IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 574 OF 2016

Sudhir s/o Vijayanand Suryawanshi,
Age 31 years, Occupation : Labour,
R/o South Madaj, Taluka Omerga,
District Osmanabad. … Appellant
[Orig. Accused]

Versus

The State of Maharashtra
Through Police Inspector,
Police Station Omerga,
Taluka Omerga, District Osmanabad. … Respondent

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Mr. Swapnil B. Mane h/f Mr. S. B. Gastgar, Advocate for the Appellant.
Mr. V. V. Jahagirdar, APP for the Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 30.10.2026
Pronounced on : 31.10.2026

JUDGMENT :

1. Present appeal challenges the judgment and order of conviction rendered on 30.09.2016 by learned Additional Sessions Judge and Special Judge, Omerga in Special (POCSO) Case No. 8 of 2015 convicting appellant for charge under Section 376 of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. Learned counsel for the appellant pointed out that, during pendency of above appeal, parties have settled the matter. That, victim and appellant are already married. That, in support of this, marriage certificate is placed on record. He further submitted that, since marriage dated 26.07.2018, both, appellant and victim, are cohabiting happily and harmoniously as husband and wife. That, they have also, during said cohabitation, a son, namely, Sahil, who is currently in 6th Standard. That, now complainant and appellant-accused being as husband and wife, victim is also not desirous of seeking prosecution of appellant-husband. He further submitted that, there is affidavit endorsed and acknowledged by both, appellant as well as victim. The same is placed on record. That, even parties appeared before learned Registrar (Judicial) as directed by this Court, and before the said authority also, affidavit of settlement/compromise is verified and report of the said authority is also received by this Court. He submitted that, even parties, along with their son are present before the court. That, along with the affidavit, copies of wedding card, photograph of wedding, bonafide certificate issued by Gramin Prashala, Madaj, election card, Aadhar cards and certificate of marriage registration are also placed on record.

3. Learned counsel representing the victim also endorsed and acknowledged the compromise/settlement and that victim is now wedded to the appellant-accused and that she is not desirous of seeking prosecution.

4. Learned APP objected on the ground that, serious offence being proved to be committed, the matter cannot be compounded.

5. In the similar case of ***Mahesh Mukund Patel v. State of Uttar Pradesh*** reported in 2025 DGLS (SC) 1268, taking into account that the victim and appellant therein were married and happily residing together, the Hon'ble Apex Court was pleased to quash the proceedings for offence under Section 354A, 363, 366, 376 of IPC and Sections 3 and 4 of POCSO Act and allowed the matter to be compounded.

6. Here also, there are identical facts. Victim has been married by the accused-appellant and there is marriage certificate issued by Registrar of Marriage. Parties are also present before the court with their son. Taking into account the affidavits and above discussion, and relying on the judgment of the decision of Hon'ble Apex Court in ***Mahesh Mukund Patel*** (supra), following order is passed :

ORDER

I. Appeal is allowed.

II. The conviction awarded to the appellant Sudhir s/o Vijayanand Suryawanshi by learned Additional Sessions Judge and Special Judge, Omerga in Special (POCSO) Case No. 8 of 2015 under Section 376 of IPC and Section 4 of the POCSO Act on 30.09.2016 stands quashed and set aside.

III. The appellant Sudhir s/o Vijayanand Suryawanshi stands acquitted of the offence punishable under Section 376 of IPC and Section 4 of the POCSO Act.

IV. The bail bonds of the appellant stand cancelled.

V. Fine amount deposited, if any, be refunded to the appellant after the statutory period.

VI. It is clarified that there is no change as regards the order regarding disposal of *muddemal*.

[ABHAY S. WAGHWASE, J.]

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