

“Refresher Course for POCSO Courts [P-1044]”

CHALLENGES IN ADJUDICATION BY POCSO COURTS



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CRIMINAL JUSTICE SYSTEM - **Two Equations**

- **Adult Vs. Child**
- **Accused Vs. Victim**

Inadequate Infrastructure

Sex – A Taboo Subject

Inherent Inhibitions

Mental Trauma

Repetition of Narration

- **Court Over-burdened.**
- **No Sufficient Time or Space to make the child at ease and comfortable.**

Limited Vocabulary of Child

Limited Understanding of Child

Vulnerability of Child

Notions of Child Not Clear

Court Procedure – Very Complicated

Atmosphere of Court – Alien, Formal

Non-familiarity of Child with Legal and Court System

Over-Zealousness / Inaction of P.P.

**Cross-Examination –
Aggressive, Confusing,
at times intimidating
and insulting**

**For Child – Court not
taking active interest in
recording of evidence.**

**For Child – Pressure
from family, society – if
accused is known.**

For Child – No Support System

For Court – To balance

Rights of Accused

Vs.

Rights of Victim

For Child – Delay in Trial

**For Child – To recite the
incident with minor details,
which incident she wants
to forget**

**For Child – Being called
repeatedly and matter
being adjourned again and
again.**

**For Child – Waiting endlessly
in the Court for recording of
evidence.**

**Being subjected to cross-
examination for hours
together.**

For Child – Lack of sensitivity on the part of majority of stake-holders.

CHALLENGES IN INVESTIGATION

Investigating Officer not conversant with language of the child.

No sufficient time or space for him to record the statement of child.

**Medical Evidence – Not giving
correct picture.**

**Faulty Procedures – in medical
exam – Two Finger Test.**

Medical samples not collected or preserved properly.

DNA Test not conducted.

C.A. Reports from F.S.L. not forthcoming in time.

For Court – In Adjudication

Best evidence not forthcoming.

In appreciation of evidence – No separate yardstick.

Child Witness – considered to be
'dangerous' – susceptible to
tutoring.

