

ed by the Wound he had receiv'd; but if the wounded Man had been killed by the other, that would have been only Manslaughter, because it shall be intended that his Malice was over by giving the Wound.

Some Provocations are so violent, that they mitigate the Crime and make it Manslaughter, which otherwise would have been Murder.

As where the Husband found his Wife in the very Act of Adultery with another, and killed him.

So where two Boys fought near their Fathers Houses, and one of them being bloody, went immediately to his Father and complained, he being then a Mile from the other Boy, but he went forthwith and beat him so that he died; this was held only Manslaughter.

Malice express in the Principal who doth not act; as where a Man resolveth to do any thing which is unlawful and Death ensueth, this is Murder.

If the Deceased challengeth the other who refuseth to fight, and afterwards upon Importunity they meet, and he kills the other, 'tis Murder.

All who are present and assisting are Principals; but if they are not present, yet if they come to do an unlawful act, and are in the same House and Place, tho' at a distance, 'tis Murder in all.

Where the Act is deliberate and malicious, and Death ensueth, tho' the Offender did not intend to kill any one, yet 'tis Murder: As where a Park-Keeper finding a Boy in the Park stealing Wood, tied him to a Horse's Tail, and the Horse running away with the Boy thus tied, he was killed; this is Murder.

If there is Malice between two, and one striketh at the other and killeth a third Person, this is Murder.