

MHTH010100832022



Presented on: 25/11/2022

Registered on: 25/11/2022

Decided on: 04/05/2026

Duration: 3Y 5M 9D

**Exh.36**

**IN THE COURT OF PRINCIPAL DISTRICT AND SESSIONS  
JUDGE, THANE**

[Presided over by Shri S. B. Agrawal]

[Delivered on this 4th day of May, 2026]

[Sessions Case No. 714/2022]

Crime No. I-269/2018 of Mumbra Police Station, Thane for the offences punishable under Sections 307, 143, 144, 147, 148, 149, 506(2) read with 34 of Indian Penal Code and under Sections 37(1), 135 of the Bombay Police Act.

COMPLAINANT

**STATE OF MAHARASHTRA**

[Through Mumbra Police Station, Thane]

REPRESENTED  
BY

Learned APP Mrs. R. G. Kshirsagar

ACCUSED

1. **Arbaz Razzak Shaikh**  
Age: 21 years, Occ: Tailor
2. Abdul Razzak Shaikh (Dead)
3. **Sohel Razzak Shaikh**  
Age: 19 years, Occ: Hawker  
No.1 and 3 R/at: Room No.1, Mulla Chawl, Kailasnagar, Darga Road, Amrutnagar, Mumbra, Thane.

REPRESENTED  
BY

Learned Advocate Mr. D.L. Thamke

Date of Offence	:	Intervening night of 17/05/2018 and 18/05/2018
Date of FIR	:	18/05/2018
Date of Charge-sheet	:	14/08/2018
Date of Framing of Charges	:	08/07/2025
Date of commencement of evidence	:	22/01/2026
Date on which judgment is reserved	:	04/05/2026
Date of the Judgment	:	04/05/2026
Date of the Sentencing Order, if any	:	---

### Accused Details

Rank of the Accused	Name of the Accused	Date of Arrest	Date of Release on Bail	Offence charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428 CrPC
A1	<b>Arbaz Razzak Shaikh</b>	19/05/2018	30/11/2018	under Sections 307, 143, 144, 147, 148, 149, 506(2) r/w. 34 of Indian Penal Code and under Sections 37(1), 135 of the Bombay Police Act	Acquitted	-----	-----
A2	Abdul Razzak Shaikh	Dead					

A3	<b>Sohel Razzak Shaikh</b>	19/05 /2018	20/12/ 2018	under Sections 307, 143, 144, 147, 148, 149, 506(2) r/w. 34 of Indian Penal Code and under Sections 37(1), 135 of the Bombay Police Act	Acquitted	----	----
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### J U D G M E N T

[Delivered on this 4th day of May, 2026]

Accused **Arbaz Razzak Shaikh** and **Sohel Razzak Shaikh** are charged and prosecuted for the offences punishable under Sections 307, 143, 144, 147, 148, 149, 506(2) read with 34 of Indian Penal Code and under Sections 37(1) 135 of the Bombay Police Act, for having formed unlawful assembly along with deceased accused Abdul Razzak Shaikh, juvenile in conflict with law Arshad Shaikh and other two unknown persons and assaulted the informant Firoz Shafi Shaikh by knife and wooden bamboo on 18/05/2018 at 00:30 hours at Daud building, Shop No.1 and 2, Kailas Nagar, Mumbra.

2] Facts material for decision of this case are:

It is the case of the prosecution that, accused persons and informant Firoz Shafi Shaikh were residing in same locality. Accused Abdul Razzak and his son Arshad along with other

persons were doing business of drugs, ganja in Kailas Nagar, Mumbra. People from that area requested accused to stop said business, but he continued with said business.

3] On 14/05/2018 at 21:00 hours brother of informant took video shooting when accused Arbaz was selling drugs. Accused Arbaz noticed it and all the accused assaulted brother of informant Ismail, so police were called. Police took search and they found drugs and other substances with accused and so police took accused persons to police station. Then by giving understanding, police released them. Thereafter, on that count, accused persons started threatening informant, his family and people residing in that area.

4] On 18/05/2018 at about 00:30 hours, when the informant was sitting near his chinese shop, accused persons suddenly came there. Accused Arbaz and Soheli were having knives and accused Arshad and Razzak were having bamboos in their hands. Two other unknown persons were with them. Accused Arbaz assaulted on his head with knife, accused Soheli assaulted on his shoulder and stomach with knife. Accused Arbaz and Arshad assaulted him on hands and stomach with bamboo. Informant shouted for help and started running. Accused persons chased him and accused Arbaz gave blow of knife on his face and caused injury to his cheek. Accused persons also threatened the people gathered there by showing knife and told not to help informant Firoz. Thereafter, accused persons went away and friend of informant took him to the Jupiter hospital.

5] At the instance of the informant, FIR came to be lodged and thereafter, investigation was carried out by PI Valatkar who prepared the spot panchanama, seized the clothes of the accused and injured informant. The knife was also recovered under Section 27 of the Evidence Act and on completion of investigation charge-sheet came to be filed.

6] During pendency of trial, accused No.2 Abdul Razzak Shaikh died and hence case is abated against him. Accused No.1 and 3 abjured their guilt and claimed to be tried.

7] Prosecution, in order to bring home the guilt of the accused, has examined following witnesses:

#### **List of Prosecution Witnesses**

<b>Prosecution witness No.</b>	<b>Name of Witness</b>	<b>Nature of Evidence</b>	<b>Exhibit No.</b>
PW1	Firoz Shafi Shaikh	Informant	17
PW2	Abdul Rafiq Shaikh	Eye witness	24
PW3	Mohd. Sabir Abdul Kadir Kureshi	Eye witness	25
PW4	Nilesh Murlidhar Thakare	Panch of memorandum of accused No.1 and seizure panchanama.	30

and relied upon following documents and material objects:

### List of Prosecution Exhibits

Sr. No.	Exhibit Number	Description of Exhibit	Proved by / Attested by
1.	18	Signature of informant on FIR.	PW1 (Informant)
2.	31	Memorandum panchanama	PW4 (Panch)
3.	32	Seizure panchanama	PW4 (Panch)

8] Accused have not examined any defence witness, however admitted following documents.

Sr. No.	Exhibit Number	Description of Exhibit	Proved by / Attested by
1.	19	Spot panchanama	Admitted by defence.

9] In their statement, under Section 313 of the Code of Criminal Procedure, the accused had denied all the circumstances against them.

10] In view of aforesaid material, following points arise for my consideration:

No.	POINTS	FINDINGS
1.	Whether the prosecution has proved that on 18.05.2018 at about 00.30 hours at Daud Building, Shop No.1 and 2, Kailas Nagar, Mumbra, the accused in furtherance of their common intention along with	No

	deceased accused Abdul Shaikh, one juvenile in conflict with law Arshad and two unknown persons, assaulted informant by means of knife and wooden bamboo, with knowledge and intention and under such circumstances, if by that act accused had caused his death by assaulting with deadly weapon, they would have been guilty of murder and thereby committed an offence punishable under Section 307 read with 34 of the I.P.C. ?		
2.	Whether the prosecution has proved that on above date, time and place, the accused alongwith other accused, being members of unlawful assembly and in prosecution of common object of said assembly are guilty of rioting, being armed with a deadly weapons, used as weapons of offence, are likely to cause death of informant and thereby committed an offence punishable under Section 148 read with 149 of the I.P.C. ?	:	No
3.	Whether the prosecution has proved that on above date, time and place, the accused alongwith other accused, being members of unlawful assembly and in prosecution of common object of said assmblly, are guilty of rioting and thereby committed an offence punishable under Section 147 read with 149 of the I.P.C.?	:	No
4.	Whether the prosecution has proved that on above date, time and place, the accused alongwith other accused, were members of unlawful assembly and in prosecution of common object of said assembly, and being armed with deadly weapons and thereby committed an offence punishable under	:	No

	Section 143, 144 read with 149 of I.P.C. ?		
5.	Whether the prosecution has proved that on above date, time and place the accused alongwith other accused, in furtherance of common intention, committed criminal intimidation by giving threats to cause death of the informant and intentionally gave provocation to him and thereby committed an offence punishable under Section 506(2) read with 34 of I.P.C.?	:	No
6.	Whether the prosecution has proved that on above date, time and place the accused alongwith other accused, in furtherance of common intention, inspite of promulgation of the prohibition order of the Commissioner of Police to carry any article/weapon capable of being used for causing physical violence, the accused possessed deadly weapons like knife and wooden bamboos and thereby committed an offence punishable under Section 37(1) 135 of the Bombay Police Act ?	:	No
7.	What order?	:	As per final order.

### **REASONS**

#### **AS TO POINT NOS. 1 TO 7:**

11] The case of the prosecution is essentially based upon the testimonies of the informant PW1 Firoz Shaikh, eye witnesses PW2 Abdul Shaikh and PW3 Mohd Sabir Abdul Kadir Kureshi. However, PW1 Firoz Shaikh-informant and PW3 Mohd Sabir Abdul Kadir Kureshi have not supported the prosecution.

Informant PW1 Firoz admitted that he was assaulted, but stated that he does not know who assaulted him.

12] PW2 Abdul Shaikh has deposed that he knows accused persons, and that incident took place at night, crowd gathered there, Firoz was there. From the evidence of PW2 Abdul Shaikh, it is not clear exactly who assaulted the informant, because he only deposed that he saved Firoz from Rajju and knife was in the hand of one BD. It is not clarified by prosecution who is BD. Therefore, his evidence is also not helpful to the prosecution.

13] PW4 Nilesh Thakare is the panch of memorandum panchanama and seizure of knife. Although he has pointed out accused Arbaz in the Court, he only deposed that he is the person who was with them during whole panchanama. In cross-examination, he has admitted that accused did not talk to him, whatever he told, he told to police. Therefore, recovery cannot be said to be proved as per Section 27 of Evidence Act.

14] Although, it is the case of the prosecution that after hearing shouts of informant, people had gathered there, but no independent witness has been examined. The prosecution has also not examined Investigating officer.

15] Furthermore, there is no substantive evidence in this case to prove whether these accused along with other accused were members of unlawful assembly or committed any crime.

16] Considering all the aforesaid circumstances, it cannot at all be said that the prosecution has been successful in bringing home the guilt of accused persons beyond reasonable doubt. As such, I answer the points accordingly, and pass following order :

**ORDER**

1. Accused **Arbaz Razzak Shaikh** and **Sohel Razzak Shaikh** are acquitted under Section 235(1) of the Code of Criminal Procedure for commission of offences punishable under Section 307, 143, 144, 147, 148, 149, 506(2) read with 34 of Indian Penal Code and under Sections 37(1), 135 of the Bombay Police Act.
2. Accused are on bail. Their bail bonds stand cancelled.
3. Seized muddemal, knife, be sent to District Collector for its disposal according to law, after appeal period is over.
4. Seized muddemal, being worthless, be destroyed after appeal period is over.
5. Accused to comply Section 437(A) of the Code of Criminal Procedure.

Dictated and pronounced in open Court.

Thane	[S. B. Agrawal]
Date:04/05/2026	Sessions Judge, Thane

Case argued on	:	<b>07/04/2026</b>
Order dictated on	:	<b>04/05/2026</b>
Transcription ready on	:	<b>04/05/2026</b>
Order checked and signed on	:	<b>04/05/2026</b>
<b>CERTIFICATE</b> I affirm that the contents of this P. D. F. file of Order are word to word, as per original Order.		
Name of Stenographer	:	Mrs P. H. Shirolkar