



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLA No.507 of 2025

Somanath Janka

.....

Appellant

Represented by Adv. –
Mr. Ramesh Maharana

Mr. A.K. Moharana

-versus-

State Of Odisha

.....

Respondent

Represented by Adv. –

Smt. Sasmita Nayak,
Addl. Standing Counsel

CORAM:
HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

J U D G M E N T

Date of Hearing: 27.02.2026 : Date of Judgment: 30.06.2026

A.K. Mohapatra, J. :

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an appeal under Section 374(2) of the Criminal Procedure Code, 1973 by the convict-Appellant. By filing the present appeal the convict-Appellant seeks to challenge the judgment dated 11.02.2025 passed by the learned Adhoc Addl. District and Sessions Judge (FTSC), Jaipur in C.T. Special (POCSO) Case No.145 of 2020. By virtue of the impugned judgment the Appellant was found guilty of commission of offences punishable under Sections 363, 366 and 376(2)(n) of I.P.C read with section 6 of the POCSO Act and he has been sentenced to undergo rigorous imprisonment for a period of



twenty years and to pay a fine of Rs.20,000/- (rupees twenty thousand), and in default thereof, to undergo further S.I. for a period of five years under Section 6 of the POCSO Act. No separate sentence has been awarded for the offence under Section 376(2)(n) of the IPC. He has also been sentenced to undergo imprisonment for a period of three years and to pay a fine of Rs.3000/- (rupees three thousand) under Section 366 of the IPC and sentenced to undergo R.I. for five years and to pay a fine of Rs.5,000/- (rupees five thousand) under Section 366 of the IPC. All the sentences shall run concurrently.

3. Additionally the learned trial Court has awarded compensation of Rs.7,00,000/-(rupees seven lakhs) to the victim under the 'Odisha Victim Compensation Scheme, 2012'. Being aggrieved by the imposition of the aforesaid sentence and conviction under the aforesaid sections, the Appellant has preferred the present appeal.

4. The prosecution story as culled out from the FIR is that, initially an F.I.R was lodged by a complainant Satyabhama Badara w/o Late Ramesh Badara on 11.12.2020 at about 11.00 A.M alleging commission of an offence punishable under Section 363, 366, 376(2)(n) of IPC read with Section 6 of the POCSO Act. The said complaint was registered against an unknown accused person for commission of an offence under Section 363 of IPC before the Balichandrapur P.S, which was registered as Balichandrapur P.S. Case No.370 dated 11.12.2020. As per the FIR allegation, the mother of the victim has alleged that her daughter (victim), aged about 16 years, is missing since 30.11.2020. Although she tried to search for her daughter with the help of her relatives and neighbours, she has



been unsuccessful in tracing out her daughter. Therefore, the informant approached the local police and lodged a complaint which was registered as an FIR and, accordingly, the investigation commenced.

5. During investigation the Investigating Officer examined the witnesses and, upon conclusion of such investigation, charge-sheet no.54 dated 11.12.2020 was filed before the ADM-cum-Special Judge, Jajpur alleging commission of offence punishable under Sections 363, 366, 376(20(n) of IPC read with Section 6 of the POCSO Act. The prosecution case, as per the charge-sheet, is that during the investigation and spot visit, the I.O. examined the material witnesses and recorded their statements under 161 Cr.P.C. The I.O. had seized the age proof certificate of the victim and both the victim and the accused were sent for medical examination. Thereafter, the accused Somnath Janka was arrested and forwarded to Court. The statement of the victim was also recorded under Section 164 of the Cr.P.C by the learned ADM-cum-Special Judge, Jajpur. As per the supervision note by the Additional SP, Jajpur it was detected that a cognizable case under the alleged sections had in fact taken place. Accordingly, the charge-sheet was filed.

6. After filing of the charge-sheet, the accused persons was made to face trial. The learned trial Court, via the impugned judgment has categorically indicated that the accused was arrested from Bhubaneswar and the victim was rescued from the house in Nayapalli, Bhubaneswar. During trial the accused denied all the charges and alleged false implication by Police. Accordingly, the



accused opted to face trial. During trial, the learned trial Court formulated five questions which are quoted herein below:

(i) whether the victim was a minor/child under the age of 18 years at the time of occurrence?

(ii) whether this accused took away the victim girl out of the lawful guardianship of her mother and without her consent?

(iii) whether this accused kidnapped the victim with intent/knowledge that she will be forced or seduced into illicit intercourse?

(iv) whether this accused committed repeated rape/aggravated penetrative sexual assault on the victim girl?

7. In order to bring home the charges, the prosecution had examined 08 witnesses, out of which P.W.1 is the victim herself, P.W.2 is the scribe of the FIR, P.W.3 is the Informant and victim's mother, P.W.4 is the doctor, P.W. 5 & P.W.7 are seizure witnesses, P.W.6 is the Headmaster of the School and P.W.8 is the I.O. The prosecution has also relied upon 11 documents to establish the charges levied against the accused.

8. In course of the trial, the defence took a plea that the victim has not implicated the accused in any manner and that in her evidence, she gave her statement before the learned Magistrate at the instance of the Police that she was more than 18 years of age at the time of occurrence and that the medical evidence on record does not reveal any signs and/or symptoms of sexual intercourse committed on the victim by the accused. Such plea of the defence was stoutly reverted by the prosecution, by referring to the evidence collected



during investigation. It was the case of the prosecution that the prosecution has succeeded in establishing the charges against the accused and that though the victim has turned hostile. However, there are other circumstantial evidences which clearly establish a case against the accused-appellant.

9. With regard to the age of the victim, the learned trial Court has discussed the same succinctly in the impugned judgment. After a thorough analysis of the evidence adduced by both sides, the learned trial Court has come to a conclusion that it is unable to accept the defence contention that the victim was more than 18 years at the time of occurrence. Moreover, as per the analysis made by the learned trial Court, it appears that the probability that the victim was around 17 years of age at the time of the occurrence, is more appropriate in light of the facts and circumstances of the case and, accordingly, the learned trial Court accepted that the victim was less than 18 years of age at the time of the occurrence.

10. While ascertaining the age of the victim as required under the POCSO Act the learned trial Court has referred to the oral evidence of the witnesses particularly that of the victim as well as other documentary evidences. In the impugned judgment, the learned trial Court has categorically stated that the prosecution has been successful in eliciting from the mouth of the victim that she was born on 01.01.2024. Such statement of the victim gets corroboration from the documentary evidence. The aforesaid conclusion of the trial Court has not been dislodged by the defence by adducing cogent and reliable evidence. Thus this Court is of the considered view that the learned trial Court has not committed any illegality in arriving at a



finding that the age of the victim was less than 18 years at the time of alleged occurrence. Hence, the same does not call for any interference by this Court.

11. With regard to the second question formulated by the learned trial Court, as to whether the Appellant had taken away the victim girl out of the lawfully guardianship of her mother and that too without her consent, the learned trial Court proceeded to analyse the evidence produced before it by both sides. In course of analysis of the evidence on the aforesaid score, the learned trial Court has categorically found that there are no eye witnesses so far the kidnapping the victim is concerned. The only material witness in this case is the victim who was allegedly kidnapped by the Appellant. However, the victim who could have shed light on such incident, has turned hostile to the case of the prosecution. Though the victim was put to cross-examination by the learned Special P.P. however, the prosecution has not been able to produce any substantial material. Considering the absence of any eye witness to the occurrence, the victim not supporting the prosecution case and having turned hostile, and the complainant lodging the FIR, alleging that her daughter went missing, against unknown accused persons, the learned trial court was required to look at other materials collected in the course of investigation by the I.O. The victim, who has been examined as a witness, has categorically admitted that she was in a love relationship with the Appellant, she fled away from her house along with the Appellant, and stayed in the house of the elder father of the convict-Appellant. Therefore, while answering the second question, the learned trial Court has found that there is evidence in support of the



fact that the victim was missing from her parental house and later she was rescued by the I.O. from Nayapalli, Bhubaneswar.

12. While answering the aforesaid question, the learned trial Court has heavily relied upon the evidence of P.W-1, P.W-3, P.W-8 and P.W-4 to come to a conclusion that the victim was missing in the night of occurrence and, subsequently, upon search by the police, the victim was rescued by the I.O i.e. the P.W-8. The learned trial Court has also heavily relied upon the statement of P.W-4 i.e. Dr. Rashmi Rekha Jena who had examined the accused and before whom it is alleged that the accused had made a statement that he and the victim had eloped together and stayed in a house of his relative at Bhubaneswar for 15 days. Astonishingly, this Court found that although the learned trial Court, in Para-17 of the judgment, has referred to the fact that the accused was examined by P.W-4, Dr. Rashmi Rekha Jena, however in Para-19, the learned trial Court has mentioned that it is the victim who was examined by Dr. Rashmi Rekha Jena and the victim has admitted her signature in the medical examination report given by the P.W-4.

13. Similarly, the learned trial Court has discussed the medical examination of the victim at Para-19 of the impugned judgment. On perusal of the said portion of the judgment it appears that the learned trial Court has observed that the victim was examined by the P.W-4 on police requisition and it was found that there exists a hymeneal tear at site of 4 'O' clock, 6 'O' clock and 8 'O' clock position without bleeding and on the basis of such medical examination report of the victim by the P.W-4 and relying upon the statement of the victim before such Medical Officer, the learned trial Court has come



to a conclusion that the fact of commission of sexual intercourse by the accused on the victim stands proved and the same cannot be discarded, Accordingly the evidence of Dr. Rashmi Rekha Jena-P.W-4, has been accepted.

14. While accepting the medical examination report given by P.W-4 and her evidence, the learned trial Court seems to have discarded the finding of the Medical Officer with regard to the fact that she has not found any signs and/or symptoms of recent sexual intercourse on the victim. Such anomaly with regard to the medical evidence as observed by the Court below in the impugned judgment compelled this Court to independently examine the medical examination report submitted by P.W-4. The medical examination report has been admitted to evidence and marked as Ext.6. On a critical analysis of the medical examination report of the victim submitted by P.W-4, this Court found that the Medical Officer has finally opined that the victim has no bodily injury, though there is a tear present in hymen but there is no bleeding and that she had no sexual intercourse in last 10 days and, moreover, her clothing had no tear. The oral testimony of the P.W.4 reveals that she was examined by the Court and her evidence was recorded on 21.09.2022. In her examination-in-chief she has stated that the accused appeared to be 26 years old and capable of doing sexual intercourse and that the accused stated before the Medical Officer that he and the victim eloped together and stayed together in the house of their relative at Bhubaneswar. With regard to the examination of the victim she has stated in her examination-in-chief that she did not notice any bodily injury on the person of the victim, although there exists a tear on the hymen of the victim. The P.W-4 has stated that the victim had stated before her



that she had sexual intercourse with the accused for last 10 days and that she had opined so in her report. Contrary to the aforesaid statement of the victim before the P.W-4, the P.W-4 in Para-4 of her evidence has categorically stated that she did not find any signs or symptoms of recent sexual intercourse. In the very same paragraph she has also stated that the ruptured hymen is possible by any heavy exercise such as cycling. She has also categorically stated in her evidence that she did not conduct any ossification test to ascertain the age of the victim.

15. On a careful analysis of the medical evidence as well as the deposition of P.W-4 namely, Dr. Rashmi Rekha Jena, who had examined both the accused as well as the victim, this Court is of the view that although on examination of the victim's body the doctor found no signs or symptoms of recent sexual intercourse, however, on the basis of the statement of the victim as well as the accused she has deposed before the Court that both had sexual intercourse in last ten days. Thus the finding with regard to penetrative sexual intercourse on the victim by the accused is not on the basis of the medical evidence and that the same is based on the alleged statement of the victim and the accused before the P.W-4. Such statement of the victim and the accused appears to be a confessional statement before the P.W-4 and on the basis of such statement the P.W-4 has deposed before the Court that the victim and the accused had penetrative sexual intercourse during last 10 days from the date of medical examination of the victim. It appears that the learned trial Court has come to a conclusion that the accused has committed rape on the victim on the basis of the oral evidence of P.W-4. Thus, this Court is of the view that the finding with regard to the commission of



the offence of rape is not based on any medical evidence. Rather, the same is based on the statement allegedly made by the victim as well as the accused before the Medical Officer, P.W-4.

16. It would not be fair, proper and judicious to come to a conclusion that the accused had committed rape on the victim on the basis of the alleged confessional statement made by both of them before the P.W-4, by ignoring the medical examination report. Moreover, the learned trial Court, as it appears, has not examined the validity of such statement made by the accused and the victim before the Medical Officer. Instead, the learned trial Court has hastily come to a conclusion on the basis of the deposition of the P.W-4 wherein the P.W-4 has referred to the confessional statement of both the accused and the victim. Keeping in view the fact that the victim had turned hostile, the accused can still be found guilty and convicted of an offence under Section 376 of the IPC provided there exist substantial evidence and that such circumstantial evidence strongly corroborates the version of the witnesses relied upon by the prosecution. It is the settled position of law that while convicting a person on the basis of the circumstantial evidence, the learned trial Court is required to be more cautious. The court below should ensure that the link in such circumstantial evidence is not broken and that the same gets corroboration from independent sources. A slightest deviation or departure from the aforesaid settled position of law would make the case of the prosecution completely untrustworthy and unreliable and, on the basis of such unreliable evidence, no person could be found guilty and, accordingly, he cannot be convicted. In the instant case, after a thorough scrutiny of the medical evidence as well as the deposition of P.W-4, this Court is of



the view that since the victim has turned hostile and denied the case of the prosecution *in toto*, and there are no other independent witnesses to the occurrence, the learned trial Court should have adopted a more cautious approach while coming to a conclusion that the Appellant had committed the offence of rape on the victim..

17. In the aforesaid context, it would also be relevant to scrutinize the evidence adduced by the victim who was examined as P.W-1 from the prosecution side. The statement of the victim was recorded in-camera on 13.01.2022. It appears that she was 19 years old at the time recording of her deposition. The victim, P.W-1 in her evidence has stated that she does not know the convict-Appellant Somanath Janka and that she does not know why her mother has lodged the FIR. She has also stated that she visited her friend's house for 15 days and returned to her mother's house. She has also stated that the police rescued her from the house of her friend and sent her for medical examination. She was declared hostile by the prosecution and was subjected to cross-examination by the learned Special P.P. She has categorically denied the suggestion given to her that she was kidnapped by the Appellant. She has also admitted that her date of birth is 01.01.2004. In reply to the suggestion given by the defence, the victim has stated that no such occurrence had taken place with her. Furthermore, on being cross-examined from the side of the accused, the victim has stated that she was more than 18 years of age at the time of occurrence.

18. Heard Mr. Ramesh Maharana, learned counsel appearing for the Appellant and Mrs. Sasmita Nayak, learned Additional Standing Counsel for the prosecution and Mr. Rasmi Ranjan Nayak, learned



counsel representing the Victim. Perused the TCR as well as the appeal memo and the impugned judgment.

19. Mr. Maharana, learned counsel appearing for the Appellant, at the outset, contended that the entire prosecution case is a false one and that there is no cogent and trustworthy evidence to support the case of the prosecution. He further submitted that the accused had love relationship with the victim, following which they have married in the meantime and they have been blessed with children. He further contended that there exists no independent witness to support the case of the prosecution. He further emphasized on the fact that the victim who is the prime witness in a case of this nature has not supported the case of the prosecution. While taking this Court through the documentary as well as the oral evidence recorded/filed during trial, learned counsel for the Appellant argued that the prosecution has miserably failed to bring home the charges levied against the present Appellant. He further contended that no case under Sections 363, 366, 376(2)(n) of IPC read with section 6 of the POCSO Act is made out against the present Appellant.

20. Written note of argument has also been filed on behalf of the Appellant. In course of argument as well as in the written note of submission, the Appellant has taken a categorical stand that the P.W-1 who is the star witness and victim in this case has not supported the case of the prosecution. Despite such development, the learned trial Court has taken a rigid approach and returned a finding that the Appellant is guilty and accordingly he has been convicted and sentenced to undergo imprisonment. It has been categorically stated that the victim has already married the Appellant and, out of such



wedlock, they have two daughters. It has also been stated that both of them were leading a happy conjugal right till the Appellant was sent to prison. In course of his argument, learned counsel for the Appellant relied upon the judgment of the Hon'ble Supreme Court in ***Mahesh Mukund Patel vs. State of U.P. and others*** reported in ***2025 SCC Online SC 614***. He also referred to the judgment of a Coordinate Bench of this Court in ***Fayazuddin Khan @ Badal Khan vs. State of Odisha and others*** in ***CRLMC No.3850 of 2024***. Learned counsel for the Appellant has also relied upon a judgment dated 07.11.2025 of this Bench in ***Deepak Kumar Singh vs. State of Odisha*** bearing ***CRLMC No.3347 of 2025***.

21. In view of the aforesaid submission, learned counsel for the Appellant strenuously argued that the conviction and sentencing of the Appellant is unsustainable in law. Accordingly, the impugned judgment is liable to be set aside and the Appellant be set at liberty forthwith.

22. Mrs. Sasmita Nayak, learned Additional Standing Counsel appearing on behalf of the prosecution supported the judgment of the learned trial Court. In course of her argument, learned Additional Standing Counsel contended before this Court that the impugned judgment is unimpeachable in view of the fact that the learned trial Court has taken note of all the materials placed before it, particularly the medical evidence as well as the deposition of the Medical Officer, P.W-4. She further contended that although the victim did not support the case of the prosecution and has turned hostile during trial, such development would not itself absolve the convict-



Appellant of the criminal liability, if the same can be established with reference to the other materials on record.

23. While elaborating her arguments with regard to the commission of the alleged offence by the Appellant, the learned Additional Standing Counsel further submitted before this Court that after the victim who was examined as P.W-1 turned hostile, she was put to cross-examination by the learned Special Public Prosecutor. Due procedure has been followed by the prosecution once the victim turned hostile. She further contended that after such development, the learned trial Court has taken note of the other relevant materials on record and the statement of the material witnesses. On a careful analysis of the evidence of the Medical Officer namely, Mr. Dr. Rasmi Rekha Jena who has been examined as P.W-4, the learned trial Court has rightly come to a conclusion that the Appellant is guilty of the offences alleged and that the Appellant has been rightly convicted and sentenced under the sections of the IPC as well as the POCSO Act. She further strenuously argued that the evidence of P.W-4 alone is sufficient to convict the accused and the learned trial Court has rightly convicted the Appellant on the basis of the evidence adduced by P.W.4. In view of her aforesaid submission, learned Additional Standing Counsel submitted before this Court that the learned trial Court has not committed any illegality in convicting the Appellant and, as such, the sentenced imposed does not call for any interference by this Court in the present Appeal.

24. On a careful analysis of the submission made by learned counsels appearing for the Appellant, Prosecution and the Victim, further on a close scrutiny of the learned trial Court record, as well as



the deposition of the witnesses and the medical evidence, particularly the medical examination report of the victim, this Court is of the view that while assessing the validity of the impugned judgment, this Court is required to examine the findings arrived at by the learned trial Court on the basis of the material available on record and the deposition of the witnesses recorded by the learned trial Court. Before independently assessing the evidence of the witnesses and the documentary evidence, it is pertinent to mention that while the appeal was being heard, the victim along with her two daughters appeared before this Court, she was represented by her counsel Mr. Rashmi Ranjan Nayak who has filed his Vakalatnama on behalf of the victim. The victim appeared before this Court on 01.08.2025 and the victim also filed an affidavit dated 01.08.2025 sworn before the Oath Commissioner of this Court. The statement of the victim before this Court is also reflected in the affidavit filed before this Court on 01.08.2025. In her affidavit, a copy of which was served on learned counsel for the Prosecution and which was not specifically objected to by the prosecution, it is revealed that the Appellant is the husband of the victim and is languishing in custody since 18.01.2025. She has further categorically stated that the Appellant is in no way connected with the present case and that he has married the victim on 03.06.2025 and, out of such wedlock, a female child has born. She has further stated that now she is living in the house of the Appellant and, accordingly, she has prayed for the release of her husband on bail. The victim in her statement before this Court has also admitted the fact that the Appellant has already married to the victim and they are staying together as husband and wife and leading a happy conjugal life.



25. Reverting back to the evidence recorded in the present case, on a careful analysis of the trial Court record which was called for earlier, and on a careful analysis of the deposition of various witnesses examined from the side of the prosecution as well as other relevant materials including the medical examination report of the victim, this Court is of the view that as per the charges levied against the Appellant, the prosecution was required to establish, by adducing trustworthy and reliable evidence with regard to the age of the victim, as to whether the victim was kidnapped by the Appellant and whether the accused committed the offence of rape on the victim.

26. As has been discussed in the preceding paragraphs, while scrutinizing the evidence, this Court has already opined that the learned trial Court has rightly accepted the age of the victim to be less than 18 years of age. Therefore, there is no doubt that the victim was minor at the time of occurrence of the offence. With regard to the kidnapping of the victim by the Appellant which was the principal allegation in the FIR by the mother of the victim, this Court would like to observe that the prosecution has failed to examine any eye witness to such occurrence of kidnapping of the victim by the Appellant. The star witness, i.e. the victim herself, has not supported in the case of the prosecution. There is also no other independent material to establish the fact that the victim was in fact kidnapped by the Appellant. In such view of the matter, this Court is of the considered view that the finding of the learned trial Court with regard to the commission of offence punishable under Sections 363/366 of IPC is not based on any evidence on record. Accordingly, this Court holds that since such charges have not been established by the



prosecution, the learned trial Court has committed an error by convicting the Appellant under Section 363 and 366 of IPC.

27. So far the allegations under Section 376(2)(n) of the IPC is concerned, this Court has already analysed the evidence in the preceding paragraphs. There are no eye witnesses to the occurrence of such offence. Again, the star witness, i.e. the victim, has not supported the case of the prosecution. Under the circumstances the victim is the best witness to depose with regard to the ordeal she has undergone at the behest of the Appellant. However, the victim has turned hostile and she has not supported the case of the prosecution. As such, this Court was required to examine the circumstantial evidence basing upon which the learned trial Court has arrived at a finding that an offence under Section 373(2)(n) of IPC and under Section 6 of POCSO Act has in fact been committed.

28. On a careful analysis of the evidence led by the prosecution and on a close scrutiny of the impugned judgment, with regard to the analysis of such evidence, this Court found that the learned trial Court, relying upon the evidence of Dr. Rashmi Rekha Jena (Medical Officer), P.W-4, has come to a conclusion that the victim was subjected to rape by the Appellant. While arriving such a finding, the learned trial Court has heavily relied upon the evidence of P.W-4 and the medical examination report. In her evidence the P.W-4 has stated that both the victim and the accused stated before her that they had sexual intercourse during last ten days. Such statement before the P.W-4 cannot be accepted as a judicial confession by the accused. The learned trial Court should have analysed such deposition of the P.W-4 with more care and caution. This Court finds that such



acceptance of the evidence of P.W-4, particularly the statement of the victim and accused before P.W.4 could not at all be safe in the absence of any corroborative material to support such statement allegedly made before the P.W.4. So far the medical examination report is concerned, this Court found that although the Medical Officer, P.W-4 has categorically stated that there exists no signs and/or symptoms of recent sexual intercourse, however, she has also opined that there is a rupture in the hymen of the victim. In her cross-examination it has also been elicited by the defence that such rupture may happen due to heavy exercise, like bicycling. Furthermore, although there is rupture of hymen however, there was no bleeding. In the event any sexual intercourse had in fact taken place during last 10 days, there should have been some bleeding. This is relevant because there are no eye witnesses and the victim has turned hostile. While accepting such evidence, the learned trial Court should have been more cautious and should have done more circumspection with regard to the allegation of rape.

29. On a critical scrutiny of the impugned judgment, this Court found that the learned trial Court has arrived at the finding of commission of rape by the Appellant on the victim on the basis of the deposition of P.W-4. Although the medical examination report of the victim does not support the case of the prosecution, as it says that there exist no recent signs or symptoms of sexual intercourse, on a careful analysis of the impugned judgment as well as the evidence of the P.W-4, this Court is of the considered view that it would not be safe to convict the Appellant for commission of an offence under Section 376(2)(n) of IPC read with Section 6 of the POCSO Act on the basis of the statement of P.W-4 when the medical examination



report of the victim does not support such allegation. Moreover, considering the gravity and the harshness of the punishment prescribed under such sections of the IPC and POCSO Act, the learned trial Court was required to exercise more caution in the matter and should have come up with some trustworthy and reliable material to support its finding in the aforesaid regard. In such view of the matter, this court is of the considered view that the finding of the trial Court with regard to commission of rape by the Appellant on the victim is not supported by any trustworthy and reliable evidence. Hence, such finding is unsustainable in law.

30. With regard to the fact that the Appellant has already married the victim and they have been blessed with a female child and that they are staying together as husband and wife and leading a happy conjugal life, this Court is of the view that the same gets support from the statement of the victim before this Court as well as the affidavit filed on behalf of the victim sworn before the Oath Commissioner of this Court, which, in the course of hearing of the appeal memo, was categorically admitted by the victim. In the aforesaid context, this Court would like to refer to the judgment of the Hon'ble Supreme Court in ***Mahesh Mukund Patel's case*** (*supra*), wherein the Hon'ble Supreme Court, while considering the case of an Appellant facing identical charges, has taken note of the marriage certificate between the Appellant and the victim and that the Appellant and the victim in that case were blessed with two children. Upon a verification of such marriage certificate and further taking into consideration the affidavit filed by the victim wherein the victim has specifically admittedly that she is happily married to the Appellant and they residing together, the Hon'ble Supreme Court has



come to a conclusion that no purpose will be served by continuing the prosecution as it will cause undue harassment to the Appellant, the victim and their children. Therefore, the order of the High Court refusing to exercise inherent power to quash the FIR was set aside and, accordingly, the FIR was quashed by the Hon'ble Supreme Court.

31. Similarly, a coordinate Bench of this Court in ***Fayazuddin Khan @ Badal Khan's case (supra)*** while considering an application for quashing of the FIR under Section 482 of Cr.P.C. for quashing of the entire criminal proceeding in a case of identical nature. Referring to the several judgments of the Hon'ble Supreme Court particularly referring to the judgment in ***Rosalin Rout and another vs. State of Odisha and another*** reported in ***2024 SCC Online Odisha 1339*** was pleased to quash the entire criminal proceeding. Similarly in the case of ***Deepak Kumar Singh vs. State of Odisha*** decided in ***CRLMC No.3347 of 2025*** vide judgment dated 07.11.2025.

32. In a recent judgment of the Hon'ble Supreme Court of India in ***Madhukar vs. State of Maharashtra***, reported in ***2025 SCC Online SC 1415***, the Hon'ble Court was adjudication the scope of Section 482 Cr.P.C. in quashing a complaint involving allegation of rape under Section 376 IPC. The matter was amicably resolved and both the accused and victim decided to stay together and the victim wished not to continue with the proceeding. Taking note of such amicable settlement and subsequent development and while quashing the criminal proceeding, the Hon'ble Supreme Court of India has observed as follows:



“6. At the outset, we recognise that the offence under Section 376 IPC is undoubtedly of a grave and heinous nature. Ordinarily, quashing of proceedings involving such offences on the ground of settlement between the parties is discouraged and should not be permitted lightly. However, the power of the Court under Section 482 CrPC to secure the ends of justice is not constrained by a rigid formula and must be exercised with reference to the facts of each case.

7. In the present matter, we are confronted with an unusual situation where the FIR invoking serious charges, including Section 376 IPC, was filed immediately following an earlier FIR lodged by the opposing side. This sequence of events lends a certain context to the allegations and suggests that the second FIR may have been a reactionary step. More importantly, the complainant in the second FIR has unequivocally expressed her desire not to pursue the case. She has submitted that she is now married, settled in her personal life, and continuing with the criminal proceedings would only disturb her peace and stability. Her stand is neither tentative nor ambiguous, she has consistently maintained, including through an affidavit on record, that she does not support the prosecution and wants the matter to end. The parties have also amicably resolved their differences and arrived at a mutual understanding. In these circumstances, the continuation of the trial would not serve any meaningful purpose. It would only prolong distress for all concerned, especially the complainant, and burden the Courts without the likelihood of a productive outcome.”

(Emphasis supplied)

33. In view of the aforesaid analysis of the factual position as well as on a close scrutiny of both the oral and documentary evidence on record and upon a careful analysis of the impugned judgment, this Court is of the view that the impugned judgment dated 11.02.2025 passed by the learned Adhoc Additional District and Sessions Judge, (FTSC), Jajpur at Annexure-1, thereby convicting and sentencing the



Appellant for commission of an offence under Sections 363, 366 and 376(2)(n) of the IPC read with Section 6 of the POCSO Act is unsustainable in law and, accordingly, the impugned judgment is hereby set aside. This Court further directs that in the event the Appellant is in judicial custody and his custodial detention is not required in any other case, he shall be set at liberty forthwith. Since this Court holds that no offence against the Appellant is made out and that the victim has turned hostile, the amount of victim Compensation, if any paid to the victim shall be refunded by the victim to the District Legal Services Authority. If the victim fails to do so then it is open to the competent authority to take steps for recovery of such compensation amount from the victim.

34. Accordingly, the appeal stands allowed however, there shall be no order as such.

(A.K. Mohapatra)
Judge

Orissa High Court, Cuttack
The, 30th June, 2026/S. K. Sethi, P.A.