

ORDER BELOW EXHIBIT-1
In Special Case No.11/2023
(State .Vrs. Sanjay Vitthal Kalanke)
(CNR NO.: MHAK050001862023)

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1. The present order is passed u/s.215 and 216 of the Code of Criminal Procedure, 1973 (corresponding sections 238 and 239 of the Bhartiya Nagrik Suraksha Sanhita, 2023).

2. Bare perusal of Exh-4 would show that, the charge u/s.376(2)(n), 376(2)(f) and 376(3) has already been framed against the accused. Section 376(2)(n) of IPC is in respect of rape being committed repeatedly by the accused on the victim. Section 376(2)(f) is in respect of rape being committed by a relative, guardian or teacher or person in position of trust or authority towards the victim. Section 376(3) is in respect of rape being committed on the woman under 16 years of age. As such, charge u/s..376(2)(n), 376(2)(f) and 376(3) being already framed against the accused herein, he is well aware of the said charge, particularly the ingredients of the imputations which, under the charge, he is expected to meet and defend. Perusal of Exh-4 herein would also show that, in the same set of facts charge u/s.4 of the POCSO Act has been framed. However, bare perusal of the text of the said charge – did penetrative sexual assault on the victim – a minor child of 14 years of age – would show that textually charge u/s.6 of the POCSO Act was framed. However, section 4 was mentioned inadvertently which should have been section 6 of the POCSO

Act. The same owing to parity of imputations being already covered by framing charge u/s.376(2)(n), 376(2)(f) and 376(3) of I.P.C., needs to be read and rectified as charge under section 6 of the POCSO Act with corresponding imputations under section 5 (l) and 5(n) of the POCSO Act.

3. Furthermore, during the entire trial, the accused has taken appropriate defences in respect of offences for which charge u/s.376(2)(n), 376(2)(f) and 376(3) of I.P.C. has already been framed. In this premise, the defect of existing charge which mentions section 4 of the POCSO Act needs to be rectified as section 6 of the POCSO Act. In the above premise there would be absolutely no prejudice to the accused in as much as he has cross examined all the witnesses, led the defence evidence to counter and to defend charge u/s.376(2)(n), 376(2)(f) and 376(3) of I.P.C. Rectifying section 6 of POCSO Act at the place of section 4 thereof, in the above premise is merely rectifying the typographical mistake. The same is done hereby. Section 4 of POCSO Act as mentioned in charge below Exh-4 would be read and rectified as 'Charge u/s.6 r/w. Section 5(l) and 5(n) of the POCSO Act'. Both the parties shall note the present order. The present order be kept below charge at Exh-4 and also below Exh-1.

Place : Akot.
Date : 15.06.2026.

(B. M. Patil)
Judge, Special Court
Akot.

Date:-10.06.2026

(B. M. Patil)
Additional Sessions Judge
Akot