



## JUVENILE RELATIONSHIPS, CONSENT AND THE POCSO ACT: BALANCING ADOLESCENT LOVE WITH LEGAL PROTECTION

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### ABSTRACT

*This article examines the complex relationship between adolescent autonomy, consent and child protection under the Protection of Children from Sexual Offences (POCSO) Act 2012. Adolescence is a crucial developmental stage marked by social, emotional and psychological transformations, including the emergence of romantic and sexual relationships. The article explores the meaning of consent under contract as well as criminal law, with specific reference to Indian Penal Code (IPC) sections 90 & 375, in contrast to the meaning of consent under the POSCO Act. It further analyses the rigid application of POCSO in the criminalisation of consensual adolescent relationships. The article highlights concerns arising from social realities, familial disapproval, and the misuse of POCSO in consensual adolescent relationships. Judicial observations and case laws highlighting the misuse of POCSO in consensual adolescent relationships are deeply explained, and the article suggests reforms for balancing child protection with the developmental realities of adolescents within the existing legal framework.*

**Keywords:** Adolescent relationships, consent, POCSO Act, Criminalisation.

### INTRODUCTION TO ADOLESCENT RELATIONSHIPS AND THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES (POCSO) ACT.

Adolescence is a developmental stage that begins at the age of 10 years and extends up to 19 years. It generally refers to individuals between the ages of 10 and 19 years. Adolescence is classified into three stages:

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**Early Adolescence:** It refers to children in the 10-13-year age group.

**Middle Adolescence:** It refers to the children in the 14-16 years age group.

**Late Adolescence:** It refers to the children in the 17-19 years age group.

During adolescence, there are certain important developmental changes occurring in an individual's life, such as the development of personal identity, transformation in family relationships, formation of close relationships with peers, development of sexuality, academic achievements, career planning and emergence of romantic interests. These developmental changes play a crucial role in transforming an adolescent individual into adulthood. The emergence of romantic and sexual intimacy between two adolescents is called adolescent relationships. Romantic relationships are central in adolescents' lives and have been considered a defining feature of adolescents. However, there is a paradox between the psychological realities of adolescence and the current legal framework of India. Psychological realities explain how an adolescent gets emotionally involved in sexual activities and romantic intimacy, whereas the Indian legal framework raises concerns over the age of consent and the protection of a child. This creates a complex intersection between adolescent behaviour and the law, especially in the context of consensual relationships involving minors.

In India, there are several legislation schemes, policies and acts to protect juveniles and their rights. One of them is the Protection of Children from Sexual Offences (POCSO) Act 2012<sup>1</sup>, which defines an individual under the age of 18 years as a minor, and thereby criminalises all sexual activities involving them. This approach denies an adolescent their rights to sexual autonomy and privacy, disregarding consensual relationships between adolescents aged from 16 to 18 years. Such criminalisation raises concern about its impact on fundamental rights and the broader implications for adolescent development and societal norms, which we will further discuss in this article.

### **MEANING OF CONSENT IN JUVENILE RELATIONSHIPS**

The term 'Consent' is widely used in law. It is used in criminal as well as contract law. However, the meaning of consent differs in these two branches of law. In contract law, consent refers to an agreement made between two parties to enter into a contract, and is an essential ingredient for a contract to be valid. In Indian Criminal law, Consent plays a vital role in

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<sup>1</sup> Protection of Children from Sexual Offences (POCSO) Act 2012

determining the legality and criminal liability of an act, especially in offences involving sexual relationships. Section 90 of the Indian Penal Code (IPC)<sup>2</sup> specifies circumstances in which a consent is deemed invalid. Consent given under fear of injury or force, consent given based on a misconception of facts, consent given by a person of unsound mind, consent given by an intoxicated person or consent given by a child below the age of 12 years, is not recognised as valid under the law. Consent given under these circumstances is deemed legally invalid.

The Protection of Children from sexual offences (POCSO) Act 2012 does not explicitly define the term ‘Consent’.<sup>3</sup> Instead, it adopted the child-centric approach by treating any person below the age of 18 years as a ‘child’ and incapable of providing legally valid consent for sexual activity. Under the POCSO framework, any sexual act involving an individual below the age of 18 years is treated as an offence irrespective of purposed consent. In contrast, Consent in sexual offences under section 375 (3) of the Indian Penal Code (IPC)<sup>4</sup> states that consent can be made through unequivocal, voluntary agreement (meaning consent must be clear, certain and given freely without any force), communicated through words, gestures or conduct. Moreover, consent is a lack of mere resistance that is not treated as consent; it means just because a person did not physically fight back or resist does not mean they automatically consented.<sup>5</sup> Thus, while section 375 of IPC explains the nature and communication of consent and section 90 of IPC explains the invalidity of consent, the POCSO Act prioritises the protection of minors by legally disregarding consent below the prescribed age.<sup>6</sup>

## **WHAT IS THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT 2012?**

The Protection of Children from Sexual Offences (POCSO) Act 2012 was enacted for safeguarding the rights of children exposed to sexual activity. The act was introduced to protect children from abuse, sexual exploitation, and harassment. Its preamble emphasises the best interests of the child, aligning with international conventions such as the United Nations

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<sup>2</sup> Indian Penal Code 1860, s 90.

<sup>3</sup> <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2224436&reg=3&lang=1#:~:text=The%20POCSO%20Act%20does%20not,whether%20consent%20was%20purportedly%20given.>

<sup>4</sup> Indian Penal Code 1860, s 375.

<sup>5</sup> <https://www.indiacode.nic.in/bitstream/123456789/2079/1/AA2012-32.pdf>

<sup>6</sup> <https://www.juscorpus.com/consent-under-indian-criminal-law-a-concept-courts-explain-but-rarely-define/#:~:text=is%20deemed%20invalid.-,It%20is%20a%20voluntary%20agreement%20to%20an%20action%2C%20devoid%20of,valid%20consent%20Under%20the%20law.>

Convention on the Rights of the Child (UNCRC). The act defines a ‘child’ as any person below the age of eighteen years and provides for child-friendly procedures for reporting offences, conducting investigations, and ensuring speedy trial through special courts, along with graded punishments depending upon the nature and liability of an offence. The law is gender-neutral, applying equally to all genders, both as potential victims and offenders. By mandating immediate reporting and institutional accountability, the act ensures the best interests of the child are protected, and secondary victimisation is prevented. The act does not define the term consent in this special act; However, the act’s rigid definition of a ‘child’ as anyone under the age of 18 years and its disregard for consent creates a paradox here.

The POCSO Act plays a crucial role in law because it provides a structured and legally enforceable framework to protect children from such offences. Before this law, there were significant gaps in the reporting mechanism, investigation procedures, and judicial processes that often retraumatised child victims. By laying down clear guidelines, the <sup>7</sup>POCSO Act bridges these gaps, ensuring that children receive timely protection, support, and justice. The act uses child-friendly procedures during reporting and investigation. During the investigation, statements from children can be recorded at their homes, and it is preferred to be recorded by a female police officer, not below the rank of sub-inspector. Children are never detained in police stations overnight, and all statements are recorded in the child’s own words, interpreted or assisted by experts if needed. Medical examinations are conducted very sensitively. For female children, a female doctor examines the presence of a parent or trusted adult. The POCSO Act mandates that trial proceedings will be conducted in special courts, which conduct proceedings in camera to protect children’s privacy and to avoid prolonged trauma for children. The child can take breaks during testimony, and experts can provide support to ease the judicial process.

The Protection of Children from Sexual Offences (POCSO) Act 2012 also contains provisions to prevent the misuse of law:

**1. False Complaint made by a Person with Malicious Intent:** Section 22<sup>8</sup> of the act prescribes punishment against a person who knowingly makes a false complaint or gives false information, regarding offences under section 3, 5, 7 or 9 of POCSO, solely to humiliate, extort,

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<sup>7</sup> <https://www.cry.org/blog/understanding-pocso-act/>

<sup>8</sup> The Protection of Children from Sexual Offences Act 2012, s 22.

threaten or defame the other person. The punishment may be given as 6 months of imprisonment or a fine, or both, depending on the legality of the crime.

**2. False Complaint made by a Child:** Section 22 (2) of the act states that if any false complaint or false information is given by a child, then no punishment is imposed on the child. The law recognises the vulnerability and immaturity of a child and avoids criminalising them for such conduct.

**3. False Complaint made against a Child:** Section 22(3) of the act prescribes that, if an adult knowingly files a false complaint against a child victimising him under the act. The punishment may be imprisonment for up to 1 year or a fine, or both.

### **CRIMINALIZATION OF CONSENSUAL ADOLESCENT RELATIONSHIPS**

The Protection of Children from Sexual Offences (POCSO) Act 2012 does not recognise consent as legally valid, due to which Consensual, romantic and sexual relationships between adolescents frequently become subject to criminal prosecution. However, concerns have been raised regarding the criminalisation of such relationships in light of social realities. India has one of the fastest-growing youth populations in the world. The vast majority of the population is adolescents aged between 10 and 19 years, and girls below the 19 years of age constitute one-fourth of India's growing population. There are approximately 1.5 million girls under the age of 15 already married, and a considerable percentage of them are at least mothers to one child. Further, according to the National Family Health Survey (NFHS-4) report, 39% of Indian girls reported their first sexual experience before attaining the age of 18. Such realities raise concern regarding the need to reconsider and potentially amend the existing legal framework, particularly where consensual adolescent relationships are concerned.

Another concern of the increasing number of POCSO cases arising out of consensual adolescent relationships is due to societal norms and cultural differences. In several instances, adolescent girls involved in romantic relationships run away from their homes, and boys are often prosecuted as accused persons even in cases involving mutually consensual adolescent relationships. Furthermore, families invoke this provision against relationships they disapprove of due to factors such as caste, religion, social status, family honour, or personal objections. Such practices raise concern regarding the misuse of legal provisions and the criminalisation of consensual adolescent relationships. On 10<sup>th</sup> January, 2026, the court acknowledged misuse of POCSO in romantic adolescent cases and recommended exploring exemptions for genuine

teenage relationships. Teenage romance cases increase POCSO pendency and create a burden on the judiciary by diverting the focus from serious abuse.

## **CHILD PROTECTION FRAMEWORK AND JUDICIAL APPROACH UNDER POCSO ACT**

In India, there are several legislation schemes, policies and frameworks to protect the rights of children under law. One of them is the Juvenile Justice (Care and Protection) Act 2000<sup>9</sup>, amended to provide care and protection to children in difficult circumstances. Adolescent individuals, especially girls, are provided with care and protection under this provision. Adolescent girls face care and protection issues under the circumstances where they run away with their romantic partner, getting married below the legal age, i.e., (18 years for girls and 21 years for boys), Sexual abuse by romantic partners, teenage pregnancy, or interpersonal issues with parents for being in a romantic relationship, etc. During the process of care and protection, adolescent girls come under institutional care for a temporary period of time; they do require psychological counselling, family care, and legal support. When a child commits an offence under the POCSO Act, such a child is not treated in the same manner as an adult offender. Instead, the child is dealt with under the Juvenile Justice (Care and Protection of Children) Act, 2015<sup>10</sup>. The law recognises that children lack full maturity and therefore, it mandates prioritising their care, protection, rehabilitation and counselling during trial procedures. In the case of *Vijayalakshmi vs State*,<sup>11</sup> the Madras High Court, on 27<sup>th</sup> January 2021, highlighted that many POCSO cases arise due to familial disapproval of adolescent relationships, by criminalising natural adolescent behaviour. Later on, the Meghalaya High Court on 27<sup>th</sup> Oct, 2022, in *Silvestar Khonglah v State of Meghalaya & Anr*,<sup>12</sup> cautioned against the misuse of stringent laws in cases involving adolescents, emphasising the need to safeguard minors' rights without criminalising consensual relationships. Further, the Delhi High Court in *X v State (2022)*<sup>13</sup> granted bail to a young accused, warning against the rigid application of POCSO in consensual adolescent relationships to avoid stigmatisation. Recently, the Supreme Court, in January 2026, in *State of UP v Anurudh & Anr*<sup>14</sup>, highlighted the misuse of the

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<sup>9</sup> Juvenile Justice ( Care and Protection ) Act, 2000.

<sup>10</sup> Juvenile Justice ( Care and Protection )Act, 2015

<sup>11</sup> *Vijayalakshmi vs State*, 2021

<sup>12</sup> *Silvestar Khonglah v State of Meghalaya & Anr*, 2022

<sup>13</sup> *X v. state*, 2022.

<sup>14</sup> *State of UP v. Anurudh & Anr*. 2026.

POCSO Act in consensual adolescent relationships and urged the Union government to consider legal reforms.

### **NEED FOR REFORMS IN THE POCSO ACT**

Earlier, some reforms were suggested and made under the POCSO Act to safeguard the rights of children with the realities of adolescent development. One of the most discussed reforms was the “close-in-age-exemption” or “Romeo and Juliet clause”, which provides limited exceptions for consensual relationships between adolescents who are close in age. Such provisions have been adopted in various jurisdictions to avoid criminalisation of consensual relationships while continuing to give punishments under acts involving coercion, abuse, manipulation, harassment or significant age disparities. The objective of these exemptions is to ensure that the law primarily targets exploitative conduct rather than consensual adolescent relationships.

Further, new policy reforms should be made focusing on the difference between sexual exploitation and consensual adolescent intimacy by granting greater judicial discretion in appropriate cases. Courts may be empowered to consider the facts such as the age difference between individuals, the existence of mutual consent, the duration and nature of the relationships, and the surrounding circumstances before imposing strict actions against an individual. Such reforms might help in balancing consensual sexual intimacy and the criminalisation of sexual activity.

### **CONCLUSION**

The Protection of Children from Sexual Offences (POCSO) Act 2012 was enacted to protect children from sexual exploitation, harassment, abuse, coercion and violence. The act plays a crucial role in safeguarding the rights of children in blanket application cases involving consensual adolescent relationships and has created a huge conflict between children’s protection and an adolescent’s autonomy. On one hand, the law tries to protect children from sexual activities, and on the other hand, it fails to distinguish between exploitative conduct and consented conduct arising out of emotional intimacy. Judicial observation and the misuse of the act in consensual cases indicate the need for a better legal approach. Therefore, rather than weakening child protection laws, reforms should aim to create a more balanced lawful approach that protects children from abuse while acknowledging adolescent realities through measures such as “close-in-age-exemption” and judicial discretion.