

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

CREATING A CHILD-FRIENDLY POCSO COURT



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Objects of POCSO Act

- To incorporate child-friendly procedures for recording of evidence, investigation and trial.
- To safeguard interest and well-being of the child at every stage of the judicial process.

Statutory Measures

Section 33 in recording of evidence

1. Questions to be put by the Judge.
2. Frequent Breaks.
3. Allowing a family member, a guardian, a friend or relative to be present in Court.

Section 35

- Expeditionary hearing.
- Within 30 Days—Evidence to be recorded.
- Trial to be completed within 1 year.

Section 36

Child not to be exposed in any way to the Accused.

Use of Video-Conferencing.

OR

Utilizing Single Visibility Mirror or Curtain

Section 37

Trial *in Camera*

And

In the presence of Support Person

[As per Oxford Dictionary, In-Camera means “in Private Room / in Judge's Chamber]

Section 38

Assistance of Expert or Interpreter
or Facilitator.

Which Other Measures Can Be Adopted ???

To assess competency of child – by asking and recording developmentally appropriate questions -

At the outset

And

Also throughout the testimony

And

To pass the appropriate order
by recording a finding

Pre-trial visit of the child and support person to the Court to familiarise them with the layout of the Court and procedures.

**Before recording of evidence –
Judge to explain the court
process to the child to enable
him to understand the
procedure.**

If possible, to appoint Guardian *ad-litem*, who can be a member from NGO, Bar, Professional, who will remain present with the child throughout and assist the child in every way.

To Provide Legal Assistance

On The Request

OR

Suo-Motu

To provide waiting area, which is separable, and furnished with essential requirements, like, water, wash-room etc.

**To provide comfortable environment
at the time of recording evidence –**

As far as possible in separate room;

If not, in Chamber;

**If in Court – allow to testify from any
other place than the witness box;**

At the same eye-level.

To maintain in-formal atmosphere;

If in chamber, allow the child to sit near the Judge;

An out-stretched hand-shake goes a long way in confidence building.

To dispense with Gown and Robes by every one.

**Testimony to be recorded at the
earliest, without making the
child to wait for hours.**

Such cases to be given priority.

**Date and time for recording evidence
should be fixed and followed.**

**Victim should be brought
from a separate entrance.**

**Accused not to be brought
in contact with child.**

Child's memory should be refreshed.

**Child should be introduced
to P.P. Defence Lawyer.**

**Judge should make the child
comfortable by asking preliminary
questions.**

**Judge should set ground rules for
examination of child for each case
individually.**

The evidence of a child below 5 – 6 years
should be dispensed with;

OR

Can be limited only for identification of
Accused which should be done at the end.

Cross-examination should be relaxed,
done gently and with respect.

Everyone should take care of body
language, tone of voice, facial
expressions etc.

Appreciation of Evidence – **Must be Sensitive**

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- 1. Regard must be had to the age of the child, the time period, trauma suffered by the child.**
 - 2. Proper evaluation of medical evidence.**
 - 3. Giving weight-age to medical, forensic and circumstantial evidence.**

Sentence – Strict, Stringent.

To send proper signal.

**Compensation should be granted
invariably.**

Rehabilitation of Child.

Kishan Lal Vs. State of Haryana

[AIR 1980 SC 1252]

“A socially sensitized Judge is a better statutory armor against gender outrage than long clauses of a complex section with all protection writ into it.”

State of Punjab Vs. Gurmeet Singh

[1996 (2) SCC 384]

“It is the sensitivity of a Judge, which prevents the justice from being a casualty.”

