

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 467 OF 2018**

Afsana Juma Kundaliya

.....Applicant

Vs.

The State of Maharashtra & Anr.

....Respondents.

Mr. Satyam H. Nimbalkar a/w Mr. Rohan N. Hogle and Mr. Hrishikesh Ghorpade for the Applicant.

Mr. J.P. Yagnik, APP for the Respondent No. 1-State.

CORAM : A. S. OKA, AND**A. S. GADKARI, JJ.****DATE : 24th JANUARY, 2019.****P.C.:-**

Heard the learned counsel appearing for the Applicant. The Applicant is claiming to be the victim of the offences for which the Respondent was prosecuted under Sections 376 and 417 of the Indian Penal Code.

2 With the assistance of the learned counsel appearing for the Applicant, we have perused the notes of evidences and in particular, the evidence of Applicant P.W. No.1. According to her case, the incident is of 10th May, 2016. The age of the Applicant P.W. No.1 was about 24 years on that day. After the incident, the Applicant came back to her home and narrated the incident to her mother and maternal grand-mother. In paragraph No. 7 of her deposition, P.W. No.1-Applciant has stated that on

11th May, 2016 the family members of the Respondent accused came to her house with a view to assault her and her mother. She went to the police station and lodged the complaint on 11th May, 2016.

3 Though the Applicant claims that on that day when the police visited her house she narrated the incident of 10th May, 2016 to the police admittedly, in the Complaint lodged by the Applicant on 11th May, 2016, there is not even a reference to the incident of the earlier date. It is only on 8th June, 2016 that the Applicant went to the Police Station and reported the incident of 10th May, 2016.

4 Considering these facts, the learned Trial Judge has not believed the testimony of the Applicant. Therefore, he looked for the corroboration. After considering the evidence, he found that there is no corroboration to the testimony of the Applicant.

5 Therefore, the finding recorded by the learned Trial Judge that the guilt of the Respondent is not proved, is certainly a possible finding which could have been recorded on the basis of the evidence on record.

6 Application is accordingly rejected.

(A.S. GADKARI, J.)

(A.S. OKA, J.)