



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 228 OF 2024

Anmol Sunil Shinde
Age – 19 years, Occu. Education,
R/o. Vasudeo Galli, Tuljapur,
Dist. Osmanabad

...Applicant

Versus

1. The State of Maharashtra
Through Officer Incharge,
Police Station Tuljapur,
Dist. Osmanabad

2. X (Name withheld)

...Respondents

- Mr. S. J. Salunke, Advocate for the Applicant
- Mrs. P. V. Diggikar, APP for the Respondent No. 1/State
- Mr. B. A. Shinde, Advocate for the Respondent No. 2

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : DECEMBER 01, 2025
PRONOUNCED ON : DECEMBER 03, 2025

JUDGMENT :

1. In instant revision, there is challenge to common order passed below Exhibits 19 and 23 dated 22.06.2023 passed by learned Additional Sessions Judge - 2, Osmanabad in Sessions Case No. 50/2018 whereby learned Trial Judge was pleased to direct framing of additional charges for offences under Section 376-A, 504, 506 of Indian Penal Code (IPC) and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences, Act. (POCSO Act).

2. In nutshell, case in trial Court is that on report of mother of a minor/victim dated 24.02.2017 attributing abetment to commit suicide of the minor against present revision applicant, crime came to be registered at Tuljapur Police Station bearing no. 68/2017 for offence under Section 305 of IPC. Subsequently, in view of supplementary statement of informant dated 25.02.2017 alleging rape on the deceased minor, on application of informant exhibit 19, learned Trial Court was pleased to direct addition of charges under Sections 376-A, 504, 506 of IPC and Sections 4, 8 & 12 of POCSO Act. At the same time, application exhibit 23 was also pressed into service by prosecution for addition of charges to above extent and the same came to be allowed by common order dated 22.06.2023 directing addition of charges as prayed.

Hence, instant revision.

3. Learned counsel for revision applicant-original accused would submit that, there is false implication. He pointed out that, deceased was few months above to 17 years had allegedly consumed poison while she was in her house and in the company of her family members including informant. Therefore, according to him, there is no question of abetment or inducement to commit suicide. He pointed out that, even alleged consumption and suicide was of 18.02.2017 but there is delay in lodging first information report (FIR) as it is lodged on 24.02.2017 and for more

reasons, complaint is false and afterthought. He further pointed out that, admittedly, there was affair between the deceased girl and applicant and to that extent, even mother has stated in the report and, therefore, there is no question of inducing deceased to commit suicide. He further pointed out that, subsequently to further falsely implicate and aggravate the allegations, supplementary statement of the informant is recorded on 25.02.2017 wherein, for the first time, allegations are raised about minor informing informant and her uncle about forceful sexual relations maintained by revision applicant with her and as such, it is alleged that there was mental cruelty resulting into commission of suicide.

4. Learned counsel vociferously submitted that, firstly, information to mother and uncle is hearsay evidence. That, there is no whisper to that extent in the FIR. He further submitted that surprisingly maternal uncle also claims to have heard from his niece about forceful physical relations but said uncle, in spite of allegedly claiming to have heard from informant about forceful sexual relations on 10.02.2017, there was no reporting to that extent at any point of time and directly statement to above effect is given on 07.03.2017. Therefore, he questions the credibility of the supplementary statement of the informant as well as of uncle.

5 He further pointed out that, in fact there is no evidence to attract charges of Sections 376-A, 504, 506 of IPC or provisions of POCSO

Act as, according to him, there is no material in that regard. He pointed out that, there is no evidence of victim as she is no more and even there is no medical or scientific evidence in the entire charge-sheet to support or add above charges. Learned counsel took this Court through the post mortem report and would point out that, the same is silent about any findings about offence of 376-A of IPC and he further pointed out that, even in a query by investigating officer to medical expert, it was conveyed by the autopsy surgeon that, in spite of examination of genitals of deceased, no evidence of conception or abortion were noticed. Therefore, for above reasons, learned counsel for revision applicant questions the impugned order and prays to set aside the order and directing dropping of charge as regard offences under IPC and for offence punishable under POCSO Act.

6. Above application is strongly opposed by learned APP who would submit that, victim was shown to be minor. That, on the day of suicide dated 18.02.2017, deceased had come home and reported to her mother that she was slapped by applicant and he had refused to marry her. Therefore, she felt cheated and consumed poison and succumbed. According to learned APP, there was no other reason for deceased to commit suicide. She further submitted that, admittedly, at later point of time mother gave supplementary statement regarding learning from a daughter that there were forceful physical relations with her daughter by the accused and

therefore, application for addition of charge was preferred by both informant and prosecution. That, learned Trial Court correctly appreciated the same and has passed impugned common order. She further submitted that, there are statements of complainant and other relatives in above regard. Therefore, there being material, there is no error on the part of learned Trial Court in allowing applications for addition of charges and hence, she urges to dismiss the revision for want of merits.

7. Perused the papers and charge-sheet. Here, applications for addition of charge are allowed by learned Trial Judge for above offences and the same is taken exception to. Initially, on report of mother of deceased, crime was registered for offence under Section 305 of IPC. Subsequently, application exhibits 19 and 23 for addition of charge are tendered by informant as well as by prosecution.

8. In initial report, resulting into registration of crime, mother has informed to police on 24.02.2017 that, her minor daughter aged 17 had failed in 10th standard and as such, she was put up in the house itself and since 2 years prior she had affair with present revision applicant and she had learned about it and informant had told her daughter as well as revision applicant on 16.02.2017 that they both would be married off. She reported that on 18.02.2017 friend of her minor daughter, namely, Radhika came and took her daughter to the college on pretext of some work and at around

12.00 noon her daughter returned but she was found to be upset and when its reason was asked, she was allegedly told that in the college revision applicant slapped her and declared that he would not marry her and also removed the wedding ring. She further reported that, thereafter dispute was resolved by one Sandip and Radhika and they all together had edibles. On hearing to that extent, informant claims that, she pacified her daughter and also gave her understanding. That, while informant was busy in the kitchen, her daughter complained of uneasiness and vomited and, therefore, was taken to hospital and there she was examined and declared brought dead. On her report to the above extent, police registered crime bearing no. 68/2017 for offence under section 305 of IPC.

From above material, it is clearly emerging that regarding episode of 18.02.2017 report is lodged on 24.02.2017

9. As pointed out, there seems to be supplementary statement of informant on 25.02.2017, wherein she stated that approximately two days prior to death, her daughter had informed that present revision applicant used to rape her against her wish and, therefore, she sought action against him. Based on such supplementary statement, exhibit 19 has been pressed into service before Trial Court along with application of State also for similar directions. Learned Trial Court has allowed both applications directing addition of charges for offence under sections 376-A, 504 & 506 of IPC and

sections 4, 8 & 12 of POCSO Act.

10. Charge-sheet comprises post mortem report of deceased i.e. an autopsy conducted at Sub-District Hospital, Tuljapur. As pointed out, in column no. 15, autopsy surgeon has remarked “no any injury seen over external genital” and in column no. 17, it is remarked “no any injury mark all seen over the body”. Even in the communication by doctor dated 23.03.2017, while answering query raised by the investigating officer, doctor has conveyed inability about giving findings regarding since when there were sexual physical relations with deceased.

11. Therefore, in the light of above material, firstly, FIR is silent about any rape or forceful physical relations in a belated FIR. Supplementary statement is given after almost 6 to 7 days of alleged suicide. Even in supplementary statement, informant has claims about hearing from her daughter about sexual relations approximately two days prior to the suicide but there is no reporting. Maternal uncle, whose statement is recorded, has not taken emergent steps and apparently application for addition of charge are filed at subsequent point of time. Even otherwise, in view of above discussion, there is no material for proceeding to frame charge either under Section 376-A, 504 & 506 of IPC and also under the provisions of POCSO Act.

12. Revisional Court has powers under Section 397(2) to test the legality and propriety of the order of framing charge, directing addition of charge or refusing to frame charge. Therefore, here, upon exercise of such powers, this Court finds that there is no material or reason to add charges for above sections for aforesaid reasons. Hence, revisionist succeeds and the impugned order is required to be interfered with. Hence, I proceed to pass following order:

ORDER

Criminal Revision Application is allowed in terms of prayer clauses 'C' & 'D'.

(ABHAY S. WAGHWASE, J.)

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