



FROM VICTIMS TO “INJURED WITNESSES”: WHAT THE SUPREME COURT’S DOCTRINE MEANS FOR CHILD TRAFFICKING PROSECUTIONS IN INDIA

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ABSTRACT

Child trafficking prosecutions in India have long been undermined by evidentiary practices that treat trafficked minors as ordinary witnesses, subjecting them to rigorous cross-examination and unrealistic expectations of consistency despite severe trauma. This paper examines the Supreme Court’s evolving jurisprudence that reclassifies trafficked children from passive “victims” to “injured witnesses,” thereby affording their testimony enhanced evidentiary value. Anchored in the Court’s 2025 pronouncement recognising trauma itself as an injury, the paper analyses how this doctrinal shift aligns criminal adjudication with trauma-informed principles and India’s international obligations under the UN Convention on the Rights of the Child and the Palermo Protocol. It evaluates the implications of this approach for child trafficking prosecutions, particularly in relation to credibility assessment, corroboration requirements, and child-sensitive procedures. While the injured witness doctrine offers significant potential to strengthen convictions, the paper argues that its impact remains constrained by systemic challenges such as witness intimidation, lack of child-friendly courts, inadequate psychological support, and inconsistent application at the trial level. The paper concludes by proposing institutional and procedural reforms, including specialised courts, enhanced witness protection, and trauma-informed investigation practices to ensure that judicial recognition of trafficked minors as injured witnesses translates into substantive justice rather than symbolic acknowledgement.

Keywords: Child Trafficking, Injured Witness, Trauma-Informed Justice, Supreme Court of India, Child Witnesses.

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INTRODUCTION

Child trafficking is a serious offence involving the recruitment, transportation or harbouring of children through deception, coercion or the abuse of vulnerability for purposes of sexual exploitation, forced labour, begging, slavery or other forms of abuse.

Despite the presence of multiple protective laws such as the Bharatiya Nyaya Sanhita (BNS), POCSO Act and Juvenile Justice Act, the extent of the crime continues to be alarming. According to the National Crime Records Bureau (NCRB), 2,878 children were recorded as victims of human trafficking in 2022, and more than 83,000 children were reported missing, many of whom remain untraced.¹ Projections for 2025 further indicate that India may witness around 2,227 human trafficking cases, marking a 2% rise from 2023, with women and children forming the majority of victims.²

Against this backdrop, the Supreme Court, in a judgment delivered on 19 December 2025, observed that “child trafficking and commercial sexual exploitation remain a deeply disturbing reality in India,” despite the existence of a comprehensive legal framework intended to protect children.³ The Court directed that a trafficked minor must not be treated as an accomplice, emphasising that “her deposition is to be given due regard and credence as that of an injured witness.”⁴

This observation serves as a judicial acknowledgement that the trauma of trafficking is, in itself, an 'injury' that confirms the victim's presence and veracity, thereby protecting her from the rigours of hyper-technical cross-examination. Such an approach signifies a crucial shift from earlier judicial practices and reflects a move towards a more sensitive and victim-centred approach to child trafficking prosecutions in India.

¹ National Crime Records Bureau, Crime in India 2022 (Ministry of Home Affairs, Government of India 2023).

² IndiaDataMap, '2025 Human Trafficking in India' (1 November 2025) <https://indiadatamap.com/2025/11/01/2025-human-trafficking-in-india/> accessed 21 December 2025.

³ 'Child Trafficking and Commercial Sexual Exploitation a Deeply Disturbing Reality in India: Supreme Court' (The Hindu, 2025) <https://www.thehindu.com/news/national/child-trafficking-and-commercial-sexual-exploitation-a-deeply-disturbing-reality-in-india-supreme-court/article70416356.ece> accessed 21 December 2025.

⁴ 'Child Trafficking a Disturbing Reality: Supreme Court Lays Down Guidelines to Evaluate Evidence of Victims' (LiveLaw, 2025) <https://www.livelaw.in/supreme-court/child-trafficking-a-disturbing-reality-supreme-court-lays-down-guidelines-to-evaluate-evidence-of-victims-513951> accessed 20 December 2025.

BACKGROUND

India's legal response to child trafficking has evolved over the decades. Early criminal law provisions under the IPC dealt narrowly with kidnapping, buying or selling minors, and immoral trafficking. With growing recognition of the scale of exploitation, more specialised laws were introduced:

- Juvenile Justice (Care and Protection of Children) Act: recognising trafficked children as “children in need of care & protection”.⁵
- POCSO Act, 2012: criminalising sexual exploitation of children with strict evidentiary safeguards.⁶
- Immoral Traffic (Prevention) Act (ITPA): addressing commercial sexual exploitation.⁷

Until recently, trafficked children were assessed in the same manner as other prosecution witnesses, expecting consistent narration, disclosure of traumatic events in open court, and the ability to withstand rigorous cross-examination, even though they were the primary sufferers of violence. The move toward recognising these minors as “injured witnesses” marks an important shift in judicial thinking, acknowledging their trauma, vulnerability, and the inherent credibility that accompanies the testimony of direct victims.

ANALYSIS

What is an “Injured Witness”?

An injured witness is a person who has personally suffered harm or injury during the commission of a crime and, therefore, has direct involvement in the incident. In criminal jurisprudence, such a witness is considered especially reliable because the injury suffered establishes their presence at the scene of the offence. Since an injured witness has endured actual harm, the likelihood of false implication is significantly reduced. As a result, courts attach greater evidentiary value to their testimony and are reluctant to discard it unless there are strong reasons to doubt its credibility.

Relevance to Child Trafficking: Victims of child trafficking almost invariably suffer severe physical and psychological harm, which places them squarely within the category of injured

⁵ Juvenile Justice (Care and Protection of Children) Act, 2015.

⁶ Protection of Children from Sexual Offences Act, 2012.

⁷ Immoral Traffic (Prevention) Act, 1956.

witnesses. The process of trafficking commonly involves physical assault, sexual abuse, prolonged confinement, deprivation, manipulation, and persistent threats by traffickers. In addition to bodily injuries, survivors experience deep psychological trauma, fear, and intimidation, all of which significantly affect their ability to recall and narrate events with precision. Coercive control exercised by trafficking networks further distorts memory and disclosure, making fragmented, delayed, or inconsistent accounts a natural consequence of trauma rather than an indicator of falsehood. In this context, expecting trafficked children to provide perfectly chronological or wholly consistent testimony is both unrealistic and unjust, reinforcing the need for a trauma-informed evidentiary approach that recognises their testimony as that of injured witnesses.

Recent Supreme Court Trend: The Supreme Court has begun addressing this gap by recognising trafficked minors as injured witnesses, particularly in *KP Kirankumar @ Kiran v. State by Peenya Police*.⁸ The Court held that a trafficked child’s testimony “is to be given due regard and credence as that of an injured witness,” acknowledging that trauma directly affects memory, behaviour and narration.

The Court further elaborated that:

- Trauma impacts how children narrate events, making fragmented or delayed accounts natural rather than suspicious.
- Minor inconsistencies should not dilute credibility, especially when trafficking networks operate through complex, layered structures.
- Corroboration is not mandatory when the survivor’s version is credible.
- Child-sensitive procedures must guide investigation and trial.

This approach aligns with India’s international obligations under the UNCRC and the Palermo Protocol, both of which emphasise trauma-informed, survivor-centred prosecution of child trafficking.⁹¹⁰

⁸ *KP Kirankumar @ Kiran v State by Peenya Police* [2025] INSC 428 (SC).

⁹ United Nations, Convention on the Rights of the Child (1989).

¹⁰ United Nations Office on Drugs and Crime, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol, 2000).

CHALLENGES

Despite progressive judicial reasoning, several systemic and practical challenges continue to undermine the effective prosecution of child trafficking cases. Trafficked minors frequently turn hostile due to fear, intimidation, or pressure from traffickers and family members, weakening the evidentiary foundation of cases. Such hostility often stems from ongoing dependence, threats of retaliation, or lack of relocation support. Investigative lapses, including poorly recorded statements and a lack of trauma-sensitive interviewing, further dilute the value of survivor testimony and hinder the effective application of the injured witness doctrine.

Trafficking offences are often committed by individuals or organised networks wielding significant economic, social, and political influence, which enables them to obstruct investigations and influence proceedings. Such power imbalances allow accused persons to intimidate victims, manipulate witnesses, and exploit procedural delays. In many cases, local influence or financial resources are used to secure bail, prolong trials, or weaken prosecution efforts, further discouraging survivors from pursuing justice and undermining the effective application of the injured witness doctrine.

The absence of child-friendly courtroom environments often exacerbates distress, affecting the quality and consistency of testimony. Formal settings, adversarial questioning, and repeated appearances can re-traumatise survivors, impairing recall and emotional stability. Social stigma, particularly against girl victims, coupled with direct threats, discourages sustained participation in trials. Fear of social exclusion and reputational harm frequently compels families to withdraw cooperation.

Additionally, the lack of psychological support results in untreated trauma, which may manifest as inconsistencies that courts continue to misinterpret as unreliability rather than trauma response. Despite clear judicial guidance, many trial courts still insist on corroborative evidence, and weak witness protection mechanisms, especially for minors, leave survivors vulnerable, collectively limiting conviction rates in trafficking prosecutions. Unless these structural issues are addressed, merely labelling trafficked minors as “injured witnesses” may not yield a tangible increase in convictions.

POTENTIAL SOLUTIONS

Policy frameworks and institutional guidelines indicate several measures that can make the injured witness doctrine more impactful:

Child-Friendly Trial Procedures in Accordance with POCSO Guidelines: Child-friendly trial procedures are central to the effective application of the injured witness doctrine. The POCSO framework mandates measures such as recording testimony in a non-intimidating environment, allowing the presence of a trusted support person, and avoiding confrontation with the accused. These safeguards reduce secondary victimisation and help ensure that the child's testimony reflects lived experiences rather than fear-induced responses. When courts strictly adhere to these procedures, inconsistencies arising from trauma are minimised, enabling judges to better appreciate the evidentiary value of the survivor's account as that of an injured witness.

Mandatory Psychological Counselling before Recording Statements: Trafficked children often suffer from post-traumatic stress, dissociation, and memory fragmentation, which significantly affect their ability to narrate events coherently. Mandatory psychological counselling before the recording of statements allows survivors to stabilise emotionally and understand the legal process they are entering. Such counselling does not influence testimony but equips the child to communicate more effectively, thereby enhancing both reliability and judicial comprehension. Recognising trauma as an injury necessitates addressing its psychological dimension, making counselling an essential adjunct to evidentiary fairness.

Specialised Anti-Trafficking Courts with Trained Judges: The establishment of specialised anti-trafficking courts staffed by judges trained in trauma-informed adjudication would significantly strengthen prosecutions. Trafficking cases involve complex power structures, prolonged exploitation, and layered coercion that ordinary criminal courts may not be adequately equipped to assess. Judges sensitised to the dynamics of trafficking are better positioned to evaluate survivor testimony without imposing unrealistic expectations of consistency or immediacy. Such institutional specialisation ensures that the injured witness doctrine is applied with contextual understanding rather than abstract formalism.

Video-Conferencing & In-Camera Testimonies to Prevent Intimidation: Fear of retaliation remains a major reason why trafficked minors retract or dilute their testimony. Allowing testimony through video-conferencing or conducting proceedings in camera reduces the

psychological burden of facing traffickers in open court. These mechanisms create a safer testimonial environment, reinforcing the survivor's ability to speak freely. When intimidation is minimised, courts can more confidently rely on the child's evidence as that of an injured witness whose credibility flows from lived harm rather than courtroom performance.

Strengthening Witness Protection Schemes, especially Tailored for Minors: Existing witness protection frameworks are largely adult-centric and fail to address the unique vulnerabilities of children. Tailored protection schemes must include safe housing, identity confidentiality, relocation where necessary, and continued monitoring throughout the trial. Without meaningful protection, the injured witness doctrine risks becoming symbolic, as survivors remain exposed to coercion and threats. Robust child-specific witness protection transforms judicial recognition into practical assurance, enabling sustained participation in the justice process.

Better Training for Police and Prosecutors on Trauma-Informed Interviewing: The manner in which initial statements are recorded often determines the trajectory of trafficking prosecutions. Police officers and prosecutors trained in trauma-informed interviewing are more likely to elicit accurate narratives without re-traumatising survivors. Such training emphasises patience, non-leading questioning, and sensitivity to emotional distress. Properly recorded statements strengthen the evidentiary foundation of cases and align investigative practices with the injured witness framework endorsed by the Supreme Court.

Reducing Over-Reliance on Corroboration where the Minor's Testimony is Trustworthy: A persistent obstacle in trafficking trials is the insistence on corroborative evidence, despite judicial recognition that such crimes often occur in secrecy. Treating trafficked minors as injured witnesses necessitates a doctrinal shift away from mechanical corroboration requirements. Where testimony is cogent and inspires confidence, courts must be willing to sustain convictions on that basis alone. This approach balances the rights of the accused with the realities of trafficking, where independent witnesses are rarely available.

Consistent Application of Supreme Court Guidelines at District Court Levels: Judicial pronouncements attain practical significance only when uniformly applied at the trial court level. Inconsistent implementation of Supreme Court guidelines undermines both victim confidence and prosecutorial effectiveness. Regular judicial training, monitoring mechanisms, and appellate reinforcement are essential to ensure doctrinal continuity. Consistency in

application not only strengthens convictions but also affirms the judiciary's commitment to recognising trafficked minors as injured witnesses entitled to dignity and credibility. Implementing these measures would enhance both the accuracy of testimony and victims' access to justice.

CONCLUSION

The recognition of trafficked minors as injured witnesses marks a crucial shift towards a more humane and victim-centred approach in child trafficking prosecutions. By acknowledging that the trauma of trafficking itself constitutes an injury, the judiciary has moved away from rigid evidentiary expectations that often-undermined survivor testimony. However, the effectiveness of this approach depends on consistent implementation, child-friendly procedures, and adequate psychological and institutional support. Only through coordinated legal and systemic reforms can this doctrine translate into stronger prosecutions and meaningful justice for trafficked children.