

BDPSPS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.149 OF 2017
(For leave to appeal)**

The State of Maharashtra	..Appellant
Versus	
Yashwant Namdev Mengal	..Respondent

Mr. J.P. Yagnik, APP for the Appellant/State.

**CORAM: B. R. GAVAI &
SARANG V. KOTWAL, JJ.**

DATE: 7th AUGUST, 2018

P.C.:-

1] By way of present application, State seeks leave to file appeal against the judgment and Order dated 29/08/2017 vide which the learned Trial Judge has acquitted the Respondent/Accused for the offence punishable under Section 302 and 354 of the Indian Penal Code.

2] The appellant was prosecuted and tried for committing murder of one Manjula, daughter of P.W. 2 – Barku Shingva. The accused came to be arrested on the basis of statement of witnesses that, the deceased was last seen in the company of the accused. It is the prosecution case that, the decomposed dead body of the deceased was recovered on the basis of memorandum of the accused under Section

27 of the Evidence Act.

3] The learned Trial Judge found that, the case rested on circumstantial evidence. The learned Trial Judge further found that, the complainant as well as panchas on the recovery memorandum, had turned hostile. The learned Trial Judge therefore found that, there was no evidence on the basis of which Respondent/Accused could be convicted. The learned Trial Judge further found that, in a case of circumstantial evidence motive plays an important role. However, the prosecution has also failed to bring on record any motive for committing the crime.

4] No perversity or impossibility is noticed to warrant interference with the order of acquittal passed by the learned Trial Court. Hence, the application for leave to file appeal is rejected.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)