

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1884 OF 2010

Shivaji s/o Tulshiram Gaikwad **APPLICANT**

V E R S U S

The State of Maharashtra & Anr. **RESPONDENTS**

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Mr. S.B.Bhapkar, Advocate for Applicant.

Mr. K.S.Patil, A.P.P. for R.No. 1 – State.

Mr. S.S.Rathi, Advocate for R.No. 2.

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CORAM : A.V.NIRGUDE &

INDIRA K. JAIN, JJ.

DATE : 14th JANUARY, 2016

ORAL ORDER :-

This application seeks leave to file Appeal against the Judgment and Order dated 17/04/2010 in Sessions Case No. 32/2009, in which the sole accused was acquitted.

2. The applicant is father of the deceased. The case of the prosecution depended on two circumstances. First circumstance was that the deceased was last seen together with the accused during the previous evening and the second was the clothes seized from the person of the accused which were stained with blood belonging to

the deceased. There was no eye witness who could see the actual assault. Unfortunately, no witness came forward to state that he has seen the deceased in the company of the accused during the earlier evening. Even the blood stains found on the clothes of the accused would not independently help the prosecution. Nothing came on record to indicate as to what was the blood group of the accused.

3. In absence of all these circumstances, there was no possibility of conviction. The Appeal, therefore, would serve no purpose.

4. Criminal Application is dismissed.

[INDIRA K. JAIN, J.]

[A.V.NIRGUDE, J.]