



Devki's Dilemma: A Criminal Evaluation of the film 'Mom'

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Abstract

This provides a legal analysis of the 2017 crime thriller 'Mom.' The focus is on the character Devki, who takes the law into her own hands to avenge her daughter's suffering. The article delves into the criminal offenses portrayed in the movie, specifically murder, and examines the applicable sections of the Indian Penal Code. It scrutinizes the trial Devki would face in a court of law, exploring elements of culpable homicide and murder. The article discusses potential defenses for Devki, such as 'private defence' and 'grave and sudden provocation,' while highlighting why these defenses may fail. Furthermore, it contemplates the legal consequences Devki would likely face if the events from the movie were to occur in reality. The article concludes by pointing out a significant gap in the movie's portrayal, emphasizing the divergence between the depicted vigilantism and the principles of the criminal justice system.

I. Introduction

'Mom' is a 2017 crime thriller directed by Ravi Udyawa.¹ It presents a complex set of facts and criminal offences such as Rape (Section 375), Criminal Force (Section 350), Criminal Trespass (Section 441), Criminal Intimidation (Section 503), Culpable homicide (Section 299), Murder (Section 300), and fabricating false evidence (Section 192).² However, I will limit the focus of this review to the offence of murder by Devki and the applicable defences. As I reflect on the legal trial for this offence, I will also analyze the gaps in the movie and how they impact the theory of criminal law.

In order to critically examine the circumstances surrounding Jagan's death, it is crucial to provide a context by considering the events depicted in the film. The initial part of the movie revolves around the rape of Arya, the daughter of Devki. The movie illustrates how

her four attackers are acquitted due to insufficient evidence and she is left devoid of justice. Consequently, Devki, her mother, being hopeless of the justice system, decides to avenge her daughter's suffering. Jagan, one of the attackers in response to Devki's revenge on his partners follows her family to their cottage. There, he shoots her husband and attempts to kill Arya. Devki, in an attempt to save her family engages in a scuffle with him, where Jagan is about to kill her when Mathew, a police officer, intervenes. After gaining control of Jagan, Devki and Mathew point their guns at him, leading to Devki firing five bullets that result in Jagan's death. Devki is not arrested by the police and the movie ends, showcasing the delivery of justice to Arya with her mom's revenge.

II. Devki's trial in the court of law

If we were to contemplate the trial of Devki in an Indian court of law, she would be brought before the court, under the charge of fatal offences against the human body: Culpable Homicide (Section 299) and Murder (Section 300).³ Drawing from the precedent set by the apex court in *State of A.P. v. R. Punayya & Anr.*, the court tasked with determining whether the offence constitutes 'murder' or 'culpable homicide not amounting to murder,' would approach this case in three stages: first, whether Devki caused Jagan's death; second, whether her actions amount to 'culpable homicide,' and last, whether they fulfill the elements of Section 300 i.e., murder.⁴

A. 'Culpable homicide' under Section 299

Considering the first stage, the death of Jagan is caused by Devki's act of firing five bullets, establishing a clear and immediate causal connection between the act and its fatal consequence. Moreover, it satisfies the test of foreseeability emphasized in *Emperor v. MS Murthy* as the death is the reasonably foreseeable effect of Devki's

¹ *Mom* (Directed by Ravi Udyawa, 2016)
<<https://www.netflix.com/in/title/80201175>> accessed 2 October 2023

² Indian Penal Code 1860 (IPC), s 375; s 350; s 441; s 503; s 299; s 300; s 192

³ IPC 1860, s 299; s 300

⁴ 1977 SCR (1) 601.

act.⁵ In the second stage, elements of Section 299 will be examined. As per Section 299, whoever (a) causes death by (b) doing an act with (c) 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.⁶ In the present case, Jagan's death is a direct result of Devki's act of firing bullets, fulfilling the first two elements of (a) causing death and (b) doing an act. To establish the third element, Mens Rea (intent, likelihood, or knowledge), we must consider the surrounding circumstances of the act. An act is said to be intentional when it is done with a desire that certain consequences shall follow from it.⁷ This principle, as elaborated in the case of *Mahesh Balmiki v. State of M.P.*, states that if it is clear from the factual scenarios that death is substantially certain or inevitable consequence of an act, a guilty intention can be deduced.⁸ In the present case, Devki fired five bullets at Jagan from a proximate distance, indicating a high level of certainty that such an act would inevitably lead to his death. Thus, it is evident that the act of firing was done with the intention to kill Jagan and satisfies all the elements of Section 299, bringing this act into the ambit of 'culpable homicide.'

A. 'Murder' under Section 300

Now, moving towards the third stage, elements of Murder (S.300) have to be examined. 'Murder' is an aggravated form of 'culpable homicide,' and Section 300 distinguishes it from 'culpable homicide' not amounting to murder. According to Section 300 (Firstly), 'culpable homicide' is murder if the act of causing death is done with the intention of causing death.⁹ Devki's act of killing Jagan as proved above is 'culpable homicide' and was done with the intention of causing death, bringing it under the definition of murder. Moreover, it was established in *Reg v. Govinda* that where there is intention to kill in culpable homicide, the offence committed is always murder.¹⁰ Therefore, she would be punishable under Section 302 of the IPC with death or imprisonment for life and also liable for a fine.¹¹

B. Probable defences of Devki

Devki's council, in this case, can raise two defences in order to avoid her conviction: the general exception of

'private defence' under Section 96 and the special exception of 'grave and sudden provocation' provided under Section 300. However, it is important to note why these defences would likely fail.

'Private defence' is a general exception defined in Section 96 (IPC).¹² This exception completely absolves the accused from the offence as it negates the presence of mens rea, which is a fundamental element of criminal law. According to this, no act is considered an offence if it is carried out in accordance with Sections 99 and 102.¹³ Furthermore, Section 100 (Firstly) of IPC, extends this right of 'private defence' to include the use of force resulting in death.¹⁴ However, this exception is subject to specific conditions: (a) it must be against unlawful aggression, (b) involve reasonable apprehension of death or grievous hurt, (c) not resort to public authorities, and (d) be proportionate to the threat.¹⁵ Considering the present case, where Jagan made repeated attempts to harm Devki and her family, there was an imminent apprehension of death or grievous hurt in her mind. It was reasonable to believe that if she did not fire, he would definitely kill her and Arya. Firing bullets, in this context, was also proportionate to the threat, as it was a necessary means to counter a confirmed threat to life. However, Devki's use of the 'private defence' argument would likely fail because she had an alternative recourse to public authorities, as evidenced by the presence of Mathew, the police officer. Moreover, as held by the Supreme Court in *Jagdish v. State of Rajasthan*, the right of 'private defence' cannot be availed as a pretext for a vindictive, aggressive, or retributive purpose of offence.¹⁶ Given that Devki's act of killing Jagan was motivated more by a desire for revenge rather than immediate self-defence or defence of another, it cannot be justified as an act falling under the ambit of 'private defence.'

Another defence that can be argued by Devki's council is that of 'grave and sudden provocation,' defined in Section 300 (IPC).¹⁷ This being a special exception does not completely absolve the accused but reduces their culpability from culpable homicide amounting to murder to culpable homicide not amounting to murder. Under Section 300, culpable homicide is not considered murder if the offender, (a) while deprived of the power of self-control, and (b) due to grave and sudden provocation, (c) causes the death of the person who

⁵ (1912) 22 MLJ 333.

⁶ IPC 1860, s 299

⁷ K D Gaur, *Textbook on Indian Penal Code* (7th edn, LexisNexis 2020).

⁸ (1999) AIR 3338 (SC).

⁹ IPC 1860, s 300- culpable homicide is murder, if [firstly] the act by which the death is caused is done with the intention of causing death.

¹⁰ *Reg v. Govinda*, (1877) ILR 1 Bom 342.

¹¹ IPC 1860, s 302

¹² IPC 1860, s 96

¹³ IPC 1860 s 99; s 102

¹⁴ IPC 1860, s 100; First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault

¹⁵ The constraints on the exemption for private defence have been established through the provisions of IPC 1860 s 99 and s 102.

¹⁶ 1979 SCR (3) 428.

¹⁷ According to IPC s300, Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

provoked them or causes the death of any other person by mistake or accident. The test of gravity and suddenness of a provocation is subjective in nature and differs from person to person. As established in *K.M. Nanavati v. State of Maharashtra*, the mental background created by the victim's prior actions can be taken into account to determine if the subsequent act was the result of grave and sudden provocation.¹⁸ Considering this principle, the defence may argue that Devki's act of killing Jagan was done under the grave and sudden provocation. Jagan's commission of heinous rape and later his acquittal by the trial court, left a deep impact on Devki. Furthermore, his subsequent actions of tracking her family, shooting her husband, and pursuing Arya align with the conditions of a grave and sudden provocation. However, it is important to consider that after the arrival of Mathew the situation was under control and Devki had regained a composed state of mind. In that situation, Devki's killing of Jagan rather shows her motive for revenge which she held, and this contradicts the notion of provocation, as emphasized by the court in *K.M. Nanavati*.¹⁹ It was held that conscious contemplation of revenge implies thoughtful deliberation, undermining the claim of loss of self-deprivation.²⁰ Therefore, the exception of grave and sudden provocation cannot be applied in the present case and she would be punished for the offence of 'murder.'

While Devki, as illustrated above, cannot be exempted from the charge of culpable homicide amounting to murder, there is a probability for a reduction in the quantum of punishment. The determination of punishment considers all surrounding circumstances. Despite Devki having a clear intent to kill Jagan, her motive was not malicious. Her actions were motivated by a desire to address the injustice of the trial court's acquittal of the perpetrators, and she aimed to hold them accountable for their actions by taking revenge. As discussed in *Gyarsibai v. The State*, motivation and the state of mind of the accused may be considered a mitigating factor when assessing the appropriate level of punishment.²¹

III. Gap left by the movie

The movie 'Mom' presents a narrative filled with complex criminal offences and moral dilemmas. However, it leaves a notable gap in its portrayal as it fails to address the legal consequences of Devki's actions. The movie's conclusion, where Devki takes the law into her hands to seek revenge for her daughter, sends a message that personal vendettas can substitute the established legal process and that morally justified actions can override their legal implications. However, this portrayal stands in direct contradiction to the core

principles of criminal law. Criminal law is based on the principle of justice and the rule of law. It operates under the premise that all individuals, regardless of their moral stance, must be held accountable for their actions based on a uniform set of legal standards. In a true representation of the criminal justice system, Devki should have been subject to arrest and a legal trial to assess the legality of her actions. Moreover, if Arya's attackers had been acquitted by the trial court, the appropriate course of action would have been to seek justice through the appellate court, rather than resorting to taking the law into her hands.

IV. Conclusion

The movie 'Mom' explores the complex dynamics of justice, revenge, and the consequences of taking the law into one's hands. The legal analysis of Devki's actions reveals that she would likely be charged with culpable homicide amounting to murder, considering the intentional nature of her act and the absence of a valid defense. While the film portrays Devki as a mother seeking justice for her daughter, it leaves a significant gap by not addressing the legal repercussions of her actions. In reality, the principles of criminal law emphasize accountability, uniform standards, and adherence to established legal processes. The movie's portrayal of personal vendettas replacing legal procedures contradicts these core principles. In a more accurate representation of the criminal justice system, Devki would have faced arrest and a legal trial to determine the legality of her actions. Ultimately, 'Mom' raises thought-provoking questions about justice, morality, and the balance between personal motivations and legal consequences.

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¹⁸ AIR 1962 SC 605.

¹⁹ *ibid* [81].

²⁰ *ibid*.

²¹ 1953 CriLJ 588.