



Achieve Perfection by unattached action

Report on

**ONE DAY WORKSHOP ON
SENSITIZATION OF STAKEHOLDERS
DEALING WITH POCSO ACT CASES**

Held on 08 February 2020

Organised by: Rajasthan State Judicial Academy, Jodhpur

Report prepared by: Shubham Shandilya (Research Scholar, Rajasthan State Judicial Academy, Jodhpur)

© By The Rajasthan State Judicial Academy, Jodhpur (Rajasthan)

All rights reserved

No part of this publication may be produced in any form electronic or mechanical or otherwise without the written permission of the publisher. The below publication is only meant to further academic understanding and is not to be construed as legal advice. Reader discretion is advised.

Alice Miller, a Swiss psychologist, speaking about child abuse has said:

“Child abuse damages a person for life and that damage is in no way diminished by the ignorance of the perpetrator. It is only with the uncovering of the complete truth as it affects all those involved that a genuinely viable solution can be found to the dangers of child abuse.”

Alakh Alok Srivastava v. Union of India and Ors. (2018) 7 SCALE 88

- Objective of Rajasthan State Judicial Academy is to educate and sensitize its officers and other stake holders about the latest laws and procedure to achieve the constitutional mandate of securing the “Rule of Law”. Keeping up with the constitutional mandate in mind, the Rajasthan State Judicial Academy is regularly organizing various training programmes, refresher courses, seminars, judicial colloquiums, conferences and workshops for Judicial Officers and other stakeholders.
 - In furtherance of the above, a ***One day workshop on sensitization of stakeholders dealing with POCSO Act Cases*** was organized on 08 February 2020 in which a total of 45 Judicial Officers, 53 Prosecution Officers and 24 Police Officials of POCSO and Special Courts and Officers dealing with The Protection of Children from Sexual Offences (“POCSO”) Act, 2012 matters in the State of Rajasthan participated.
 - The workshop concluded in 4 (Four) independent sessions:
 - **Session I**
POCSO Adjudication: Challenges and Solutions
 - **Session II**
Recording and Appreciation of (Medical, Forensic and Cyber) Evidences in POCSO Cases & Presumption and Burden of Proof under POCSO Act
 - **Session III**
Medical Examination of Victims and Accused:
 - *Age Determination*
 - *Forensic Evidence*
 - *DNA Profiling*
 - **Session IV (was divided into two parts)**
Part I: *Child Sexual Abuse: Understanding Behavioral and Psychological Impairments in Victims; and*
Part II: *Rehabilitation and Compensation for Child Victims of Sexual Offences*
 - The Resource Persons for the workshop were:
 1. Hon’ble Mr. Justice Sandeep Mehta (Judge, Rajasthan High Court and Chairman, RSJA)
 2. Sh. Farzand Ali (AAG, RHC, Jodhpur)
 3. Sh. Dinesh Kumar Gupta (Judge, Special Court, POCSO Cases, Sawai Madhopur)
 4. Sh. Dinesh Kumar Tyagi (Special Judge No. 2, POCSO Cases Court, Udaipur)
 5. Dr. V.N. Mathur (Former Director, FSL)
 6. Dr. P.C. Vyas (Senior Professor, Forensic Medicine, MGH, Jodhpur)
 7. Dr. Binaca Gandhi (Assistant Professor, MGH, Jodhpur)
 8. Dr. Abhishek Sharma (Assistant Professor, Sardar Patel Police University, Jodhpur)
 9. Sh. Govind Beniwal (Member, High Level Committee on JJ Act and Former Member, State Child Right Protection Commission)
 - The workshop was inaugurated at 10:00 A.M. on February 08, 2020 by Hon’ble Mr. Justice Sandeep Mehta (Judge, Rajasthan High Court & Chairman, Rajasthan State Judicial Academy), Sh. Farzand Ali (AAG, RHC, Jodhpur), Sh. Hari Om Sharma Attri (Director, Rajasthan State Judicial Academy) and other officers of the Academy by lighting the lamp.
 - Welcome address was given by the Director (Rajasthan State Judicial Academy) wherein the Hon’ble Director emphasized on the fact that crimes committed under POCSO Act are different than other crimes. Where the other forms of crimes affect only the present of the society; the crimes under POCSO impact the future of the society. It is thus necessary to sensitize oneself regarding the gravity of such offences and set correct the priorities for the prevention of injustice in such cases. The Director stated that the purpose of such a workshop was to have uniformity in the application of Rule of Law across the State of Rajasthan.
 - Issues that were being faced by the Courts dealing with POCSO matters were received in advance by the Academy and the same were deliberated upon during the course of the workshop. The workshop subsequently began with the deliberations by the Hon’ble Resource Persons.
-

Session I by Hon'ble Mr. Justice Sandeep Mehta (Judge, Rajasthan High Court & Chairman, RSJA) and Sh. Farzand Ali (AAG, RHC, Jodhpur)

POCSO Adjudication: Challenges and Solutions

- The Hon'ble Chairman (Rajasthan State Judicial Academy) started off the deliberation by stating how the very notion of a sexual offence which was earlier restricted to Section 376, 377 of IPC has undergone vast change.
- This Act has brought to fore the trauma which a child may suffer. The most important thing which this Act has done is making the offence of sexual offence a gender neutral one. This has shattered the earlier notion that sexual offences were primarily concerned with females only.
- However, what still needs attention is the fact that even after such a legislative reform, only a miniscule proportion of cases involving boys have been reported. The reporting rate of male child sexual abuse is abysmally low and hardly there are any such cases brought before the Courts.
- Offences committed under the POCSO Act, constitute a very serious offence which takes place in the society, where the victim is traumatized even without realizing that (s)he has recourse of law via this Act to punish the offender.
- The primary reasons for non-reporting of such matters are:
 1. Offender is a known family member; and
 2. The offender may be a person in authority e.g. a teacher
- The Hon'ble Chairman (Rajasthan State Judicial Academy) stated that all the relevant stakeholders need to be aggressively sensitized regarding such matters and awareness sessions should be held regarding child sexual abuse.
- It is a well-known adage that “*a stitch in time saves nine*”. The Hon'ble Chairman (Rajasthan State Judicial Academy) stated that most of the problems faced by the POCSO Courts are common but what is needed most currently is an innovative result oriented approach by the officials tasked with such responsibility.
- There are currently 54 Special Courts that are functional in the State of Rajasthan and the biggest advantage that they have while dealing with such cases is that these cases are limited in number and pertain to a single piece of legislation.
- The Hon'ble Chairman (Rajasthan State Judicial Academy) went on to further highlight some of the common issues faced by the Courts while dealing with POCSO Act cases, these included:
 1. *Inadequate Infrastructure*
 2. *Sex a taboo subject*: It was stated that even in foreign nations such sexual assaults within the precincts of the family and educational institutions are more often than not reported. It was suggested that such Courts must take the help of Rajasthan Legal Services Authority and District Legal Services Authority to sensitize and raise awareness on such issues.
 3. *Mental Trauma*: It was suggested that a victim of sexual abuse carries a mental trauma for his/her entire life if the same is not addressed and resolved. The Courts must take the help of a child psychologist or any teacher from the vicinity who has the reputation of engaging well with kids to make them comfortable so that one can address such issues and resolve it at the earliest.
 4. *Repetition of Narration*: The Prosecution must not engage in aggressively questioning the child. There is already an initiative in different districts to make a child friendly room inside the Court premises. The Prosecution Officers must further be trained on the mannerisms of how to talk to a child.
 5. *Cross examination intimidating, aggressive and at times insulting*: The Prosecution must never subject the child to aggressive and confusing questioning.
 6. Court should take active interest in the recording of evidence
 7. *Pressure from family, society, if the accused is known*: It is a burden cast on the Investigating Agency as to how to keep away that pressure.
 8. Further, the Courts must be very conscious in *balancing the Rights of the Accused v. the Rights of the Victims*.
- The discussion then moved on to how this Act has brought about a sudden change in the thinking of the society. The notions pertaining to “Age of Consent” were discussed with the audience. In the case of **Vishal Gund v. State of Rajasthan (2014) 2 RLW(Raj) 1019**, the Hon'ble High Court of Rajasthan dealt with issues of conviction and sentence for the offence of kidnap and rape. In this particular case, the Prosecutrix compelled the accused to marry her and took with her some money, ornaments and copy of ration card to convince the accused that she was of 18 years of age. The Hon'ble High Court held that there was no mensrea in the action of the accused of going away with the prosecutrix, marrying her and having physical relations. Further, the

relations between the prosecutrix and the accused appellant were consensual and resultantly, his conviction for the offence of kidnapping and rape was set aside.

- Further, in **Vishal Gund v. State of Rajasthan (2014) 2 RLW(Raj) 1019** as the prosecutrix had studied only upto the eighth standard there was no question of the matriculation certificate being available. Thus, it was essential for the prosecution to lead evidence as per Section 35 of the Evidence Act to prove the age of the girl. This was all the more essential because the school leaving certificate, which the prosecution chose to rely upon was issued by a private school and thus it was not even a public document, which could be admitted under Section 74 of the Evidence Act. In this case, neither the original scholar register nor the admission form on the strength whereof the prosecutrix was first admitted in the school were proved on record by the prosecution which was essential to establish that the victim in this particular case was below 16 years of age.
- With regards to the issue of presumption under POCSO Act cases, the Hon'ble Resource Person stated that the POCSO Act can't be construed in isolation and the Indian Evidence Act should also be taken into account. Presumption is something that is always rebuttable. It is a well-known latin proverb that *generalia specialibus non derogant* which is basically that courts prefer specific provisions over provisions of general application where the provisions are in conflict. However, when it comes to appreciation of evidence, the foundation or primary legislation is the Indian Evidence Act.
- The session then moved on to deliberate the specific queries received from different courts across the State of Rajasthan. The Hon'ble Chairman (Rajasthan State Judicial Academy) stated in response to a query regarding medical evidence that; medical evidence is not conclusive and the wisdom of the Courts should be applied in such cases. Further, the Evidence of victim can be evaluated in light of medical evidence.
- The Hon'ble Chairman (Rajasthan State Judicial Academy) also expressed concern on the regrettable state of cases wherein both adults and juveniles are co-accused. In such cases, it had been observed that the adults are easily granted bails but not the juveniles, who continue to languish in prisons for a long period of time. It was stated that there is a grave need to sensitize the stake holders on this issue.
- The session concluded after discussing the case of **Ganesh Ram v. State of Rajasthan S.B. Crim. Mis. Bail Application No. 9568/2015** decided on 01.12.2015, wherein the Hon'ble Rajasthan High Court directed the Director General of Police to ensure that a nodal officer preferably not below the rank of Circle Inspector of Police shall be appointed in furtherance of the circular dated 08.1.2013, in each district for ensuring service of summons and attendance of police witness for giving evidence in the courts and thereby authorizing concerned trial court to directly forward the summons to such nodal officer who shall be responsible to effect service of the summon and ensure the attendance of the witness in the court. In the event of noncompliance of trial court's direction, the nodal officer shall be personally liable to face the consequence thereof. This measure was brought to the attention of the participants as the courts were facing difficulties regarding the issue of process.

Session II by Sh. Dinesh Kumar Gupta (Judge, Special Court, POCSO Cases, Sawai Madhopur) and Sh. Dinesh Kumar Tyagi (Special Judge No. 2, POCSO Cases Court, Udaipur)

Recording and Appreciation of (Medical, Forensic and Cyber) Evidences in POCSO Cases & Presumption and Burden of Proof under POCSO Act

- The Hon'ble Resource Person stated off the discussion by stating that medical evidence is very crucial at the stage of appreciation especially in cases wherein the victim girl or eyewitness may turn hostile or other circumstances of the case become diluted.
- Appreciation of evidence has to be seen in the light of presumption. Under the POCSO Act, presumption of a very wide and vast ambit has been cast on the accused under Section 29 of the POCSO Act. The accused charged under the provisions of POCSO is to rebut this presumption for committing, abetting or even attempting any offence as specified in the POCSO Act. This is indeed a very unique aspect of POCSO Act when it comes to presumption.
- In General laws we usually see that; accused is required while rebutting the presumption to prove his defense on the preponderance of probabilities. In POCSO Act, the onus is on the accused to prove his innocence beyond reasonable doubt and not merely on the preponderance of probabilities.
- POCSO is a special legislation which has been enacted to deal with special circumstances. The Courts should definitely keep in mind the legislative intent regarding why this particular Act was brought in first place.

- The Hon'ble Resource Person clarified the doubts of the audience regarding the issue of tearing of hymen in cases involving sexual offences. It was stated that based on medical jurisprudence and judgments of the Supreme Court by jumping or cycling the hymen cannot get torn, there has to be a foreign body penetration for that to happen in most of the cases.
- If hymen is torn or semen is detected, then during the stage of appreciation of evidence, the accused has the duty to discharge the burden. The Hon'ble Resource Person stated that recording and appreciation of evidence are both quite interlinked to one another and the Courts must be attentive in both. Further, there is nowhere mandated that the medical examination of the victim girl has to be necessarily done by a Board of Doctors only; therefore even a single doctor can also perform the same. It was also stated by the Hon'ble Resource Person that Medical, Forensic and Cyber are all merely collaborative evidences in nature.
- Some of the important judgments that were discussed for the knowledge enhancement of the participants included:
 1. **Parminder alias Ladka Pola v. State of Delhi (2014) 2 SCC 592**: Wherein the Hon'ble Supreme Court has held that penetration is not an essential ingredient of rape. Further, sentence cannot be reduced u/s 376(1), IPC without special and adequate reasons.
 2. **Madan Gopal Kakkad v. Naval Dubey & Anr. (1992) 3 SCC 204**: In this case the Hon'ble Supreme Court observed that considering that there is an alarming and shocking increase of sexual offences committed on children, such offenders who are menace to the civilized society should be mercilessly and inexorably punished in the severest terms. And further held that, partial penetration is sufficient in the legal sense to constitute the sexual intercourse sufficient to constitute offence of rape.
 3. **Puran Chand v. State of H.P. (2014) 5 SCC 689**: It has been held by the Hon'ble Supreme Court that relying upon the amended Section 114-A of the Indian Evidence Act, even if there had been a doubt about the medical evidence regarding non rupture of hymen the same would be of no consequence as it is well settled that the offence of rape would be held to have been proved even if there is an attempt of rape on the woman and not the actual commission of rape.
 4. **In Re: Assessment of The Criminal Justice System In Response To Sexual Offences SMW (CRL.) Nos.04 of 2019 decided on 18 December 2019**: The Hon'ble Supreme Court has held that previous sexual experience and in effect habituation to sexual intercourse is now irrelevant for the purpose of medical examination. It further held that, Forensic examination and report play important role during investigation as well as trial for linking the culprit with crime.
 5. **Noor Aga v. State of Punjab 2008 16 SCC 417**: The Hon'ble Supreme Court here dealt with the challenge to the constitutionality of Section 35(2) and 54 of the NDPS Act. The Hon'ble Supreme Court held that an initial burden exists upon the prosecution and only when it stands satisfied, the legal burden would shift. Even then, the standard of proof required for the accused to prove his innocence is not as high as that of the prosecution. Whereas the standard of proof required to prove the guilt of accused on the prosecution is "beyond all reasonable doubt" but it is preponderance of probability on the accused. If the prosecution fails to prove the foundational facts so as to attract the rigours of Section 35 of the Act, the actus reus which is possession of contraband by the accused cannot be said to have been established. So we can clearly see how this is different than the burden cast under POCSO Act.
The discussion also delved upon cases dealing with Section 65-B of the Indian Evidence Act wherein the following cases were discussed:
 6. **Shafhi Mohammad v. The State of Himachal Pradesh (2018) 2 SCC 801**: The Hon'ble Supreme Court dealing with the question whether videography of the scene of crime or scene of recovery during investigation should be necessary to inspire confidence in the evidence collected held that Electronic evidence should be used and requirement of section 65B is not always mandatory.
 7. **P.V. Anwar v. P.K. Basheer (2014) 10 SCC 473**: The Hon'ble Supreme Court dealing with the admissibility of electronic records in evidence has held that special provisions on evidence relating to electronic record shall be governed by procedure prescribed under Section 65B of Evidence Act. That is a complete code in itself; being a special law, general law under Sections 63 and 65 has to yield. Sections 63 and 65 have no application in case of secondary evidence by way of electronic record; same is wholly governed by Sections 65A and 65B.
The Hon'ble Resource Person stated that it has been found that the Supreme Court has been more supportive of the judgment in **P.V. Anwar v. P.K. Basheer (2014) 10 SCC 473**.The

discussion also dealt with the aspect of recording of evidence through video conferencing, the relevant judgments discussed therein include:

8. **Manju Devi v. State of Rajasthan & Anr. (2019) 6 SCC 203:** The Hon'ble Supreme Court in this case has held that a material witness needs to be summoned. Age of a case, by itself, cannot be decisive of the matter when a prayer is made for examination of a material witness. A foreign national witness can be summoned/ his evidence recorded as per section 284 and 285 of CrPC.
 9. **The State of Maharashtra v. Dr. Praful B. Desai & Anr. (2003) 4 SCC 601:** The Hon'ble Supreme Court in this case has held that in a criminal trial evidence of a foreign witness can be recorded by video-conferencing through a commission. It is covered by Sections 273 r/w 284, 285 of Cr.P.C. 1973 and Section 3 of Evidence Act, 1872.
The Hon'ble Resource Person also discussed with the audience the judgment of:
 10. **Atma Ram and ors v. State of Rajasthan 2019 (2) Crimes(SC) 144:** In this particular case, the Hon'ble Supreme Court has held that it is certainly in societal interest that guilty must be punished and at the same time procedural requirements which ensure fairness in trial must be adhered to. Further, it has also been held that recording of evidence in absence of accused is against the law.
The session also dealt with the judgments of the Hon'ble Supreme Court and High Court of Rajasthan pertaining to age determination in cases of sexual offences, the case laws discussed being:
 11. **Jarnail Singh v. State of Haryana (2013) 7 SCC 263:** The Hon'ble Supreme Court in this case has held that the date of birth of a juvenile victim entered in the school first attended by the child, if available, the date of birth depicted therein is liable to be treated as final and conclusive, and no other material is to be relied upon as in this particular case prosecutrix had studied upto class 3.
 12. **Tulachha Ram S/o Deepa Ram v. State of Rajasthan (2019) 2 WLN 371:** The Hon'ble Rajasthan High Court in this case dealing with the allegation of rape of a minor has held that Age of the victim was more than 18 years at the time of the incident, thus it is a clear case of consensual relations and since the victim was above the age of 18 years on the date of the incident, the provisions of Protection of Children from Sexual Offences Act were wrongly applied. The Hon'ble High Court relying upon the judgment of the Supreme Court in **Birad Mal Singhvi v. Anand Purohit AIR 1988 SC 1796** which had held that *"to render a document admissible under Section 35, three conditions must be satisfied, firstly, entry that is relied on must be one in a public or other official book, register or record, secondly, it must be an entry stating a fact in issue or relevant fact; and thirdly, it must be made by a public servant in discharge of his official duty, or any other person in performance of a duty specially enjoined by law. An entry relating to date of birth made in the school register is relevant and admissible under Section 35 of the Act but the entry regarding to the age of a person in a school register is of not much evidentiary value to prove the age of the person in the absence of the material on which the age was recorded."* The High Court of Rajasthan in this case thus held that a complete mechanism for determination of age of juvenile has now been provided under section 94 of the Juvenile Justice Act (Care and Protection of Children) Act, 2015.
- The Hon'ble Resource Persons concluded the session after discussing with the participants Evidence Integrity i.e. the collection and transportation of evidence. It was stated that a foetus is preserved at minus (-)20 Degree Celsius and the Urine and Vaginal wash at 4 Degree temperature but this imposes logistical challenges in the months of summer especially in a State like Rajasthan.

Session III by Dr. V.N. Mathur (Former Director, FSL); Dr. P.C. Vyas (Senior Professor, Forensic Medicine, MGH, Jodhpur) and Dr. Binaca Gandhi (Assistant Professor, MGH, Jodhpur)

Medical Examination of Victims and Accused:

- *Age Determination*
 - *Forensic Evidence*
 - *DNA Profiling*
- The Hon'ble Resource person explained in great detail to the participants the process regarding medical examination of age determination; the procedure, prescribed format and significance under the POCSO Act. Age determination is required for both the accused as well as the victim.
 - This medical examination for age determination is required either when proper documentation of age is not available or when question is raised on the available document by either party. In such

situation the deciding authority is the Court. Age determination assumes great importance in cases of sexual offences concerning minors.

- Offences related to sexual assaults are very serious and if the victim is a minor, her consent is statutorily and judicially declared as of no value. Additionally in cases of sexual assault against minor under POCSO; a reverse onus of proof is cast on the person who is accused of such offences.
- Age determination via medical examination is achieved by relying upon:
 1. General Physical development;
 2. Dentition;
 3. Secondary Sexual Character; and
 4. Radiology- Ossification of Bones
- The discussion of this session was also premised on the Forensic Evidence and DNA Profiling. The Hon'ble Resource Person explained with cases the Forensic Application of DNA, DNA Profiling/DNA Fingerprinting, Paternity Identification, Bite Marks Lifting Procedure, Exhumation, Age/Sex Determination, Lie Detection or Polygraphy, Truth Serum, Voice Analysis and Brain Mapping.

Session IV- Part I of the Session was chaired by Dr. Abhishek Sharma (Assistant Professor, Sardar Patel Police University, Jodhpur)

Child Sexual Abuse: Understanding Behavioral and Psychological Impairments in Victims

- The Hon'ble Resource Person stated that Child Sexual Abuse is any interaction when the child is being used for sexual stimulation of the child or the perpetrator or observer. It is “*any completed or attempted (non completed) sexual act, sexual contact with, or exploitation (i.e., noncontact sexual interaction) of a child.*”
- It was also stated that 50-70% of alleged abusers are people the child knows and trusts. The audience was also made aware of the **Child Sexual Abuse Accommodation Syndrome (CSAAS)**. The four categories of the same being: Secrecy, Helplessness, Entrapment and Accommodation and Delayed Disclosure.
- The Emotional Coping Techniques of a child in dealing with his/her sexual abuse is avoidance of the situation/person, trying to minimize the gravity of the same, denial of the incident and forgetting the same without taking any proactive measure.
- The Hon'ble Resource person concluded the session by discussing the effects of child sexual abuse. A victim of child sexual abuse is bound to have certain physical health impacts (such as Gastrointestinal disorders, sexually transmitted diseases etc.); psychological effects (such as Self-hatred, Impulsivity, Post Traumatic Stress Disorder such as re-experiencing) and certain behavioral effects (such as Distrust of others and themselves, Terror and anxiety, Extreme passivity and becoming withdrawn etc.).
- Courts must be sensitive to such impacts and due care must be taken of such factors while deciding a case dealing with a child sexual abuse victim.

Session IV- Part II of the Session was chaired by Sh. Govind Beniwal (Member, High Level Committee on JJ Act and Former Member, State Child Right Protection Commission)

Rehabilitation and Compensation for Child Victims of Sexual Offences

- The Hon'ble Resource Person started off the discussion by discussing the United Nations Convention on Rights of the Child. Further in light of this particular UN Convention it was held by the Hon'ble Supreme Court in the case of MC Mehta v. State of Tamil Nadu AIR 1997 SC 699 that “*This Convention affirms that children's rights require special protection and it aims, not only to provide such protection, but also to ensure the continuous improvement in the situation of children all over the world, as well as their development and education in conditions of peace and security.*”
- The need for a POCSO Court was felt because:
 1. Traditional courts of law do not take into account developmental needs of children.
 2. Language used in legal proceedings can be difficult for a child to comprehend.
 3. Child-friendly procedures can make the legal process less daunting for a child and also enhance the quality of the child's testimony.
 4. Exclusive courts, judges, and prosecutors can ensure speedy and child-friendly trial.
- Some of the key initiatives on POCSO Act, 2012 include:
 1. Guidelines for Recording of Evidence of Vulnerable Witnesses in Criminal Matters - Rajasthan General Criminal and Civil Rules, 2018.
 2. Rajasthan Witness Protection Scheme, 2018.
 3. Rajasthan Victim Compensation Scheme, 2011 as amended in 2015.

4. Guidelines for Professionals and Experts notified under Section 39 of POCSO Act, 2012
 5. Judicial Pronouncements pertaining to Child friendly procedure, victim compensation and privacy and confidentiality etc.
- The Hon'ble Resource person also discussed with the participants the basic components of a child protection plan; important aspects of rehabilitation and social re-integration of the child and Compensation and factors affecting compensation under the POCSO Act. The Factors to be considered find mention in Rule 7(4) of the POCSO Rules.
 - The philosophy underlying victim compensation was discussed in the case of **In Re: Indian Woman says gang-raped on orders of Village Court published in Business & Financial News dated 23.01.2014 (2014)4 SCC 786** wherein the Hon'ble Supreme Court has held that *"No compensation can be adequate nor can it be of any respite for the victim but as the State has failed in protecting such serious violation of a victim's fundamental right, the State is duty bound to provide compensation, which may help in the victim's rehabilitation."*
 - Further, in the case of **Bijoy v. State of West Bengal C.R.A. 663/2016**, the Hon'ble Calcutta High Court has held that *"The philosophy of awarding compensation by the State is in the nature of a reparation to the victim of crime on its failure to discharge its sovereign duty to protect and preserve sanctity and safety of the individual from the ravages of such crime."*
 - In the case of **Ankush Shivaji Gaikwad v. State of Maharashtra AIR 2013 SC 2454**, the Hon'ble Supreme Court has observed that that *"While the award or refusal of compensation in a particular case may be within the Court's discretion, there exists a mandatory duty on the Court to apply its mind to the question in every criminal case."*
 - In the case of **Deo Kumar Rai v. State of Sikkim Crl. Appeal No.13/2016**, decided by the Hon'ble Sikkim High Court on 13.09.17 it has been observed by the High Court that *"based on Section 33(8) of the POCSO Act, 2012 read with the POCSO Rules, 2012 and Section 357(A)(3) of Cr.P.C, Special Court is required to come to a conclusion whether the compensation awarded under Section 357 of Cr.P.C. is adequate or not for the rehabilitation of victims."*
 - It was very importantly also held in the above case that *"A conjoint reading of the Section 33(8) of the Act along with Rule 7 of the Rules made it amply clear that the power of the Special Court to award interim/final compensation is not restricted to the terms of the Victim Compensation Fund promulgated by the State but empowers the Court to award such reasonable and just amount as may be determined by it in the facts of the case in the light of the parameters laid down in Rule 7(3) of the aforesaid Rules to provide succour to a child victim."*
 - In case of **The Minor Through Guardian Zareen v. State (Government of NCT Delhi) W.P. (Crl) 798/2015** decided on 21.03.16 by Hon'ble Delhi High Court; it was observed by the Hon'ble Delhi High Court that *"...the reading of Section 33 of the POCSO Act would show that the power has been given to the Special Court to grant compensation and there is no outer limit which has been fixed while granting the compensation"*.
 - The Hon'ble Resource concluded the session by discussing in detail the order of the Hon'ble Supreme Court regarding extension of NALSA Scheme to minors; the Hon'ble Supreme Court in the case of **Nipun Saxena v. Union of India W.P.(C) 565 of 2012 order dated 05.09.2018** has held that *"...the NALSA Compensation Scheme (of 2018) should function as a guideline to the Special Court for the award of compensation to victims of child sexual abuse under Rule 7 until the Rules are finalized by the Central Government. The Special Judge will, of course, take the provisions of the POCSO Act into consideration as well as any circumstances that are special to the victim while passing an appropriate order."*
-
- Conference was concluded with vote of thanks to the Hon'ble Dignitaries and all those who contributed in organizing the same.

-----XXXXX-----