

**IPC, S.302, 34 - Murder - Setting aside order of acquittal - Challenge - Very presence at 3.30 in the morning of all the accused at the house of the appellant with two of them holding an axe - Clearly shows the common intention in behalf of what they were proposing to do - It was not an axe picked up at the site - Two of the accused were carrying the axes - It is not a sudden incident - The pre-meditated intention was thus, clear - The fact that only two of them were using the axe while the other were two holding the deceased to ensure appropriate injuries being inflicted on the deceased would give no remission to the case of the appellants**

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