

Protection of Children from Sexual Assault and Criminal Law in India: An Appraisal

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Abstract

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The Protection of Children from Sexual Offences (POCSO), Act 2012 is applicable to the whole of India. The POCSO Act 2012 defines a child as any person below the age of 18 years and provides protection to all children under the age of 18 years from sexual abuse. It also intends to protect the child through all stages of judicial process and gives paramount importance to the principle of "best interest of the child". Before this Act, roughly of the sexual offences are covered under IPC, 1860. But IPC does not give for bodily types of sexual offences against children and it is general legislation, it does not detect between full blown and youngster victims. On the recommendation of Law Commission of India the new law has been passed to protect children from sexual abuse. The law called as Protection of Children from Sexual Offences Act, 2012. The Protection of Children from Sexual Offences Act ("POCSO") 2012 was formulated in order to effectively address sexual abuse and sexual exploitation of children. It provides for protection of children from offences of sexual assault, sexual harassment and pornography. This act has some special feature, which incorporates child friendly procedures, recording of evidences, establishment of special court and speedy trial for cases falls under this Act.

Keywords: Sexual Offences; Assault; Harassment; Pornography; Child Friendly; Speedy Trial; POSCO; etc.

Prologue

The Act defines a child as any person below eighteen years of age [1]. It defines different forms of sexual abuse, including penetrative [2] and non-penetrative assault, as well as sexual harassment [3] and pornography [4]. It deems a sexual assault to be "aggravated" under certain circumstances, such as when the abused child is mentally ill or when the abuse is committed by a person in a position of trust or authority like a family member, police officer, teacher and doctor [5]. The Act also casts the police in the role of child protectors during the

investigative process [6]. The Act also provides for mandatory reporting of sexual offences. This casts a legal duty upon a person who has knowledge that a child has been sexually abused to report the offence; if he fails to do so, he may be punished with six months' imprisonment or a fine [7]. The media has been barred from disclosing the identity of the child without the permission of the Special Court. The punishment for breaching this provision by media may be from six months to one year [8].

The POCSO Act casts the police in the role of child protectors during the investigative process [9] and makes provisions for the medical examination of the

child in a manner designed to cause as little distress as possible. The examination is to be carried out in the presence of the parent or other person whom the child trusts, and in the case of a female child, by a female doctor [10].

The Act provides for Special Courts [11]

1. For the purposes of providing a speedy trial, the State Government shall in consultation with the Chief Justice of the High Court, by notification in the Official Gazette, designate for each district, a Court of Session to be a Special Court to try the offences under the Act:
2. Provided that if a Court of Session is notified as a children's court under the Commissions for Protection of Child Rights Act, 2005 or a Special Court designated for similar purposes under any other law for the time being in force, then, such court shall be deemed to be a Special Court under this section.
3. While trying an offence under this Act, a Special Court shall also try an offence other than the offence referred to in subsection (1), with which the accused may, under the Code of Criminal Procedure, 1973 be charged at the same trial.
4. The Special Court constituted under this Act, notwithstanding anything in the Information Technology Act, 2000, shall have jurisdiction to try offences under section 67B of that Act in so far as it relates to publication or transmission of sexually explicit material depicting children in any act, or conduct or manner or facilitates abuse of children online.

The Act is to be implemented with the active participation of the Central and State Governments [12]. The Act casts a duty on the Central and State Governments to spread awareness through media including the television, radio and the print media at regular intervals to make the general public, children as well as their parents and guardians aware of the provisions of this Act [13]. The National Commission for the Protection of Child Rights and State Commission for the Protection of Child Rights have been made the designated authority to monitor the implementation of the Act [14].

Essential Features of POCSO Act

- *Gender Neutral*

Meaning thereby crimes of such nature done to male or female child will be dealt with, by this act only.

- *Burden of proof:*

The rule under this act is "guilty until proven innocent" instead of the general rule "innocent until proved guilty" and to prevent misuse of law, punishment has been provided for false complaints or false information with malicious intent.

- *It makes the recording of abuse mandatory*

This act also states that it is mandatory for the police to register an FIR in all cases of child abuse. A child's statement can be recorded even at the child's residence or a place of his choice and should be preferably done by a female police officer not below the rank of sub-inspector.

- *It lists all known types of sexual offences towards a minor*

It punishes penetrative sexual assault, aggravated penetrative sexual assault, non-penetrative sexual assault, aggravated non-penetrative sexual assault, sexual harassment, use of minor for pornographic purposes, attempt or abetment of offence and even failure to report an offence, i.e., if there is an apprehension of such offence to be committed, then the same should be immediately reported. Failure to report will attract imprisonment of 6 months or fine or both.

- *It provides for the protection of minors during the judicial process*

- For speedy trial, the evidence of the child is to be recorded within a period of 30 days.
- Special courts have been set up to conduct trials, which should be completed within one year. These courts must ensure that:
 - The minor is not exposed in any way to the accused during the recording of evidence and his identity is not disclosed at any time during the investigation or trial.
 - The minor is not made to repeat his/her testimony in court, and that he/she can give the testimony using a video link.
 - The defence routes all questions through the judge and is not allowed to ask them in an aggressive manner.
 - An interpreter, translator, special educator or any other expert is present in court for the minor's assistance.
 - There is a defined criteria for awarding compensation by the Special Court that includes,

loss of educational and employment opportunities along with disability, disease or pregnancy as the consequence of the abuse.

- It has risen the age of consensual sex from 16 years as per Indian Penal Code, 1860 to 18 years and this is where the problem lies. In *State v. Aas Mohammad* [15], a 14-year-old girl was in a sexual relationship with her landlord. A complaint was filed by the mother on discovering that the girl was six months pregnant. In court, the girl admitted that the matter was reported only because the man had refused to marry her. During the proceedings, the accused offered to marry the girl, deposit a sum of Rs 30,000 in her name, and provide shelter for her mother. The couple got married when he was released on bail. The judge ensured compliance with the undertaking and acquitted the accused as the girl and her mother retracted their statements.

• *Some of the child-friendly procedures which are envisaged under the POCSO Act are as follows:-*

- At night no child to be detained in the police station.
- The statement of the child to be recorded as spoken by the child.
- Frequent breaks for the child during trial.
- Child not to be called repeatedly to testify.

Unwarranted Features of the POCSO Act

However, the POCSO Act provides protection to child from almost all kind of sexual offences but still left with some unpleasant clause which needs to be cured for better implementation. There are certain lacunas which are as follows:

- The primary issue with the Act is that it criminalizes all consensual sexual activity below the age of 18. In doing so it moves on ridiculous assumption that the adolescents of our country are sexually inactive and all adolescent sexual encounters amount to violation of sexual autonomy of the person and cause harm. Further the Act is silent if both person's victim and accused are of age of below 18 year then what will be the consequences.
- A child who has been a victim of a sexual assault has probably underwent the most traumatizing experience of his life which is likely to damage the mental health of the child irreparably. Under such circumstances not only the victim but the family of victim is in the imperative need of

psychological treatment as well as support on societal issues. But given the fund starved, rickety infrastructure of the psychosocial services in our country the victim and his/her family can expect very little from the government sponsored said services.

There is provision in Act of mandatory reporting by medical professionals to the police of actual or anticipated offence, failure of which will result in punishment with a fine, with imprisonment of six month or both. It will result in under reporting by parents or physician who fears legal hassles. The reporting becomes troublesome when close family member is involved. This was previously handled by family therapy and now involvement of police will complicate the matter. The provisions reporting of case is mandatory can be used by family members or neighbor against adolescents who are in consensual love relationship and environment of fear can be transmitted in man dominated society of India.

A successful implementation of the Act requires the State Governments to furnish explicit codes and principles that need to be strictly adhered to by the medical and healthcare professionals and the other officials involved in the child sex abuse cases, before the trial during the trial and also after the trial. But no such concerted efforts have been taken so far. Whereas the Act repeatedly mandates the necessity of extensive training programs for the police and other legal authorities, handling child sex abuse cases, such programs are almost not existent. While the Act also mandates the Government to create maximum and consistent publicity for POCSO using the various forms of media in order to spread awareness regarding the stipulations of the Act, such measures remain stagnated at the theoretical stage.

According to data compiled by the National Crime Records Bureau (NCRB) for 2015, 8,800 cases of rape on children were registered across the country under the Protection of Children against Sexual Offences Act (POCSO). In 2,227 cases, or 25.3 per cent, the offenders were found to be employers or co-workers. This is the first time that NCRB has tabulated data in terms of the relationship of the victim and the accused in cases involving rape [16].

Survey of Ministry of Women and Child Development [17]

In year 2007, a government commissioned survey has found that more than 53% of children in India are subjected to sexual abuse, but most don't report the assaults to anyone. The survey, covered different forms of child abuse physical, sexual and emotional

as well as female child neglect, found that two out of every three children have been physically abused.

Parents and relatives, persons known to the child or in a position of trust and responsibility were mostly found to be the perpetrators of child sexual abuse in the country. According to the women and child development ministry-sponsored report, which assumes greater significance in the backdrop of the Nithari killings that brought into focus the issue of children's safety, those in the age group of 5-12 years reported higher levels of abuse.

The survey carried out across 13 states and with a sample size of 12,447, revealed that 53.22% of children reported having faced one or more forms of sexual abuse, with Andhra Pradesh, Bihar, Assam and Delhi reporting the highest percentage of such incidents. In 50% of child abuse cases, the abusers were known to the child or were in a position of trust and responsibility and most children did not report the matter to anyone.

The survey, sponsored by WCD ministry and carried out by the NGO 'Prayas' in association with UNICEF and Save the Children, found that over 50% children were subjected to one or the other form of physical abuse and more boys than girls were abused physically. The first-ever survey on child abuse in the country disclosed that nearly 65% of schoolchildren reported facing corporal punishment, beatings by teachers mostly in government school. Of children physically abused in families, in 88.6% of the cases, it was the parents who were the perpetrators. More than 50% had been sexually abused in ways that ranged from severe such as rape or fondling to milder forms of molestation that included forcible kissing.

The study also interviewed 2,324 young adults between the ages of 18 and 24, almost half of whom reported being physically or sexually abused as children. When it comes to emotional abuse, every second child was subjected to emotional assault and in 83% of the cases, parents were the abusers.

The Criminal Law (Amendment) Act, 2013

In December 2012, the gang rape and death of a 23-year old woman in Delhi sparked demands for criminal law reform in India. The government set up a three-member committee headed by former Supreme Court Chief Justice JS Verma to review laws against sexual assault. However, in February, the President signed the Criminal Law (Amendment) Ordinance, 2013, which ignored many key recommendations of the Verma Committee [18].

The Criminal Law (Amendment) Act, 2013 was drafted to replace the Criminal Law (Amendment) Ordinance, 2013. Several features of the Act fall short of international human rights standards.

Substitution of New Sections for Section 42 [19]

For section 42 of the Protection of Children from Sexual Offences Act, 2012, the following sections shall be substituted, namely:-

Alternate Punishment

- Where an act or omission constitutes an offence punishable under this Act and also under sections 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 376A, 376C, 376D, 376E or section 509 of the Indian Penal Code, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.

Act Not Being in Derogation of Any Other Law

- The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency. This amendment made, with purpose to provide more effective punishment to the criminal.

The role of the India Judiciary and the scope of judicial interpretation have expanded remarkably in recent times, partly because of the tremendous growth of statutory intervention in the present era. The judiciary plays an important role in the protection of fundamental rights of the citizen and non-citizens alike. The twin safeguards of equality before law and equal protection of laws are acknowledge as two of the most important pillars of human rights of the universe of freedom that is where ever freedom to assert human rights is recognized, whether under an unwritten or a written constitution [20].

The Constitution of India imposes an obligation on every instrumentality including the judiciary to transform the status quo in to a new human order in which there will be equality of status and opportunity for all. The judiciary has, therefore, socio-economic and creative functions. In the same spirit the judiciary of India played significant role in promoting child

welfare. It is in this spirit that the apex court has laid emphasis on the fact the nation is to take care of the child, in whom lays the hope of nation's future [21].

Judicial Attitude

The Supreme Court has rightly held in the case of *Vikarm Deo Singh v State of Bihar* [22] that it is the constitutional duty of the State to abide by the constitutional standards and provide at least the minimum conditions ensuring child's dignity. Right to health, right to potable water, meaningful right to life—all these have been declared to be fundamental rights.

In the case of *Delhi Domestic Working Women's Forum v. Union of India* [23] the Supreme Court laid brought parameters in assisting rape victims while indicating the inherent defects in the present system as:

- Complaints are being handled roughly and not given due attention;
- The victims are, more often than not, humiliated by the police;
- The experience of furnishing evidence in court has been negative and destructive.

The court suggested the following guiding principles:

- The complaint of sexual assault is to be provided with legal representation; it being important to secure continuity of assistance by ensuring that the same person who looked after the complainant's interest in the police station represents her up to the end of the case.
- Legal assistance is to be provided at the police station as the victim should be in a state of distress.
- The police should be under a duty to inform the victim of her right to representation before any questions are asked of her and the police report should state so.
- Victims who do not have their own lawyers should be provided with a list of advocates at the police station.
- The court upon application shall appoint the advocate by the police at the earliest convenient moment.
- In all rape trials anonymity of victims must be maintained as far as necessary.
- It is necessary having regard to the Directive Principles contained under Article 38 (1) of the constitution that victims are awarded

compensation by the court on conviction of the offender.

In the case of *Tukaram & other v. State of Maharashtra* [24] Mathura a sixteen year old tribal girl was raped by two policemen in the compound of Desai Ganj police station in Chandrapur district of Maharashtra. Her relatives, who had come to register a complaint, were patiently waiting outside even as the heinous act was being committed in the police station. When her relatives and the assembled crowd threatened to burn down the police chowky, the two guilty policemen, Ganpat and Tukaram, reluctantly agreed to file a punchnama. Mathura was accused of being a liar. It was stated that since she was 'habituated to sexual intercourse' her consent was voluntary under the circumstances only sexual intercourse could be proved and not rape.

On appeal the Nagpur Bench of the Bombay High Court set aside the judgement of the sessions Court and sentenced the accused namely Tukaram and Ganpat to one and five years of rigorous imprisonment respectively. The Court held that passive submission due to fear induced by serious threats could not be construed as consent or willing sexual intercourse. However, the Supreme Court again acquitted the accused policemen. The Supreme Court held that Mathura had raised no alarm and also that there were no visible marks of injury on her person thereby negating the struggle by her. The court in this case failed to comprehend that a helpless resignation in the face of inevitable compulsion or the passive giving in is no consent. However, the Criminal Law Amendment Act, 1983 has made a statutory provision in the face of

- Section: 114 (A) of the Evidence Act, which states that if the victim girl says that she did no consent to the sexual intercourse the court shall presume that she did not consent. This judgment was severely criticized by Women's organizations and led to the amendments of Rape Laws in India.

In *Yaswant Rao v. State of M.P.* [25] relates to rape of a minor girl child and is directly related to the issue of child sexual abuse. There was a rape of minor girl aged around 7 or 8 years. It was held that there was no legal compulsion to look for corroboration of the evidence. The trend of these decisions reflects that the approach and attitude towards the rights of the child are gradually progressing beyond mere technicalities. But there is still a long way to go.

The Supreme Court in the case of *Mohan Gopal vs Nacal dubey* [26] expressed its deep concern about sexual assault on female children and recommended that deterrent punishment should be inflicted in such cases. The fine so realized may be paid to the victim

or to her kin. The child victim, who in some cases may be ostracized by society, should be given special compensation keeping in view the social status of the rapist. This compensation money may be realized by the court at the time by pronouncing the judgment.

In *Exploitation of Children in Orphanages in State of Tamil Nadu v. Union of India and others* [27] the Court directed that the states shall also indicate the measure which have been taken for implementation of the scheme under the Right of Children to Free and Compulsory Education Act, 2009 as also the measures which have been taken to eradicate trafficking of children.

Guidelines of the Supreme Court to Prevent the Child Sexual Abuses [28]

1. The persons in-charge of the schools/educational institutions, special homes, children homes, shelter homes, hostels, remand homes, jails etc. or wherever children are housed, if they come across instances of sexual abuse or assault on a minor child which they believe to have committed or come to know that they are being sexually molested or assaulted are directed to report those facts keeping utmost secrecy to the nearest S.J.P.U. or local police, and they, depending upon the gravity of the complaint and its genuineness, take appropriate follow up action casting no stigma to the child or to the family members.
2. Media person, persons in charge of Hotel, lodge, hospital, clubs, studios, and photograph facilities have to duly comply with the provision of Section 20 of the Act 32 of 2012 and provide information to the S.J.P.U., or local police. Media has to strictly comply with Section 23 of the Act as well.
3. Children with intellectual disability are more vulnerable to physical, sexual and emotional abuse. Institutions which house them or persons in care and protection, come across any act of sexual abuse, have a duty to bring to the notice of the J.J. Board/S.J.P.U. or local police and they in turn be in touch with the competent authority and take appropriate step.
4. Further, it is made clear that if the perpetrator of the crime is a family member himself, then utmost care is to be taken and further action be taken in consultation with the mother or other female members of the family of the child, bearing in mind the fact that best interest of the child is of paramount consideration.
5. Hospitals, whether Government or privately owned or medical institutions where children are being treated come to know that children admitted

are subjected to sexual abuse, the same will immediately be reported to the nearest J.J. Board/SJPU and the JJ Board, in consultation with SJPU, should take appropriate steps in accordance with the law safeguarding the interest of child.

6. The non-reporting of the crime by anybody, after having come to know that a minor child below the age of 18 years was subjected to any sexual assault, is a serious crime and by not reporting they are screening offenders from legal punishment and hence be held liable under the ordinary criminal law and prompt action be taken against them, in accordance with law.
7. Complaints, if any, received by NCPCR, S.C.P.C.R. Child Welfare Committee (CWC) and Child Helpline, NGO's or Women's Organizations etc., they may take further follow up action in consultation with the nearest J.J. Board, S.J.P.U. or local police in accordance with law.
8. The Central Government and the State Governments are directed to constitute SJPU's in all the Districts, if not already constituted and they have to take prompt and effective action in consultation with J. J. Board to take care of child and protect the child and also take appropriate steps against the perpetrator of the crime.
9. The Central Government and every State Government should take all measures as provided under Section 43 of the Act 32/2012 to give wide publicity of the provisions of the Act through media including television, radio and print media, at regular intervals, to make the general public, children as well as their parents and guardians, aware of the provisions of the Act.

In the matter of *Public at large vs State of Maharashtra and other* [29] it was about a news item which was published disclosing shocking and alarming state of affairs of sex worker. The report indicated that minor girl were illegally confined and were forced to be sex worker. This is a *suo moto* writ petition where the court issued Interim directions for framing schemes so that women including minors who are procured for sexual slavery are released from the confinement of their procurers. Thereafter, raid was conducted and minor girls were rescued from various brothels. The rescued girls were, thereafter kept in juvenile homes. On medical test, it was found that 70% rescued girls were HIV positive and remaining 30% were suffering from venereal diseases. In all 457 girls were rescued to be protected from sexual exploitation and are to be properly rehabilitated. It further stated that the confinement of the girls in brothel is not only illegal and unconstitutional but is also against basic human

rights. The court then issued directions to the State Government for rehabilitation of these girls and for setting up committee etc. It issued further directions to submit periodical report.

On the matter of child trafficking in *Bachao Andolan v. the State of Jharkhand & Others* [30] This Public Interest Litigation has been filed by the writ petitioner seeking directions for the respondent state to adopt the scheme/ action plan framed by the National Commission for Protection of Child Rights with necessary and appropriate modifications as applicable to the State of Jharkhand and to constitute a State Commission for Protection of child Rights as per the provisions contained in 'The commission for Protection of Child Rights Act 2005' and to constitute Child welfare Committees, children's homes, shelter homes and to implement the provisions contained in the Juvenile Justice (Care and Protection of Children) Act, 2000. The petitioner's endeavor was rehabilitation of all children and other victims of trafficking who have been rescued from other states and repatriated back to the State of Jharkhand.

The Court observed that "the law, the Commission for Protection of Child Rights Act 2005, was created in the year 2005 ipso facto cannot give the benefit to a single child unless there is will of persons to implement the said law". The issue of rape of a minor was dealt with in the case of *State of Rajasthan v. Meenakshi* [31] a young girl of about seven years was raped and murdered on February 18, 2005 allegedly by the appellant. The accused was charged based on circumstantial evidence. The medical examiner was of the opinion that there was no recent intercourse. But quoting well established sources the Court held that the victim was subjected to monstrous sexual assault. As the appellant was only 22 years of age on the date of offence, the Court commuted the death penalty and sentenced him to life imprisonment and also directed that he should not be released, unless he served at least twenty years of imprisonment.

The case *State of Maharashtra v Ankush Maruti Shinde and others* [32] dealt with the issues of decoity, gang rape and murder. Five members of a family including four minors were brutally murdered. One of the victims, a girl of fifteen years of age was also gang-raped before being killed. Six persons were accused of this gruesome crime. They were all unknown to the victims. They were charged mainly on basis of two witnesses who belonged to the same family who had survived. Three of the accused were convicted to death for murder. They were also convicted under Section 376 (2) (g) of IPC. All six were convicted under Section 395, 396 and 397 of IPC by Bombay High Court.

In the case of *Tara Dutt v. State* [33] one of the most

outstanding cases of child sexual abuse in this case, 54 year old man was the father of four children including one married daughter was charged with committing digital rape on a helpless 5 year old girl whose mother was related to him. The Delhi High Court held that the acts of the accused amounted to acts against the order of nature, and charges could be framed under section 377 of the IPC along with section 354 and 100 of the IPC, though not under section 376. This decision was reached after considering comparable legislation of Western Australia, Canada, Washington State, Massachusetts Las, Michigan statue etc. The court, after observing on the inadequacies of our archaic system of examination in court, laid down specific guidelines and directions for the trial judge to follow while hearing the case to avoid harassment, anxiety, and embarrassment to the child psyche.

The Apex Court recently in case of *Nishu v. commissioner of Police, Delhi & others* [34] gave the important judgment and emphasizes for the proper application of law and due care and caution. Thus it can be said that whenever the issues relating to protection of child from sexual abuse and exploitation has come up before court, judiciary has never been hesitant to deal with problem keeping in the view 'the best interest of the child' and has dealt the perpetrators to overcome the lacunae of substantive as well as procedural laws, filling the gap between law in favour of child with help of innovative and welcoming judicial interpretations.

In *State v. Mohd. Zahid* [35] facts of prosecution case are that complainant aged about 13 years got recorded her statement to the police in the presence of her mother that she studied in 9th standard. On April 25, 2013, she was coming back from her school on foot. At about 2.15 PM when she reached opposite AB-323, Amarपुरi, Nabi Karim, Tea shop, accused Mohd. Zahid who was working at the said shop wrongfully restrained her and caught hold her hand forcibly and asked the complainant to accompany with him but complainant did not respond. It was alleged that even prior to that i.e. on April 22, 2013 and April 23, 2013, accused had attempted to wrongfully restrain the complainant and he had passed obscene gestures after seeing the complainant. It was alleged that complainant had narrated the incident to her mother, who narrated the incident to her father, who called the police. On the statement of complainant, a FIR for the offence punishable under Section 354D/341/509 IPC read with Section 12 of POCSO Act was registered. During investigation, statement of victim was also got recorded under Section 164 Cr.P.C. Accused was

arrested. The court decided on date October 8, 2013, accused has been held guilty for the offence punishable under Section 8 and 12 of Protection of Children from Sexually Offences Act and under Section 341/509 IPC.

In *State v. Mohan on 2 February, 2015*, the facts of the case, as borne out from the record are that on 07.07.2013, at about 9.00 AM in the morning, the mother of child victim N (whose identity is not being disclosed in view of the provisions of Section 33 (7) of POCSO Act, 2012), sent her to her aunt's house after handing over a note of Rs.500 (Rupees Five Hundred) for purchasing clothes from Sunday Bazaar at Nangloi. The child victim took that money and started proceeding towards her aunt's house on foot. On the way, accidentally she dropped the said note of Rs.500/-, which was picked up by the accused. When the child victim N demanded that note back, he asked her to follow him. Thereafter, he took her beyond the railway line after Kirari fatak and behind a wall in the bushes, where he took off his clothes and also took off the salwar of the child victim N and tried to penetrate his penis into the anus and vagina of the child victim. In the meantime, a person was seen coming by the child victim; she raised an alarm, which caught the attention of that person, who immediately caught hold of the accused. The victim after putting on her salwar also accompanied that person who had apprehended the accused. Court held guilty accused Mohan for the offences U/S- 5 (m) of POCSO Act punishable U/S- 6 of POCSO Act read with Section 18 of POCSO Act and he is convicted accordingly.

After the thorough analysis of the above cases, it can be summarized that Indian court are playing vital role in the protection and promotion of rights of children.

Epilogue

The POCSO Act of 2012 looks into a support system for children through a friendly atmosphere in the criminal justice system with the existing machinery i.e. the CWC and the commission [36]. The positive aspect is the appointment of the support person for the child who would assist during investigation, pretrial, trial and post trial. The major challenge also would be convergence between different entities under different legislations. The Act makes it mandatory to report to the police about any offence defined under POCSO Act 2012. The recent decision of the cabinet in a bill to reduce the age of consent for sex to 16 years will mean that the protection given under this law to protect children

from sexual crimes will be restricted to the children who are 16 years of age. There is a fear that this would end up taking away safeguards available to victims under the POCSO Act, especially girls in the 16-18 age bracket. The benefits of POCSO Act would trickle down to the child only if this act is implemented in its true sense and spirit by all the agencies.

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