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Crl.A.No. 1333 OF 1998  
ITEM NO.104

COURT NO.9

SEC -II

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(S).1333 OF 1998@@  
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State of UP

Appellant(s)

VERSUS

Summa

Respondent(s)

DATE: 17-7-2001 This matter was called on for hearing today.@@  
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CORAM :  
HON'BLE MR. JUSTICE M.B. SHAH  
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Appellant (s) : Mr. Prashant Chaudhary, Adv. for  
Mr. Pramod Swarup, Adv.

For Respondent(s) : Mr. Gopal Prasad, Adv. (AC)

UPON hearing counsel the Court made the following  
O R D E R

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The appeal is dismissed in terms of the signed order.

.SP1

(D.L. Chugh)  
Court Master

(K.K. Chadha)  
Court Master

Signed order is placed on the file

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IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1333 OF 1998@@  
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State of U.P.

.... Appellant

VERSUS

Summa

....Respondent

O R D E R@@  
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.....L.....I.....T.....T.....T.....T.....T.....T.....J  
.SP2

The Sessions Judge, Lalipur, in Sessions Trial No.103 of 1979 convicted the respondent and sentenced him to suffer imprisonment for life for the offence punishable under Section 302 IPC by his judgment and order dated 3.5.1980. Co-accused Mulloo was also convicted for the offence punishable under Section 302 read with Section 114 IPC. In Criminal Appeal No.1249 of 1980, by judgment and order dated 13.2.1999, the High Court of Allahabad set aside the conviction of co-accused Mulloo and modified the conviction of respondent Summa to one under Section 304 Part-II IPC and sentenced him to suffer R.I. for a period of five years and to pay a fine of Rs.2000/-, in default to further undergo R.I. for a period of one year. That order is challenged by the State Government by filing this appeal.

In our view, the High Court has properly appreciated the evidence and has held that all of a sudden quarrel took place when the accused was taking his bath and the deceased ...2/-

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- 2 -

objected to it as the ladies of the village were waiting for taking water. During the quarrel when accused was asked not to continue bath, accused threw a weapon like hasia with long@@ CCCCC handle which caused fatal injury. In such circumstances, the Court held that accused would be liable to be convicted for an offence punishable under Section 304 Part II IPC and that his act was without pre-meditation and has not taken any undue advantage. These findings cannot be said to be illegal or erroneous and do not call for any interference in this appeal.

Hence, this appeal is dismissed.

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.....J.@@  
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(M.B. SHAH)@@  
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.....J.@@  
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(DORAISWAMY RAJU)@@  
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New Delhi,  
July 17, 2001