

“IS THE POCSO ACT BEING MISUSED IN INDIA? A CRITICAL LEGAL STUDY”

Dr. Abhay Korde ¹

Tanoj Joshi ²

¹Advocate, High Court of Bombay, Mumbai, India)

² (Advocate, High Court of Bombay & Visiting Faculty, GLC, Mumbai, India)

Abstract: The Protection of Children from Sexual Offences (POCSO) Act, 2012, was enacted by the Parliament of India to provide a comprehensive legal framework for protecting children from sexual abuse, sexual assault, sexual harassment, and pornography. The legislation represents a significant milestone in India's child protection regime by recognizing the vulnerability of children and introducing child-friendly procedures for investigation and trial. Since its enactment, the Act has substantially strengthened the prosecution of offences against minors and improved legal safeguards for child victims.

Despite its progressive objectives, the implementation of the POCSO Act has generated considerable legal and academic debate. Concerns have emerged regarding the alleged misuse of the Act in certain circumstances, particularly in cases involving consensual adolescent relationships, family disputes, matrimonial conflicts, and false allegations motivated by personal vendettas. Courts across India have, on several occasions, acknowledged that while the Act is indispensable for protecting children, it should not become an instrument of harassment against innocent individuals.

This research critically examines whether the POCSO Act is genuinely being misused in India or whether such concerns are isolated incidents amplified by public perception. The study adopts a doctrinal research methodology by analysing statutory provisions, judicial precedents of the Supreme Court, various High Courts, and Sessions Courts, together with scholarly literature and government reports. It evaluates both the strengths and shortcomings of the Act while balancing the competing interests of child protection and due process. The study concludes that although isolated instances of misuse exist, there is insufficient evidence to characterize the POCSO Act itself as a "misused law." Rather, implementation challenges, delays in investigation, parental misuse in consensual adolescent relationships, and procedural shortcomings require legislative and administrative reforms. The paper recommends introducing a close-in-age ("Romeo and Juliet") exception, strengthening investigation standards, ensuring accountability for false complaints, and enhancing child-friendly judicial mechanisms while preserving the protective intent of the legislation.

Keywords: Child Sexual Abuse; Child Protection; Criminal Justice; Criminal Law. False Allegations; India; Juvenile Justice; Misuse of Law; POCSO Act; Sexual Offences

I. INTRODUCTION

Children constitute one of the most vulnerable sections of society and require special legal protection against sexual exploitation and abuse. Prior to 2012, offences against children were primarily prosecuted under the Indian Penal Code, 1860, which lacked child-specific definitions, procedural safeguards, and victim-centric mechanisms. Recognising these deficiencies and India's obligations under the United Nations Convention on the Rights of the Child (UNCRC), Parliament enacted the Protection of Children from Sexual Offences (POCSO) Act, 2012. ¹

The POCSO Act introduced a comprehensive and gender-neutral framework covering penetrative sexual assault, aggravated sexual assault, sexual harassment, and child pornography. It also established Special Courts, child-friendly investigation procedures, mandatory reporting obligations, and confidentiality protections for child victims. These provisions significantly transformed India's approach to combating child sexual abuse.

However, more than a decade after its implementation, several practical and legal concerns have emerged. One of the most debated issues is the alleged misuse of the Act. Courts have increasingly encountered cases where consensual relationships between adolescents are prosecuted under POCSO because one party is below eighteen years of age. Similarly, allegations have occasionally arisen during matrimonial disputes, custody battles, and family conflicts, leading to claims that the Act is sometimes invoked for collateral purposes rather than genuine child protection.

At the same time, it is equally important to recognise that child sexual abuse remains significantly underreported in India. Studies consistently demonstrate that social stigma, fear, family pressure, and lack of awareness discourage victims from reporting abuse. Therefore, discussions regarding misuse should not overshadow the continuing need for a strong child-protection law.

This research seeks to examine whether the concerns regarding misuse are supported by legal evidence and judicial practice. It analyses statutory provisions, judicial decisions, and scholarly literature to assess whether misuse reflects isolated implementation failures or indicates broader structural deficiencies requiring reform. The study also explores the balance between safeguarding children's rights and protecting accused persons from wrongful prosecution.

II. DEFINITIONS

2.1 Child: Under Section 2(d) of the POCSO Act, a child means any person below the age of eighteen years.

2.2 Child Sexual Abuse: Any sexual activity involving a child, including physical contact, exploitation, harassment, pornography, or assault.

2.3 False Complaint: A complaint knowingly made with false information to maliciously prosecute another person. Section 22 of the POCSO Act provides punishment for false complaints in certain circumstances.

2.4 Misuse of Law: The deliberate or improper use of legal provisions for purposes other than those intended by the legislature, including false allegations or malicious prosecution.¹

2.5 POCSO Act: The Protection of Children from Sexual Offences Act, 2012, is a special legislation enacted to protect children below eighteen years from sexual offences.

2.6 Special Court: A court designated under the POCSO Act for the speedy trial of offences committed against children.

III. EVOLUTION OF THE POCSO ACT IN INDIA

The enactment of the Protection of Children from Sexual Offences (POCSO) Act, 2012 marked a significant turning point in India's legal framework for the protection of children against sexual abuse. Before the introduction of the Act, offences involving child sexual abuse were primarily dealt with under the Indian Penal Code, 1860 (now largely replaced by the Bharatiya Nyaya Sanhita, 2023). The IPC did not contain child-specific provisions and failed to recognize many forms of sexual abuse that children experience. The absence of comprehensive legislation resulted in inconsistent judicial interpretation and inadequate protection for child victims.²

India's ratification of the United Nations Convention on the Rights of the Child (UNCRC) in 1992 created an international obligation to enact laws ensuring the protection of children from all forms of sexual exploitation and abuse. Article 34 of the Convention specifically requires States to protect children from sexual abuse, exploitation, and pornography. Although several laws addressed specific offences, there remained no comprehensive legislation exclusively dealing with child sexual offences.³

Public concern over increasing incidents of child abuse and recommendations from the National Commission for Protection of Child Rights (NCPCR), the Law Commission of India, and child rights organizations led to the drafting of a specialised statute. Consequently, Parliament enacted the Protection of Children from Sexual Offences Act, 2012, which came into force on 14 November 2012.⁴

The Act introduced several innovative features. It adopted a gender-neutral definition of victims and offenders, recognizing that both boys and girls can be victims of sexual offences. It classified offences into penetrative sexual assault, aggravated penetrative sexual assault, sexual assault, aggravated sexual assault, sexual harassment, and offences relating to child pornography. The Act also introduced child-friendly procedures for investigation and trial, mandatory reporting of offences, in-camera proceedings, recording of evidence without repeated questioning, and establishment of Special Courts for speedy disposal of cases.

Following the Criminal Law (Amendment) Act, 2013, and the Criminal Law (Amendment) Act, 2018, several provisions relating to sexual offences were strengthened. Subsequently, the POCSO (Amendment) Act, 2019 enhanced punishments for aggravated penetrative sexual assault and introduced stricter provisions against child pornography. In certain aggravated cases, the punishment was enhanced to include life imprisonment or the death penalty.⁵

Despite these legislative developments, implementation challenges have emerged. Courts have observed delays in investigation, inadequate forensic facilities, shortage of Special Courts, low conviction rates in some jurisdictions, and increasing prosecution of consensual adolescent relationships. These concerns have generated debate regarding whether the Act requires further reforms to balance child protection with the rights of accused persons.

Overall, the evolution of the POCSO Act demonstrates India's commitment to protecting children through a comprehensive statutory framework while highlighting the continuing need for procedural and policy improvements.

IV. RELEVANT PROVISIONS OF THE POCSO ACT, 2012 & LEGAL FRAMEWORK UNDER THE POCSO ACT, 2012

4.1 The important provisions include:

- **Section 2** – Definitions.
- **Section 3** – Penetrative Sexual Assault.
- **Section 4** – Punishment for Penetrative Sexual Assault.
- **Section 5** – Aggravated Penetrative Sexual Assault.
- **Section 6** – Punishment for Aggravated Penetrative Sexual Assault.
- **Section 7** – Sexual Assault.
- **Section 8** – Punishment for Sexual Assault.
- **Section 9** – Aggravated Sexual Assault.

- **Section 10** – Punishment for Aggravated Sexual Assault.
- **Section 11** – Sexual Harassment.
- **Section 12** – Punishment for Sexual Harassment.
- **Sections 13–15** – Use of children for pornographic purposes.
- **Section 19** – Mandatory reporting of offences.
- **Section 22** – Punishment for false complaints or false information.
- **Section 24** – Child-friendly recording of statements.
- **Section 28** – Establishment of Special Courts.
- **Section 33** – Child-friendly trial procedures.
- **Section 37** – In-camera proceedings.
- **Section 42A** – POCSO overrides inconsistent laws. ¹

4.2 Legal Framework Under the POCSO Act, 2012:

- The Protection of Children from Sexual Offences Act, 2012 is a special criminal legislation enacted to safeguard children below the age of eighteen years from sexual abuse and exploitation. The Act provides substantive offences, procedural safeguards, evidentiary presumptions, and institutional mechanisms for ensuring child-friendly justice.
- Section 2(d) defines a child as any person below eighteen years of age. Unlike previous criminal laws, the Act is gender-neutral, protecting both male and female children. The legislation criminalises penetrative sexual assault, aggravated penetrative sexual assault, sexual assault, aggravated sexual assault, sexual harassment, and the use of children for pornographic purposes.
- Sections 3 to 10 prescribe various forms of sexual assault together with corresponding punishments. Aggravated offences include assaults committed by police officers, members of the armed forces, public servants, relatives, teachers, doctors, or persons occupying positions of trust. These provisions recognise the enhanced vulnerability of children when offences are committed by persons exercising authority or responsibility over them.
- Sections 11 and 12 define and punish sexual harassment of children. Sections 13 to 15 address offences involving child pornography, including using children for pornographic purposes and storing or transmitting child sexual abuse material.
- One of the most distinctive features of the Act is the mandatory reporting obligation contained in Section 19. Any person having knowledge of the commission of an offence is legally required to report the matter to the police. Failure to report constitutes a punishable offence. While intended to improve reporting of child sexual abuse, mandatory reporting has also attracted criticism because it leaves little room for professional discretion in cases involving consensual adolescent relationships.
- The Act incorporates several child-friendly procedural safeguards. Statements of child victims should be recorded at places comfortable to the child, preferably by female police officers not below the rank of Sub-Inspector. Medical examinations must minimise trauma, and repeated questioning should be avoided. Special Courts are required to conduct in-camera proceedings and complete trials as expeditiously as possible.
- Sections 29 and 30 create presumptions regarding the commission of offences and the existence of a culpable mental state once foundational facts are established. Although intended to strengthen child protection, these reverse burdens have generated debate concerning the presumption of innocence guaranteed under criminal jurisprudence.
- Section 22 provides punishment for false complaints and false information made with malicious intent. However, this provision expressly protects children from prosecution for making false complaints, recognising their vulnerability and the possibility of genuine mistakes or fear during reporting.
- The legal framework under the POCSO Act therefore seeks to balance rigorous punishment of offenders with child-sensitive investigation and trial procedures. Nevertheless, judicial interpretation continues to play a crucial role in resolving conflicts involving adolescent consent, evidentiary standards, and allegations of misuse. ¹

V. INTERNATIONAL LEGAL FRAMEWORK ON CHILD SEXUAL ABUSE

5.1 United Nations Convention on the Rights of the Child (UNCRC), 1989 -

The **Convention on the Rights of the Child (CRC)** is the most important international treaty protecting children's rights. It was adopted by the United Nations General Assembly on **20 November 1989**, and India ratified it in **1992**. The Convention requires States Parties to protect children from all forms of abuse, exploitation, neglect, and violence, including sexual abuse. It has become the cornerstone of national child protection laws, including India's POCSO Act.

Important Articles

Article 3 – Best Interests of the Child

- In all actions concerning children, the best interests of the child shall be a primary consideration.

Article 19 – Protection from Abuse

States must take legislative, administrative, social, and educational measures to protect children from:

- Physical abuse
- Mental abuse
- Sexual abuse
- Neglect
- Exploitation

This article forms the basic international obligation behind child protection legislation like the POCSO Act.

Article 34 – Protection from Sexual Exploitation

States must protect children from:

- Sexual exploitation
- Sexual abuse
- Inducement into unlawful sexual activity
- Child prostitution
- Child pornography

Article 34 is regarded as the principal international legal basis for criminalising child sexual abuse.

Article 35 – Prevention of Trafficking

States must prevent:

- Abduction
- Sale of children
- Child trafficking

Article 36 – Protection against Exploitation

Children must be protected against every other form of exploitation prejudicial to their welfare.

5.2 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000)

This Optional Protocol supplements the UNCRC by requiring States to criminalise:

- Sale of children
- Child prostitution
- Child pornography (now commonly referred to as child sexual abuse material)

It also obliges States to:

- Establish criminal jurisdiction over such offences
- Promote international cooperation
- Protect child victims during investigation and trial
- Provide rehabilitation and compensation to victims. ^[6]

5.3 United Nations Human Rights Council

The Human Rights Council has adopted several resolutions requiring States to:

- Combat online child sexual exploitation.
- Prevent child trafficking.
- Improve victim rehabilitation.
- Strengthen criminal justice systems dealing with child abuse.

These resolutions encourage States to adopt comprehensive child protection legislation consistent with international human rights standards.

5.4 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007)

Although India is **not a party** to this Convention, it is regarded as one of the world's most comprehensive legal instruments on child sexual abuse.

The Convention requires States to:

- Criminalise all forms of child sexual abuse.
- Criminalise online grooming.
- Criminalise child sexual abuse material.
- Establish child-friendly judicial procedures.
- Provide counselling and rehabilitation for victims.
- Encourage mandatory reporting of suspected abuse.
- Promote prevention through education and awareness. ^[7]

Many of these principles are reflected in India's POCSO Act.

5.5 International Labour Organization Convention No. 182 (1999)

The **Worst Forms of Child Labour Convention, 1999 (No. 182)** classifies the following as among the worst forms of child labour:

- Child prostitution
- Child pornography
- Sale and trafficking of children
- Forced labour
- Sexual exploitation

The Convention requires States to take immediate and effective measures to eliminate these practices and defines a child as any person under 18 years of age. ^[8]

5.6. Universal Declaration of Human Rights (1948)

Although not legally binding, the Universal Declaration of Human Rights provides the foundation for child rights protections.

Relevant provisions include:

- **Article 1:** All human beings are born free and equal in dignity and rights.
 - **Article 3:** Right to life, liberty, and security.
 - **Article 5:** Freedom from torture and cruel treatment.
 - **Article 25(2):** Children are entitled to special care and assistance.
- These principles have influenced subsequent treaties, including the UNCRC.

5.7 International Covenant on Civil and Political Rights (ICCPR)

The ICCPR obliges States to protect children through:

- **Article 24:** Every child has the right to protection without discrimination.
- Fair trial guarantees and access to justice are also relevant when prosecuting child sexual abuse offences.

5.8 International Covenant on Economic, Social and Cultural Rights (ICESCR)

The ICESCR recognises children's rights to:

- Health
- Education
- Social protection
- Rehabilitation

Victims of child sexual abuse require these protections to facilitate recovery and reintegration.

VI. RELEVANCE OF INTERNATIONAL LAW TO THE POCSO ACT

The POCSO Act reflects India's obligations under international law in several ways:

International Instrument	Corresponding Provision under POCSO
UNCRC Article 19	Protection against abuse through comprehensive offences and child-friendly procedures
UNCRC Article 34	Criminalisation of child sexual abuse and exploitation
Optional Protocol (2000)	Provisions relating to child sexual abuse material and exploitation
ILO Convention No. 182	Criminalisation of child prostitution and exploitation
Lanzarote Convention	Child-friendly investigations, prosecution, and victim support mechanisms

Thus it is observed that the Protection of Children from Sexual Offences Act, 2012 is not merely a domestic criminal statute but also represents India's fulfilment of its international obligations under the United Nations Convention on the Rights of the Child, 1989, and related international instruments. The principles embodied in Articles 19, 34, 35, and 36 of the Convention require States to adopt comprehensive legal measures to protect children from sexual abuse, exploitation, trafficking, and pornography. Similarly, the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, the ILO Convention No. 182, and the Council of Europe Lanzarote Convention emphasise prevention, criminalisation, child-friendly justice, victim rehabilitation, and international cooperation. These international standards have significantly influenced the enactment and interpretation of the POCSO Act in India. ^{16]}

VII. STATEMENT OF THE PROBLEM

Child sexual abuse remains one of India's most serious social and criminal justice concerns. Although the POCSO Act provides stringent legal protection, increasing judicial observations have raised concerns regarding its application in cases involving consensual adolescent relationships, family disputes, and alleged false accusations. At the same time, a large proportion of genuine child sexual abuse remains underreported due to stigma, fear, and family pressure. This creates a complex legal dilemma between protecting children and safeguarding the rights of the accused.

The central problem addressed in this study is whether the POCSO Act is being systematically misused in India or whether such cases represent exceptions arising from implementation challenges rather than defects in the legislation itself. Recent scholarship also highlights tensions around mandatory reporting, adolescent consent, and parental use of the Act in relationship disputes.

VIII. LITERATURE REVIEW

Existing literature indicates differing perspectives regarding the implementation of the POCSO Act.

8.1 Jyoti Belur and Brijesh Bahadur Singh argue that the Act significantly strengthened India's legal response to child sexual abuse but identify challenges in implementation, including investigative delays and inadequate victim support. ^{19]}

8.2 A study published in Humanities and Social Sciences Communications (2023) observes that child sexual abuse remains substantially underreported despite the enactment of the POCSO Act and stresses the importance of effective enforcement mechanisms. ¹⁰

8.3 Recent socio-legal scholarship has examined concerns regarding the criminalisation of consensual adolescent relationships, parental intervention, and proposals for a close-in-age ("Romeo and Juliet") exception. These studies generally do not conclude that the Act is broadly misused but instead argue that specific provisions may produce unintended consequences in particular factual situations. ¹¹

8.4 Other contemporary research recognises the Act as a progressive child-protection statute while identifying procedural delays, low conviction rates in some jurisdictions, inadequate forensic infrastructure, and mandatory reporting as continuing implementation challenges.¹²

IX. RESEARCH GAP

Although numerous studies discuss the effectiveness of the POCSO Act, comparatively few examine the specific question of alleged misuse through a combined analysis of statutory provisions and judicial decisions across different court levels. Existing literature often focuses either on child protection or on consensual adolescent relationships without providing a comprehensive comparative evaluation of Supreme Court, High Court, and Sessions Court jurisprudence.

This study seeks to bridge that gap by critically evaluating whether judicial decisions support the proposition that the POCSO Act is systematically misused or whether such instances remain exceptional within the broader framework of child protection.

X. OBJECTIVES OF THE STUDY

1. To examine the objectives and legal framework of the POCSO Act, 2012.
2. To analyse the implementation of the Act in India.
3. To examine judicial decisions relating to alleged misuse.
4. To compare important Supreme Court, High Court, and Sessions Court decisions.
5. To identify practical challenges in implementation.
6. To suggest reforms balancing child protection with procedural fairness.

XI. RESEARCH QUESTIONS

1. What are the objectives of the POCSO Act?
2. Is the POCSO Act being misused in India?
3. What circumstances give rise to allegations of misuse?
4. How have Indian courts interpreted such cases?
5. What reforms can improve implementation while maintaining child protection?

XII. RESEARCH METHODOLOGY

This study adopts a **doctrinal legal research methodology**. It relies on primary sources, including the Protection of Children from Sexual Offences Act, 2012, constitutional provisions, judicial decisions of the Supreme Court, High Courts, and Sessions Courts, and relevant statutory amendments. Secondary sources include books, peer-reviewed journal articles, law commission reports, government publications, National Crime Records Bureau (NCRB) reports, and academic commentaries.^[13]

The research employs analytical, descriptive, and comparative methods to evaluate legal principles and judicial interpretations concerning allegations of misuse. The study is qualitative in nature and seeks to present an objective assessment based on legal evidence rather than anecdotal claims.

XIII. STATE-WISE POCSO CASES REGISTERED IN INDIA (TOP STATES – 2020 – 2024)

13.1 State-wise POCSO Cases Registered in India (Top States) – 2020 – 2024

State	2020	2021	2022	2023*	2024*
Uttar Pradesh	6,998	7,129	7,955	Highest among States	Highest among States
Maharashtra	5,797	6,200	6,934	Among highest	Among highest
Madhya Pradesh	5,839	6,070	6,982	Among highest	Among highest
Tamil Nadu	4,470	4,465	4,715	Among highest	Among highest
Karnataka	2,692	2,813	3,047	High	High
Rajasthan	2,401	2,520	2,961	High	High
Haryana	1,853	2,249	2,209	High	High
Kerala	2,300+	2,400+	2,600+	High rate per lakh children	High rate per lakh children
Delhi (UT)	1,200+	1,300+	1,529	High among UTs	High among UTs

Based on NCRB Data and Official Government Publications.¹³

*For **2023** and **2024**, NCRB has reported national totals and identified the leading states, but complete state-wise tables should be taken directly from the corresponding **Crime in India** volumes for exact figures. Nationally, about **66,000 POCSO cases** were registered in 2023 and **69,191** in 2024. [14]

13.2 National Trend of POCSO Cases 2020 - 2024

Year	Total POCSO Cases Registered
2020	47,221
2021	53,874
2022	63,414
2023	Approximately 66,000
2024	69,191

These figures show a steady increase in reported POCSO cases over 2020-2024. The increase may reflect both a higher incidence of reported offences and improved reporting and registration practices.¹⁵

13.3 States Reporting the Highest Number of POCSO Cases

Rank	2021	2022
1	Uttar Pradesh	Uttar Pradesh
2	Maharashtra	Maharashtra
3	Madhya Pradesh	Madhya Pradesh
4	Tamil Nadu	Tamil Nadu
5	Karnataka	Karnataka

16

13.4 State-wise Distribution of Registered POCSO Cases (NCRB)

Year	Total India	State with Highest Cases	Second Highest	Third Highest
2020	47,221	Uttar Pradesh	Madhya Pradesh	Maharashtra
2021	53,874	Uttar Pradesh	Maharashtra	Madhya Pradesh
2022	63,414	Uttar Pradesh	Madhya Pradesh	Maharashtra
2023	66,000	Uttar Pradesh	Maharashtra/Madhya Pradesh	Tamil Nadu
2024	69,191	Uttar Pradesh	Maharashtra	Madhya Pradesh

15

XIV. COMPARATIVE STATEMENT OF IMPORTANT POCSO CASES OF SUPREME COURT OF INDIA, HIGH COURT'S & SESSION COURT'S

Court	Case	Principle	Relevance to Alleged Misuse
Supreme Court of India	Attorney General for India v. Satish	Reversed the "skin-to-skin contact" interpretation and restored the broader protection intended under the POCSO Act.	Demonstrated that narrow interpretations undermine child protection rather than indicating misuse of the Act.
Supreme Court of India	X v. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi	Expanded reproductive rights and recognised the needs of child and vulnerable sexual assault survivors.	Reinforced the victim-centric approach of the Act.
High Court	Md. Imran Khan v. State of West Bengal	Recognised that some prosecutions arise from consensual adolescent relationships while emphasising adherence	Highlighted practical difficulties in applying the Act to teenage relationships.

		to statutory age requirements.	
High Court	Sabari v. Inspector of Police	Recommended legislative consideration of a close-in-age ("Romeo and Juliet") exception for consensual adolescents.	Frequently cited in debates concerning alleged misuse.
High Court	Various bail decisions involving consensual adolescent relationships	Courts examined factual circumstances before deciding whether continued incarceration was justified.	Emphasised case-specific judicial scrutiny rather than blanket assumptions of misuse.
Sessions Courts	Numerous acquittals due to hostile witnesses, lack of evidence, or compromise by families	Lower courts assess credibility and evidence on a case-by-case basis.	Acquittals do not necessarily establish false cases; they may reflect evidentiary limitations or witness hostility.

13

XV. COMPARATIVE ANALYSIS OF SUPREME COURT, HIGH COURTS & SESSIONS COURT DECISIONS

15.1 Judicial observations on allegations of misuse and the need for balanced reforms -

A comparative analysis of Supreme Court, High Court and Sessions Court decisions demonstrates that Indian courts have consistently recognised the protective purpose of the POCSO Act while acknowledging certain implementation challenges. However, judicial decisions do not support the broad proposition that the Act is systematically misused.

The Supreme Court has generally adopted a purposive interpretation that strengthens child protection. The decision in *Attorney General for India v. Satish* rejected the restrictive interpretation adopted by the Bombay High Court, which had held that "skin-to-skin" contact was necessary for constituting sexual assault under the Act. The Supreme Court held that such an interpretation would defeat the legislative object of protecting children against sexual abuse. This judgment reaffirmed that statutory interpretation must advance, rather than frustrate, child protection.

Similarly, the Supreme Court has repeatedly emphasised that the POCSO Act is a beneficial social welfare legislation requiring liberal interpretation in favour of child victims. Decisions concerning victim compensation, confidentiality, medical care, and reproductive rights illustrate the Court's commitment to safeguarding the dignity and welfare of children.

High Courts, however, have increasingly encountered cases involving consensual romantic relationships between adolescents. In several instances, parents initiated criminal proceedings after disapproving of relationships involving minors. Although consent of a child below eighteen years is legally irrelevant under the Act, judges have expressed concern that criminal prosecution of consensual adolescent relationships may not always serve the interests of justice. The Madras High Court has repeatedly suggested that Parliament consider introducing a limited close-in-age exception where both parties are adolescents and the relationship is genuinely consensual.

Nevertheless, High Courts have also cautioned that judicial sympathy should not dilute statutory protections against genuine child sexual abuse. They have consistently recognised that legislative reform, rather than judicial innovation, is the appropriate mechanism for addressing policy concerns.

At the Sessions Court level, judges deal directly with evidentiary assessment. Many acquittals arise because witnesses become hostile, complainants retract allegations, medical evidence is inconclusive, or prosecution fails to establish guilt beyond reasonable doubt. Such acquittals should not automatically be interpreted as proof of misuse. Criminal trials require proof beyond reasonable doubt, and acquittal may simply reflect evidentiary deficiencies.

The comparative judicial approach reveals three broad patterns. First, appellate courts strongly support strict enforcement of the Act against genuine offenders. Second, High Courts have identified practical concerns regarding consensual adolescent relationships and parental complaints. Third, trial courts continue to face procedural challenges affecting conviction rates.

Overall, the available jurisprudence indicates that implementation challenges, rather than inherent defects in the legislation, account for most allegations of misuse. Courts have generally sought to balance the fundamental objective of protecting children with the constitutional rights of accused persons, ensuring that criminal proceedings remain fair, evidence-based, and consistent with principles of natural justice.

XVI. IMPORTANT SUPREME COURT AND HIGH COURT JUDGEMENTS

Some of the **most important Supreme Court and High Court decisions** relating to the POCSO Act, particularly those dealing with interpretation, alleged misuse, adolescent relationships, evidence, and victim protection.

16.1 IMPORTANT SUPREME COURT JUDGEMENTS:

16.1.1 Attorney General for India V/s. Satish

Citation: (2021) 6 SCC 1

Issue: "Skin-to-skin" contact under Section 7 of the POCSO Act.

Held:

- The Supreme Court set aside the Bombay High Court's controversial judgment which had held that direct "skin-to-skin" contact was necessary to constitute sexual assault.
- The Court held that such an interpretation defeated the very object of the POCSO Act.
- Sexual intent, rather than direct skin contact, is the determining factor.

Importance

- Landmark judgment protecting the legislative purpose of POCSO.
- Frequently cited while interpreting Sections 7 and 8. ¹⁷

16.1.2. X V/s. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi

Citation: (2022) 10 SCC 1

Held

- Expanded reproductive rights of rape survivors.
- Held that unmarried women are equally entitled to abortion under the Medical Termination of Pregnancy Act.
- Discussed confidentiality and dignity of POCSO survivors.

Importance

- Strengthened victim-centric interpretation. ¹⁸

16.1.3 State of Karnataka V/s. Shivanna

Citation: (2014) 8 SCC 913

Held

- Police should immediately record statements under Section 164 CrPC.
- Medical examination should not be delayed.
- Speedy investigation is essential in POCSO cases. ¹⁹

Importance

- Standard guidelines for investigation.

16.1.4 . Nipun Saxena V/s. Union of India

Citation: (2019) 2 SCC 703

Held

- Identity of child victims cannot be disclosed.
- Courts must protect privacy and dignity.

I

mportance

- Important for victim confidentiality. ²⁰

16.1.5 Aparna Bhat V/s. State of Madhya Pradesh

Citation: (2021) 3 SCC 247

Held

- Courts should avoid stereotypical observations in sexual offence cases.
- Victim dignity must be preserved.

Importance

- Frequently cited in POCSO trials. ²¹

16.1.6 P. Yuvaprakash V/s. State (2023) 6 SCC 64.

Issue

- Determination of the victim's age.

Held

- The prosecution must prove minority through legally admissible evidence.
- School and birth records have greater evidentiary value than ossification tests where available.

Importance

- Important in cases alleging misuse based on incorrect age determination. ²²

16.1.7 Supreme Court (2026)

A Bench of Justices B.V. Nagarathna and Ujjal Bhuyan observed that, in some instances, POCSO proceedings have been used as a weapon in matrimonial and other private disputes. The Court cautioned that frivolous or vexatious complaints should be discouraged while reaffirming that genuine complaints of child sexual abuse must be investigated promptly and seriously. ²³

16.2 IMPORTANT HIGH COURT JUDGEMENTS:

16.2.1 Sabari V/s. Inspector of Police, (2019), Madras High Court

Court

Madras High Court

Justice

N. Anand Venkatesh

Held

- Large number of POCSO cases arise from consensual teenage relationships.
- Recommended that Parliament consider introducing a "Romeo and Juliet" clause.

Importance

- One of the most cited judgments on alleged misuse. ²⁴

16.2.2 Vijayalakshmi V/s. State (2021)

Held

- Criminalising consensual adolescent relationships may not always serve the object of child protection.
- Suggested legislative reform. ²⁵

16.2.3. Md. Imran Khan V/s. State of West Bengal (2025)

Held

- Examined consensual adolescent relationships under the POCSO Act.
- Reiterated that statutory age requirements prevail, while acknowledging practical difficulties. ²⁶

16.2.4. Prakash V/s. State of Maharashtra, 2024

Held

- Mere delay in lodging an FIR does not automatically make the prosecution false.
- Courts must examine the surrounding facts. ²⁷

16.2.5 Archana V/s. State of UP & Others (2025)

Held

- False implication of innocent relatives under the POCSO Act cannot be encouraged.
- The Court imposed costs for abuse of legal process in a family dispute. ²⁸

16.2.6 Madras High Court (2026)

The Court observed that consensual teenage relationships often result in criminal prosecution of young boys because of parental objections and stressed the need for awareness and careful appreciation of evidence. ²⁴

16.3 IMPORTANT QUOTES FROM THE JUDGEMENTS

16.3.1 From Attorney General for India v. Satish (2021)

"The interpretation of the statute must further the object of protecting children from sexual offences." ¹⁷

16.3.2 From Sabari v. Inspector of Police

"The legislature may consider introducing a close-in-age exception so that consensual relationships between adolescents do not automatically attract criminal prosecution." ²⁴

16.3.3 From the Supreme Court (2026)

"When this legislation is misused, misapplied and used as a tool for exacting revenge, the notion of justice itself teeters on the edge of inversion." ²⁴

Additional Cases Worth Citing

- Era v. State (NCT of Delhi), (2017) 15 SCC 133 – Interpretation of aggravated penetrative sexual assault.
- Alakh Alok Srivastava v. Union of India – Directions for implementation of child protection mechanisms.
- Independent Thought v. Union of India, (2017) 10 SCC 800 – Read down the marital rape exception in relation to wives aged 15–18 years, reinforcing protection for minors.

XVII. FINDINGS

The present study examined the Protection of Children from Sexual Offences (POCSO) Act, 2012 from the perspective of its implementation and the recurring allegation that it is being misused in India. Based on an analysis of statutory provisions, judicial decisions, academic literature, and policy discussions, the following findings emerge.

First, the POCSO Act has significantly strengthened the legal framework for the protection of children against sexual offences. Before its enactment, the Indian Penal Code did not provide a comprehensive mechanism to address child-specific sexual offences. The Act introduced clear definitions of offences, child-friendly investigation and trial procedures, mandatory reporting obligations, Special Courts, and stringent punishments. These reforms have enhanced legal recognition of children's rights and improved access to justice for victims.

Second, allegations regarding misuse of the Act are not entirely unfounded but are largely confined to specific categories of cases. A considerable number of prosecutions involve consensual romantic relationships between adolescents where one or both parties are below eighteen years of age. In many such cases, complaints are initiated by parents who oppose the relationship rather than by the alleged victim. Since the Act does not recognise the legal validity of consent given by a child below eighteen years, even voluntary relationships may result in criminal prosecution.

Third, judicial decisions demonstrate that courts have generally interpreted the Act in a manner consistent with its protective objective. The Supreme Court has repeatedly emphasised that the legislation should receive a purposive interpretation so that children receive the highest level of protection. High Courts have acknowledged practical concerns regarding adolescent relationships but have refrained from weakening statutory safeguards through judicial interpretation.

Fourth, low conviction rates under the POCSO Act should not automatically be interpreted as evidence of false cases or misuse. Acquittals frequently result from hostile witnesses, delayed reporting, inadequate investigation, insufficient forensic evidence, or failure of the prosecution to establish guilt beyond reasonable doubt. Criminal jurisprudence requires proof beyond reasonable doubt, and acquittal is not synonymous with malicious prosecution.

Fifth, implementation challenges remain substantial. Several States continue to experience shortages of Special Courts, delays in investigation, inadequate forensic infrastructure, insufficient counselling services, and lack of specialised training for police officers, prosecutors, and judicial officers. These systemic deficiencies affect both victims and accused persons by delaying justice.

Finally, the study finds no convincing evidence that the POCSO Act is inherently a "misused law." Instead, isolated instances of misuse arise primarily from factual circumstances, parental intervention in adolescent relationships, procedural deficiencies, and occasional false complaints. The overall legal framework remains necessary for protecting children from sexual exploitation and abuse.

XVIII. SUGGESTIONS AND RECOMMENDATIONS

The effectiveness of the POCSO Act can be enhanced through carefully balanced legislative, judicial, administrative, and social reforms. Such reforms should strengthen child protection while ensuring fairness to accused persons and preventing misuse of legal processes.

The first recommendation is the introduction of a limited close-in-age or "Romeo and Juliet" exception through legislative amendment. Several jurisdictions recognise that consensual relationships between adolescents of similar age should not automatically attract severe criminal liability. Such an exception should apply only where both participants are close in age, the relationship is voluntary, and there is no element of coercion, exploitation, abuse of authority, trafficking, or commercial sexual exploitation. Appropriate safeguards should ensure that the exception cannot be misused by adult offenders.

Second, investigation procedures require significant improvement. Police officers handling POCSO cases should receive specialised training in child psychology, forensic interviewing, digital evidence collection, and trauma-informed investigation. Investigations must remain impartial and evidence-based rather than relying solely upon allegations. Early collection of medical, forensic, electronic, and documentary evidence should become standard practice.

Third, the functioning of Special Courts should be strengthened. Many courts continue to face heavy case backlogs that delay trials and prolong trauma for victims while simultaneously affecting the rights of accused persons. Additional Special Courts, appointment of dedicated judges, improved infrastructure, and increased prosecutorial resources would contribute to timely disposal of cases.

Fourth, witness support mechanisms should be expanded. Child victims require access to trained counsellors, psychologists, legal aid providers, victim support persons, and rehabilitation services throughout the investigation and trial. Comprehensive support reduces secondary victimisation and improves the quality of testimony.

Fifth, awareness programmes should be conducted for parents, teachers, educational institutions, healthcare professionals, and children regarding the objectives and operation of the POCSO Act. Greater public awareness may reduce unnecessary criminal complaints arising from misunderstandings while simultaneously encouraging reporting of genuine child sexual abuse.

Sixth, accountability for malicious prosecution should be strengthened. Section 22 of the Act already provides punishment for knowingly false complaints made with malicious intent, while protecting children from prosecution. Courts should apply this provision cautiously where deliberate abuse of legal process is established through clear evidence. However, its use should never discourage genuine victims from reporting offences.

Seventh, digital forensic capacity should be expanded in response to increasing online child sexual exploitation. Investment in cybercrime laboratories, specialised investigators, digital evidence preservation, and international cooperation will improve detection and prosecution of offences involving child sexual abuse material and online grooming.

Eighth, judicial training programmes should continue to emphasise child-friendly procedures together with constitutional safeguards for fair trial. Judges should receive regular training regarding evolving jurisprudence, psychological aspects of child testimony, forensic science, and emerging forms of digital sexual exploitation.^a

Ninth, empirical research should be encouraged through collaboration between universities, research institutions, government agencies, and child rights organisations. Reliable statistical analysis concerning conviction rates, acquittals, false complaints, consensual adolescent cases, and victim outcomes will assist policymakers in evaluating future reforms on the basis of evidence rather than perception.

Finally, legislative review should remain an ongoing process. Criminal law must evolve in response to social realities, technological developments, judicial experience, and international standards relating to children's rights. Periodic review of the POCSO Act will ensure that it continues to fulfil its protective purpose while maintaining fairness and constitutional safeguards.

XIX. CONCLUSION

The Protection of Children from Sexual Offences Act, 2012 represents one of the most significant legislative measures enacted in India for safeguarding children against sexual abuse and exploitation. Its comprehensive definitions of offences, child-friendly procedural safeguards, establishment of Special Courts, and stringent punishments reflect the legislature's commitment to protecting one of the most vulnerable sections of society.

The central question examined in this research was whether the POCSO Act is being misused in India. Analysis of statutory provisions, judicial precedents, academic literature, and implementation practices demonstrates that while isolated cases of misuse do occur, they do not justify characterising the legislation itself as a misused statute. Most allegations arise in exceptional circumstances involving consensual adolescent relationships, family disputes, or occasional false complaints rather than as a consequence of inherent defects in the Act.

Judicial decisions of the Supreme Court have consistently reaffirmed the protective purpose of the legislation and adopted interpretations that strengthen child rights. High Courts have acknowledged practical concerns arising from adolescent relationships and have suggested legislative reconsideration of certain aspects without undermining the fundamental objectives of the Act. Sessions Courts continue to perform the essential function of evaluating evidence on a case-by-case basis, ensuring that convictions are based upon proof beyond reasonable doubt.

The study further establishes that implementation challenges—including investigative shortcomings, delays in trial, inadequate forensic infrastructure, shortage of Special Courts, and limited support services for victims—have contributed more significantly to public criticism than the substantive provisions of the Act itself. Addressing these institutional deficiencies will improve both child protection and procedural fairness.

Balancing the rights of child victims with the constitutional rights of accused persons remains an essential feature of a just criminal justice system. Legislative reforms, particularly with respect to consensual adolescent relationships, may deserve careful consideration. However, any reform must preserve the core objective of protecting children from sexual exploitation, coercion, trafficking, and abuse.

In conclusion, the POCSO Act should be viewed not as a law that is fundamentally misused, but as a necessary and progressive child-protection statute whose implementation can be strengthened through evidence-based reforms, improved institutional capacity, enhanced judicial sensitivity, and continued commitment to the welfare and dignity of every child.

REFERENCES:

Statutes/Act

- [1] Protection of Children from Sexual Offences Act, 2012.
- [2] Bharatiya Nyaya Sanhita, 2023.
- [5] Protection of Children from Sexual Offences (Amendment) Act, 2019.
- [3] United Nations Convention on the Rights of the Child, 1989.

Citations/Cases:

- [27] Attorney General for India V/s. Satish, (2021) 6 SCC 1.
- [28] X V/s. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi, (2022) 10 SCC 1.
- [29] State of Karnataka V/s. Shivanna, (2014) 8 SCC 913
- [20] Nipun Saxena V/s. Union of India, (2019) 2 SCC 703
- [21] Aparna Bhat V/s. State of Madhya Pradesh, (2021) 3 SCC 247
- [22] P. Yuvaprakash V/s. State (2023) 6 SCC 64.

Website:

- [23] Ishwar Chand Sharma & Others v. State of Uttar Pradesh & Another Case, Supreme Court of India Bench of Hon'ble Judges B.V. Nagarathna and Ujjal Bhuyan <https://www.moneycontrol.com> › NEWS › INDIA
- [24] Sabari v. Inspector of Police, Madras High Court, <https://indiankanoon.org>.
- [25] Vijayalakshmi V/s. State (2021) (<https://indiankanoon.org>)
- [26] Md. Imran Khan v. State of West Bengal, Calcutta High Court.(2025) (<https://indiankanoon.org>).
- [27] Prakash V/s. State of Maharashtra, 2024 (<https://indiankanoon.org>)
- [28] Archana V/s. State of UP and Others (2025) (<https://indiankanoon.org>).

Journal Articles

- [7] Belur, J., & Singh, B. B. (2015). Child sexual abuse and the legal response in India. International Journal for Equity in Health.
- [8] Humanities and Social Sciences Communications. (2023). Child sexual abuse reporting and implementation of the POCSO Act.

Reports

- [13] National Crime Records Bureau (NCRB). Crime in India (latest edition).
- [4] National Commission for Protection of Child Rights (NCPCR). Annual Reports.

Others

- [6] United Nations Legal Affairs.
- [7] Portal
- [8] Normlex
- [9] Springer Link.
- [10] Nature
- [11]. SSRN
- [12] R R Journal
- [14] Times of India
- [15] The Indian Express
- [16] NEXTIAS
- Choudhry, V., et al. (2018). Implementation challenges under the POCSO Act. Indian Journal of Medical Ethics.
- Kumar, A. (2021). Consensual adolescent relationships under the POCSO Act. Journal of Indian Law and Society.
- Law Commission of India Reports on Criminal Law Reforms.
- Ministry of Women and Child Development, Government of India. Guidelines on POCSO Implementation
- Constitution of India.

Books

- Basu, D. D. Introduction to the Constitution of India. LexisNexis.
- Kelkar, R. V. Criminal Procedure. Eastern Book Company.
- Ratanlal & Dhirajlal. The Law of Crimes. LexisNexis.
- Sarkar, S. C. Sarkar's Law of Evidence. LexisNexis.

Copyright & License:

© Authors retain the copyright of this article. This work is published under the Creative Commons Attribution 4.0 International License (CC BY 4.0), permitting unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.