

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

CRIMINAL APPLICATION (ALS) NO.94 OF 2019

The State of Maharashtra

...Applicant

vs.

Shaikh Jakir Shaikh Munaf

...Respondents

Mrs. P. P. Shinde, APP for the Applicant.

Mr.Chetan S. Damre for the Respondent No.1.

**CORAM : B. P. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.**

DATE : 02/04/2019.

P.C.:

. The State Government seeks leave under section 378(1) of Cr.P.C. to file an appeal against the judgment and order dated 8/2/2017 passed by the Additional Sessions Judge, Malegaon, District Nashik in S.C. No.64/2013 whereby the Trial Court has acquitted respondent for offence punishable under section 302 of IPC and under section 25 of the Arms Act. According to learned APP presence of accused outside the house of deceased and his clothes being blood stained are the circumstances which connect him with the crime. Human blood is detected on his clothes and he also ran away from the spot. He was doubting character of his wife.

2. Learned counsel appearing for respondent submits that informant who happens to be the brother of deceased conveniently concealed the fact that there was divorce between the accused and the deceased and they were staying separately since more than two years.

3. So called blood stained clothes were produced before the

police by informant only and arrest panchanama does not throw light on clothes on person of accused at the time of his arrest. The alleged presence of accused outside the house of deceased is spoken of only by informant and there is no independent witness. It is pointed out that all houses in locality are in close proximity and had deceased shouted, so many people would have come out and noticed the accused.

4. Trial Court has appreciated the material on record. Fact of divorce and separate residence of accused was not initially informed to police by the informant. Weapon used for offence was seen lying on the spot. There is no independent witness to point out presence of accused outside the house of deceased.

5. We do not see any perversity in the findings of the trial Court. No case is made out. The application is rejected.

(PRAKASH D. NAIK, J.)

(B. P. DHARMADHIKARI, J.)