

**IN THE SUPREME COURT OF INDIA**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL APPEAL NO.2441 OF 2009**

STATE OF RAJASTHAN

Appellant

VERSUS

PRABHAT

Respondent

**O R D E R**

The Trial Court had convicted the respondent Prabhat and two others under Section 302/34, IPC and sentenced them to suffer imprisonment for life and to pay a fine of Rs.500/-, in default whereof to further suffer simple imprisonment for two months.

The High Court on evaluation of the material on record concluded that the respondent/accused Prabhat had committed the offence under Section 304 Part-II, IPC and sentenced him to the period already undergone by him. By then, the respondent/accused had undergone imprisonment for more than six years. The remaining two co-accused were acquitted.

The appellate - State has challenged the judgment of the High Court in this appeal.

We have heard learned counsel for both sides.

The record reveals that the incident had occurred suddenly in an agricultural field. The motive behind the incident was a land dispute between the parties, who are cousins. Since the incident had taken place without premeditation upon a sudden quarrel, in our considered opinion, the view taken by the High Court that the accused has committed the offence under Section 304 Part-II, IPC and not under Section 302, IPC is one of the plausible views in the facts and circumstances of the case. Hence, we decline to interfere in the impugned judgment.

The criminal appeal is dismissed.

.....J.  
[MOHAN M. SHANTANAGOUDAR]

.....J.  
[INDU MALHOTRA]

NEW DELHI;  
APRIL 4, 2019

ITEM NO.106

COURT NO.13

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No.2441/2009

STATE OF RAJASTHAN

Appellant(s)

VERSUS

PRABHAT

Respondent(s)

Date : 04-04-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR  
HON'BLE MS. JUSTICE INDU MALHOTRA

For Appellant(s)      Mr. Milind Kumar, AOR  
                                 Mr. Anish Roy, Adv.

For Respondent(s)    Mr. P. K. Jain, AOR  
                                 Mr. Saurabh Jain, Adv.  
                                 Mr. P.K. Goswami, Adv.  
                                 Mr. S.P. Singh Rathore, Adv.

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

The criminal appeal is dismissed, in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(MUKESH NASA)  
COURT MASTER

(SUNIL KUMAR RAJVANSHI)  
BRANCH OFFICER

(Signed Order is placed on the File)