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## JUDICIAL APPROACH TOWARD CHILD SEXUAL ASSAULT

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### **INTRODUCTION**

The Judiciary is recognized as the third branch of government. The entity in question is responsible for applying legal statutes to particular instances and effectively resolving any conflicts or disagreements that may arise. The determination of the actual "meaning of the law" is ascertained by judges as they deliver their rulings in diverse legal cases. From the standpoint of the populace, the Judiciary assumes paramount importance within the governance framework as it safeguards them against potential infringements by the executive and legislative branches of government.

The Judiciary assumes a paramount position as the custodian and defender of the Constitution and the inherent rights of individuals, thereby distinguishing itself from the other two branches of government. In the Indian legal system, multiple tiers of the Judiciary exist, comprising various types of courts, each endowed with specific powers determined by their hierarchical position and jurisdictional authority. By the judicial structure, these courts embody a hierarchical arrangement based on their significance. At the apex stands the Supreme Court of India, followed by the High Courts of individual states. Below them are the district courts operating at the local level, while the Magistrates of Second Class and Civil Judge (Junior Division) occupy the lowest tier.<sup>1</sup>

According to the provisions of the Indian Constitution, the Supreme Court of India holds the esteemed position of being the highest judicial authority and the ultimate Court of appeal. Additionally, it serves as the preeminent constitutional Court, vested with the power of constitutional review. The entity possesses various authorities, encompassing original, appellate, and advisory jurisdictions. As the ultimate appellate Court of the nation, the Supreme Court

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<sup>1</sup> Mehta, N. (ed.), "Judicial Precedents and POCSO: Evolving Jurisprudence" p. 125-142 (Justice Publishers, Mumbai, 2nd ed./2018).

primarily considers appeals arising from judgments rendered by the high courts of the individual states within the Union, as well as from other judicial bodies or tribunals. This institution's primary function is to safeguard citizens' fundamental rights and facilitate resolving conflicts that may arise between different state governments. In its capacity as an advisory court, the Supreme Court of India is entrusted with the responsibility of adjudicating cases specifically referred to by the President of India by the provisions of the Constitution.<sup>2</sup>

### **JUDICIAL INTERPRETATION OF THE PROVISIONS OF THE ACT**

The POSCO Act is designed to include all genders, ensuring that any offences of a similar nature committed against children are addressed under this legislation, irrespective of the child's gender. This legislation establishes a standard of proof that presumes guilt until innocence is proven, deviating from the customary principle of "innocent until proven guilty." The primary legislation in India aimed at preventing offences against children encompasses several significant provisions designed to ensure the safety and security of both male and female minors. The legislation known as the Act contains various conditions about sexual offences. These include the definition of Penetrative Sexual Assault (Section 3), the more severe crime of Aggravated Penetrative Sexual Assault (Section 5), and the broader category of Sexual Assault (Section 7). The Act also outlines the prescribed punishment for Penetrative Sexual Assault, which is a minimum of seven years (Section 4), and the punishment for Sexual Assault (Section 8). Furthermore, the Act addresses the issue of Sexual Harassment (Section 11), the possession and dissemination of Child Pornography (Section 13), and the mandatory reporting of cases involving Child Abuse (Section 19(1)). It also establishes that the burden of proof lies with the Accused (Section 29) and provides for appointing a Special Public Prosecutor (Section 31). These provisions, among others, serve as deterrents to individuals considering the commission of such offences.

In addition to the aforementioned punitive measures, the legislation also outlines specific procedures designed to address the sensitivity of victims. The POSCO Act and its associated regulations establish protocols that prioritise the well-being and comfort of children. The requirement above necessitates the observance of reverence towards the dignity and self-

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<sup>2</sup> Sharma, Rahul, "Judicial Interpretation of POSCO Act: Trends and Emerging Issues," Indian Law Journal, Vol. 22, No. 3, pp. 234-246, 2013.

governance of the minor throughout all phases of the judicial proceedings. This legislation facilitates the implementation of procedures conducive to children's well-being during medical examinations, the collection of statements from children by law enforcement officials and magistrates, and the conduct of court examinations involving children. Cases reported by a minor should be documented by the police or the Special Juvenile Police Unit (SJPU) using clear and comprehensible language, ensuring that the child can fully comprehend the recorded content. When the child's preferred language differs from the language used for documentation, it is imperative to arrange for a proficient translator or interpreter to assist the child in providing their statement. The child must be accompanied by a parent, guardian, or an individual to whom the child places trust or has confidence when undergoing medical examinations, providing recorded statements, or presenting testimonies in a court setting.

Before conducting any medical study, obtaining consent from the child, either directly or through a representative, is imperative. A medical exam can be performed regardless of filing a First Information Report/Complaint. A female physician must conduct a medical examination in cases where the individual affected is female.

Furthermore, the child mustn't be exposed to direct contact with the accused while providing their statement to law enforcement officials or judicial authorities or when giving testimony in a court of law. If it is deemed necessary, it is imperative to ensure that a support person is made available to a child to offer assistance throughout the investigation and subsequent trial proceedings. Under no circumstances should the child be requested to stay overnight at the police station. Child victims determined to require immediate medical attention are eligible to receive emergency medical treatment within a 24-hour after the Police/Special Juvenile Police Unit (SJPU) is notified of the criminal incident. A child who has been victimized may be eligible to receive interim compensation to address their immediate needs for relief and rehabilitation and final payment to compensate for the loss or injury they have suffered. The State Government must fulfil its obligation to pay the victim within 30 days after the issuance of the order by the Special Court.

### **FRAMING OF CHARGE**

The initiation of charges represents the initial procedural step within a criminal trial. The findings of the Studies indicate that charges under the POSCO Act were predominantly framed under

Sections 4, 6, 8, 10, and 12. This suggests that charges related to child pornography or failing to report a violation under the POCSO Act were infrequently brought forward. The charges filed under the Indian Penal Code (IPC) closely resemble those specified in the POSCO Act. The prevalent offences include those outlined in Sections 376 (rape), 363 (kidnapping), 366-A (procuring a minor girl), 354 (outraging the modesty of a woman), 354-A (sexual harassment), and 506 (criminal intimidation).

Furthermore, charges were also levied by the provisions of the Information Technology Act, 2000 (from now on referred to as the IT Act), the Immoral Traffic Prevention Act, 1986 (from now on referred to as the ITPA), and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (from now on referred to as the Atrocities Act). However, it is essential to acknowledge that charges were formulated under these legislations in only a minimal proportion of cases across various states. This suggests that payments under the POSCO Act are unlikely to be applied in cases primarily categorized as "trafficking" or "pornography" cases. The utilization of a pigeon-hole approach in this context may be ascribed to the inclination of law enforcement and the prosecution to present their most compelling arguments in court exclusively. The apparent reluctance to initiate legal proceedings under statutes such as the IT Act may imply that law enforcement agencies lack the necessary competence or resources to effectively address electronic devices and media as instruments for perpetrating criminal activities. Nevertheless, it is essential to consider adopting a broader approach. This is warranted not only due to the escalating prevalence of illegal activities in the digital realm but also because, without establishing a routine practice of investigating and prosecuting such offences, law enforcement agencies will remain incapable of addressing the vulnerabilities in their methodologies or effectively combating technologically adept criminals.

### **SENTENCING PATTERN**

Before its amendment in 2013, the Indian Penal Code (IPC) conferred upon judges the discretionary power to impose sentences that fell below the prescribed statutory minimum on the condition that they provided adequate justifications for their ruling. Although this provision intended to consider the different circumstances and levels of guilt among the accused, its

execution frequently reinforced patriarchal ideologies. It displayed unwarranted leniency towards perpetrators of sexual assault. This phenomenon was observed in instances such as the case of State of M.P v. Munna Choubey & Anr. , wherein the Supreme Court invalidated a ruling by the High Court that had exercised its discretion to diminish the defendants' punishment to the duration already served solely on their rural background. Similarly, the State of M.P. v. Babbu Barkare @ Dalap Singh, witnessed the High Court reducing the sentence of a 20-year-old illiterate labourer to time served (11 months) without providing sufficient justification for this decision.

Cases such as State of A.P. v. Polamala Raju @ Rajarao, and State of Rajasthan v. Gajendra Singh have witnessed instances where sentences for rape convictions were reduced below the prescribed minimum, without any accompanying justification or "special and adequate" grounds. Moreover, it is noteworthy to mention the legal case of Bhinyaram Vs. State of Rajasthan , wherein the Rajasthan High Court decided to mitigate the sentence imposed by the trial court upon an individual accused under Section 4 of the POSCO Act. The accused's young age primarily influenced this decision at the time of the incident. This pattern exemplified the irregular and irrational exercise of judicial discretion, emphasising the necessity of implementing effective measures to discourage sexual offences using unambiguous and proportionate penalties. As a result, the prevailing environment characterised by disparities in sentencing practises led to the implementation of mandatory minimum sentences. This initiative was initially introduced through the POCSO Act and later incorporated into the Criminal Law (Amendment) Act of 2013. This legal development aimed to establish uniformity, equity, and a stronger deterrent against sexual offences by eliminating subjective and frequently problematic understandings of sentencing discretion.

### **RECORDING OF CHILD TESTIMONY**

Children who have experienced sexual crimes bear a significant emotional weight of guilt, shame, and humiliation. This burden is further intensified when they are compelled to recount the details of the violation to unfamiliar individuals in formal settings. The psychological distress experienced by a child who has been victimized is significantly exacerbated when they are compelled to repeatedly recount their traumatic experience to investigative agencies, prosecutors, and subsequently in a court of law. A child witness necessitates special consideration in terms of their

credibility and the requirement for a distinct procedure when they are providing testimony. The provisions outlined in the POSCO Act encompass the guidelines for eliciting a child's testimony, with due consideration given to the unique requirements of a child. The significance of Sections 24, 25, 26, 33, 36, and 37 of the POSCO Act becomes apparent when considering the aim of facilitating a more seamless experience and progression for children within the criminal justice system, particularly about their role as witnesses. The Supreme Court and High Courts have consistently established guidelines to safeguard and protect children's rights and interests during criminal trials. The inadequate implementation of policies and insufficient safeguards during legal proceedings have persistently posed obstacles for children and their families when providing testimony in court.

Regarding the issue of a child's competence to provide testimony as a witness, the Delhi High Court, in the case of *Virender v. The State of NCT of Delhi* referred to the reliance of Indian courts on the proposition established by Justice Brewer in *Wheeler v. United States*. In the case above, it was expressed that the testimony of a juvenile witness should not be categorically dismissed. However, as a precautionary measure, the courts should carefully evaluate such testimony and only, upon being convinced of its credibility and substance, should it be admitted as evidence. Moreover, with regards to the legal precedent set by the Supreme Court case of *Panchhi v. State of U.P.*, AIR 1998 SC 2726, the court in the case of *Virender v. The State of NCT of Delhi* (supra) articulated that the reservation surrounding the assessment of a witness's testimony is rooted in concerns that children may be susceptible to external influence and manipulation, rendering them more vulnerable. Consequently, the evidence provided by child witnesses must be scrutinised meticulously and with heightened caution. In the case of *Golla Yelugu Govindu v. State of Andhra Pradesh*, the Supreme Court ruled that the age of a witness should not be the sole criterion for determining their competence. The Court established that even a young child could provide testimony if they possessed the intellectual capacity to comprehend and respond to the questions.

In the case of *Moti Lal v. State of U.P.*, the Supreme Court reaffirmed the established principle that the absence of physical evidence of rape, as determined by the examining doctor, does not provide sufficient grounds to discredit the testimony of the prosecutrix, if her account is deemed credible—the case of *State of Punjab v. Gurmit Singh* established the principle that a conviction can be based solely on the victim's testimony, unless there exist strong justifications for requiring

additional corroboration. In the case of *State of Himachal Pradesh v. Sanjay Kumar*, the Supreme Court held that it is imperative to consider the entirety of the prosecutrix's testimony, as the victim of rape should not be treated as an accomplice to the crime. Consequently, her evidence can be acted upon in the absence of corroboration, given her elevated position relative to an injured witness. Given the circumstances, the presence of slight inconsistencies between the statements of the complainant and other significant witnesses provided that further crucial details of the incident align, hold no relevance. Consequently, courts must refrain from placing undue emphasis on such inconsistencies.

### **VICTIM COMPENSATION**

The development of victim compensation jurisprudence in India has acknowledged the State's obligation to offer redress to victims for its inability to safeguard them against acts of violence, even in cases where the wrongdoers are individuals from the private sector. The change in viewpoint is evident in Section 357(1)(b) of the Code of Criminal Procedure, 1973 (Cr. P.C), which grants courts the authority to order the allocation of fines towards the restitution of any damages or harm resulting from an offence. This provision is by the standards of recoverability in civil court. A significant development in 1973 was the introduction of sub-section (3) to Section 357, which bestowed upon courts the power to mandate the accused to provide restitution to the victim, even in cases where a fine is not included as part of the sentence. The Supreme Court's ruling in the case of *Hari Singh v. Sukhbir Singh*, acknowledged that this served as a mechanism to provide reassurance to individuals affected by the criminal justice system.

The Probation of Offenders Act of 1958 enhanced the establishment of victim compensation by conferring upon courts the authority to instruct offenders released on probation or warning to provide appropriate balance to individuals impacted by their offences, as stipulated in Section 5(1)(a). The legal matter of *Ankush Shivaji Gaikwad v. State of Maharashtra* brought attention to the international norms and legal principles that acknowledge the entitlement of victims to seek redress within the context of criminal justice. The Supreme Court placed significant emphasis on the requirement outlined in Section 357, which mandates that courts must consider compensation in all criminal cases. This provision ensures the victim is not disregarded or overlooked in the legal process. In light of the lack of a comprehensive compensation system, the Supreme Court issued



a directive to the National Legal Services Authority in the case of *Nipun Saxena v. Union of India*. The order instructed the authority to develop Model Rules about Victim Compensation for instances of sexual offences and acid attacks.

The enactment of the Code of Criminal Procedure (Amendment) Act in 2008 brought about the inclusion of Section 357-A, which recognizes the obligation of the State to provide compensation to victims. As per the provisions outlined in Section 357-A(1), State Governments must establish Victim Compensation Schemes (VCS) in collaboration with the Central Government. These schemes are designed to allocate financial resources to individuals whose criminal acts and their dependents have been victimized. Individuals who have suffered harm can seek reparation from the State or District Legal Services Authority (SLSA/DLSA) to receive compensation. At present, 29 states and seven Union Territories have established Victim Compensation Schemes (VCS) per the provisions outlined in Section 357-A(1). Most State Victim Compensation Schemes (VCS) do not encompass offences under the POSCO Act, except in Rajasthan. In Rajasthan, the authority to ascertain compensation lies with the Special Court.

Significantly, the POSCO Act is widely regarded as a comprehensive legal framework that prioritizes the well-being of children and the establishment of dedicated judicial bodies. Section 33(8) of the legal framework grants the Special Court the authority to issue a "directive" for the disbursement of compensation, which stands in contrast to the "suggestions" put forth by trial courts as outlined in Section 357-A. This statement underscores that the POSCO Act confers authority upon Special Courts to ascertain and award compensation. According to Rule 7(5) of the POSCO Rules, it is mandated that the disbursement of payment should be made within 30 days from the order, utilizing the Victim Compensation Fund or other relevant government schemes.

According to Rule 7(1) of the POSCO Rules, the Special Court can provide interim compensation in suitable instances, even before the accused's conviction. The provisions outlined in Section 357-A of the Rules, in conjunction with the objectives set forth by the POSCO Act, collectively establish that the awarding of compensation can be mandated irrespective of the outcome of a conviction. According to Rule 7(2), it is permissible to grant a bonus even in cases where the perpetrator cannot be located or identified, provided that the child has experienced some form of

harm or injury. According to Rule 7(3) of the POSCO Rules, specific factors should be considered when determining the allocation of compensation. According to Rule 7(6), it is essential to note that the pursuit of assistance from alternative programmes or resources does not prevent the victim, their parent or guardian, or a trusted individual from seeking compensation under the POSCO Act. This provision distinguishes the POSCO Act from most State Victim Compensation Schemes.

The complex structure of victim compensation highlights the dedication of the Indian legal system to offering remedies to individuals who have suffered from criminal acts, particularly in instances involving minors and sexual offences. The transition from discretionary compensation orders as outlined in Section 357 of the Code of Criminal Procedure (Cr. P.C) to the more comprehensive provisions of Section 357-A, along with the specialized framework established by the POSCO Act, reflects a deliberate effort to prioritise the well-being of victims and provide them with the necessary support for their rehabilitation. The acknowledgement of victim compensation as an integral component of the criminal justice system recognizes the profound physical, emotional, and psychological distress experienced by victims due to criminal offences. Through imposing mandatory compensation, the legal system proactively acknowledges and endeavors to address the adverse consequences endured by victims and their families. This approach is by internationally recognized standards and established best practices, which strongly emphasize upholding victims' rights and facilitating their recovery within the framework of the justice system.<sup>3</sup>

The notion of victim compensation also signifies a more comprehensive societal transition towards acknowledging the collective obligation of the State in the prevention and resolution of criminal activities. While criminal sanctions penalize the perpetrator, compensation addresses the restoration of the victim's dignity, financial stability, and overall well-being. Furthermore, it aids in alleviating the economic hardship that individuals affected by adverse circumstances frequently encounter due to healthcare expenditures, diminished earnings, and additional associated expenditures. Nonetheless, implementing victim compensation schemes presents specific challenges that warrant careful consideration. Implementing effective monitoring mechanisms is

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<sup>3</sup> Singh, Neha, "Judicial Sentencing Trends in Child Sexual Abuse Cases: Analysis of POSCO Act," Criminal Law and Policy Review, Vol. 24, No. 4, pp. 301-313, 2018.

essential to guarantee the prompt disbursement of compensation, uphold transparency, and prevent any potential misappropriation of funds. There is a need for enhanced accessibility of these initiatives to individuals who belong to marginalized and vulnerable groups, including those hailing from rural or disadvantaged communities.

In conclusion, it can be observed that the development of victim compensation laws and provisions in India demonstrates a proactive stance towards recognizing victims' rights and safeguarding their welfare.<sup>4</sup> The transition from discretionary orders to meticulously designed compensation schemes signifies a dedication to establishing a more equitable and comprehensive criminal justice system. Despite the enduring nature of challenges, ongoing endeavors to enhance and fortify mechanisms for compensating victims will serve to foster a more equitable and compassionate society, placing its populace's well-being at the forefront of its concerns.

### **AGE DETERMINATION OF VICTIM**

The Juvenile Justice (Care and Protection of Children), Rules, 2007 (JJ Model Rules, 2007) first outlined the process for age determination in Rule 12(3). In the case of *Jarnail Singh v. State of Haryana*, the Supreme Court rendered a decision affirming the application of this particular procedure for ascertaining the age of a child victim. The jurisdiction of the Special Court is contingent upon the age of the child who is the victim. The categorization of the victim as belonging to the Scheduled Castes (SC) or Scheduled Tribes (ST) holds no significance in cases where the offence falls under the purview of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act, 1989), provided that the victim is a minor below the age of 18. The authority to determine an individual's age has thus been delegated to the Special Court by Section 34 of the legislation above. According to Section 34(3) of the Act, it is explicitly stated that the order issued by the Special Court will not be deemed invalid if subsequent evidence reveals an incorrect determination of age.

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<sup>4</sup> Verma, Aanya, "Role of Medical Evidence in POSCO Cases: Ensuring Justice for Child Victims," *Journal of Medical Law and Ethics*, Vol. 19, Issue 1, pp. 78-89, 2020.

According to Section 94(1) of the Juvenile Justice Act of 2015, it is stipulated that the Child Welfare Committee (CWC) or Juvenile Justice Board (JJB) is required to classify an individual as a child if their appearance indicates that they are indeed a child, without necessitating additional verification of their age. Section 94(2) of the Juvenile Justice Act of 2015 delineates the prescribed protocol to be adhered to when uncertainty exists regarding an individual's age. In circumstances of this nature, it is recommended that the Child Welfare Committee (CWC) or Juvenile Justice Board (JJB) ascertain an individual's age through the acquisition of supporting evidence, such as the birth certificate issued by the educational institution or the matriculation or equivalent certificate issued by the relevant examination board. If the options above are unavailable, alternative sources of birth certification may include those issued by a corporation, municipal authority, or panchayat. If the previous documents are not accessible, it is recommended that the Juvenile Justice Board (JJB) consider requesting an ossification test or any other contemporary medical age determination test. The Juvenile Justice Act of 2015 does not explicitly mention the establishment of a Medical Board or stipulate that the child victim or child in conflict with the law should be granted the benefit of the margin of error.

Nevertheless, previous rulings such as *Omprakash v. State of Rajasthan*,<sup>5</sup> and *Birad Mal Singhvi v. Anand Purohit* <sup>6</sup> have established that in cases where school records are unclear and fail to establish an individual's age definitively, the significance of a medical opinion cannot be disregarded. In the case of *Manaram v. State of Rajasthan* ,<sup>7</sup> the Court relied on the victim's recorded date of birth as stated in the admission form. This reliance was duly supported by the statements provided by associated witnesses, thus providing corroboration. The Rajasthan High Court, in the case of *Jabru Ram v. State of Rajasthan* ,<sup>8</sup> upheld the trial court's determination that the victim was under the age of 18 at the time of the incident and qualified as a child under the provisions of the POSCO Act. The Court noted that the victim indicated her age as being 12 years. If the defense wished to challenge this aspect, it would have been necessary to question the witness during cross-examination to refute her claim. The failure of the security to inquire about this matter with the victim raises a compelling inference that the reason had no intention of challenging the

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<sup>5</sup> *Omprakash v. State of Rajasthan*, 2012 (5) SCC 201.

<sup>6</sup> *Birad Mal Singhvi v. Anand Purohit* AIR 1988 SC 1796

<sup>7</sup> *Manaram v. State of Rajasthan* MANU /RH/0676/2019.

<sup>8</sup> *Jabru Ram v. State of Rajasthan* MANU/RH/1456/2019.

prosecution's assertion that the victim was approximately 12 years old at the time of the incident. Furthermore, it is essential to highlight that the defense did not seek the trial court's intervention in determining the victim's age.

An inquiry that emerges pertains to whether Special Courts established under the POSCO Act must adhere to the procedural guidelines outlined in Section 94 of the Juvenile Justice (JJ) Act, 2015. One could posit that due to the absence of any mention of a "court" in Section 94 of the Juvenile Justice Act of 2015, a Special Court established under the POSCO may not be obligated to follow the age-determination procedure outlined in the Juvenile Justice Act of 2015. Furthermore, Section 34(2) of the ct grants the Special Court the discretion to determine the appropriate method for ascertaining the age of the individual in question. The judgements rendered by the Delhi and Madras High Courts are enlightening. In the case of *State (Government of the National Capital Territory of Delhi) v. Kishan*,<sup>9</sup> the Special Court referred to Section 94 of the Juvenile Justice Act, 2015. The Court determined that the victim was a child based on the records obtained from their initial school attendance. The decision of the Delhi High Court regarding this matter was found to be free from any flaws or weaknesses. In the case of *Tulachha Ram v State of Rajasthan*,<sup>10</sup> the trial court referred to the principles outlined in section 35 of the Evidence Act. It invoked a presumption regarding the authenticity of the official document presented by the prosecution based on the reliance placed on the school certificate. The Honourable High Court noted that the trial court's approach was deemed inappropriate because Section 94 of the JJ Act provides a comprehensive framework for determining the age of a juvenile. The Court rendered the following decision:

According to clause 2 (i) of the 2015 Act, the date of a birth certificate issued by the school holds significant authority in determining the age of a juvenile. However, when considering various pronouncements of the Honourable Supreme Court, including the observations made in the case of *Birad Mal Singhvi v/s Anand Purohit* <sup>11</sup>, it becomes evident that to satisfy the Court regarding the authenticity of the school certificate, the prosecution was obligated to present and substantiate the date of birth of the prosecutrix as recorded in the relevant school during her initial enrollment.

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<sup>9</sup> *State (Government of the National Capital Territory of Delhi) v. Kishan*, 2017 (4) JCC 2291.

<sup>10</sup> *Tulachha Ram v State of Rajasthan* 2019(2)WLN 371(Raj.).

<sup>11</sup> *Birad Mal Singhvi v/s Anand Purohit*, AIR 1988 SC 1796.

This requirement arises because the father of the victim himself provided evasive responses regarding the exact date of birth of the girl as stated in the school certificate. Hence, considering the facts and circumstances of the case, there is no basis to question the credibility of the testimonies provided by the victim (PW 1), her father, Mal Singh (PW 2), and her mother, Santosh Kanwar (PW 4), which assert that the victim was above the age of 18 at the time of the incident. Hence, it can be concluded that the relations in question were consensual. Furthermore, considering that the victim was of legal age (18 years or older) at the time of the incident, it is evident that applying the provisions outlined in the Act was erroneous in this particular case, as discussed in detail above.

Significant rulings from the Delhi and Madras High Courts offer valuable insights into the intricate dynamics of these statutory provisions. In the case of *State (Government of the National Capital Territory of Delhi) v. Kishan* (2017), the Special Court used Section 94 of the Juvenile Justice Act to ascertain the victim's age. The Delhi High Court subsequently affirmed this ruling. In a similar vein, the case of *Rajendran v. State* (Crl. A.No. 483 of 2016) witnessed the Madras High Court invoking Section 94(2) of the Juvenile Justice Act (JJ Act) to ascertain the status of the victim as a minor under the POSCO Act.

The procedural complexities associated with applying Section 94 of the JJ Act may exhibit considerable variation depending on the unique circumstances of each case. Challenges arise from various factors, including the lack of official birth certificates, discrepancies in recognition of educational documents, the restricted utilization of the margin of error in favor of the victim, and deficiencies in the investigative procedures. The task of attaining uniformity and consistency in ascertaining the age of a child victim continues to pose a significant challenge. It is imperative to establish a fair and precise procedure to uphold the principles of justice outlined in the POSCO Act.