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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPLICATION NO.47 OF 2019

State of Maharashtra ...Applicant  
vs.  
Vishnu Ramchandra Weljali ...Respondent

Ms P.P.Shinde, APP for the applicant  
Mr.Vishal Tambat for the respondent

CORAM : A.S.OKA, &  
SARANG V.KOTWAL, JJ.  
DATE : FEBRUARY 15, 2019

P.C.:

1 Heard the learned APP for the applicant who has taken us through the copies of notes of evidence tendered on record. The respondent was prosecuted for the offence punishable under section 498-A, 302 of the Indian Penal Code. The respondent-accused is the husband of deceased Kalpana. The first informant is one Mamta (P.W.No.2). It is the case of the prosecution that in her presence, the respondent lifted firewood and assaulted the deceased on her back. Thereafter, the respondent gave 4 to 5 blows of firewood on the person of the deceased. She sustained injuries and her saree was burnt.

2 The prosecution examined seven witnesses. However, P.W.No.2 Mamta did not support the prosecution and was declared as hostile. P.W.No.5 Vishnu is the son of the respondent-accused. Even he

did not support the prosecution.

3 The prosecution relied upon alleged extra judicial confession of the respondent recorded by P.W.NO.4 Dr.Pravin Mokhan Khatekar. We have perused the evidence of Dr.Pravin. He claims that on the date of incident i.e on 8<sup>th</sup> April 2013 he received a phone call in the evening from the respondent and he was called by the respondent for house visit. When he visited the house of the respondent-accused, he saw that the wife of the respondent was unconscious. He stated that the blood pressure was low and he noted the injuries on her left arm. According to the witness, the respondent informed him that "माझेकडून काठीचा मार लागलेला आहे".

4 We have perused the cross examination of the said witness and the findings recorded by the learned Trial Judge. In the cross examination, the witness claims that the police made enquiry with him after four to five days. He accepted that he did not prepare any record about the examination of the deceased victim. He accepted that he does not remember whether the police had read over his statement to him. The reasons given by the learned Trial Judge for discarding the testimony of this witness are possible reasons.

5 As stated earlier, the alleged eye witnesses did not support the prosecution.

6     Therefore, the view taken by the learned Trial Judge that the guilt of the respondent is not brought home by the prosecution is a possible view which could have been taken on the basis of the evidence on record. Hence, no case is made out for grant of leave to prefer an appeal. Application is rejected.

(SARANG V.KOTWAL,J.)

(A.S.OKA,J.)