

IN THE COURT OF SESSIONS JUDGE, WASHIM.

Order Below Exh. 99
(Dated 04/03/2025)

1) The present application preferred by the prosecution for framing of additional charge for the offences punishable under sections 4 and 6 of Protection of Children from Sexual Offences Act (POCSO) on the ground that in the charge-sheet, the offence of rape is also reflected on the minor victim below age of 13 years, due to which the charge for the offence punishable under sections 4 and 6 required to be framed in the addition of original charge.

2) The accused objected the present application on the count that the evidence is already over and at this stage, no further charge can be framed due to which the application required to be rejected.

3) Heard APP Smt. S. P. Kulkarni for the prosecution and Adv. Mr. R. S. Gawali for the accused at length.

4) On perusal of the application, say of the accused given on back page of the application along-with oral submissions of both sides advocates the following points arise for the determination of the Court, on which the Court answered thereon with the reasons as follows.

Sr. No.	Points	Findings
1)	Whether the prosecution proves the case for framing of addition of charge for the offences punishable under sections 4 and 6 of POCSO Act along-with original charge on the count that the said charge is required to be framed to meet ends of justice, as victim was minor aged about 13 years at the time of alleged offence ?	In the affirmative.
2)	What order ?	As per final order.

REASONS

As to Point No. 1 -

- 5) The prosecution came with the case that the victim in the present case was aged about 13 years at the time of alleged incident and the incident of rape/penetrative sexual assault reflected from charge-sheet, then the charge for the offences punishable under sections 4 and 6 of POCSO Act required to be framed against the accused in addition to original charge.
- 6) On perusal of original charge, it is observed that the charge was framed for the offence punishable under sections 363, 366-A, 376, 506 of IPC along-with sections 3 (2) (va), 3 (i) (w) of SC & ST Act and sections 8 and 12 of POCSO Act against the accused.
- 7) On perusal of the FIR, it is observed that there is allegations that the accused committed penetrative sexual assault on the victim on the alleged day which is also reflected from the evidence of victim. It is also observed that the charge for the offence punishable under section 376 of IPC already framed against the accused and addition of charge for the offences punishable under sections 4 and 6 of POCSO act though not framed at the time of original charge, it can be framed even on today.
- 8) It is well settled principle of law that charge can be altered at any time before the judgment. It is admitted position by both sides that judgment is to be pronounced in the present case, then there is no technical bar to frame the additional charge. It is also observed that by framing additional charge for the offences punishable under sections 4 and 6 of POCSO Act, it would not cause prejudice to the accused because it will not change the evidence on the record and similarly, in the event of

additional evidence lead by the prosecution after addition in the original charge, the accused will get chance to cross examine the witness who may be called by the prosecution then prejudice will not cause to the accused, in the event of addition of charge for the offences punishable under sections 4 and 6 of POCSO Act. So that, the Court hereby conclude that the prosecution succeeded to prove the case for addition of the charge for the offences punishable under sections 4 and 6 of POCSO Act, **hence, the Court answered point No. 1 in the affirmative.**

As to Point No. 2

9) As the Court concluded that the prosecution proved the case for framing of additional charge against the accused for the offences punishable under sections 4 and 6 of POCSO Act, then the application deserves for grant, in the interest of justice with clarification that in the event of leading additional evidence by the prosecution, the accused will get chance to cross-examine those witness, if required. Hence, the order -

ORDER

- 1) The application at Exh. 99 for framing additional charge is hereby allowed.
- 2) The charge for the offences punishable under sections 4 & 6 of POCSO Act be framed against the accused as additional charge to the original charge.
- 3) The accused is at liberty to cross-examine the witnesses in the event of calling or recalling of witnesses after alteration of charges.
- 4) Accordingly, the application is disposed of.

Washim.
Date: 04/03/2025.

(S. V. Hande)
Sessions Judge, Washim.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/ Order are same word to word, as per the original judgment/order.

Name of Stenographer :- A. W. Ajmire, Stenographer (Grade-II)

Name of Court :- Principal District & Sessions Judge,
Washim, Dist. Washim.

Date of Judgment/ Order :- 04/03/2025

Judgment/Order signed by :- 04/03/2025
the Presiding Officer on

Judgment/Order uploaded on :- 06/03/2025