that endanger life due to rashness or negligence, but without the intention or knowledge required for attempted culpable homicide.  
  
  
  
\*\*Conclusion:\*\*  
  
Section 308 of the IPC plays a significant role in addressing attempts to commit culpable homicide. It fills the gap between attempted murder and causing hurt, ensuring that attempts to cause death, even if they don't meet the threshold for attempted murder, are punishable. The section emphasizes the importance of both the \*actus reus\* (the guilty act) and the \*mens rea\* (the guilty mind) in establishing an attempt. The application of this section requires careful consideration of the specific facts and circumstances of each case, including the nature of the act, the accused's intention or knowledge, and the potential consequences had the act been successful. The courts have contributed significantly to refining the interpretation of this section, emphasizing the need to distinguish it from other related offenses and ensuring its proper application in upholding the rule of law.