

THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES (POCSO) ACT, 2012

Introduction

India, is a home to the largest child population in the world, with almost 42 per cent of the total population under eighteen years of age. Needless to say, the health and security of the country's children is integral to any vision for its progress and development.

One of the issues marring this vision for the country's future generation is the evil of child sexual abuse. Statistics released by the National Crime Records Bureau reveal that there has been a steady increase in sexual crimes against children. According to a study conducted by the Ministry of Women and Child Development in 2007, over half of the children surveyed reported having faced some form of sexual abuse, with their suffering worsened by the lack of specific legislation to provide remedies for these crimes.

Audrey was very happy to see Sujata after a long time. But she found Sujata to be a little disturbed. After wishing each other Audrey asked Sujata what was troubling her and why she was so disturbed. Sujata shared two incidents she had witnessed that day. One about an old man touching a young school girl in a crowded bus and the other was a young boy following a school girl and harassing her with his comments. Audrey informs Sujata that these two incidents would amount to child sexual abuse and the same were punishable under The Protection of Children from Sexual Offences Act 2012.

Let us learn the act through their conversation.

Sujata: Audrey, can you tell me more about this legislation.

Audrey: Sure. This is the latest law which has been enforced to effectively address sexual abuse and sexual exploitation of children and deems a sexual assault to be "aggravated" under certain circumstances.

Sujata: What are the circumstances when sexual assault becomes aggravated?

Audrey: An act becomes aggravated when the abused child is mentally ill or when the abuse is committed by a person in a position of trust or

authority vis-a-vis the child, like a family member, police officer, teacher, or doctor.

Sujata: When did this law come into force?

Audrey: The Protection of Children from Sexual Offences Act, 2012 received the President's assent on 19th June 2012 and was notified in the Gazette of India on 20th June, 2012.

Sujata: Can you tell me who is a child under this Act?

Audrey: Of course. This Act defines a child as any person below eighteen years of age. It defines different forms of sexual abuse, including penetrative and non-penetrative assault, as well as sexual harassment and pornography.

Sujata: Were these offences not dealt with under any law before this act?

Audrey: It was dealt with under the Indian Penal Code but this law specifically deals with sexual offences against children.

Sujata: In these two situations I mentioned above would it be mandatory for me to report?

Audrey: Yes. If you know a child is being sexually abused you have to report it to the police. This law makes it mandatory to report it, and if we do not do so then we can be made accountable under the law and sent to prison.

Sujata: What happens if someone files a false case of child sexual abuse?

Audrey: The Act has taken care of this factor. If the authorities find the law is being misused by someone or if he does the same to defame any person, including the child, then it prescribes a punishment for such a person, for providing false information

Sujata: Is it a very expensive and a tiresome process when one files a case?

Audrey: This Act protects children at all stages, you don't even need to have a lawyer for yourself. There is a Public Prosecutor who is appointed by the Government who deals with the case for you. But should you wish to have a lawyer of your own you can appoint one.

Sujata: What is the role of the police when a case of child sexual abuse is reported?

Audrey: Under this Act police are also considered as child protectors during the investigative process. Thus, the police personnel receiving a report of sexual abuse of a child are given the responsibility of making urgent arrangements for the care and protection of the child, these include obtaining emergency medical treatment for the child and, should the need arise placing the child in a shelter home. The police are also required to bring the matter to the attention of the Child Welfare Committee (CWC) within 24 hours of receiving the report, so the CWC may then proceed where required to make further arrangements for the safety and security of the child.

In short the Act states that at all stages a child friendly approach has to be observed by the authorities and at no stage the child should be traumatized or harmed.

Sujata: Don't you think the atmosphere in the Court could disturb the child?

Audrey: This Act has also taken care of this aspect. The Act provides for establishment of a Special Court to deal with such cases of sexual offences. In Goa, we have a Children's Court which specially deals with offences against children. The Court room set up is different and the Advocates are not permitted to come in their court attire. All proceedings when a child comes to court are in camera.

Sujata: What is 'in camera' proceedings?

Audrey: It means that only people connected to the case can be allowed to be there while the child is deposing before a judge.

Sujata: Is it ok for me to report about the offence, when I am not a family member of the child?

Audrey: Under this law any person can report the Commission of any offence especially against children and women.

Sujata: To whom should I report the offence?

Audrey: I would recommend you to report to the Police immediately so that they can investigate as soon as possible and rescue the child.