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# PROTECTION OR PUNISHMENT? RETHINKING GENDER JUSTICE IN JUDICIAL READINGS OF THE POCSO ACT

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## ABSTRACT

The Protection of Children from Sexual Offences Act, 2012 (POCSO) was enacted as a comprehensive child-protection statute aimed at addressing sexual exploitation through stringent criminal sanctions. While the Act embodies a strong protective ethos, its uniform age-of-consent framework and mandatory penal consequences have generated complex interpretive challenges for Indian courts, particularly in cases involving consensual adolescent relationships and child marriages. This article critically examines the judicial application of POCSO through the lens of gender justice, focusing on the tension between safeguarding minors and recognising adolescents' evolving capacities, autonomy, and dignity.

Drawing on a doctrinal analysis of Supreme Court and High Court decisions, the study maps divergent judicial approaches to consensual "teenage love" cases, ranging from purposive and equity-oriented interpretations that grant relief through quashing or bail, to strict textualist positions that insist on unwavering statutory compliance following the black letters of the law. The article argues that while POCSO's gender-neutral design seeks to protect all children, its application often produces gendered outcomes by negating young women's expressed consent and disproportionately criminalising young men.

Situating these judicial trends within broader constitutional values and international child-rights norms, the article contends that the absence of close-in-age exemptions and guided sentencing discretion undermines substantive gender justice. It concludes by advocating a rights-based recalibration of POCSO through legislative amendments and principled judicial reasoning, grounded in constitutional morality and the doctrine of evolving capacities, to reconcile child protection with fairness, autonomy, and adolescent well-being.

**Keywords:** POCSO Act, Adolescent Consent, Gender Justice, Age of Consent, Child Protection Law.

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## I. Introduction

Gender justice in India has been shaped by an ongoing dialogue between law-making institutions and the judiciary, with each responding to changing social realities and entrenched social inequalities. Through successive waves of reform-oriented legislation, the State has sought to address historical disadvantages and secure the rights of women and children within the limited resources it has at its disposal.<sup>2</sup> This legislative effort has been supported by the judiciary by playing a pivotal role in giving substantive meaning to constitutional principles by interpreting equality, dignity, and personal liberty in an expansive and purposive manner.

Before 2012 there was no specific legislation for protecting children from sexual offences. Therefore, the Protection of Children from Sexual Offences Act, 2012 (POCSO) was enacted as a defining intervention in child protection jurisprudence. It was introduced to overcome the limitations of pre-existing legal provisions, making it India's first comprehensive statute exclusively dedicated to addressing sexual offences against children. It adopts gender-neutral definitions of sexual abuse, mandates child-sensitive procedures and incorporates robust procedural safeguards to minimise secondary victimisation of the children. By providing for Special Courts, in-camera trials, and rehabilitation measures, POCSO reflects a victim-centric model of justice aimed at balancing protection, accountability and the best interests of the child.

Despite its progressive objectives, the judicial implementation of the POCSO Act has exposed notable interpretive challenges that complicate the delicate balance between protection and individual autonomy.<sup>3</sup> The Act's adoption of a uniform age of consent at eighteen fails to distinguish between coercive sexual abuse and consensual intimate relationships involving adolescents.<sup>4</sup> It fails to recognise consent giving capacity of the child below eighteen years. It treats every kind of sexual activity among and with a child below eighteen years of age as sexual assault, irrespective of whether it is consensual or coercive.

It results in judicial proceedings under POCSO often conflate exploitative conduct with consensual adolescent behaviour, raising concerns about unnecessary criminalisation and the

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<sup>2</sup> Upendra Baxi, *The Future of Human Rights* (Oxford University Press 2002) 112–118.

<sup>3</sup> Ratna Kapur, 'Gender, Sovereignty and the Rise of a Sexual Security Regime in International Law and Postcolonial India' (2013) 14(2) *Melbourne Journal of International Law* 317.

<sup>4</sup> Brand D. Sugar, spice and criminalised consent: A feminist perspective of the legal framework regulating teenage sexuality in South Africa. *South Afr J Hum Rights*. 2013 Jan 1;29(2):193–218.

unintended restriction of adolescent agency.<sup>5</sup> Courts have frequently been confronted with cases arising from consensual intimate relationships between adolescents, wherein the inflexible age of consent stipulated under the Act affords minimal scope to recognise the evolving capacities, emotional maturity, and agency of minors.<sup>6</sup> This has also led to situations where the law meant to protect children from exploitation has inadvertently criminalized expressions of adolescent sexuality.<sup>7</sup> The most disturbing part is the minimum punishment for penetrative sexual assault was raised to twenty years imprisonment taking away discretionary powers of the judge in such cases, making it even more complex.

This basically means that a husband or the partner just a day above eighteen years of age will be jailed for twenty years for having sexual intercourse with his wife or partner, who is just a day below eighteen years of age. It creates a very absurd and unjustified legal position, where judges are bound by the black letters of the law.<sup>8</sup>

In several cases, appellate courts have expressed concern over the mechanical application of the POCSO Act to cases arising out of consensual romantic relationships. Courts have consistently emphasised that such cases cannot be placed on the same footing as instances of forced sexual assault.<sup>9</sup> While higher courts have increasingly extended relief in these matters, often by quashing proceedings or convictions, the broader concern remains regarding accessibility to justice. The question persists as to how many affected individuals possess the resources, awareness, or capacity to approach constitutional courts for such relief.

In a recent decision, the Supreme Court of India invoked its extraordinary powers under Article 142 of the Constitution to set aside a conviction, observing that the indiscriminate equation of consensual love with criminal lust amounts to a grave miscarriage of justice.<sup>10</sup> This judicial intervention underscores both the sensitivity of the issue and the limitations of a rigid statutory framework when applied without contextual nuance.

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<sup>5</sup> Flavia Agnes, "Controversy over Age of Consent," *Economic and Political Weekly*, Vol. 48, No. 10 (2013).

<sup>6</sup> Centre for Child and the Law, *Implementation of the POCSO Act, 2012 by Special Courts: Challenges and Issues*, National Law School of India University (NLSIU); 2018 Feb.

<sup>7</sup> Sydney Moirangthem, Naveen C. Kumar, and Suresh Bada Math, Child Sexual Abuse: Issues and Concerns, v142(1), *Indian Journal of Medical Research (IJMR)*, 1 (1-3), 2015.

<sup>8</sup> Sangeeta Chaudhary, "Law Commission of India and the Debate on Age of Consent," *Economic and Political Weekly*, Vol. 59, No. 21–22 (2024).

<sup>9</sup> Bharti Ali, Maharukh Adenwalla, Sangeeta Puneekar. *Implementation of the POCSO Act: Goals, gaps and challenges*. Centre for Child Rights & Forum Against Sexual Exploitation of Children (FACSE); 2017 Nov.

<sup>10</sup> K Kirubakaran vs State of Tamil Nadu 2025 INSC 1272

This paper undertakes a critical examination of judicial interpretations of the POCSO Act through the prism of gender justice, with particular emphasis on the inherent tension between child protection and the recognition of adolescents' evolving capacities to make informed life choices. By analysing significant judgments delivered by various High Courts and the Supreme Court, the study investigates how courts negotiate conflicts between the statutory mandate of protection, personal law considerations, and constitutional values such as dignity, privacy, and individual autonomy.

From this perspective, the paper contends that although POCSO is grounded in a protective vision of gender justice, its rigid, age-based framework may unintentionally perpetuate patriarchal and heteronormative regulation of adolescent sexuality especially in cases involving consensual relationships between peers. The judiciary's frequent reluctance to meaningfully differentiate between exploitation and agency risks transforming a welfare-oriented statute into a punitive mechanism, often resulting in the unnecessary criminalisation and incarceration of young individuals rather than ensuring their protection.

## **II. Reframing POCSO through Feminist Constitutionalism and Child Rights**

A reorientation of the POCSO Act through a feminist constitutional and child rights based framework offers a more principled method of balancing protection with adolescent autonomy. Feminist constitutionalism, with its emphasis on lived realities, substantive equality, and contextual justice, cautions against legal frameworks that reduce complex social relationships to rigid binaries of victimhood and criminality.<sup>11</sup> When coupled with international child rights jurisprudence, particularly the doctrine of evolving capacities under the UNCRC, this approach highlights the need for legal responses that are protective without being disproportionately punitive.<sup>12</sup>

Within this framework, the introduction of narrowly tailored close-in-age exemptions, along with structured judicial discretion, emerges as a compelling reform. Comparative jurisdictions, including several states in the United States, recognise that consensual relationships between adolescents of proximate age do not raise the same concerns as exploitative abuse. Incorporating similar principles within Indian law would allow POCSO to function as a

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<sup>11</sup> Catharine A MacKinnon, *Toward a Feminist Theory of the State* (Harvard University Press 1989).

<sup>12</sup> UN Committee on the Rights of the Child, *General Comment No 20 (2016) on the implementation of the rights of the child during adolescence* UN Doc CRC/C/GC/20.

safeguard against coercion and violence rather than as an instrument of moral regulation over adolescent sexuality. Such recalibration would align the statute more closely with constitutional commitments to dignity, autonomy, and equality.

### **Judicial Uniformity and the Limits of Absolute Protection: *Independent Thought v. Union of India***

The POCSO Act represents a decisive legislative commitment to child protection by criminalising all sexual conduct involving persons below eighteen years of age. The Act adopts a categorical definition of childhood and deliberately excludes consent as a legally relevant consideration. This approach was constitutionally endorsed in *Independent Thought v. Union of India* (2017)<sup>13</sup>, where the Supreme Court invalidated the marital exception that had permitted sexual intercourse with wives aged fifteen to eighteen holding it to be ultra vires to the constitution. The Court held that marital status cannot justify differential treatment among children and affirmed that bodily integrity and sexual autonomy are non-derogable constitutional values.

By fixing eighteen as a uniform age of consent, the Court reinforced Parliament's protective intent and addressed long-standing concerns relating to child marriage and sexual exploitation. However, while *Independent Thought* advanced child rights jurisprudence in the context of marital rape, it also entrenched an absolute age-based framework that leaves little room for contextual differentiation in cases involving consensual adolescent relationships. It ignored the lived reality of thousands of child marriages and the consequences it might have on them if enforced strictly.

### **Criminalisation of Adolescent Intimacy and Gendered Consequences**

The rigid enforcement of POCSO has resulted in the routine criminalisation of consensual relationships between adolescents, particularly where families disapprove of such relationships. In practice, prosecutions are often initiated not by the purported victim but by parents or guardians, transforming the criminal justice system into a site for enforcing familial and societal control. Adolescent girls are frequently positioned as passive victims in need of

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<sup>13</sup>(2017) 10 SCC 800 (SC).

protection, while adolescent boys are constructed as offenders, reinforcing gendered stereotypes of female vulnerability and male culpability.

This dynamic raises serious concerns from a feminist legal perspective. Rather than empowering young women, the law often negates their expressed consent and agency, substituting parental authority for individual choice.<sup>14</sup> Simultaneously, young men, often from marginalised socio-economic backgrounds, bear the brunt of harsh penal consequences, including prolonged incarceration. The result is a system that claims to advance gender justice while, in effect, reproducing patriarchal and heteronormative norms governing adolescent sexuality.

### **Divergent Judicial Responses and Institutional Tensions**

Indian courts have responded unevenly to these challenges raising serious question of uniformity of justice. While some High Courts have adopted a purposive and contextual interpretation of POCSO, emphasising that the statute was enacted to combat sexual exploitation rather than consensual peer relationships. These courts have relied on constitutional principles such as proportionality, dignity and restorative justice to quash proceedings or grant relief in appropriate cases.

In contrast, other courts have adhered strictly to the statutory text, holding that judicially created exceptions would undermine legislative supremacy and dilute the Act's protective mandate. According to this view, any relaxation of the age-based framework must originate from Parliament rather than judicial innovation. This divergence reflects a deeper institutional tension between child-protection paternalism and constitutional commitments to autonomy and fairness. This has created a very complicated situation where fate of your case depends upon the bench hearing the case instead of law of the land.

### **Judicial Engagement with Adolescent Consent and “Teenage Romance”**

Indian High Courts have adopted markedly different interpretive stances when confronted with prosecutions under the POCSO Act arising from consensual relationships between adolescents.

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<sup>14</sup> Apoorva Bhardwaj & Anjana Kumari, *Between Consent and Crime: Rethinking Legal Boundaries for Consensual Teenage Relationships* (2025) 6 *Journal on the Rights of the Child* (Natl Law Univ Odisha) 87, 95–96

One emerging strand of judicial reasoning views such cases as falling at the margins, if not entirely outside, the statute's central objective of preventing sexual exploitation and abuse.

A significant articulation of this approach is found in *Vijayalakshmi v. State*<sup>15</sup>, where the Madras High Court set aside criminal proceedings against a young man involved in a consensual relationship with a sixteen-year-old girl who had voluntarily eloped and subsequently married him. Justice N. Anand Venkatesh cautioned that an uncritical application of POCSO risks converting a protective law into an instrument of misuse, observing that the legislation was never intended to punish consensual adolescent intimacy. The Court underscored that criminal law should not be deployed to regulate youthful relationships that lack elements of coercion or abuse.

This reasoning was echoed and expanded in *Sabari v. Inspector of Police*, where the Madras High Court expressly rejected the notion that adolescent romantic involvement is aberrant or inherently suspect. Acknowledging prevailing social realities, the Court suggested that Parliament may need to reconsider the rigid definition of a "child" in cases involving consensual relationships between individuals close to the age of majority. The judgment reflects a rare judicial willingness to question whether a uniform age-based framework adequately captures the nuances of adolescent development and agency.

More recently, in *Kamaraj v. State*<sup>16</sup>, the Madras High Court reaffirmed this contextual approach by quashing an FIR involving a seventeen-year-old girl and her partner, noting that the couple had since married and had a child together. Justice Sathish Kumar reasoned that continuing criminal proceedings in such circumstances would serve no meaningful legal or social purpose. Relying on *Sabari*<sup>17</sup>, the Court emphasised that adolescent romance should not automatically attract criminal suspicion and that judicial intervention should, where appropriate, facilitate stability and rehabilitation rather than prolong legal uncertainty.

A more cautious, yet sympathetic, position has also emerged in decisions of the Delhi High Court. In *Ajay Kumar v. State (NCT of Delhi)* (2022)<sup>18</sup>, a single-judge bench granted bail to an accused under POCSO who had married a seventeen-year-old girl. While the Court stopped short of quashing the proceedings, it recognised that the underlying relationship was consensual

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<sup>15</sup> 2021 SCC OnLine Mad 2843.

<sup>16</sup> 2025 LiveLaw (Mad) 381

<sup>17</sup> 2019 SCC OnLine Mad 1341

<sup>18</sup> 2022 SCC OnLine Del 3705

and devoid of coercion. Drawing upon the reasoning in *Vijayalakshmi*, the Court observed that ignoring the consensual context at the stage of bail would result in a distorted application of justice. At the same time, the Delhi High Court maintained a degree of institutional restraint by leaving the broader question of liability to be determined at trial.

Taken together, these decisions reflect a growing judicial inclination to differentiate consensual adolescent relationships from the forms of sexual exploitation that POCSO was primarily designed to combat. Courts adopting this approach argue that a child-protection statute should not be applied in a manner that indiscriminately criminalises youthful intimacy or entrenches stigma around adolescent sexuality. In articulating this view, judges have drawn upon legislative intent, lived social realities, and international child rights norms. Notably, in *Sabari*, the Court referred to the United Nations Convention on the Rights of the Child to observe that while adolescents are legally categorised as children, their evolving capacities and autonomy warrant contextual recognition in appropriate cases.

### **Gender Justice and the Uneven Impact of a Gender-Neutral Law**

Although the POCSO Act is formally gender-neutral and applies equally to minors of all sexes, its enforcement has produced outcomes that are unevenly gendered in practice. Courts have repeatedly observed that adolescent girls are almost invariably positioned as victims, irrespective of their expressed consent, while male partners are cast as offenders and subjected to the full force of criminal liability. This dynamic effectively strips adolescent girls of legal agency while exposing boys or young men to severe penal consequences for conduct that may have been mutually desired.

A contradictory situation arises when boy and girl, both below eighteen years of age. In such a situation, both the boy and girl are accused as well as victim. Even more complex situation arises when a minor force himself on a major woman. The legal complexities in such a situation is yet to be explored. While logically the boy should be treated as accused and women as victim, the strict black letters of POCSO Act doesn't make it clear, leaving scope of unnecessary confusion.

This creates a judicial unease which is evident in several cases, though it is inconsistently addressed. In *Prince Kumar Sharma v. State*<sup>19</sup>, Justice Narula declined to quash proceedings

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<sup>19</sup> CRL.M.C. 7145/2025



against a man who had married a minor, reasoning that doing so would undermine both the POCSO Act and the Prohibition of Child Marriage Act. The Court framed the issue as one of deterrence and statutory coherence, emphasising that child-protection laws are designed precisely to prevent underage sexual activity and marriage—even where the minor appears to consent. In this reasoning, the girl’s consent was rendered legally irrelevant, and the broader objective of discouraging early marriage, particularly of girls, took precedence.

These judgments highlight the tension inherent in gender justice discourse under POCSO. Feminist legal critiques caution that overly paternalistic legal regimes may unintentionally reinforce stereotypes of female vulnerability while criminalising young men in contexts of mutual intimacy. At the same time, Indian courts have generally resisted characterising POCSO as discriminatory on the basis of sex. Instead, they treat the age-based consent rule as a neutral legislative command applicable without distinction. This position was forcefully articulated in *Independent Thought v. Union of India*, where the Supreme Court struck down the marital rape exception for minors to ensure that girl children receive equal protection under the law. The Court made clear that claims of privacy or consent cannot supersede the State’s obligation to protect children from harm.

Consistent with this reasoning, Delhi High Court decisions have reiterated that under POCSO, consent is not an element of the offence where the complainant is a child. Legally, therefore, neither male nor female minors possess the capacity to consent. Within this framework, “gender justice” does not centre on male–female competition, but on whether strict legal enforcement results in outcomes that are substantively just. Occasional judicial observations—such as in *Ajay Kumar v. State (NCT of Delhi)*<sup>20</sup>, where the Court described incarceration in a consensual marriage context as a “perversity of justice”, signal an awareness that rigid application may conflict with equitable considerations. Yet significantly, no court has formally interpreted POCSO as containing implicit gender-based distinctions in either liability or punishment.

### **Legislative Signals and Expert Intervention**

Beyond the courtroom, institutional actors have begun to recognise the difficulties posed by a rigid age-of-consent framework. Several High Courts have expressly urged reconsideration of

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<sup>20</sup> 2022 SCC OnLine Del 3705

the law. In *State of Karnataka v. Basavraj* (2023)<sup>21</sup>, the Karnataka High Court documented a pattern of prosecutions arising from adolescent elopements and recommended that the Law Commission re-examine the statutory age threshold. Similarly, the Madhya Pradesh High Court in *Veekesh Kalawat v. State of M.P.*<sup>22</sup> criticised the injustice of mandatory minimum sentences in cases involving consensual relationships and called for sentencing flexibility.

These judicial prompts culminated in Law Commission Report No. 283 (2023)<sup>23</sup>, which acknowledged the systemic concerns but stopped short of lowering the age of consent. Instead, the Commission proposed introducing discretion at the sentencing stage. It recommended amendments permitting Special Courts to impose reduced sentences where the minor was sixteen or older, the relationship was demonstrably consensual, the age gap was minimal, and aggravating factors such as coercion or prior criminality were absent. Considerations such as subsequent marriage or the birth of a child were also identified as relevant. While maintaining the statutory age of eighteen, these proposals reflect a pragmatic attempt to incorporate principles of proportionality and evolving capacity without dismantling the protective framework.

International child-rights norms, particularly the doctrine of evolving capacities under the UN Convention on the Rights of the Child, resonate strongly with these recommendations. However, Indian law continues to operate on a bright-line approach, and courts have repeatedly stated that absent legislative amendment, they cannot create exceptions through interpretation alone. Nevertheless, the sustained judicial debate suggests mounting pressure for calibrated reform.

### III. Divergent Judicial Philosophies: Equity versus Textual Fidelity

High Court jurisprudence under POCSO reveals a sharp doctrinal divide. On one end are decisions that prioritise contextual justice and exercise judicial discretion to mitigate harsh outcomes; on the other are rulings that adhere strictly to statutory text, rejecting any dilution of legislative intent.

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<sup>21</sup> (2023) 1 AIR Kant R 23

<sup>22</sup> 2023(2) JLJ 463

<sup>23</sup> Law Commission of India, Report No. 283: Amendments to the Protection of Children from Sexual Offences Act, 2012 (2023).

## Contextual and Compassionate Reasoning

Courts adopting a purposive approach have frequently granted quashing or bail where the relationship was consensual and non-exploitative. *Vijayalakshmi v. State*<sup>24</sup> (Madras High Court, 2021) is emblematic. The Court explicitly stated that POCSO was never designed to criminalise adolescent romance and quashed proceedings at the behest of the minor herself. In *Kamaraj v. State* (Madras High Court, 2025), the Court similarly terminated prosecution where the couple had married and started a family, reasoning that legal intervention would serve no constructive purpose.

Other courts have followed analogous reasoning. In *Ajay Kumar* (Delhi High Court, 2022)<sup>25</sup>, bail was granted to avoid irreparable harm to young lives arising from mechanical enforcement. The Calcutta High Court, in *Ranjit Rajbanshi v. State of West Bengal*<sup>26</sup>, went further by interpreting the statutory requirement of “penetration” to exclude consensual acts involving mutual participation, thereby overturning a conviction. These decisions reflect a willingness to interpret POCSO in light of social realities and proportionality.

## Formalist and Statute-Centric Reasoning

In contrast, other courts have declined to soften the statute’s application. *Prince Kumar Sharma v. State* (Delhi High Court, 2025) exemplifies this approach. Despite acknowledging the equitable pull of the facts, the Court refused relief, stressing that consent by a minor is legally void and that subsequent developments—marriage or childbirth—cannot retrospectively legalise an offence. A similar stance was adopted by the Bombay High Court in 2025, which refused to quash proceedings involving a near-majority minor, cautioning against normalising underage relationships under the guise of romance.

Several other judgments have reinforced this position, asserting that any modification of the law must come from Parliament. These courts emphasise institutional restraint and legislative supremacy, even at the cost of harsh individual outcomes.

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<sup>24</sup> 2021 SCC OnLine Mad 317

<sup>25</sup> 2022 SCC OnLine Del 3705

<sup>26</sup> 2021 SCC OnLine Cal 2470

## Fragmentation, Uncertainty, and Gender Justice Implications

The result is a fragmented legal landscape. Identical fact patterns yield radically different outcomes depending on jurisdiction. This inconsistency undermines legal predictability and places adolescent couples at the mercy of forum selection. The Supreme Court has taken note of this divergence in *Suo Motu: Right to Privacy of Adolescents* (2025), acknowledging conflicting High Court interpretations while refraining from judicial law-making and inviting legislative input.

From a rights perspective, these cases sit at the intersection of adolescent privacy, autonomy, and State protection. For gender justice, the dilemma is particularly acute: while POCSO's uncompromising stance shields girls from exploitation, it simultaneously denies them agency in consensual relationships and disproportionately penalises male partners.<sup>27</sup> Some courts prioritise deterrence and structural protection; others foreground future welfare and social stability. The tension is not overtly framed as gender conflict, but it has unmistakable gendered consequences.

## Sentencing, Quashing, and Jurisprudential Fault Lines

A further and particularly significant jurisprudential divide emerges around the question of remedies in consensual adolescent relationship cases under the POCSO Act. Courts have differed sharply on whether such cases warrant the complete termination of criminal proceedings through quashing, or whether the judicial role is confined to permitting the trial to proceed and addressing concerns of fairness only at the stage of sentencing. Those courts that favour quashing rely on their inherent powers to prevent abuse of process and to secure the ends of justice.<sup>28</sup> In doing so, they view criminal prosecution itself—rather than merely punishment—as a source of irreparable harm, capable of stigmatizing young individuals, destabilizing families, and defeating the rehabilitative goals of criminal law. Decisions such as *Vijayalakshmi v. State* and *Kamaraj v. State* reflect this approach, where courts have treated continued prosecution as purposeless once the consensual nature of the relationship is evident and the parties have settled into family life.

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<sup>27</sup> Tolman DL, McClelland SI. Normative sexuality development in adolescence: A decade in review, 2000–2009. *J Res Adolesc.* 2011;21(1):242–255.

<sup>28</sup> Code of Criminal Procedure 1973, s 482.

Conversely, a stricter line of authority insists that quashing amounts to judicial overreach and impermissibly rewrites a statute that deliberately adopts a bright-line age threshold. Courts following this approach maintain that once the statutory ingredients of the offence are satisfied, judicial discretion cannot be exercised to nullify criminal liability itself. For these courts, mitigation—if any—is appropriately confined to sentencing, not to the erasure of prosecution. This position is evident in decisions such as *Prince Kumar Sharma v. State*, where the Delhi High Court emphasized that equitable considerations, however compelling, cannot override clear legislative command. According to this view, permitting quashing on the basis of consent would undermine the deterrent function of POCSO and weaken its role in combating child marriage and sexual exploitation.

The Law Commission of India's recommendation to introduce limited sentencing discretion represents an attempt to navigate a middle path between these competing approaches.<sup>29</sup> By retaining the offence while softening mandatory minimum sentences in narrowly defined circumstances, the Commission sought to preserve the protective core of POCSO without endorsing blanket criminalization of adolescent intimacy. However, uneven judicial reception of this proposal underscores deeper philosophical disagreements about the objectives of criminal law itself, whether it should prioritize retribution and deterrence or rehabilitation and contextual justice.

These fault lines also raise broader constitutional questions about the judiciary's responsibility in responding to legislative rigidity, particularly where rigid enforcement risks outcomes that appear disproportionate or unjust in the context of constitutional values and principles. Until Parliament provides clearer guidance, courts will likely continue to oscillate between strict legalism and equity-driven intervention, leaving this area of law marked by uncertainty and inconsistency.

#### **IV. Conclusion**

The POCSO Act was enacted with an unequivocally protective mandate to act as an umbrella legislation against all kind of sexual offences against children. Yet its rigid age-of-consent framework and mandatory penalties have produced outcomes that frequently clash with

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<sup>29</sup> Law Commission of India, Report No 283: Age of Consent under the Protection of Children from Sexual Offences Act, 2012 (Government of India 2023).

adolescent realities. Judicial responses have oscillated between compassion and formalism, resulting in doctrinal incoherence and uneven justice.

This analysis demonstrates that while POCSO has strengthened safeguards against abuse, it has also facilitated the criminalisation of consensual adolescent intimacy. The gender-neutral design of the statute masks its gendered impact, particularly the erosion of adolescent girls' agency and the punitive targeting of young men. The absence of recognition for evolving capacities leaves courts struggling to reconcile equity with legality.

Meaningful reform is now imperative. Legislative incorporation of close-in-age exceptions, structured sentencing discretion, and explicit acknowledgment of adolescent development—while retaining strong safeguards against exploitation—would restore balance. Until such reform occurs, courts will continue to navigate an uneasy terrain between statutory command and substantive justice.

The trajectory from *Vijayalakshmi* to *Prince Kumar Sharma* reveals a law at odds with itself: protective in intent, yet often punitive in effect. Aligning POCSO with constitutional morality and gender-just principles is essential if it is to function as a humane and effective instrument of child protection in contemporary India.