

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram,	Court's or Judge's orders.
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CRIMINAL APPLICATION NO. 267 OF 2010

THE STATE OF MAHARASHTRA
VERSUS
SHIVAJI JANARDHAN KADAM AND ORS

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APP for Applicant : Mr. S. A. Ambad.

CORAM: T. V. NALAWADE, J.
DATED: 23rd JULY. 2015.

PER COURT:

1. The application is filed for grant of leave to file appeal against judgment and order of R.C.C. No169 of 2003 which was pending in the Court of learned J.M.F.C., Osmanabad and also against judgment and order of Criminal Appeal No.19 of 2007. The accused were charged for the offences punishable under sections 143, 147, 452, 323 and 149 I.P.C. and also under section 135 of Bombay Police Act, in the trial Court in a police case.

Both the courts below have held that the witnesses cannot be believed and there is no independent

corroboration to their versions. The discussion of the evidence shows that it is observed that the F.I.R. was given late, the names of the accused, who were known to the complainant and other witnesses, were not mentioned in F.I.R., the alleged incident took place in the night time and so many persons had allegedly broke open the door of the house of the complainant and after entering the house assaulted the complainant by using kick and fists and sticks blows but there is no evidence of neighbours, no independent evidence was given, There was admitted political rivalry between the complainant and the accused and so there was reason for false implication.

2. The spot Panchanama is not duly proved and so there was no material to substantiate the charge for offence punishable under section 452 of I.P.C. The witnesses over-exaggerated their versions in the Court and the injuries were simple in nature. This Court holds that it is not possible to take a different view in the matter and nothing can be achieved by granting leave to file appeal.

3. In the result, leave refused. Application stands

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rejected.

[T. V. NALAWADE, J.]

Dt.23/07/2015
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