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"VIOLENT TRUTH OF CHILD SEXUAL ABUSE"

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ABSTRACT

Child sexual abuse is a major problem since it disrupts a child's entire growth and development and causes mental anguish for life. The number in the rise of cases under the POCSO act and various other laws to protect children from sexual offences is rapidly rising. It is vital to instill excellent values and ethics in all children via their homes, schools, and even college so that when they grow up, they have very little possibility of becoming criminals. Public awareness campaigns concerning this threat will be carried out in order to raise public understanding of sexual abuse. In order for legislation to succeed, state governments must guarantee that all of the conditions outlined in the law are met. The goal will not be reached until and until people's attitudes change. This paper addresses the major problems of child sexual abuse in the light of the various cases and rulings of the court. It also focuses on deep-rooted societal norms and judicial stereotypes.

KEYWORDS: POCSO, CHILD SEXUAL ABUSE, BAIL, RAPE, MINOR

I. INTRODUCTION

Children are said to be in guardianship to their elder and the people of the family or the friends but in the year 2020 cases registered under POCSO Act where the accused was someone known to the victim was 26934 cases, where the accused were the family members, was 2556 cases were accused were family friends,

neighbors, employer or other known persons were 11,272 and the cases were accused were Friends or online friends were 13,106 and just in 1131 cases the offender was unknown or not identified say the recent data of the NCRB.

In the year 2019 148,090 cases were reported against children says the report of NCRB further in the year 2020 the number of cases reported were 128,531. India is a nation of brilliant young minds with 41% of the population below 18 years which amounts to place for more 430 million children. Protecting and nurturing them becomes very crucial as in terms of basic education, sufficient nutrition, and medical care, one out of every two children is disadvantaged, said the report of National Family Health Survey 2005-2006. Even after education is enshrined as a fundamental right by the hon'ble Supreme Court in the matter of *Mohini Jain vs State of Karnataka*¹²⁰⁴ still in India only half of the children in India between the age 6-14 do not attend school. Each child is vulnerable, and they are often easy to get exploited at a very tender age by this evil society.

International treaties such as the Convention on the Rights of children have been incorporated into Indian law, and states are expected to adopt laws that reflect the core of these conventions, as outlined in Part IV's guiding principles of state policy. The constitution of India enshrines several rights which are specially dedicated in order to protect the child and boost their rights.

The findings of countrywide research on child maltreatment, which included 12,500 children from 13 states, were released by the Ministry of Women and Child Development in 2007. Moreover, half of those asked, or 53%, said they had been sexually abused at some point in their lives. One out of every two children have experienced sexual abuse if this is extrapolated. Over 20 percent of persons asked claimed they had suffered significant sorts of sexual abuse.

¹²⁰⁴ Mohini Jain v. State of Karnataka, 1992 AIR 1858.

As time flies the number of cases registered under the POCSO Act is increasing.

II. BACKGROUND

India is home to 17% of the world's population. India is home to 42 % (more than one-third) of the world's children, or almost 19 percent of all children, and around 50% of these youngsters need care and protection. Child Sexual Abuse was not officially recognized as a crime in India until recently. The primary, if not the only, explicit sexual offense against children that Indian law recognized was rape. According to National Crime Records Bureau's (NCRB) Crime in India, 2014, there were 20.1 crimes against children for every 10,000 children (up to 18 years of age). In all, 10,854 instances of child rape were recorded in the nation in 2015, down from 13,766 in 2014, indicating a drop of 26.8% for the year. However, the POCSO Act has seen an upsurge in the number of child sexual abuse complaints. This particular act was formed to prevent sexual harassment, sexual offences, sexual assault, pornography, and immoral acts against children. the particular act is not gender-biased in nature and it also penalizes for the abetment of child abuse. The lack of particular law made it impossible to impose legal consequences on a variety of objectionable behaviors, including harassment, child sexual assault that did not amount to rape, and exploitation of pornography. In order to end "the conspiracy of silence," non-governmental organizations (NGOs) and the Ministry of Women and Child Development of the central government actively worked together. This helped to create significant political and public impetus for action. The media and public conversation on child protection concerns become more activist as a result. The Ministry of Women and Child Development led this initiative, which resulted in the 2012 adoption of the Protection of Children Against Sexual Offenses Act (POCSO Act).

The purpose of POCSO, in combination with the 2006 Prohibition of Child Marriage Act, is to safeguard girls from being coerced into early

marriages. While this is an admirable ideal, cultural and societal traditions in India that encourage early marriages, along with an individual's right to sexual autonomy, may make it difficult to achieve.

In the POCSO act, the definition of **section 7 of the POCSO Act** which deals with the offence of sexual assault against children is as –

Whoever, with sexual intent, touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault.”

The POCSO act provides for the provision of the special courts in which the trial proceedings may be conducted in more sensitive manner with the victim testimony which is given either 'in camera' (i.e., privately or personally), or with video-link, or behind curtains or screens, with an intention of not only to reduce trauma but also to protect the identity of the child. It involves a child-friendly procedure of reporting.

III. JUDICIAL TAKE BEFORE POCSO ACT

The judiciary struggle in its approach in crimes against the children before the POCSO Act was enacted. In 1956, the Orissa High Court increased the sentence of the accused, a schoolteacher who raped a 10-year-old girl on school grounds, acknowledging that the conduct was done by a person in a position of trust or responsibility over the child.¹²⁰⁵ The court in the same matter not only enhanced the sentence to seven years but ordered a payment as compensation to the father of the victim. Further in the matter of *Gurcharan Singh v. State of Haryana*¹²⁰⁶ a girl under the age of 16 was 'forcefully carried by the accused to his fields beyond the hamlet, where he raped her.' The court concluded that the victim's lack of

¹²⁰⁵ Ghanashyam Misra v. The State AIR 1957 Ori 78, 1957 CriLJ 469.

¹²⁰⁶ Gurcharan Singh v. State of Haryana, 1972 AIR 266 .

physical evidence of assault is irrelevant because she was under the age of 16. More crucially, it determined that the victim could not be regarded an accomplice to the crime.

In the case of *State v. Pankaj Choudhary*¹²⁰⁷ the Hon'ble Delhi High Court in 2011 prosecuted the accused only for 'outraging the modesty of a woman' for digital penetration of the anus and vagina of a 5-year-old child since digital penetration was not recognized as an offence under the India Penal Code. The decision was delivered before the enactment of POSCO Act. However, the addition of penetrative assault under the POSCO, 2012 has increased the cover of protection for children.

The still after the efforts of the courts the cruel act didn't stop and the criminal law required major amendments. On 26th March 1972 the Mathura rape¹²⁰⁸ case was registered wherein, a minor tribal girl was allegedly raped by the two policemen in the compartments of the Desai Ganj Police Station, Chandrapur, Maharashtra. This incident led the outrage and protest among the public, which eventually led to The Criminal Law (second amendment) Act of 1983.

The courts also emphasized that in rape cases the minor's discrepancies in the evidence were not relevant and further remarked that corroboration for conviction in rape cases is not necessary.¹²⁰⁹ The court also observed that the conviction of the accused can be solely based on the evidence of the victim if her evidence is worthy of credence. And the discharge of semen inside the vagina is not necessary for proving the offence of rape.¹²¹⁰ It is also important to note that "the character or reputation of the victim has no bearing or relevance either in the matter of adjudging the guilt of the accused or imposing punishment".¹²¹¹ There also guidelines by the apex of the court in the matter of *Delhi Domestic Working Women's*

*Forum v. Union of India and Others*¹²¹² while dealing with the cases related to sexual offences which are as follows :

1. The police should be under a duty to inform the victim of her right to representation before any questions were asked of her.
2. In all rape trials anonymity of the victim must be maintained, as far as necessary.¹²¹³
3. The complainants of sexual assault cases should be provided with adequate legal representation and the legal assistance will have to be provided at the police station.
4. A list of advocates willing to act in these cases should be kept at the police station for victims and the advocate shall be appointed by the court, upon application by the police at the earliest convenient moment.

A sixteen-year-old girl was raped and strangled to death. The accused was found guilty and sentenced to life imprisonment and harsh imprisonment for 7 years by the Sessions Court. On appeal, however, a Division Bench of the Andhra Pradesh High Court acquitted him, noting minor contradictions and anomalies. The state of Andhra Pradesh is contesting the acquittal. This time, the court determined that the acquittal was a mistake and shown a lack of compassion.¹²¹⁴ Here the court held that the court should examine the broader probabilities of a case and not get swayed away by minor contradiction.

Bombay High Court states in its one of the judgments that, "Crimes in which women are victims need to be severely dealt with and in extreme cases such as this where the accused, who is the father of the victim girl has thought it fit to deflower his own daughter of tender years to gratify his lust, then only a deterrent sentence

¹²⁰⁷ State v. Pankaj Choudhary, 2022 SCC Online del 311.

¹²⁰⁸ Tuka Ram and Anr. v. State of Maharashtra 1979 AIR 185.

¹²⁰⁹ Bharwada Bhoginbhai Hirjibhai v. State of Gujarat 1983 AIR 753.

¹²¹⁰ Imratlal v. State of Madhya Pradesh 1987 Cri LJ 557.

¹²¹¹ State Of Haryana vs. Prem Chand And Others 1990 AIR 538.

¹²¹² Delhi Domestic Working Women's Forum v. Union of India and Others, 1995 SCC (1) 14

¹²¹³ State of Kerala v. Rasheed, AIR 2019 SC 721

¹²¹⁴ State of Andhra Pradesh v. Gangula Satya Murthy, 1997 Crl. J 774.

can meet the ends of justice.” Fathers are known to the protector of the daughter but the city of Bombay has recorded a case in the year 1980 wherein a 13 old was raped by her father.¹²¹⁵

IV. JUDICIAL ACTIVISM IN RECENT TIMES

Earlier, child sexual assault was not recognized as a criminal offence in India. The main criminal offence was the rape. In the absence of specific legislation, a range of offensive behaviors such as child sexual assault (not amounting to rape), harassment, and exploitation of pornography were never legally sanctioned, due to not having any legal sanctions the Non-Governmental organizations (NGOs) AND ministry of women and child development were actively engaged to bring legal sanction on this critical issue. This led to increasing activism around child protection issue in media and public discourse. This movement by NGOs etc. led to the enactment of the new legislation specifically dealing with child sexual assault which is the protection of children against sexual offences act 2012 (POCSO ACT).

The hon'ble apex court of the nation in the year 2013 observed in the matter of *Sankar Kisanrao Khade v. the State of Maharashtra*¹²¹⁶ that sexual abuse can be in any manner like sexual molestation or encouragement which includes inducing or forcing a child for the purpose of sexual gratification, sexual assault or deliberately exposing a child to sexual activity for the purpose of commercial exploitation the court further observed that in the majority of incidents of child sexual abuse, the offender was someone they knew or had influence over them.

One of the major developments in the area of law in the cases concerning the child sexual abuse was after the ruling on the writ by a NGO named Sakshi, which works to aid women, especially those who have been the victims of sexual assault, harassment, or violence, with

legal, medical, residential, psychiatric, or other types of support under article 32 of the Indian Constitution by the way of Public Interest Litigation before Hon'ble Supreme Court of India in the year 1997. In the year 2004 a division bench pronounced its judgment in the said matter of *Sakshi v. Union of India*¹²¹⁷ which court laid the following guidelines for the procedure for the trial of child sexual abuse: -

- I. The victim or witness should be protected from the accused's face by some form of arrangement or screen.
- II. The cross-examination questions should first be sent in writing to the court's presiding officer so that they may be presented to the victim or witness in a way that is clear and not humiliating.
- III. The victim should be given appropriate intervals while testifying in court.

The hon'ble court have also recognized the right of the children of the prostitutes and safeguarded them from abuse by issuing guidelines to the state and the central government including several NGO's to take steps to provide care and protection of the children in its judgment of *Gaurav Jain v. Union of India*¹²¹⁸ so that these can be part of mainstream society. The court further directed the Department of Women and Child Development to setup Juvenile Shelter Home to rehabilitate the children and also the government must ensure that the sexually abused children should be provided every assistance for the future which will include education and financial support. Further the Hon'ble Court in the matter of *Vishal Jeet v. Union of India*¹²¹⁹ in the past have emphasized to curb the problem of child sexual abuse and child prostitution the focus should be more on preventive measure rather than punitive measures. The court in the same ruling have directed the state and the central government to issue guideline to the law enforcing

¹²¹⁵ Gorakh Daji Ghande v. The State of Maharashtra 1980 CriLJ 1380.

¹²¹⁶ Sankar Kisanrao Khade v. the State of Maharashtra, (2013)5 SCC 546.

¹²¹⁷ Sakshi v. Union of India, AIR 2004 SC 3566.

¹²¹⁸ Gaurav Jain v. Union of India, AIR 1997 SC 3021.

¹²¹⁹ Vishal Jeet v. Union of India, AIR 1990 SC 1412.

authorities to initiate a speedy and proper step against the cases of child prostitution.

The Hon'ble have also protected the identity of child victims as they should not be unnecessarily a subject to harassment by the authorities and the society. The court in the matter of *Nipun Saxena and Anr. v. the Union of India*¹²²⁰ held that that no person can print or publish the name of the victim or disclose any facts which can lead to victim's identification to the public at large. Further the trial under POCSO will be conducted by the special court which will be child friendly as the intention behind the legislature is to protect the identity and the reputation of the child victim therefore the courts and the authorities must protect them from any embarrassing situation during the investigation or trial or in any further course of action.

V. CAUSES OF CHILD SEXUAL ABUSE

According to the research, some of the factors of Child Sexual Abuse include familial dysfunction and disintegration, gender discrimination, the presence of relatives or friends poverty, new communication technologies, globalization, and a child's lack of confidence and self-esteem. The same factors are broadly caused by the below discussed reasons:

A. Child Pornography

The issue of child pornography is addressed at the international level as a threat to the future of the world and a question of the inculcated rights values of humanity by Optional Protocol on the sale of children, child prostitution, and child pornography in Article 2 which addresses child pornography as child pornography includes the depiction of a child involved in either real or simulated explicit sexual conduct as well as revealing of sexual body parts of a child mainly with sexual motives. Further in 2012, India addressed the horrific issue under the

Protection of Children from Sexual Offences Act, 2012 (POCSO) According to section 2(da) of the POCSO Act, child pornography is any kind of visual display of overt sexual activity that engages a child. Such content may be an image, a video, or any computer-generated picture which cannot easily be differentiated from a real child. It includes all those images which show a child being involved in such activities whether it is created, adapted, or modified.

The use of child pornography in India has increased by 95%, according to research published in April 2020 by the India Child Protection Fund (ICPF). One of the most popular pornographic websites in the world, "Pornhub," is where this information was found. Additionally, a recent report from Childline India Helpline showed that they had received more than 90,000 calls asking how to keep kids safe from harm during the nationwide lockdown. This information makes it quite evident that there was a substantially increased danger of child abuse during this lockdown and that it will likely get worse.

Consensual sexual behavior in child pornography is incredibly uncommon. Therefore, it is highly likely that actual sexual abuse or harassment occurred when creating any photograph, video, or other content depicting sexual activity involving a minor. Furthermore, there is a good chance that such abuse has occurred more than once. More child porn is produced as a result of rising demand, which also leads to a rise in child abuse offenses. Child pornography destroys the mind of the viewers and this becomes an almost incurable disease in society.

In the present era, children are exposed to sexually explicit content at a very young age which molds the mind and their way of thinking. Further, the increasing rate of domestic violence has created a huge negative impact on the mind of children and led them to commit heinous crimes with their friends and

¹²²⁰ Nipun Saxena and Anr. v. the Union of India, AIR 2013 SC 568.

acquaintance. The one evidence of the same is the Boys Locker Room Incident.

1. Boys Locker Room

In May 2020 when the pandemic was at its peak the chats of the Instagram group came into the eyes of the public. Those chats included the obscene picture of the girls which included underage girls, where most of them were underage. These chats also included offensive comments with mentions of gang rape. The Delhi Commission took the suo moto cognizance of the matter and issued the notice to Instagram and the Cyber Cell of the Delhi Police. After which the police registered the complaint and F.I.R. was filed. They even into the custody of one of the accused who was just a fifteen-year-old child. In the further course of action, police identified 27 members as underage.

A person's personal liberty was recognized as one of the crucial aspects of the fundamental right protected under the art. 21 of the Indian Constitution by the celebrated ruling of the Supreme Court in the matter of *K.S. Puttaswamy v. Union of India*.¹²²¹ The case of boys locker room clearly violated the dignity and personal space of the girls and the fact to ponder upon is majority of the accused and the victims are underage.

B. Early Marriages

UNICEF defines child marriage as a legal marriage or informal union before the age of 18. UN Women suggests that child marriage be classified as a forced marriage. They feel that children under the age of 18 are unable to provide legally binding consent Because it can result in a lifetime of suffering for girls who are more likely to endure domestic abuse or die owing to problems in pregnancy and delivery. In India, the problem of child marriages was addressed in the year 1929 by The Child Marriage Restraint Act which is also known as

Sarda Act. The motive behind this law was to restrain the child marriages but the act had many shortcomings so in the year 2006, The Prohibition of Child Marriage Act was enacted to prevent and prohibit child marriages rather than restrain them.

Child marriages are a major problem due to which children are sexual abused under the blanket of marital rape as an exception¹²²². According to research by the International Centre for Research on Women, girls who marry before turning 18 are three times as likely to encounter sexual violence and twice as likely to be threatened, slapped, or physically abused by their spouses. Young brides frequently display signs of sexual assault and PTSD.

The survey of the year 2017 shows that around 11.8 million teenage pregnancies are recorded in India. The National Family Health Survey 4 says that around 7.9% of women aged 15-19 years were already pregnant at the time of the survey. The prevalence of this was almost double in the rural areas of the nation which was 9.7% compared to the 5% in the urban areas. Something which is more alarming is the increasing rate of maternal and infant mortality rate around the nation. At least 42% of teenage females in India have a BMI < 18.5 and are underweight. Pregnancy in such a vulnerable state directly contributes to the cycle of starvation and results in neonatal and newborn fatalities.

C. Child Labour

According to the Census 2011 of the UNICEF data, there are 10.1 million child laborers in India, 5.6 million of them are boys and 4.5 million of whom are girls. Globally, it is estimated that 152 million children, or about one in ten of all children, work as youngsters, including 64 million females and 88 million boys. The physical and emotional health of a kid is harmed by child labor. A kid worker has no rights to freedom, growth, or education. Children who work as laborers do so in

¹²²¹ K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

¹²²² Indian Penal Code 1860, S. 375.

hazardous conditions where deadly accidents are a continual risk.

The Protection of Children Against Sexual Offenses Act (POCSO) was used to register 8,800 occurrences of child rape nationwide in 2015, according to information provided by the National Crime Records Bureau (NCRB). 2,227 incidents, or 25.3%, had co-workers or employers as the perpetrators.

The School is the correct place for the children but due to various socio-economic factors, the concept of child labor is still prevalent in the nation which triggers child trafficking and various forms of sexual abuse.

D. Social Background

Children who are homeless are significantly more liable to have encountered sexual abuse. Some of them are at a very tender age and became victims of sexual abuse. Domestic violence, sexual violence, and other sorts of rational brutality are high among these homeless children. A community based multi-centric qualitative study revealed that sexual abuse of children in India crosses all barriers of socio-economic classes and is widespread among both rural and urban areas and among boys and girls¹²²³. Sexual abuse has been reported by domestic and agricultural labour¹²²⁴. Street children are also quite vulnerable to sexual abuse and exploitation. Their unsafe conditions on the street, increases the instances of pedophilia, and the growing sex market appears to be one of the principal causes of sexual abuse and exploitation of street children¹²²⁵.

VI. COMMISSION FOR PROTECTION OF CHILD RIGHTS

There is a commission that works for the protection and care of children that works

¹²²³ The Velvet Blouse. Sexual exploitation of children. National Commission for Women, Government of India. New Delhi; P. 1-15, 1997.

¹²²⁴ Patel V, Andrew G. Gender, sexual abuse and risk behaviours in adolescents: a cross-sectional survey in schools in Goa. 14 Natl Med J India.263-267, 2001.

¹²²⁵ Naresh Newar, Pedophilia the Silent Sufferers: Molested Children, VOICE OF CHILD WORKERS (1999)

under the aegis of the Ministry of Women and Child Development, Government of India. The major ones are as follows:

A. Children Welfare Scheme

The Government for the Welfare Scheme for the children also constituted the commission and various committees and cells for the development, upliftment, and protection of the children. The major of the two include the National Commission for Protection of Child Rights and the Child Welfare Committee.

B. National Commission for Protection of Child Rights

National Commission for Protection of Child Rights (NCPDR), which is incorporated under the Ministry of Women and child development by the union government, this commission works to regulate all the laws and programs with a child-centric approach. The commission also has the power to take Suo moto cognizance for the violation of child rights.

C. Child Welfare Committee (CWC)

This committee is formed under the woman and child development department. The committee works for the child in need of care and protection. If any child abuse takes place, then the police officer is required to inform the committee within 24 hours. Child welfare committee will then appoint a person who will support the child and will be liable for the psychosocial well-being of the child. The child welfare committee also needs to keep updating the family of the child update about the ongoing case. There is an alternative provision for reporting the case is that the report of the child abuse can be done by dialing the toll-free number 1098.

VII. MARRIAGE AS A CONDITION OF BAIL

It is horrific where the accused under sec. 376-D, 366, 506, 34 IPC was granted bail under the circumstance that the accused should register

himself as a covid warrior.¹²²⁶ It is evident from the rulings of the Hon'ble Supreme Court in the case of *Parvez Noordin Lokhandwalla v. State of Maharashtra*¹²²⁷ and *Munish Bhasin v. State*¹²²⁸ that imposition of condition like community service is impermissible in law.

The Hon'ble Supreme Court in *State of M.P v. Madanla*¹²²⁹ observed that the idea of compromise the case of sexual offence and especially in the form of marriage between the accused and the prosecutrix is abhorrent, and should not be considered a judicial remedy, as it would be antithetical to the woman's honor and dignity.

The Hon'ble High Court of Madras referred the case of rape of minor fit for attempting a compromise between parties¹²³⁰, similarly the High Court of Madras referred to mediation, a case of rape where the prosecutrix was a minor and had become a mother of a child as a consequence of rape, because the accused agreed to marry her.¹²³¹ The Calcutta High Court too granted the bail in the matter of *Sopikul Sk. @Safikul Islam v. State*¹²³² granted the bail as a relief to the accused because prosecutrix had attained majority and the accused intended to marry her.

The Bail conditions must be free from stereotypical or patriarchal notions on women and their place in society and must strictly be in accordance with the requirements of the CrPC.¹²³³

Judicial stereotyping is a major hindrance in the delivery of the justice which effects women's right to a fair trial.¹²³⁴ The court has always ruled that Bail conditions should not mandate, require

or permit contact between the accused and the victim. Such conditions should seek to protect the complainant from any further harassment by the accused.¹²³⁵ While the courts impose the condition for mediation and marriage as a condition of bail for the accused destroy the very motive of the legislation to protect children and women from sexual offences.

VIII. CONCLUSION

The efficacy of any legislation is primarily determined by the people's willingness to take responsibility for its implementation and application. In order for the legislation to succeed, state governments must guarantee that all of the conditions outlined in the law are met, and all essential players must absorb the basic values of child rights. The goal will not be reached until and until people's attitudes change, regardless of how competent, strict, and appropriate the legislation is. Child sexual abuse is a major problem since it disrupts a child's entire growth and development and causes mental anguish for life. Though the POCSO law encourages development to control and combat this threat, any socio-legal problem cannot be solved just by enacting appropriate laws. To address this issue at its base, it is vital to instill excellent values and ethics in all children via their homes, schools, and even college, so that when they grow up, they have very little possibility of becoming criminals. Second, public awareness campaigns concerning this threat will be carried out in order to raise public understanding of sexual abuse. It is also critical that parents and other close family members instill trust in their children when they report such acts and soothe them with much-needed support, care, and love so that they do not acquire sentiments of dread and hatred. Parents must act quickly to prevent this abuse. They must pursue proper legal action against abusers and must not be concerned about what others may think. Parents must realize that if they have friendly

¹²²⁶ Ravi Jatav v. State of M.P (MCRC No. 13734/2020 order dated 19.05.2020 passed by Madhya Pradesh High Court.)

¹²²⁷ Parvez Noordin Lokhandwalla v. State of Maharashtra (2020) 10 SCC 77

¹²²⁸ Munish Bhasin v. State (2009) 4 SCC 45.

¹²²⁹ State of M.P v. Madanla (2015) 7 SCC 681.

¹²³⁰ Mohan v. State (MLP No. 2/2014 in CrI. A No. 402/2014 order dated 18.06.2015).

¹²³¹ Samuvel v. Inspector of Police (CrI. O.P. No. 1881/2015.)

¹²³² Sopikul Sk. @Safikul Islam v. State, CRM No. 2961/2020 Order dated 16.04.2020 of the Calcutta High Court.

¹²³³ Sakshi v. State (2004) 5 SCC 518.

¹²³⁴ State of Punjab v. Gurmit Singh (1996) 2 SCC 384.

¹²³⁵ Aparna Bhat & Ors. v. State of Madhya Pradesh & Anr. (2021) SCC 230.

relationships with their children, they will share everything with them, including incidents like this one. Furthermore, sex education must be imparted to children at all levels, whether at home, school, or college, so that their curiosity about sexual aspects is properly satisfied; otherwise, it has been observed that when proper education about their body parts is not provided, they may resort to dangerous methods of obtaining information. To prevent this. It is critical to provide the sex education at the appropriate time and through the appropriate channel in order to contribute to the development of a better and safer society.

REFERENCES

1. Mohini Jain v. State of Karnataka, 1992 AIR 1858.
2. Ghanashyam Misra v. The State AIR 1957 Ori 78, 1957 CriLJ 469.
3. Gurcharan Singh v. State of Haryana, 1972 AIR 266 .
4. State v. Pankaj Choudhary, 2022 SCC Online del 311.
5. Tuka Ram and Anr. v. State of Maharashtra 1979 AIR 185.
6. Bharwada Bhoginbhai Hirjibhai v. State of Gujarat 1983 AIR 753.
7. Imratlal v. State of Madhya Pradesh 1987 Cri LJ 557.
8. State Of Haryana vs. Prem Chand And Others 1990 AIR 538.
9. Delhi Domestic Working Women's Forum v. Union of India and Others, 1995 SCC (1) 14
10. State of Kerela v. Rasheed, AIR 2019 SC 721
11. State of Andhra Pradesh v. Gangula Satya Murthy, 1997 CrI. J 774.
12. Gorakh Daji Ghande v. The State of Maharashtra 1980 CriLJ 1380.
13. Sankar Kisanrao Khade v. the State of Maharashtra, (2013)5 SCC 546.
14. Sakshi v. Union of India, AIR 2004 SC 3566.
15. Gaurav Jain v. Union of India, AIR 1997 SC 3021.
16. Vishal Jeet v. Union of India, AIR 1990 SC 1412.
17. Nipun Saxena and Anr. v. the Union of India, AIR 2013 SC 568.
18. K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.
19. Indian Penal Code 1860, S. 375.
20. The Velvet Blouse. Sexual exploitation of children. National Commission for Women, Government of India. New Delhi; P. 1-15, 1997.
21. Patel V, Andrew G. Gender, sexual abuse and risk behaviours in adolescents: a cross-sectional survey in schools in Goa. 14 Natl Med J India. 263-267, 2001.
22. Naresh Newar, Pedophilia the Silent Sufferers: Molested Children, VOICE OF CHILD WORKERS (1999)
23. Ravi Jatav v. State of M.P (MCRC No. 13734/2020 order dated 19.05.2020 passed by Madhya Pradesh High Court.)
24. Parvez Noordin Lokhandwalla v. State of Maharashtra (2020) 10 SCC 77
25. Munish Bhasin v. State (2009) 4 SCC 45.
26. State of M.P v. Madanla (2015) 7 SCC 681.
27. Mohan v. State (M.P No. 2/2014 in CrI. A No. 402/2014 order dated 18.06.2015).
28. Samuvel v. Inspector of Police (CrI. O.P. No. 1881/2015.)
29. Sopikul Sk. @Safikul Islam v. State, CRM No. 2961/2020 Order dated 16.04.2020 of the Calcutta High Court.
30. Sakshi v. State (2004) 5 SCC 518.
31. State of Punjab v. Gurmit Singh (1996) 2 SCC 384.
32. Aparna Bhat & Ors. v. State of Madhya Pradesh & Anr. (2021) SCC 230.