

clause imports some kind of certainty and not mere probability, there was no such certain knowledge on the facts of this case.

47. *Anant Chintaman Lagu*, (1959) 62 Bom LR 371 (SC); *Mohan v State*, AIR 1960 SC 659 ; *Kaushalya Devi*, AIR 1965 Ori 38 [LNIND 1964 ORI 72] . *Swinder Singh v State of Punjab*, AIR 1952 SC 669 : 1960 Cr LJ 1011 , proof on these points being not available, acquittal.

48. Also *Chandra Kant Nyalchand v State of Bombay*, Criminal Appeal No 120 of 1957, decided, Feb 19, 1958.

49. *Anant Chintaman Lagu v State of Bombay*, AIR 1960 SC 500 [LNIND 1959 SC 223] : 1960 Cr LJ 682 .

50. *Bhupinder Singh v State of Punjab*, 1988 Cr LJ 1097 : AIR 1988 SC 1011 [LNIND 1988 SC 211] : (1988) 3 SCC 513 [LNIND 1988 SC 211] : 1988 SCC (Cr) 694.

51. *Ramgopal*, 1972 Cr LJ 473 (SC) : AIR 1972 SC 656 . **Followed** in *Sher Singh v State*, (1995) 2 Cr LJ 2187 (Del), alleged poisoning by mixing in liquor not proved. *Abdul Gani v State of Karnataka*, (1995) 2 Cr LJ 2248 (Kant), presence of the husband in the room where his wife was strangled not proved, conviction on the basis of suspicion was held to be not proper. *Mal Singh v State of Rajasthan*, (1995) 2 Cr LJ 2279 , acquitted because of no evidence.

52. *Arundhati*, 1968 Cr LJ 848 . Murder by poisoning, the victim found vomiting even two days before the date of purchase of poison and other evidence did not inspire confidence. The accused were given benefit of doubt, acquitted of the charge of murder, *Rattni v State of HP*, 1993 Cr LJ 1811 (SC). *Sanjiv Kumar v State of HP*, AIR 1999 SC 782 [LNIND 1999 SC 55] : 1999 Cr LJ 1138 , intentional killing by poisoning proved by circumstantial evidence. *State of Bihar v Ramnath Prasad*, AIR 1998 SC 466 [LNIND 1997 SC 1581] : 1998 Cr LJ 679 , poison served as prasad, the accused had only knowledge that he was administering a poisonous substance which was likely to cause grievous hurt or even death. Liable to be convicted under section 304, Part II and section 326.

53. *Joydeb Patra v State of WB*, 2013 Cr LJ 2729 (SC) : AIR 2013 SCW 2744 .

54. *Nanhar v State of Haryana*, 2010 Cr LJ 3450 : (2010) 11 SCC 423 [LNINDORD 2010 SC 229] .

55. *State of Rajasthan v Dhool Singh*, (2004) 12 SCC 546 [LNIND 2003 SC 1120] : AIR 2004 SC 1264 [LNIND 2003 SC 1120] : 2004 Cr LJ 931 .

56. *Abbas Ali v State of Rajasthan*, (2007) 9 SCC 129 [LNIND 2007 SC 165] : AIR 2007 SC 1239 [LNIND 2007 SC 165] : 2007 Cr LJ 1667 , the ingredients of clause thirdly restated.

57. *Mangesh v State of Maharashtra*, (2011) 2 SCC 123 [LNIND 2011 SC 20] .

58. *Brij Bhukhan*, AIR 1957 SC 474 : 1957 Cr LJ 591 .

59. *Atmaram v State of MP*, (2012) 5 SCC 738 [LNINDORD 2012 SC 403] : 2012 Cr LJ 2882 : 2012 (5) Scale 300 [LNIND 2012 SC 309] relied on *Anda v State of Rajasthan*, AIR 1996 SC 148 [LNIND 1965 SC 75] ; *State of Andhra Pradesh v Rayavarapu Punnayya*, (1976) 4 SCC 382 [LNIND 1976 SC 331] .

60. *Virsa Singh v State*, AIR 1958 SC 465 [LNIND 1958 SC 19] , (1958) SCR 1495 [LNIND 1958 SC 19] ; *Rajwant Singh*, AIR 1966 SC 1874 [LNIND 1966 SC 125] : 1966 Cr LJ 1509 . *Khachar Dipu v State of Gujarat*, 2013 (4) SCC 322 [LNIND 2013 SC 278] .

61. *Jaspal Singh v State of Punjab*, (1986) 2 SCC 100 at p 103 : AIR 1986 SC 683 : 1986 Cr LJ 488 , per Balakrishna Eradi, J. For an example of circumstantial evidence alone failing to prove an intention, see *Padala Veera Reddy v State of AP*, 1990 Cr LJ 605 : AIR 1990 SC 79 : 1989 Supp (2) SCC 706 . In *Jagtar Singh v State of Punjab*, (1988) 1 SCC 712 [LNIND 1988 SC 65] : AIR 1988 SC 628 [LNIND 1988 SC 65] : 1988 Cr LJ 866 , which was a case of intentional murder, the Supreme Court ignored the fact that FIR did not mention the crucial fact of the accused running away leaving behind his vehicle. In *Narendra Singh v State of UP*, AIR 1987 SC 1268 : 1987 Cr LJ 1070 : (1987) 2 SCC 236 , repeated blows were inflicted on vital parts of the body. This was held

to be intentional murder. *Vinod Kumar v State of UP*, AIR 1991 SC 300 : 1991 Cr LJ 360 , defence of accidental shooting ruled out.

62. *Jai Prakash v State (Delhi Admn)*, (1991) 2 SCC 32 : (1991) 1 Crimes 474 : 1991 SCC (Cri) 299 . **Reiterated** in *Kesar Singh v State of Haryana*, (2008) 15 SCC 753 [LNIND 2008 SC 1001] , it does not matter that there was no intention to cause death, or even to cause an injury of a kind that is sufficient to cause death in the ordinary course of nature (not that there is any real distinction between the two), or that there is no knowledge that an act of that kind will be likely to cause death. Once the intention to cause the bodily injury is actually found to be proved, the rest of the enquiry is purely objective and the only question is whether, as a matter of purely objective inference, the injury is sufficient in the ordinary course of nature to cause death. *Namdeo v State of Maharashtra*, (2007) 14 SCC 150 [LNIND 2007 SC 316] : 2007 Cr LJ 1819 , head injury caused with axe sufficient in the ordinary course of nature to cause death, hence intention was to cause death. *Sheikh Rafi v State of AP*, (2007) 13 SCC 76 [LNIND 2007 SC 522] : 2007 Cr LJ 2746 , 19 injuries caused in a quick succession and also in a cruel manner, deceased being unarmed and helpless. Clause (3) applied, punishable under section 302. *Settu v State of TN*, 2006 Cr LJ 3889 , no intention to cause death, but injury caused with a knife on a vital part and which was sufficient to cause death, amounted to murder. One companion was convicted under section 304, Part I and the other under section 326, because minor injuries on non-vital parts.

63. *Rampal Singh v State of UP*, 2012 (8) SCC 289 [LNIND 2012 SC 425] .

64. *Vineet Kumar Chauhan v State of UP*, 2007 (14) SCC 660 [LNIND 2007 SC 1509] .

65. *Ajit Singh v State of Punjab*, 2011 (9) SCC 462 [LNIND 2011 SC 844] .

66. *Mohinder Pal Jolly v State of Punjab*, 1979 (3) SCC 30 [LNIND 1978 SC 389] .

67. *Khachar Dipu v State of Gujarat*, 2013 (4) SCC 322 [LNIND 2013 SC 278] .

68. *Anda*, AIR 1966 SC 148 [LNIND 1965 SC 75] : 1966 Cr LJ 171 .

69. *Rajwant Singh*, *supra*. Seven-year-old child held by the legs and dashed against the ground three times in quick succession, held covered by this clause. *Shankar Narayan Bhadolkar v State of Maharashtra*, AIR 2004 SC 1966 [LNIND 2004 SC 1370] : 2004 Cr LJ 1778 : (2005) 9 SCC 71 [LNIND 2004 SC 1370] , a restatement of the basic approach of the clause. The court also made a comparison between the statement in clause 2 of section 299 "bodily injury likely to cause death" with "bodily injury sufficient in the ordinary course of nature to cause death" in clause 3 in section 300.

70. *Umesh Singh v State of Bihar*, 2013 (4) SCC 360 [LNIND 2013 SC 227] : 2013 Cr LJ 2116 ; AIR 2013 SC 1743 [LNIND 2013 SC 227] ; *Gajoo v State of Uttarakhand*, 2013 Cr LJ 88 ; 2012 (9) SCC; *Kuria v State of Rajasthan*, 2012 Cr LJ 4707 : (2012) 10 SCC 433 [LNIND 2012 SC 678] ; *Darbara Singh v State of Punjab*, 2012 Cr LJ 4757 ; 2012 (8) Scale 649 [LNIND 2012 SC 545] ; (2012) 10 SCC 476 [LNIND 2012 SC 545] .

71. *Abdul Sayeed v State of MP*, (2010) 10 SCC 259 [LNIND 2010 SC 872] : (2010) 3 SCC (Cri) 1262 [LNIND 2010 SC 872] , *Ram Narain Singh v State of Punjab*, AIR 1975 SC 1727 [LNIND 1975 SC 210] ; *State of Haryana v Bhagirath*, (1999) 5 SCC 96 [LNIND 1999 SC 541] ; *Thaman Kumar v State of Union Territory of Chandigarh*, (2003) 6 SCC 380 [LNIND 2003 SC 507] ; and *Krishnan v State*, (2003) 7 SCC 56 [LNIND 2003 SC 587] ; *Solanki Chimanbhai Ukabhai v State of Gujarat*, AIR 1983 SC 484 [LNIND 1983 SC 69] ; *Mani Ram v State of UP*, 1994 Supp (2) SCC 289 ; *Khambam Raja Reddy v Public Prosecutor, High Court of AP*, (2006) 11 SCC 239 [LNIND 2006 SC 753] ; and *State of UP v Dinesh*, (2009) 11 SCC 566 [LNIND 2009 SC 454] . *State of UP v Hari Chand*, (2009) 13 SCC 542 [LNIND 2009 SC 1039] ; In *Sayed Darain Ahsan v State of WB*, (2012) 4 SCC 352 [LNIND 2012 SC 197] : AIR 2012 SC 1286 [LNIND 2012 SC 197] : 2012 Cr LJ 1980 , it is found

that the medical evidence does not go so far as to rule out all possibility of the ocular evidence being true and hence the ocular evidence cannot be disbelieved.

72. *Sunil Kundu v State of Jharkhand*, (2013) 4 SCC 422 [LNIND 2013 SC 1135] : 2013 Cr LJ 2339 (SC) In *Anjani Chaudhary*, (2011) 2 SCC 747 [LNIND 2010 SC 1048] , where the medical evidence did not support the appellant's presence as there was no injury on the deceased which could be caused by a lathi and the appellant was stated to be carrying a lathi. Since the eye-witnesses therein were not found to be reliable, Supreme Court acquitted the appellant therein. In *Kapildeo Mandal*, (2008) 16 SCC 99 [LNIND 2007 SC 1390] , all the eye-witnesses had categorically stated that the deceased was injured by the use of firearm, whereas the medical evidence specifically indicated that no firearm injury was found on the deceased. Court held that, when the evidence of the eye-witnesses is totally inconsistent with the evidence given by the medical experts, then evidence is appreciated in a different perspective by the courts. It was observed that when medical evidence specifically rules out the injury claimed to have been inflicted as per the eye-witnesses' version, then the court can draw adverse inference that the prosecution version is not trustworthy.

73. *Bhagwati Prasad v State of MP*, (2010) 1 SCC 697 [LNIND 2009 SC 2058] : 2009 (14) Scale 314 [LNIND 2009 SC 2058] : AIR 2010 SC 349 [LNIND 2009 SC 2058] : 2010 Cr LJ 528 .

74. *Kuna v State of Odisha*, AIR 2017 SC 5364 [LNIND 2017 SC 2864] .

75. *Kesar Singh v State of Haryana*, (2008) 15 SCC 753 [LNIND 2008 SC 1001] .

76. *Lakshman*, (1888) Unrep Cr C 411.

77. *Nga Maung*, (1907) 13 Burma LR 330.

78. *Judagi Mallah*, (1929) 8 Pat 911.

79. *Shankar Narayan Bhadolkar v State of Maharashtra*, AIR 2004 SC 1966 [LNIND 2004 SC 1370] : 2004 Cr LJ 1778 , explanation of importance of knowledge in the context of the clause.

80. *Ram Prasad*, AIR 1968 SC 881 [LNIND 1967 SC 358] : 1968 Cr LJ 1025 . See *Dev Raj v State of Punjab*, AIR 1992 SC 950 : 1992 Cr LJ 1292 : 1992 Supp (2) SCC 81 , gun-shot injuries, death occurring one and a half months later, in between surgery and amputation, held accused guilty of grievous hurt. *State of Karnataka v Venkatesh*, AIR 1992 SC 674 : 1992 Cr LJ 707 : 1992 (1) Crimes 625 SC : JT 1992 (1) SC 99 : 1992 (1) Scale 31 : 1992 Supp (1) SCC 539 .

81. *State of Haryana v Krishan*, AIR 2017 SC 3125 [LNIND 2017 SC 294] .

82. *Umakant v State of Chhatisgarh*, 2014 Cr LJ 4078 : 2014 (8) Scale 141 [LNIND 2014 SC 374] .

83. *DV Shanmugham v State of AP*, AIR 1997 SC 2583 [LNIND 1997 SC 720] : 1997 Cr LJ 3129 , some of the accused persons were, however, given the benefit of doubt because there was no clear evidence against them. *State of UP v Shri Krishan*, 2005 Cr LJ 892 : AIR 2005 SC 762 [LNIND 2004 SC 1252] : (2005) 10 SCC 399 [LNIND 2004 SC 1252] , the wife was with the man at the time when the husband alone was killed by the assailants. Her FIR was recorded after 13 days, this fact alongwith some other details created a doubt about the prosecution case of which the benefit went to the assailants. *State of AP v Patnam Anandam*, 2005 Cr LJ 894 : AIR 2005 SC 764 [LNIND 2004 SC 1241] : (2005) 9 SCC 237 [LNIND 2004 SC 1241] , another similar case of benefit of doubt. *Jagjit Singh v State of Punjab*, 2005 Cr LJ 955 : AIR 2005 SC 913 : (2005) 3 SCC 689 , accused alleged to have killed three persons at the tubewell sight coming there by motor cycle. A girl child of seven years was supposed to be the eye-witness. She had never seen the accused before, her statement was recorded after three days, not reliable, acquittal on benefit of doubt. *Puran Singh v State of Uttaranchal*, (2008) 3 SCC 725 : 2008 Cr LJ 1058 : (2008) 1 Ker LJ 875 , benefit of doubt allowed on the basis of technical evidence.

84. *State of TN v Balkrishna*, 1992 Cr LJ 1872 (Mad).

85. *Mohammad Khalil Chisti (Dr) v State of Rajasthan*, 2013 Cr LJ 637 (SC), 2013 (1) Mad LJ (Cr) 198, (2013) 2 SCC 541 [LNIND 2012 SC 801] ; *Waman v State of Maharashtra*, 2011 (7) SCC 295 [LNIND 2011 SC 564] : AIR 2011 SC 3327 [LNIND 2011 SC 564] : 2011 Cr LJ 4827 ; *Lakshmi Singh v State of Bihar*, 1976 SCC (Cr) 671 : AIR 1976 SC 2263 : 1976 Cr LJ 1736 , non-explanation of simple injuries of the nature suffered by the accused would not be fatal; *Ram Vishambhar v State of UP*, 2013 Cr LJ 1131 : (2013) 2 SCC 71 [LNINDU 2013 SC 5] ; *Hari v State of Maharashtra*, (2009) 11 SCC 96 [LNIND 2009 SC 642] : (2009) 3 SCC (Cr) 1254.
86. *Nokul Nushyo*, (1867) 7 WR (Cr) 27; *Akhila Parida v State of Orissa*, 1987 Cr LJ 609 (Ori), provocation by cutting the crop of accused. See also *Nagar Prasad v State of UP*, 1998 Cr LJ 1580 (All).
87. *Sukhlal Sarkar v UOI*, (2012) 5 SCC 703 [LNIND 2012 SC 364] : 2012 Cr LJ 3032 .
88. *Laikhan*, (1955) Cut 625.
89. *Kundarapu*, (1962) 1 Cr LJ 261 . *Jagjit Singh v State of HP*, 1994 Cr LJ 233 : 1994 SCC (Cr) 176, the accused inflicted a number of serious injuries on the vital parts of the body of his victim causing his death on the spot, held Exception 1 of section 300 not attracted. *Pappachan v State of Kerala*, 1994 Cr LJ 1765 (Ker), the accused delivered a fatal stab wound to the person who tried to pacify him, no evidence of any sudden and grave provocation or a sudden fight. The offence did not fall under Exception 1 or 2 of section 300.
90. *KM Nanavati v State of Maharashtra*, AIR 1962 SC 605 [LNIND 1961 SC 362] : 1962 Cr LJ 521 (SC).
91. *Budhi Singh v State of HP*, 2013 Cr LJ 962 (SC) : AIR 2013 (SCW) 547 .
92. *KM Nanavati*, (1962) Bom LR 488 : AIR 1962 SC 605 [LNIND 1961 SC 362] : 1962 Cr LJ 521 (SC); *Akhtar v State*, AIR 1964 All 262 [LNIND 1963 ALL 180] . *Girja Devi v State of HP*, 2000 Cr LJ 1528 (HP), the accused wife killed her husband being provoked by his perverse sexual habits, punished under section 304, Part I.
93. *Dhandayuthan v State of TN*, 1994 Cr LJ 1587 (Mad).
94. *Gyanendra Kumar v State*, 1972 Cr LJ 308 : AIR 1972 SC 502 [LNIND 1971 SC 601] ; see also *Panchu Kumar Sardar*, 1984 Cr LJ (NOC) 142 (Cal); *Balerian Minji*, 1985 Cr LJ 1394 (MP). Where the accused on being slapped by the deceased ran to his house which was at considerable distance and brought several deadly weapons and inflicted various injuries on the deceased two of which proved fatal, his action was indicative of his intention to kill the victim, he was held to be rightly punished for murder
95. *BD Khunte v UOI*, 2015 Cr LJ 243 .
96. *Dhandayuthan v State*, 1994 Cr LJ 1587 .
97. *Murgi Munda*, (1938) 18 Pat 101.
98. *Balku*, (1938) All 789 ; Hussain, (1938) 20 Lah 278.
99. *Re V Padayachi*, 1972 Cr LJ 1641 (Mad).
100. *Hansa Singh*, 1977 Cr LJ 1448 (SC).
101. *Ram Prakash Singh v State of Bihar*, AIR 1998 SC 1190 [LNIND 1998 SC 137] : 1998 Cr LJ 1622 , conduct of accused in the jail being good, his sentence was reduced to the period already undergone during trial plus jail term. *Bishek Mohandas v State of Orissa*, 1998 Cr LJ 1489 (Ori), quarrel, one picked up an instrument and struck the other, himself also injured, for the ensuing death, conviction under section 304, Part II.
102. Note M p 147. *Kehar Singh v State*, 1997 Cr LJ 1753 (Raj), water diverted from the accused person's field by the victim to his field without justification, the accused had the right to resort to self-defence of property, but the number of injuries caused was so great as to be sure to cause death, right exceeded, conviction under section 304, Part I.
103. *Raj Singh v State of Haryana*, 2015 Cr LJ 2803 .

104. *Mohammad Khalil Chisti (Dr) v State of Rajasthan*, 2013 Cr LJ637 (SC) : 2013 (1) Mad LJ (Cr) 198, (2013) 2 SCC 541 [LNIND 2012 SC 801] ; *Gopal v State of Rajasthan*, (2013) 2 SCC 188 [LNIND 2013 SC 37] : 2013 Cr LJ 1297 .
105. *Arjun v State of Maharashtra*, JT 2012 (4) SC 447 : 2012 (5) Scale 52 [LNIND 2012 SC 283] : AIR 2012 SC 2181 [LNIND 2012 SC 283] : (2012) 5 SCC 530 [LNIND 2012 SC 283] : 2012 Cr LJ 2641 . See also *Mohammad Iqbal v State of MP*, 2012 Cr LJ 337 (Chh).
106. *Sikandar Singh v State of Bihar*, (2010) 7 SCC 477 [LNIND 2010 SC 603] : (2010) 8 SCR 373 : AIR 2010 SC 44023 : 2010 Cr LJ 3854 : (2010) 3 SCC (Cr) 417.
107. *Raj Pal v State of Haryana*, (2006) 9 SCC 678 [LNIND 2006 SC 282] : JT 2006 (11) SC 124 [LNIND 2006 SC 282] : (2006) 4 Scale 456 [LNIND 2006 SC 282] : (2006) 3 SCC (Cri) 361 [LNIND 2006 SC 282] .
108. *Mohd Yusuf v State of UP*, 1994 Cr LJ 1631 , 2181.
109. *PP Sah*, 1977 Cr LJ 346 : AIR 1977 SC 704 .
110. *Rafiq*, 1979 Cr LJ 706 : AIR 1979 SC 1179 .
111. *Ghansham Dass*, 1979 Cr LJ 28 : AIR 1979 SC 44 .
112. *Jassa Singh v State of Haryana*, AIR 2002 SC 520 [LNIND 2002 SC 13] . *Latel v State of Chhatisgarh*, AIR 2001 SC 3474 , possession of the disputed land was with the accused, but the deceased was ploughing it at the relevant time, the accused and his son attacked him and continued to do so even after he had fallen down, held, right of private defence exceeded, punishment under section 304, Part I. *State of Karnataka v Shivappa*, (1993) Cr LJ 1253 : AIR 1998 SC 1536 [LNIND 1997 SC 1597] , the right of private defence exceeded, conviction.
113. *Katta Surendra v State of AP*, (2008) 11 SCC 360 [LNIND 2008 SC 1294] : 2008 Cr LJ 3196 .
114. See also *Thomas George v State of Kerala*, 2000 Cr LJ 3475 : 1999 SCC (Cr) 1308, exceeding the right of private defence, conviction under section 304, Part II.
115. *Subba Naik*, (1898) 21 Mad 249.
116. *Satyavir Singh Rathie v State Thr CBI*, AIR 2011 SC 1748 [LNIND 2011 SC 475] : (2011) 6 SCC 1 [LNIND 2011 SC 475] : 2011 Cr LJ 2908 .
117. *Vijender Kumar v State of Delhi*, 2010 Cr LJ 3851 : (2010) 12 SCC 381 [LNIND 2010 SC 413] : (2011) 1 SCC (Cr) 29.
118. *Santokh Singh v State of Punjab*, AIR 2009 SC 1923 [LNIND 2009 SC 328] : (2009) 11 SCC 197 [LNIND 2009 SC 328] ; *Arumugam v State Rep by Inspector of Police TN*, AIR 2009 SC 331 [LNIND 2008 SC 1994] : (2008) 15 SCC 590 [LNIND 2008 SC 1994] .
119. *State of Rajasthan v Islam*, (2011) 6 SCC 343 [LNINDORD 2011 SC 309] : AIR 2011 SC 2317 [LNINDORD 2011 SC 309] : 2011 Cr LJ 3110 , plea that only one injury of small dimension had been caused by appellant to the deceased in the abdomen and he had himself taken the deceased to hospital, an inference be drawn that there was no intention to kill the deceased repelled. The case of the appellant cannot fall within Exception 4 of section 300, IPC, 1860. *Vijender Kumar v State of Delhi*, 2010 Cr LJ 3851 : (2010) 12 SCC 381 [LNIND 2010 SC 413] : (2011) 1 SCC (Cr) 291.
120. *Abdul Nawaz v State of WB*, 2012 Cr LJ 2901 : (2012) 6 SCC 581 [LNIND 2012 SC 307] : 2012 (5) Scale 357 [LNIND 2012 SC 307] ; *Chinnathaman v State*, 2007 (14) SCC 690 [LNIND 2007 SC 1485] , *Muthu v State*, 2009 (17) SCC 433 [LNIND 2007 SC 1303] ; *Arumugam v State*, 2008 (15) SCC 590 [LNIND 2008 SC 1994] ; *Ajit Singh v State of Punjab*, 2011 (9) SCC 462 [LNIND 2011 SC 844] , *Vijay Ramkrishan Gaikwad v State of Maharashtra*, 2012 (2) Scale 631 ; *Sayaji Hanmat Bankar v State of Maharashtra*, 2011 AIR (SCW) 4502 : 2011 (7) Scale 710 [LNIND 2011 SC 653] : 2011 Cr LJ 4338 : (2011) 8 SCR 234 [LNIND 2011 SC 653] ; *State of HP v Ram Pal*, AIR 2005 SC 4058 .

121. *Arjun v State of Maharashtra*, (2012) 5 SCC 530 [LNIND 2012 SC 283] : 2012 Cr LJ 2641 , where the accused appeared and entered the house and had some quarrel with his deceased wife. He threw water pot and thereafter a kerosene lamp. Burning seems to be more because lady was wearing nylon sari. She got burnt to the extent of 70%. The Supreme Court held that it was a case clearly falling under Exception 4 of [section 300 of IPC, 1860](#). *Sayaji Hanmat Bankar v State of Maharashtra*, 2011 (7) Scale 710 [LNIND 2011 SC 653] : 2011 Cr LJ 4338 .

122. *Nanak Ram v State of Rajasthan*, 2014 Cr LJ 1843 : 2014 (I) Supreme 705 .

123. *Nayamuddin*, (1891) 18 Cal 484 (FB). Where there was no evidence of sudden fight or heat of passion and the nature, number and situs of injuries showed that there was cruel manner, conviction for murder, the exception was not attracted, *Malkiat Singh v Punjab*, AIR 1996 SC 2590 [LNIND 1996 SC 1198] : 1996 Cr LJ 3583 .

124. *Zalim Rai*, (1864) 1 WR (Cr) 33; *Ameera v State*, (1866) PR No 12 of 1866. *D Sailu v State of AP*, (2007) 14 SCC 397 [LNIND 2007 SC 1347] : AIR 2008 SC 505 [LNIND 2007 SC 1347] : 2008 Cr LJ 686 , injury to a vital organ in a sudden fight, causing death due to shock and haemorrhage, punishment under section 304, Part I. *Byvarapu Raju v State of AP*, (2007) 11 SCC 218 [LNIND 2007 SC 761] : AIR 2007 SC 1904 [LNIND 2007 SC 761] : 2007 Cr LJ 3204 , the father of the accused came in intoxicated state at night and assaulted the son's wife, a resulting quarrel between father and son in which the son injured his father to death because of the injury to a vital organ, case covered by Exception 4.

125. *State of MP v Shivshankar*, 2015 Cr LJ 155 .

126. *Surain Singh v State of Punjab*, AIR 2017 SC 1904 [LNIND 2017 SC 171] .

127. *Sunnumuduli*, (1946) 25 Pat 335. *Kesar Singh v State of Haryana*, (2008) 15 SCC 753 [LNIND 2008 SC 1001] , it postulates a bilateral transaction in which blows are exchanged even if they all do not find their target. Provocation *per se* is not fight. Asking somebody to do something again may not be a provocation. Expressing a desire to one's neighbour digging foundation that some passage may be left may not be considered to be a demand. In instant case, held, there was no fight, far less sudden fight.

128. *Atma Singh*, AIR 1955 Punj 191 .

129. *Narayanan*, AIR 1956 SC 99 [LNIND 1955 KER 138] : 1956 Cr LJ 278 . *Golla Yelugu Govindu v State of AP*, (2008) 16 SCC 769 [LNIND 2008 SC 751] : AIR 2008 SC 1842 [LNIND 2008 SC 751] : 2008 Cr LJ 2607 : (2008) 2 APLJ 28 , ingredients of the exception restated. *Trimbak v State of Maharashtra*, (2008) 17 SCC 213 [LNIND 2008 SC 571] , ingredients for bringing the exception into operation restated. Similar restatement in *Hawa Singh v State of Haryana*, (2009) 3 SCC 411 [LNIND 2009 SC 77] : (2009) 2 SCC Cri 132 [LNIND 2009 SC 764] : 2009 Cr LJ 1146 . *Imtiaz v State of UP*, (2007) 15 SCC 299 [LNIND 2007 SC 172] , dispute about drainage of latrine, neighbour objected but to no effect, the attackers came fully armed, the court found premeditation, not suddenness. *Iqbal Singh v State of Punjab*, (2008) 11 SCC 698 [LNIND 2008 SC 1671] , sudden fight over access to agricultural land, death caused, 10 years under this exception. *SK Azim v State of Maharashtra*, (2008) 11 SCC 695 [LNIND 2008 SC 1408] , death caused in a sudden fight by a single lathi blow on head, 10 years, section 304, Part I. *Suresh Kumar v State of HP*, (2008) 13 SCC 459 [LNIND 2008 SC 766] : AIR 2008 SC 1973 [LNIND 2008 SC 766] : 2008 Cr LJ 2247 , single knife blow in sudden fight, death, 10 years, section 304, Part I. *Shankar Diwal Wadu v State of Maharashtra*, (2007) 12 SCC 518 [LNIND 2007 SC 363] : AIR 2007 SC 1410 [LNIND 2007 SC 363] : 2007 Cr LJ 1802 , attempt to take away brother's wife by the brother accused to keep her as a mistress, this resulted in killing of the brother in a sudden fit of anger, held appropriate conviction under section 304, Part II and not section 302, the accused was already undergoing imprisonment under sentence for 10 years, sentence reduced to the period already undergone. *Chinnathaman v State*, (2007) 14 SCC 690 [LNIND 2007 SC 1485] :



[AIR 2008 SC 784](#) [[LNIND 2007 SC 1485](#)] : [2008 Cr LJ 1372](#) , no premeditation or preplan to cause death, altercation because of entry into the field, injury caused with sickle lying there, punishment under section 304, Part II. *Phulia Tadu v State of Bihar*, (2007) 14 SCC 588 [[LNIND 2007 SC 1071](#)] : [AIR 2007 SC 3215](#) [[LNIND 2007 SC 1071](#)] : [2007 Cr LJ 4690](#) , one blow with a small stick, section 304, Part II attracted.

130. *Sarjug Prasad*, [AIR 1959 Pat 66](#) .

131. *State of UP v Jodha Singh*, [AIR 1989 SC 1822](#) : (1989) 3 SCC 465 : [1989 Cr LJ 2113](#) . See also *Surender Kumar v Union Territory, Chandigarh*, [AIR 1989 SC 1094](#) [[LNIND 1989 SC 140](#)] : [1989 Cr LJ 883](#) , where there was no evidence of acting with cruelty following a quarrel, sentence under section 304, Part I was considered appropriate; *V Sreedharan v State of Kerala*, [AIR 1992 SC 754](#) : [1992 Cr LJ 1701](#) , where the sudden impulse was held not to have ended simply because the accused chased the deceased for some distance before giving fatal blow.

132. *State of Karnataka v Shivalingaiah*, [AIR 1988 SC 115](#) [[LNIND 2012 DEL 2078](#)] : [1988 Cr LJ 394](#) : 1988 SCC (Cr) 881. *State of Maharashtra v Suresh*, [1989 Cr LJ 1709](#) (Bom), heat and passion on cattle grazing leading to one blow on the head with a light stick, the deceased fell down, blow not repeated, death, punished under section 325 with RI for one year and fine of Rs. 2000. *Vadivelu*, [1989 Cr LJ 2248](#) (Mad), causing injury with wooden frame endangering life and resulting in death, guilty under section 326, not section 302. *Karan Singh v State*, [1988 Cr LJ 315](#) (Del), death caused in sudden quarrel, conviction under section 304, Part II. *Ramanbhai v State of Gujarat*, [1988 Cr LJ 982](#) (Guj), quarrel at a bus-stop for Rs. 5/-, moved towards a bridge where as a result of pushing one fell and died, conviction under section 304, Part II.

133. *Pawan Singh v State of Punjab*, (1995) 1 Cr LJ 609 (P&H). *Thankachan v State of Kerala*, (2007) 14 SCC 501 [[LNIND 2007 SC 1325](#)] : [AIR 2008 SC 406](#) [[LNIND 2007 SC 1325](#)] , one of the accused dragged the victim out of his home, the latter picked up a soda bottle, the accused also lifted a bottle from a shop and struck him on the head, the victim also hit back with the bottle in his hand, on this the accused exhorted his companions to carry further the attack with the result the victim died with multiple injuries. Ten years' imprisonment awarded under section 304, Part I. *Rakesh v State of MP*, (2007) 14 SCC 504 [[LNIND 2008 SC 298](#)] : [AIR 2008 SC 1229](#) [[LNIND 2008 SC 298](#)] : [2008 Cr LJ 1646](#) , comparison of requirements of sections 1 and 4.

134. *Balwant Ram v State of Rajasthan*, [1995 Cr LJ 3856](#) (Raj).

135. *Baleshwar Mahto v State of Bihar*, [AIR 2017 SC 873](#) [[LNINDU 2017 SC 8](#)] .

136. *Kikar Singh v State of Rajasthan*, [1993 Cr LJ 3255](#) : [AIR 1993 SC 2426](#) [[LNIND 1993 SC 456](#)] : (1993) 4 SCC 238 [[LNIND 1993 SC 456](#)] . *Kudesh Mondal v State of WB*, (2007) 8 SCC 578 [[LNIND 2007 SC 1043](#)] : [AIR 2007 SC 3228](#) [[LNIND 2007 SC 1043](#)] , a passerby started inquiring into a killing incident originating over a trivial matter. He was dragged by one and struck a fatal blow by the other. The court applied this exception. Conviction under section 304, Part I. *Salim Sahab v State of MP*, (2007) 1 SCC 699 [[LNIND 2006 SC 1089](#)] : (2007) 103 Cut LT 531, another similar death caused in a quarrel, conviction under section 304, Part II, seven years RI. *Vadla Chandraiah v State of AP*, (2006) 13 SCC 587 [[LNIND 2006 SC 1103](#)] : [2007 Cr LJ 770](#) , quarrel between fruit vendor and a police constable for not paying for fruits consumed. Constable attacked him with his service weapon to death. Punishment under section 304, Part II. *Pappu v State of MP*, [2006 Cr LJ 3640](#) , murder as a result of a single lathi blow in a sudden quarrel, the accused was not armed with any weapon. Conviction under section 304, Part II, *Pulicheria Nagaraju v State of AP*, [2006 Cr LJ 3899](#) , another similar case with this observation that a single blow injury resulting in death is not a ground in itself for holding that the case would come under section 304 and not under section 302. *Khambam Raja Reddy v Public Prosecutor, HC, Andhra*, [2006 Cr LJ 4652](#) , allegation that on exhortation of the co-accused, the accused picked up a big stone piece and threw it on the head of the deceased. This could not be true because

he was suffering from polio and could not have picked up the stone. His conviction was set aside.

137. *Suresh Kumar v State of HP*, (2008) 13 SCC 459 [LNIND 2008 SC 766] : AIR 2008 SC 1973 [LNIND 2008 SC 766] : 2008 Cr LJ 2247 . *Bengaru Venkata Rao v State of AP*, (2008) 9 SCC 707 [LNIND 2008 SC 1585] : 2008 Cr LJ 4353 .

138. *Anil v State of Haryana*, (2007) 10 SCC 274 [LNIND 2007 SC 629] : 2007 Cr LJ 4294 .

139. *Bhagwan Munjaji*, 1979 Cr LJ 49 (SC).

140. *Prabhu v State of UP*, AIR 1991 SC 1069 : 1991 Cr LJ 1373 . Single assault attributed to each of the accused in the course of sudden quarrel in heat of passion, Exception 4 to section 300 attracted, conviction altered from section 300 to section 304, Part II, *Subodh Behera v State of Orissa*, 1996 Cr LJ 168 (Ori). The accused, seeing his father being beaten by the deceased, caused death of the assailant by inflicting injuries on his head in a heat of passion but the accused did not act in a cruel or unreasonable manner, held Exception 4 to section 300 attracted, the offence covered under section 304, Part I, *State of MP v Mohandas*, 1992 Cr LJ 101 (MP). The accused brother caused a single injury without pre-meditation in a sudden fight and in heat of passion to his brother which proved fatal, he neither took undue advantage nor acted in a cruel manner, held Exception 4 to section 300 attracted, liable to be punished under section 304, Part I and not under section 302. *Suraj Mal v State of Punjab*, AIR 1992 SC 559 : 1992 Cr LJ 520 : 1993 Supp (1) SCC 639 . The accused, over a trivial matter of the next day of Holi festival and without any pre-meditation or any enmity with the victim, suddenly inflicted a single knife blow on his chest which proved fatal, held, the offence fell within Exception 4 of section 300, punishable under section 304, Part I, not under section 302. *Prakash v State of Rajasthan*, 1994 Cr LJ 3019 (Raj). See also *Pitchaimani v State of T.N.*, 1994 Cr LJ 2606 (Mad), wordy duel, sudden quarrel, no pre-meditation, culpable homicide not amounting to murder.

141. *Sukhbir Singh v State of Haryana*, AIR 2002 SC 1168 [LNIND 2002 SC 134] ; *Bajjappa v State of Karnataka*, 1999 Cr LJ 958 (Kant), altercation resulting in violent assault at the spur of moment. The accused was an agriculturist with clean record, had three children, in custody for considerable period, sentence reduced to five years RI, fine Rs. 1000. *Lakhwinder Singh v State of Punjab*, AIR 2003 SC 2577 [LNIND 2002 SC 820] , the accused suffered 19 injuries, two of them grievous, the prosecution could not say that they did not know such extensive injuries or that they were self-accused, explanation by the prosecution was necessary, failure led to the inference that the true genesis and manner of the incident was not disclosed. *Ramesh Krishna Madhusudan Nayar v State of Maharashtra*, (2008) 14 SCC 491 [LNIND 2008 SC 18] : (2009) 2 SCC Cri 759 : AIR 2008 SC 927 [LNIND 2008 SC 18] : 2008 Cr LJ 1023 , two blows with a piece of wood inflicted after quarrel for several hours about putting off the light of the staff room at night. Exception 4 attracted. *Arumugan v State*, (2008) 115 SCC 490 : AIR 2009 SC 331 [LNIND 2008 SC 1994] , fight over panchayat election, the victim dragged out from his home, exchange of hot words, blows inflicted by the accused and his companions. Exception attracted. *Raghubir Singh v State of Haryana*, (2008) 16 SCC 33 [LNIND 2008 SC 2228] : AIR 2009 SC 223 : (2009) 73 AIC 93 , lathi blows in the course of a sudden quarrel, exception applied. *Parkash Chand v State of HP*, (2004) 11 SCC 381 [LNIND 2004 SC 759] : AIR 2004 SC 4496 [LNIND 2004 SC 759] , one brother's dogs entered the kitchen of the other, the latter protested, heated altercation ensued, one went into his room, came out with a gun, shot at the other from a distance of 35 feet, death ensued. Exception applied. *Preetam Singh v State of Rajasthan*, (2003) 12 SCC 594 , there being a background to the struggle, the court did not regard the fight to be sudden. Hence, the exception not attracted. *State of Maharashtra v Manjurrya*, (2003) 12 SCC 787 , the attacking party came fully prepared and caused death as in an organised manner, no feature of a sudden fight. *Sachchey Lal Tiwari v State of UP*, (2004) 11 SCC 410 [LNIND 2004 SC 1041] : AIR 2004 SC



[5039 \[LNIND 2004 SC 1041\]](#) , dividing line between two fields dismissed by the attacking party, fired pistol shots at the opponent killing his two sons. The exception not applicable. *Umesh Jha v State of Bihar*, [\(2004\) 12 SCC 329](#) , genesis in lands dispute, but murder pre-meditated, Exception 4 not applicable.

**142.** *Sikandar v State (Delhi) Admn*, [AIR 1999 SC 1406 \[LNIND 1999 SC 351\]](#) : [1999 Cr LJ 2098](#) . *Hari Shankar v State of Rajasthan*, [AIR 1999 SC 2629](#) : [1999 Cr LJ 2902](#) , exchange of hard words, burning kerosene stove wick thrown, knowledge of likely death, conviction under section 304.

**143.** *Mahesh Balmiki v State of MP*, [1999 Cr LJ 4310](#) : [AIR 1999 SC 3338 \[LNIND 1999 SC 755\]](#) ; *Rameshraya v State of MP*, [AIR 2001 SC 1229](#) : [2001 Cr LJ 1452](#) (SC). Sudden fight, but murder committed in most brutal manner conviction under section 302. *Abdul Kader v State of Gujarat*, [1999 Cr LJ 5027](#) (Guj), police on duty during Muslim festivities tried to prevent gambling, the accused, who was friendly with gamblers, gave one knife injury to a police constable resulting in death. The court noted that there was no premeditation, the act was the result of heat of passion, no undue advantage, Exception 4 attracted, conviction under section 304, Part II, seven years' imprisonment. *Resham Singh v State of Punjab*, [AIR 2002 SC 2625](#) : [2002 Cr LJ 3506](#) , fight from both sides, Exception 4 attracted, conviction under section 304, Part II. *Naresh Janimal Lohana v State*, [1998 Cr LJ 3574](#) (Guj), domestic quarrel between parties on question of throwing away some mango waste, male members came out and started taking part in the sudden fight, the accused gave one blow in the scuffle by wielding a knife in the sudden heat of passion. No premeditation. Exception 4 attracted. *Pawan Kumar v State*, [1997 Cr LJ 3631](#) (P&H), sudden quarrel over snatching of newspaper, single knife blow, acting at the spur of moment without premeditation, Exception 4 attracted, conviction under section 304, Part II. *Lekh Raj v State*, [1997 Cr LJ 3663](#) (HP), accused entered into victim's house and inflicted knife blows on vital parts, conviction under section 302, Exception 4 not attracted. *Surinder Kumar v State*, [1997 Cr LJ 2872](#) (P&H), during an altercation, the accused pushed the victim, whose head dashed against the wall causing death. The accused given benefit of the exception, conviction under section 304, Part I. *Uday Singh v State of UP*, [AIR 2002 SC 3143 \[LNIND 2002 SC 545\]](#) , sudden fight between the accused persons and their victim, both unarmed, both accused held their victim by his neck with pressure that he died, neither knew about the pressure being put by the other, no common intention to cause death, only knowledge, conviction under section 304, Part II. *Bala Baine Linga Raju v State of AP*, [\(2009\) 6 SCC 706 \[LNIND 2009 SC 1104\]](#) : [\(2009\) 3 SCC Cr 13](#) : [2009 Cr LJ 3426](#) , in the absence of appeal by state, the Supreme Court did not enhance the sentence to that for murder despite the fact that the case was that of murder and not coming under the exception.

**144.** *Sukhdev v State of Punjab*, [\(2007\) 16 SCC 364](#) . The court considered cases relating to importance of premeditation and undue or unfair advantage. *Rakesh v State of MP*, [\(2007\) 14 SCC 504 \[LNIND 2008 SC 298\]](#) : [AIR 2008 SC 1229 \[LNIND 2008 SC 298\]](#) : [2008 Cr LJ 646](#) , one of them assaulted their victim with knife, three others gave him kicks and fists blows. The trial court convicted the main accused under section 302 and also others under sections 302/34. The High Court maintained the conviction of main accused under section 302 and convicted others under sections 326/34. The Supreme Court convicted and punished all of them under sections 304/34, Part I, 10 years. *Gurdev Raj v State of Punjab*, [\(2007\) 13 SCC 380 \[LNIND 2007 SC 1180\]](#) : [2008 Cr LJ 382](#) , conviction altered from section 302 to section 304, Part I. *Shambhao Singh v State of Rajasthan*, [\(2008\) 11 SCC 637 \[LNIND 2008 SC 1492\]](#) : [AIR 2008 SC 3200 \[LNIND 2008 SC 1492\]](#) , quarrel in land dispute, stabbing, one died, other family members injured, conviction under section 304, Part I, 10 years, would meet the ends of justice. *Baij Nath v State of UP*, [\(2008\) 11 SCC 738 \[LNIND 2008 SC 1374\]](#) , one lathi blow on head, causing, fracture and death, seven years under section 304, Part I.

145. *Sada Ram v State of Haryana*, (2006) 13 SCC 528 . *Sandhya Jadhav v State of Maharashtra*, 2006 Cr LJ 2111 SC, landlord demanded rent, the tenant (accused) assaulted him, nephew of landlord, who tried to intervene was given a knife blow causing death, conviction altered to section 304, Part II from section 302.
146. *Suresh Chandra v State of UP*, 2005 Cr LJ 3449 : AIR 2005 SC 9 [LNIND 2004 SC 1110] : (2005) 1 SCC 122 [LNIND 2004 SC 1110] .
147. *Santokh Singh v State of Punjab*, AIR 2009 SC 1923 [LNIND 2009 SC 328] : (2009) 11 SCC 197 [LNIND 2009 SC 328] ; *Arumugam v State Rep by Inspector of Police TN*, AIR 2009 SC 331 [LNIND 2008 SC 994] : (2008) 15 SCC 590 [LNIND 2008 SC 994] ; *D Sailu v State of AP*, AIR 2008 SC 505 [LNIND 2007 SC 1347] : (2007) 14 SCC 397 [LNIND 2007 SC 1347] .
148. *Sridhar Bhuyan v State of Orissa*, (2004) 11 SCC 395 [LNIND 2004 SC 758] : AIR 2004 SC 4100 [LNIND 2004 SC 758] : 2004 Cr LJ 3875 .
149. Note M, p 145.
150. *Nayamuddin*, (1891) 18 Cal 484 (FB).
151. *Ambalathil*, AIR 1956 Mad 97 .
152. *Halliday*, (1889) 61 LT 701 , 702.
153. *Towers*, (1874) 12 Cox 530, 533.
154. *Lal Bahadur v State (NCT of Delhi)*, (2013) 4 SCC 557 [LNIND 2014 SC 553] ; 2013 Cr LJ 2205 : 2013 (2) SCC (Cr) 516.
155. *Adu Shikdar*, (1885) 11Cal 635; *Bhairon Lal*, (1952) 2 Raj 669 ; *Ram Chandra v State*, AIR 1957 SC 381 : 1957 Cr LJ 559 .
156. *Rama Nand*, 1981 Cr LJ 298 : AIR 1981 SC 738 [LNIND 1981 SC 5] . See further *Manguli Devi v State of Orissa*, AIR 1989 SC 483 : 1989 Cr LJ 823 : 1989 Supp (1) SCC 161 , where dead body was discovered in decomposed state and no wounds were visible yet the conviction of the widow of the deceased on the basis of her confession was sustained; *Rama Nand v State of UP*, AIR 1981 SC 738 [LNIND 1981 SC 5] : (1981) 2 SCR 444 [LNIND 1981 SC 5] : 1981 Cr LJ 298 : 1981 Mad LJ (Cr) 241. *Amar Layek v State of WB*, 1988 Cr LJ 1293 (Cal), only skeleton of bones and other personal articles recovered on lead given by accused, held guilty of murder. *Hari Kishan v State of Haryana*, 1990 Cr LJ 385 (P&H), good evidence, though corpus delicti not traceable. But see *Bhupendra Singh v State of UP*, AIR 1991 SC 1083 [LNIND 1991 SC 151] : 1991 Cr LJ 1337 : (1991) 2 SCC 750 [LNIND 1991 SC 151] , where the body of the deceased was burnt and pieces of bones which were recovered were not sufficient to establish the age, sex or identity. Conviction even under section 201 was set aside. *Sevaka Perumal v State of TN*, AIR 1991 SC 1463 [LNIND 1991 SC 269] : 1991 Cr LJ 1845 , murder charge can be established by evidence, though dead body may not be traceable. *Arun Kumar v State of UP*, 1989 Cr LJ 1460 : AIR 1989 SC 1445 : 1989 Supp (2) 332 , dead body of victim of rape not traceable, conviction under section 366 justified.
157. *Rishipal v State of Uttarakhand*, 2013 Cr LJ 1534 (SC) : 2013 AIR (SCW) 1167; *Lakshmi v State of UP*, 2002 (7) SCC 198 [LNIND 2002 SC 534] ; *State of Karnataka v MV Mahesh*, 2003 (3) SCC 353 [LNIND 2003 SC 270] .
158. *Jitender Kumar v State of Haryana*, 2012 Cr LJ 3085 : AIR 2012 SC 2488 [LNIND 2012 SC 331] : (2012) 6 SCC 204 [LNINDORD 2012 SC 412] ; The state of the contents of the stomach found at the time of medical examination is not a safe guide for determining the time of the occurrence because that would be a matter of speculation, in the absence of reliable evidence on the question as to when the deceased had his last meal and what that meal consisted of. *Masjit Tato Rawool v State of Maharashtra*, (1971) SCC (Cr) 732; *Gopal Singh v State of UP*, AIR 1979 SC 1932 ; *Sheo Darshan v State of UP*, (1972) SCC (Cr) 394. [The presence of faecal matter in the intestines is not conclusive, as the deceased might be suffering from constipation. Where