

4. POCSO – Polity

Supreme Court flags misuse of POCSO Act to penalise adolescent relationships, mulls directions to raise awareness. The Supreme Court is concerned about the "growing misuse" of the POCSO Act, 2012—which sets the age of consent at 18—as a retaliatory tool in consensual teen relationships (often inter-caste or inter-religious) and marital disputes. This misuse overloads courts and harms the falsely accused, sparking a debate between child rights advocates, who want to maintain the strict law, and legal experts, who suggest "guided judicial discretion" for consensual adolescent cases.

Supreme Court's Concern on POCSO

Core Issue – The Supreme Court of India has raised serious concerns about the growing misuse of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

Date of Observation – This concern was prominently expressed in November 2025.

Nature of Misuse – The Court noted that the Act is increasingly being used as a retaliatory tool in two specific contexts –

1. **Consensual Adolescent Relationships** – Where families disapprove of the relationship.
2. **Marital Disputes** – Often as a weapon in custody battles.

Specific Example – Courts observe that many teenage boys face criminal charges for consensual relationships with girls of a similar age, primarily because the girl's family files a case out of disapproval.

POCSO Act, 2012

Primary Definition – The POCSO Act was India's first comprehensive law focused solely on preventing and punishing sexual crimes against children.

International Alignment – The Act was formulated to align with India's obligations under the UN Convention on the Rights of the Child (UNCRC).

Key Provisions

Definition of Child – The Act uniformly defines a "child" as any person below the age of 18 years.

Gender Neutrality – The law is gender-neutral, providing protection to both male and female children from offenders of any gender.

Categories of Offences – It clearly categorizes offenses, including –

1. Penetrative Sexual Assault
2. Non-Penetrative Sexual Assault
3. Sexual Harassment
4. Child Pornography (covering its creation, possession, or distribution).

Age of Consent – The Act explicitly sets the age of consent at 18 years. This criminalizes all sexual activity below this age, even if "consent" was given between the minors involved.

Mandatory Reporting – Any person (including those in charge of institutions) who knows of or suspects an offense *must* report it. Failure to report is itself a punishable crime.

1. **Child-Friendly Procedures** – The law mandates child-sensitive procedures throughout the investigation and trial process to protect the child from further trauma.
2. **Confidentiality of Identity** – It forbids the disclosure of the victim's identity in any media (print, electronic, etc.) without specific authorization from the court.
3. **Time-Bound Trials** – The Act mandates a strict timeline to ensure speedy justice –
 1. Investigation to be completed within two months of the FIR.
 2. Trial to be completed within one year of the FIR.
4. **Stringent Punishments** – Amendments made in 2019 introduced severe punishments, including the provision for the death penalty in aggravated cases.

Reasons Behind the Alleged Misuse of the POCSO Act

Consensual Adolescent Relationships – Because the law treats anyone under 18 as a child, consensual physical relationships between teenagers are automatically criminalized. Parents frequently file POCSO cases out of disapproval, particularly in scenarios involving –

1. Inter-caste relationships

2. Inter-religious relationships
3. Elopement.

Marital and Custody Conflicts – In bitter divorces or custody battles, one parent may weaponize the Act. False POCSO allegations are used to discredit the other parent or unfairly influence court decisions regarding child custody.

Personal or Financial Motives – The Act is sometimes used to settle scores, with false accusations being leveled for –

1. Personal revenge
2. Property disputes
3. Extortion.

Lack of Awareness – There is a widespread lack of adequate understanding among adolescents, parents, and even some authorities regarding the POCSO Act's strict provisions and its severe consequences.

Consequences of Misuse

Impact on the Accused – Individuals who are falsely charged, particularly teenagers, face immediate arrest, social stigma, and profound mental trauma. They are forced to endure financial strain from the legal process, even if they are eventually acquitted.

Impact on Genuine Victims – The prevalence of false cases erodes public trust in the law. This skepticism makes it harder for real victims of sexual abuse to be believed and to seek the justice they deserve.

Impact on the Justice System – False cases overload the courts and investigative agencies. This case backlog delays justice for genuine POCSO cases.

Case Pendency – By 2022, the number of pending POCSO cases had surged by over 217% since 2015, exceeding 2.26 lakh cases.

Crime Statistics (NCRB 2023) – The National Crime Records Bureau (NCRB) recorded over 1,77,335 crimes against children in 2023. POCSO cases accounted for more than one-third of this total.

Different Perspectives on the Issue

Child Rights Advocates – They argue strongly that the Act must remain strict. They warn that lowering the age of consent (e.g., from 18 to 16) could expose vulnerable minors to greater exploitation by predatory adults.

Some Legal Experts – They call for procedural safeguards and increased judicial discretion in sentencing.

Example – Senior advocate Indira Jaising suggested creating legal exceptions for consensual relationships between teenagers in the 16 to 18-year-old age bracket.

The Law Commission (2023) – The Commission agreed with maintaining the age of consent at 18. However, it supported allowing judges more discretion in sentencing, especially in cases where the accused is also a minor and the relationship was consensual.

Forward

Awareness and Education – Implement comprehensive legal and sexual education in schools so adolescents can understand consent, the law, and its serious consequences.

Improved Investigations – Police officers require specialized training to identify potentially false or motivated complaints at an early stage and to handle genuine cases with the required sensitivity.

Judicial Vigilance – Courts must carefully assess the facts and context of an allegation (e.g., age difference, presence of coercion) to determine if it truly falls under the Act's framework before proceeding.

Strict Action Against False Complaints – Section 22 of the POCSO Act, which allows for the punishment of malicious complaints, must be applied more rigorously to create a deterrent.

Legislative Clarity – Parliament and higher courts should issue clear guidelines for handling cases involving consensual adolescent relationships, granting "guided judicial discretion" to judges.

Legal Aid and Counseling – Ensure that both the alleged victims and the accused (especially if they are minors) have immediate access to professional counseling and robust legal support.

Stakeholder Training – Regular, specialized training for all stakeholders—police, judges, social workers, and Child Welfare Committees—is needed to help them balance compassion with legal caution.

Community Dialogue – Promote open community discussions involving families and leaders about consent, respect, and adolescent relationships to reduce the social triggers (like inter-caste animosity) that lead to the law's misuse.

Judicial Perspectives on POCSO and Adolescent Relationships

Defining "Child" (Madras High Court) – In *Sabari vs State of T.N.* (2019), the Madras HC suggested that Parliament should reconsider defining a "child" as 16 years instead of 18 for the purpose of the Act.

Consensual Teenage Relationships (Allahabad High Court) – In *Atul Mishra vs State of U.P.* (2022), the Allahabad HC stated that the Act's strictness should not be used to impede consensual teenage relationships that may lead to marriage.

Rape vs. Affection (Kerala High Court) – In *Anoop vs State of Kerala* (2022), the Kerala HC highlighted the Act's current failure to distinguish between genuine "rape" and "sexual interactions" that stem from affection and biological development among adolescents.

Adolescent Maturity (Bombay High Court) – In *Vijay Chand Dubey vs State of Maharashtra* (2025), the Bombay HC advocated for a case-by-case assessment of an adolescent's maturity and the severe, negative impact of detention on young offenders.

Conclusion

The POCSO Act is an essential and crucial law for child protection in India. However, as officially noted by the Supreme Court, it is vulnerable to misuse in personal and family disputes. To uphold the Act's original purpose (protecting children from exploitation) while preventing its misuse, a balanced and fair application is necessary. This balance requires public awareness, thorough and sensitive investigations, and careful judicial discretion.

Source – <https://www.thehindu.com/news/national/supreme-court-concerned-over-misuse-of-pocso-cases-says-awareness-needed/article70239425.ece>

