

## **A DISCOURSE ON CHILD PORNOGRAPHY WITH SPECIAL REFERENCE TO THE PROTECTION OF CHILD FROM SEXUAL OFFENCES ACT, 2012**

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### **ABSTRACT**

The issue of child pornography represents a grave violation of children's rights and has significant legal, psychological, and societal implications. This discourse explores child pornography through the analysis of the Protection of Children from Sexual Offences (POCSO) Act, 2012, which was enacted in India to combat the sexual exploitation of minors. The Act provides a comprehensive legal framework aimed at addressing various forms of sexual abuse, including child pornography, emphasizing the necessity of protecting vulnerable children from exploitation and harm. The Act defines child pornography and mandates the establishment of a special code for the speedy trial, while facilitating a more child friendly judicial process by ensuring that the cases are handled sensitively and in an expedite manner, in order to mitigate the trauma and victimization experienced by the child victim to ensure their quick recovery.

Along-with POCSO the offense of child pornography is explicitly addressed under the Information Technology (IT) Act, 2000 in India. The act criminalizes publication transmission and storage of such material online empowering law enforcement agencies to take a swift action against the offenders and also provides a mechanism for removal of the child pornographic content from the digital platforms. The law is specifically crucial in today's digital era where the Internet facility is not only widespread but also distributes the exploitative child pornographic content just within a fraction of second to the entire world.

The psychological Impact of child pornography on the children is profound and often lasts long. Hence, POCSO and IT Act together provides the removal of the pornographic content from the public domain, redressal, penal provisions and the rehabilitation of the child victims besides providing them the required psychological support and counselling as an integral component of their recovery to facilitate a holistic approach to healing of such victimised children.

Despite its comprehensive and sound nature, the POCSO Act still faces several challenges such as no-reporting or under-reporting, lack of resources and inadequate training for the law enforcement agencies, which hinders the effective enforcement of the law. Additionally, the nature of technology is to evolve and change rapidly and the intricate nature of the Internet complicates the landscape of child pornography. This necessitates the continuous upgradation and adaptation of new technologies in the legal framework to keep the pace with the new forms of exploitation with the new technologies.

This discourse also touches upon the societal dimensions of child pornography and highlights the importance of public awareness and education. A proactive approach, engaging parents, educators and the general public in the discussion about online safety and the legal ramification of child pornography can significantly contribute to prevent the crime. Sustained efforts in implementation, public awareness, and adaptation to technological advancements are essential to effectively combat this pervasive issue and ensure a safer future for children.

**KEYWORDS:** Child Pornography. the Protection of Children from Sexual Offences (POCSO), 2012, Information Technology Act (IT Act), 2000, Rights of Child, Child Sexual Exploitation and Abuse Material (CSEAM).

## **INTRODUCTION**

Child pornography encompasses any visual representation of sexually explicit conduct involving minors and raises complex legal, psychological, social, and ethical issues. Legally, it is strictly prohibited in most jurisdictions, with definitions varying but generally covering any images or videos depicting minors in sexual acts. International treaties, such as the UN Convention on the Rights of the Child, underscore the imperative to protect children from exploitation. Psychologically, the creation of such material often inflicts severe trauma on victims, resulting in long-lasting effects, while understanding the motivations of perpetrators can inform prevention efforts. Socially, cultural perceptions influence legal responses and societal attitudes toward both victims and offenders, highlighting the importance of education in mitigating harm. Ethically, the discourse centres on upholding children's rights and dignity against exploitation, while navigating the tension between freedom of expression and the necessity of protecting vulnerable populations. Moreover, the challenges posed by the digital age—where the internet facilitates the production and distribution of such material—require ongoing attention in enforcement and prevention strategies. These theoretical perspectives

collectively contribute to a comprehensive understanding of child pornography and guide policies aimed at safeguarding children.

Protection of children from sexual offences act of 2012 (hereinafter referred as POCSO), as the name suggests was enacted by the Parliament to address the requirement for a comprehensive law to protect children from sexual abuse and exploitation. Sexual exploitation of children is a deep rooted and pervasive issue prevalent in the society's worldwide and a serious concern for India as well. Prior to 2012 India lagged any specific legislation for delay with sexual offences against children, although, the provisions related to sexual offences existed in the Indian Penal Code, 1860, they were not adequate to address the specific means of the children and their unique vulnerabilities. Under the Indian Penal Code there was no distinction between a child victim and an adult as far as the offences and their punishment was concerned and also there was no cognizance given to the specific sociological and developmental needs of the child victims. To add on to the plight of the child victims the procedural laws were also not child friendly and often resulted in further traumatization and victimization of the children during the legal process. It was the increase in the incidence of child sexual abuse in India that a need was felt for a specific law and finally the POCSO was enacted to fill in the gaps and to provide a mechanism, robust and comprehensive in nature to safeguard the children from sexual crimes and protect them from offences of pornography, sexual assault and sexual harassment etc.

From the very beginning the statements of object for the enactment of POCSO makes it clear that the legislation was enacted so that the children are adequately protected and the convicts are adequately penalized. For that the Act establishes the special courts for trial of such offences, the matters connected and incidental, thereto. It further states that the act is a 'self-contained comprehensive legislation' and enforces the right of all children to security and protection from all kind of sexual abuses and exploitations through commensurate penalties to create an effective deterrence for such offences and pornography. The Act is in complete harmony with Article 15 and 39 of the constitution and the United Nations Convention on the Right of the Children<sup>1</sup> and other international initiatives<sup>2</sup> against child pornography.

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<sup>1</sup> United Nations General Assembly Resolution 44/25, 20 November 1989. The Convention was adopted by the UN General Assembly and outlines the civil, political, economic, social, health, and cultural rights of children.

<sup>2</sup> Vienna Conference on Combating Child Pornography on The Internet (1999); International Labour Organisation Convention on the Worst forms of Child Labour (2000); Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2001) etc.

## **CHILD PORNOGRAPHY AND PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT OF 2012**

Article 15 of the Constitution confers upon the State inter alia a power to make special provisions for children and Article 39 further provides that the State shall in particular direct its policies to secure that the tender age of the children is not abused and the children have their childhood protected against the exploitation and it is the responsibility of the state to give them facilities to develop in a healthy manner and in conditions which are free and full of dignity<sup>3</sup>. Along with the Constitution of India, the United Nations Convention on Rights of Children<sup>4</sup> which is also ratified by India in 1992 creates an obligation on to the state parties to undertake all the appropriate measures to prevent or induction of any child for engagement in any unlawful activity the exploitation of children through prostitution or any other unlawful sexual practice and exploitation of children in pornographic performances and materials.

The number<sup>5</sup> of crimes against children are increasing, including the offence of child pornography, which are not adequately penalized. Hence POCSO proposed to provide for protection of children from all such offences while safeguarding the interest and well-being of the child at every stage of judicial process by incorporating a child-friendly procedures for not only reporting but also recording of the evidence investigation, trial of the offences and the provisions for establishment of the special codes for the speedy trial of these offences. The preamble of the act also reiterates the same legislative intent and retains the well-being of the children as the utmost priority while safeguarding and protecting the children from sexual offences as the sole and specific objective.

Section 2(1) sub-clause (d) of the POCSO defines the term “child” to mean any person below the age of 18 years and the definition of child used under the act is an agender definition

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<sup>3</sup> Article 15 more particularly sub-article (3) read with Article 39(f) of the Constitution i) enables the State to make special provisions for children.

<sup>4</sup> *Supra* Note 1.

<sup>5</sup> The data collected by the National Crime Records Bureau shows that there has been increase in cases of sexual offences against children. This is corroborated by the ‘study on child abuse: India 2007’ conducted by the Ministry of Women and Child Department.

including both gender neutral and gender fluid people below the age of 18 years<sup>6</sup>. Child pornography is defined to mean and include visual depictions of a child involved in any kind of sexually explicit conduct including photographs, video, image generated digitally or by computer which is indistinguishable from the actual chat that is any self-generated image of an actual child or any other image that has been created adapted or modified and appears to depict a child<sup>7</sup>.

Section 15 of the POCSO makes the storage and possession of any kind of pornographic material involving a child a punishable offence and describes the punishment for it. Section 15 provides that any person who possesses or stores pornographic material involving a child and fails to delete destroy or report the same to the appropriate authority will be considered to have an intention to share or transmit child pornography and will be liable to the fine<sup>8</sup>. The Section further provides for punishment if any person stores or possesses any kind of pornographic material involving a child for the purpose of transmitting, propagating or displaying or distributing in any manner<sup>9</sup>. Further, there is a provision to penalise any person storing or possessing any kind of pornographic material involving the child for commercial purpose<sup>10</sup>. Although Section 15 has undergone a significant change in the year 2019.

Section 19 read with Section 20 and 21 of POCSO recognises the collective responsibility and accountability of the society and community in curtailing the issues of exploitation and abuse of children including the instance of child pornography. Section 30 of the act for the provides for the presumption of the culpable mental state of the offender and provides that in case any offence under the act requires a culpable mental state of the accused the existence of the same shall be presumed by the special code and it will be open for the accused to rebut it.

With time it was realized that despite the enactment of a stringent legislation like POCSO there was a steep increase in the number of cases pertaining to the child's sexual abuse<sup>11</sup>. Some of the provisions of the legislation were failed to prove effect while addressing certain forms of

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<sup>6</sup>Section 2. Definitions. – (1) In this Act, unless the context otherwise requires, – (d) “child” means any person below the age of eighteen years;”

<sup>7</sup>Section 2(1)(da)

<sup>8</sup>Section 15 (1)

<sup>9</sup>Section 15 (2)

<sup>10</sup>Section 15 (3)

<sup>11</sup> The report of the National Crime Records Bureau for the year 2022 indicate increase in the number of cases registered under the POCSO Act.

sexual degradation, abuse and exploitation of the children in India and hence the Protection of Children from Sexual Offences (Amendment) Act, 2019 was enacted. The reason of the amendment was to provide a comprehensive and more effective protection to the children from sexual offences and for that a provision for establishment of special code for trial of such offences was incorporated along with a more progressive gender-neutral approach which was adopted in the amendment while reiterating the fact that the sole object of the legislation is to create a mechanism to ensure the best interest and welfare of the child. The lawmakers took the cognizance of the opinion of the honourable Supreme Court that as a community, it is the responsibility of State, judiciary and everyone else to create a community free from exploitation and for that if stringent actions are required, law must not shy away from it<sup>12</sup>.

And accordingly in 2019 certain amendments were brought in the POCSO Act, which inter alia included insertion of Section 2 (da) which defines child pornography as any visual depiction of sexually explicit conduct involving a child which includes a photograph, video digital or computer-generated image that is indistinguishable from an actual child. In addition to this if an image is created, adapted modified in order to depict a child it would also be treated as child pornography and this would include animated pictures and cartoons etc. also. An amendment was also made in Section 15 whereby the three distinct offences were made punishable in a distinct way, reflecting a zero-tolerance attitude towards child pornography.

Along with this a new offence is added in Bhartiya Nyaya Samhita, 2023 Under Section 95 which makes employing hiring or engaging a child to commit an offence, a crime. The Section clearly establishes that it includes hiring, employing, engaging or using the child for sexual exploitation or pornography.

### **JUDICIAL CONSTRUAL OF POCSO IN CONTEXT OF CHILD PORNOGRAPHY**

In the case of Independent Thought<sup>13</sup> the court held that preamble of POCSO asserts that the Act is to be interpreted in such a manner that it would be in the best interest of the child of holding his well-being. The court reiterated that the objective of the act is to ensure that all the matters of sexual exploitation and abuse of the children are addressed effectively while inducing a healthy emotional, physical, intellectual and social development of every child.

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<sup>12</sup> Machhi Singh v. State of Punjab, 1983 (3) SCC 470, Devender Pal Singh vs. State (NCT of Delhi), AIR 2002 SC 1661

<sup>13</sup> Independent Thought v. Union of India & Anr. reported in 2017 INSC 1030



Similarly in the case of Attorney General for India v. Satish<sup>14</sup> While examining the legislative scheme of the act the court said that the provisions of POCSO must be construed vis-a-vis the other provisions of the Act and with reference to the background with which the legislation was enacted so that everybody understands the context and make the act and its provisions more impactful meaningful and effective. The court emphasized That the impact of exploitation and sexual assault on a child should never be ignored and it is the responsibility of the codes to avoid any narrow or pedantic interpretation that might defeat the purpose of the statute. The code further said that in case the intention of the legislation cannot be given effect to or cannot be realized it is the responsibility of the code to give a meaningful construction of the statute and adopt an interpretation for a more effective result using the rule of construction contained in the maxim of *Ut Res Magis Valeat Quam Pereat*.e. the construction of a rule should give effect to the ruling rather than destroying it.

In a progressive discussion in the case of Attorney General of India<sup>15</sup> the court further observed that the nuanced provisions of the act are designed with a specific need to protect the autonomy and dignity of the children and the sole object is to criminalize only those act and behaviour which have the propensity to bring discomfort demean or harassment to the children and hence it is the duty of the court to ensure that the provision of the act are interpreted in such a manner that they do not undermine its purpose and also uphold the pressing needs of the time<sup>16</sup>.

The court took a very stringent opinion in the case of Nawabuddin v. State of Uttarakhand<sup>17</sup> wherein, it was held that any act of exploitation, sexual assault or harassment of a child must be dealt with in a stringent manner leaving no leniency so that the objective of the law can be achieved by awarding a befitting punishment commensurating with the Act and conveying a loud message to the society at large that if anybody commits any offence under the POCSO Act and uses any child for pornographic purposes, the perpetrators will be punished to suitably and strictly without any leniency.

Kamlesh Vaswani v. Union of India &Ors.<sup>18</sup>, is the case where the central Government was directed to regulate and penalise the websites or advertisements etc. using sexually explicit

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<sup>14</sup> 2021 INSC 762

<sup>15</sup> *Ibid.*

<sup>16</sup> Eera through Dr. Manjula Krippendorf v. State (Govt. of NCT of Delhi) & Anr., 2017 INSC 658

<sup>17</sup> 2022 INSC 162

<sup>18</sup> 2008 (4) CTC 583

content using or depicting child and other child pornographic contents. Similarly, in *Re: Prajwala*<sup>19</sup> the court insisted upon creating a cyber crime recording portal to further expedite the reporting of the instances of child pornography.

### **CHILD PORNOGRAPHY AND THE INFORMATION TECHNOLOGY ACT, 2000**

The legal framework to combat child pornography is incomplete without referring to the Information Technology Act, 2000 (hereinafter referred as the IT Act). The Act contains several provisions like Section 67, 67A and 67B respectively to penalize the use, transmission and publication of any obscene material including child pornography.

IT Act under Section 67 criminalizes the publication or transmission of “obscene material” in any electronic form and constitutes an offence, while Section 67A of the act talks about aggravated offences and prescribes and enhance punishment for the same. The Section amplifies the scope of obscene material and stipulates that any obscene material containing or depicting any kind of sexually explicit act or conduct if published or transmitted shall be punished under the said provision. The Act under Section 67B deals with the child pornographic materials specifically providing for a more severe form of offence. It brings within its ambit all the obscene materials that depict a child in a sexually explicit act or conduct in electronic form. For the purpose of all these provisions children are the people below the age of 18 years.

The question about the applicability of POCSO and IT Act was discussed in the case of *Sharat Babu Digumartiv. Govt. of NCT of Delhi*<sup>20</sup>, wherein the court said that it act is a specific provision which deals with electronic offences and hence shall prevail over other penal enactments. Nonetheless there are many cases in which the accused were charged with the offences under the both legislations<sup>21</sup>.

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<sup>19</sup>Sou Motu Writ (Crl.) No(s).3/2015, In *Re: Prajwala* Letter Dated 18.2.2015, Videos of Sexual Violence and Recommendations.

<sup>20</sup>Criminal Appeal No. 1222 of 2016

<sup>21</sup>*Kaliswari v. Secretary of Government* 2016 SCC OnLine Mad 13929, *Aiswarya v. Inspector of Police* 2014 SCC OnLine Ker 1610.



## **SCOPE OF SECTION 15 OF POCSO, 2012 AND SECTION 67B OF IT ACT, 2000**

In the case of child pornography, it is important to understand the comprehensive effect of Section 15 of the POCSO and Section 67B of the IT Act. The scope of both the provisions can be understood with the help of the judicial interpretation in various cases.

In *Nupur Ghatge v. State of Madhya Pradesh*<sup>22</sup>, the accused was alleged for uploading child pornographic videos and photographs on his social media account and a case was registered against him under Section 67B of the IT Act. The Gwalior bench of MP High Court. said that Section 67B provides punishment for various forms of ads, including watching and transmitting any child pornographic material in the electronic form and any defense of the accused as to the absence of the involvement in transmission or sharing of such material or the mental state of the accused cannot be looked into at the stage of quashing under Section 482<sup>23</sup> of the CRPC. The 'WhatsApp' chat box of the accused was filled with the pornographic content.

*P.G. Sam Infant Jones v. State represented by Inspector of Police*<sup>24</sup>, as the case where the accused was alleged to have searched, browsed, downloaded and transmitted the child pornographic materials through his face-book social media accounts and email ids and accordingly a case was registered against him for the offences under Section 15(1) of POCSO and Section 67B of the IT Act. And the court observed that viewing pornography in private space or domain may not be an offence and may fall within the purview of an individual's right to expression and privacy but child pornography strictly falls out of the ambit of these individual rights and clearly stands on a different footing. The court further held that Section 67B penalizes all the acts pertaining to child pornography, which includes the act of viewing such material.

In *Ajin Surendran v. State of Kerala & Anr.*<sup>25</sup> Where child pornographic videos were found in the mobile phone of the accused the high court of Kerala observed that POCSO under Section 15 was to be applied when any person stores or possesses pornographic material of any kind or

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<sup>22</sup> MCRC No. 52596 of 2020

<sup>23</sup> Section 482 of the Code of Criminal Procedure (CrPC) in India provides the High Courts with the inherent power to prevent the abuse of the process of any court or to secure the ends of justice. This section allows the High Court to quash proceedings, whether they are at the stage of investigation or trial, if they find that the continuation of those proceedings would lead to injustice. The quashing of proceedings under Section 482 of the Code of Criminal Procedure (CrPC) is now covered under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS).

<sup>24</sup> 2021 SCC OnLine Mad 2241

<sup>25</sup> 2022 KER 7207

in any form involving a child with an intention to share or transmit it. The court further said that on the other hand Section 67B of the IT Act gets attracted when a person downloads or browsers any such material in any electronic form. It was held that because the videos were found stored in the accused mobile phone prima-facie, both the provisions stated above, can be used in the given case

whereas Section 67B of the IT Act gets attracted when a person browses or downloads any such material in any electronic form. Accordingly, it held that in view of the videos that were found stored in the accused's mobile phone, prima-facie both of the aforesaid provisions are said to be squarely attracted, and thus the power under Section 482 cannot be invoked for quashing the criminal proceedings. The relevant observations read as under: -

In *Manuel Benny v. State of Kerala*<sup>26</sup>, where the accused downloaded and then stored the pornographic videos, depicting children in a sexually explicit manner, in his mobile phone from an app 'Telegram' for his private viewing, A case was registered against him under Section 15 of POCSO and Section 67B of the IT Act. However later the charges under Section 15 of the POCSO were dropped and the charge sheet for the offences under Section 67 B of the IT Act were filed. As there was no enough material to show that the pornographic material in question was downloaded or browsed by the accused voluntarily the court quashed the criminal proceedings stating that The only allegations against the petitioner was that he downloaded and enjoyed the material depicting children in an indecent, obscene and sexually explicit manner from Telegram but in order to attract the offence under Section 67B of the IT Act, such videos or materials must be downloaded voluntarily, into any device, so that an intention can be established on the part of the offender that he intended to download the material in order to view it. As the app allowed automatic downloading of the content in the mobile phone, intention could not be substantially established, resulting into quashing of the judgement of the lower court.

In *Lakshya v. State of Maharashtra & Anr.*<sup>27</sup>, the case was filed under Section(s) 15(1), (2) and (3) of the POCSO along with Section 67B of the IT Act. The accused allegedly stored a child pornographic video in his mobile and later on viewed it to enjoy it; he also subsequently showed it to a few of his friends, who were made co-accused in the case. The high court said

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<sup>26</sup> 2022 KER 9730

<sup>27</sup> Criminal Writ Petition No. 479 of 2022

that only because the accused was not the creator of the pornographic material it would be wrong to say that he did not commit any offence. The code further held that the act of the accused to store it and then forward it reflects his failure to delete the same or report it and hence falls within the ambit of Section 15(1) and (2) of the POCSO and Section 67B of the IT Act. However, the high court chose not to dwell into Section 15 (3) of POCSO as the primary case was already established and the accused was charged therein with other charges under the Act.

In *Shantheeshlal T. v. State of Kerala*<sup>28</sup>, a charge sheet was submitted against the accused under Section(s) 15(1) of the POCSO and 67B of the IT Act. Pornographic videos involving children were recovered from the device of the accused and it was held that in order to attract the provisions of Section 15(1) of POCSO, there must be firstly; a storage or possession of child pornographic material and secondly; such material should have been shown for shared or transmitted by the person and hence a mere act of possession is not enough to establish the offence under Section 15(1).

It was also observed that for the purpose of Section 67B of the IT Act there are certain elements which are to be established. There must be material to show that the person intentionally either browsed, downloaded, published, transmitted or created any material in the electronic form which depicted a child in a sexually explicit act or conduct. In absence of any such material to reflect a specific intention on the part of the accused to share or transmit any pornographic material found, no offence under Section 67B of the act can be established. Accidental downloads or auto generated downloads of any material will not fall within the purview of the set provision.

However, in the matter of *Just Rights for Children Alliance & Anr. v. S. Harish & Ors*<sup>29</sup>, supreme court talked about the concept of 'Constructive possession' and asserted that it goes beyond the traditional understanding of possession and includes excess and control over child sexual exploitation material irrespective of the fact, whether it is stored or downloaded. It is the ability of an individual to alter, manipulate or delete such material and hence even if the content was accessed only temporarily the act satisfies the requirement of possession under Section 15 POCSO Act. The court further held that the concept of possession extends beyond

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<sup>28</sup> 2024 KER 35968

<sup>29</sup> 2024 INSC 716, CRIMINAL APPEAL NOS. 2161-2162 OF 2024

merely holding the material in physical sense and hence constructive possession can be established even in the cases where a person has a control or access to such material even though it was stored digitally or on a device not directly in their hands.

In *Inayathulla N. v. State*<sup>30</sup>, wherein the accused was found browsing a website and viewing some pornographic material involving a child, a case was registered against him under Section 67B of the IT Act. The court said that the essence of the said law lies in the act of publication or transmission of any such material depicting a child in any sexually explicit conduct. Mere browsing or watching such material would not attract the aforesaid provision.

It appears that there is divergence in the opinions expressed by different high codes in India when it comes to the establishment of ingredients necessary to constitute an offence under Section 15 of the POCSO and Section 67B of the IT Act.

While Kerala High Court asserts that mere possession or viewing of the pornographic material involving the child should not constitute an offence under Section 15 of POCSO and criminalizes only the actual act of transmission or sharing of the same. The Bombay High Court appears to have different view and penalizes the storage of child pornographic material and resultant failure to delete or report the same under Section 15 (1) and storage and consequent transmission of child pornographic material under Section 15(2) of the Act. Similarly with respect of Section 67B of the IT Act, both the High Courts have held that it is the intentional browsing or transmission of child pornographic material that criminalizes an act and not only the possession of any such material

Recently, the honourable supreme court in the case of *Just Rights for Children Alliance & Anr. v. S. Harish & Ors*<sup>31</sup> discussed the offence of child pornography in detail and some remarkable suggestions were given to the government and court. The court urged that the parliament should seriously consider to bring amendments in POCSO for substituting the term 'child pornography' with a more accurate term of 'Child Sexual Exploitation and Abuse Material' (CSEAM) And requested the codes to put a notice that the term of child pornography should not be used in any judicial order or judgment and urged to use CSEAM, instead.

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<sup>30</sup> 2024 KHC 26513

<sup>31</sup> *Supra* Note 29.

The court further asserted that a comprehensive sex education program must be implemented, including the information about the legal and ethical ramification of the act of child pornography, so that the potential offenders can be deterred, effectively. Through these programs young people can be made to understand the impact of exploitation, importance of consent and the misconceptions also can be cleared.

The code further endorsed the idea of providing support system to the victims and the rehabilitation programs for the offenders which might include psychological counselling educational support and therapeutic intervention to address the underlying causes and issues and finally promote healthy development of children and the society, as a whole. Cognitive behavioural therapy (CBT) can be an effective way to address the cognitive distortion which triggers such behaviour and can be used to develop empathy towards the victim.

The court also emphasized upon the need of raising the awareness about the child sexual exploitative material and its consequence through public campaigns through which destigmatization of reporting can be done, encouraging community vigilance. It is equally important to identify at early stage the “at-risk individuals” so that intervention strategies for youth with problematic sexual behaviours (PSB) can be involved at an early stage with the collective efforts of the various stakeholders including educators, law enforcement agencies, child welfare services and the health care providers etc.

The court highlighted the role of the school in early identification of PSB and their role in early intervention, for which school-based programs can be implemented to teach and educate the students about consent appropriate behaviours and healthy relationships. The code further suggested that for the effective implementation of these suggestions the government may constitute an expert committee to devise a comprehensive program for health and sex education in order to raise awareness about POCSO Act among the children, across the country at a very early age, for ensuring a robust and well-informed approach towards protection of children and their sexual well-being. It was also suggested that parliament must consider bringing an amendment in Section 15(1) of POCSO, so that it is designed in a more convenient manner for the general public to report through online portals about the instances of storage or possession of CSEAM, to the competent authorities and a timely intervention can be ensured<sup>32</sup>.

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<sup>32</sup>*Ibid.*

## **CONCLUSION**

It is pertinent to note that the Protection of Children from Sexual Offences (POCSO) Act, 2012, and the Information Technology (IT) Act, 2000, along with the mandate of social justice as laid down in the Constitution of India and many other international initiatives, collectively aim to combat child pornography and to safeguard the children from sexual exploitation. The law recognizes all the unique vulnerabilities in the children and accordingly mandates to create an effective and expedite justice delivery mechanism to reduce the long-lasting psychological impact of the abuse on the children and to deter the perpetrators from getting involved into the crime of child pornography. The IT Act complements POCSO by addressing the digital aspects of child pornography, particularly in an age where the internet plays a significant role in the proliferation of such material. This synergy between both these legislations creates a crucial multifaceted approach to tackle child pornography. Furthermore, judiciary has outrightly exhibited a sensitive yet stern approach towards the crime of child pornography and has time and again emphasized upon creating a comprehensive approach involving all the stakeholders to create a conducive environment for children.

However, challenges still remain in the enforcement of these laws along with the issues of non-reporting of the incidents, lack of the resources for law enforcement agencies and the requirement for better technological tools to track and remove online child pornographic content in a quick and complete manner, leaving no traces behind. A concerted effort from the government along with the law enforcement agencies, non-governmental organizations, the community and most importantly the parents is very essential to create a safer environment for children in and outside their homes where their rights are upheld and their dignity is protected against the pervasive threat of child pornography. Only through sustained collaboration and vigilance can society hope to eradicate child pornography and foster a culture of respect and protection for its most vulnerable members.

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