

National Judicial Academy

SE-04: Training of Master Trainers for Special Public Prosecutors in POCSO Courts
27th – 28th December, 2021

Programme Coordinator : Mr. Sumit Bhattacharya and Ms. Ankita Pandey, Faculty

No. of Participants : 50

No. of forms received : 16

I. OVERALL				
PROPOSITION	To a great extent	To some extent	Not at all	Remarks
a. The objective of the Program was clear to me	93.75	6.25	-	14. Though the matters were in my line of expertise but, The objective of the programme was made crystal clear by the Honourable Lordship Justices and Resource Persons in the discussions.
b. The subject matter of the program is useful and relevant to my work	93.75	6.25	-	14. The programme is very relevant and useful in our course of daily work and I am highly benefited by the useful discussions and the subjects were very enlightening.
c. Overall, I got benefited from attending this program	93.75	6.25	-	14. Truly I was highly benefited by the eclectic programme and the explanations and the discussions by the Resource Persons and have given a new dimension to conducting cases in the future.
d. I will use the new learning, skills, ideas and knowledge in my work	100.00	-	-	14. Truly and definitely. The clarity and explanatory dimension received after the workshop will help in conducting the cases henceforth in a different and more judicious manner.
e. Adequate time and opportunity was provided to participants to share experiences	81.25	18.75	-	11. The training programme could have been carried forwarded for some more days. Say ad day or two. 14. Time was of the essence here as some more time were required for interactive sessions and for putting

				forward our questions and for clarification thereof and for sharing experiences also. 16. The training programme could have been carried forwarded for some more days. Say a day or two.
II. KNOWLEDGE				
PROPOSITION	To a great extent	To some extent	Not at all	Remarks
The program provided knowledge (or provided links / references to knowledge) which is:				
a. Useful to my work	100.00	-	-	14. Highly useful as very much relevant and explanatory
b. Comprehensive (relevant case laws, national laws, leading text / articles / comments by jurists)	81.25	18.75	-	14. Very much comprehensive as mostly all the topics were covered and various relevant and recent case laws and judgments were provided to aid us and also the Resource persons used slides to explain which helped us to note down the topics matters.
c. Up to date	81.25	18.75	-	14. Yes, as evident from the recent case laws provided and the explanations of the Honorable Resource Persons.
d. Related to Constitutional Vision of Justice	100.00	-	-	14. Definitely, even the concept of reverse burden has been has been given constitutional validity by the Honorable Apex Court in the case laws discussed.
e. Related to International Legal Norms	56.25	43.75	-	14. The POCSO Act and the topics of discussion were in conformity with the guidelines of various international and United Nations conventions and in line with them.
III. STRUCTURE OF THE PROGRAM				
PROPOSITION	Good	Satisfactory	Unsatisfactory	Remarks
a. The structure and sequence of the program was logical	93.75	6.25	-	14. Yes, highly satisfactory and valuable.

b. The program was an adequate combination of the following methodologies viz.				
(i) Group discussion cleared many doubts	75.00	25.00	-	14. Some doubts still remained to be cleared, hopefully might be cleared in the next sessions.
(ii) Case studies were relevant	75.00	25.00	-	14. Yes, highly satisfactory and valuable.
(iii) Interactive sessions were fruitful	100.00	-	-	2. Very informative and purposeful. 14. Was to some extent but paucity of time was a deterrent.
(iv) Simulation Exercises were valuable	73.33	26.67	-	14. Yes, highly satisfactory and valuable.
(v) Audio Visual Aids were beneficial	86.67	13.33	-	14. Network quality in some places, including mine, was a problem.

IV SESSIONS WISE VETTING

Parameters

Session	Discussions in individual sessions were effectively organized		The Session theme was adequately addressed by the Resource Persons	
	Effective and Useful	Satisfactory	Effective and Useful	Satisfactory
1	87.50	12.50	92.31	7.69
2	86.67	13.33	91.67	8.33
3	93.33	6.67	83.33	16.67
4	71.43	28.57	91.67	8.33

V. PROGRAM MATERIALS

PROPOSITION	To a great extent	To some extent	Not at all	Remarks
a. The Program material is useful and relevant	81.25	18.75	-	2. I was not able to go through the whole material. As the window to attend the program was quite short. 9. No material was provided. 14. Should have been provided at least 7 days before the event so to prepare better.

b. The content was updated. It reflected recent case laws/ current thinking/ research/ policy in the discussed area	75.00	25.00	-	2. I was not able to go through the whole material. As the window to attend the programme was quite short. 14. Yes, surely.
c. The content was organized and easy to follow	92.86	7.14	-	14. Yes.

VIII. GENERAL SUGGESTIONS

1. Three most important learning achievements of this Programme	<p>1. Latest knowledge, with open discussion and vast knowledge.</p> <p>2. 1. Priorities the cases which really needs attention; 2. In POCSO cases keep the investigation agency in loop from the very beginning; 3. Keep the process of collection of evidence detailed and convenient; 4. Keep open approach and give due weightage to all the stakeholders in POCSO cases; 5. Always read the true picture by interacting with complainant/victim in friendly manner.</p> <p>3. Presumption (reverse onus U/sec.29); Age determination of victim; Recording of evidence in POCSO cases.</p> <p>4. To be an ideal special public prosecutor of POCSO Act one has to be- 1. A good human being first; 2. Extremely sensitive in respect of pains of a victim and 3. He must left no stone unturned to avail sufficient relief to the victim.</p> <p>5. <i>Session 1: Professional & Ethical Best Practices for Public Prosecutors and Session 2: Objective, Nature & Contours of Functioning of POCSO Courts</i>– was most important and great learning achievements of programme.</p> <p>6. None.</p> <p>7. Use of section 29, 30 of POCSO Act- Use of chamber of judge for camera proceedings; Use of section 164 5(A) Cr. P.C. in the trials.</p> <p>8. Reverse burden of proof, determination of victim’s age, role of special pp.</p> <p>9. Nothing.</p> <p>10. Relevant case laws, national laws & International legal norms.</p> <p>11. 1. Examination in chief, cross examination and reexamination of witnesses and duty and power of a prosecutor during trial of POCSO cases are effectively and elaborately discussed which disambiguated confusions amongst the prosecutors and enriched their knowledge to have a better understanding of POCSO act and it’s provisions and guidelines specifically section 17, 19, 22, 29 and 30; 2.The discussions on dealing with the minor child victims of POCSO act with proper care and the function and duty in broader sense responsibility of all stakeholders when it comes to POCSO cases. The discussion on age determination in contrast with the provision of JJ Act, correct way of proving the age of victims. Discussion on appreciation of evidences, burden of proof, hostile witnesses handing child victims or minor witnesses etc. by the prosecutors and all other stakeholders; 3. The importance of Framing and Discussion on charge and the importance of studying the whole case record by the prosecutors to be better prepared to run the case in a planned and disciplined manner. It was also better learnt through this program that the prosecutors are not just a mouthpiece of the state but they have the solemn duty towards the people at large to bring the truth rather than blindly and strictly trying to confirm conviction of the accused irrespective of real facts of the case.</p>
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12. Object of the act; Legal provisions; Examination of child victim.

13. 1. Changed my perspective towards pursuing the trial; 2. Enriched and updated my knowledge of laws; 3. Improved sensitivity and empathy towards the victim.

14. 1. Recording of the statement of the victim within 30 days of incident is important to prevent the dilution of the evidence and save trauma of the victim. Monitoring the Deposition, Examination and Cross-Examination of the victim and other witnesses and the duty of the prosecutor to interact with the victim and to instill confidence in him/her to depose without fear. Victim not to be identified or personified and the demeanor of the victim have an important bearing on the deposition. All these issues were finely explained by the Honorable Resource Persons. Dr. Justice G. Jayachandran insisted that the Public Prosecutors to inculcate confidence in the victims before their deposition; 2. Discussion regarding the age determination, Birth Certificate to take prominence over other documents and segregation of victims into different age groups and handling of the minor victims under POCSO Act. Function and duties of all the stakeholders of the POCSO Act and the manner in which they handle the victim's trauma and condition and proper presentation thereof. Public Prosecutors to be inquisitorial to understand the trauma of the victim and then remedy it. The POCSO Act being a child friendly and child protective act, hence the Public Prosecutors are to be sensitive in their approach and remedy the trauma of the victim rather than avenge it. Honorable Justice Roshan Dalvi finely explained these issues and polished the confusions and nuances related to the above topics; 3. The issue related to the chaffing of the case matter when the victim turns hostile was discussed at length. Even after detailed elaboration of the incident in the statement of the victim U/Sec 164 Cr.P.C, if the victim turns hostile, it was suggested that the statement of the victim U/Sec 164 Cr.P.C. may be put to her but as Honorable Justice Roshan Dalvi rightly pointed that if the victim becomes hostile and adamant then the Prosecution has no option but to better call it a day and let the matter be. Beat evidence has to be considered if to proceed further. Dr. Justice G. Jayachandran made a memorable comment, that being "If the needle does not permit, the thread will not go inside" regarding hostile witnesses will have a lasting impression; 4. Public Prosecutors are help the Court uncover the truth. The Panorama of Law, Foundation of Law and proof has to be proved by the Prosecution. The Public Prosecutors are the officers and guide of the Court and their duties are to assist in the judicial process. They are not the representatives of any party or State but a means to discharge pure and un-fabricated justice; 5. Honourable Justice P.N. Prakash discussed at length and in detail the manner and procedure regarding the process of collecting of electronic evidence, the preservation thereof, sending to forensic lab for examination, collecting reports thereof and the detailed manner and practical procedure of presenting such evidence in Court and proving them with special reference to various case laws and judgments. This session was really enlightening as the real process and challenges faced in such evidence and the raising of hell by the defense side of the absence or presence of the certificate U/Sec 65 of the Indian Evidence Act were elaborately discussed and all doubts and ambiguities were cleared. Issues relating to DNA evidence were also discussed.

15. Made me more effective, and knowledgeable.

	<p>16. 1. Examination in chief, cross examination and reexamination of witnesses and duty and power of a prosecutor during trial of POCSO cases are effectively and elaborately discussed which disambiguated confusions amongst the prosecutors and enriched their knowledge to have a better understanding of POCSO act and its provisions and guidelines specifically section 17, 19, 22, 29 and 30; 2.The discussions on dealing with the minor child victims of POCSO act with proper care and the function and duty in broader sense responsibility of all stakeholders when it comes to POCSO cases. The discussion on age determination in contrast with the provision of JJ Act, correct way of proving the age of victims. Discussion on appreciation of evidences, burden of proof, hostile witnesses handling child victims or minor witnesses etc. by the prosecutors and all other stakeholders; 3. The importance of Framing and Discussion on charge and the importance of studying the whole case record by the prosecutors to be better prepared to run the case in a planned and disciplined manner. It was also better learnt through this program that the prosecutors are not just a mouthpiece of the state but they have the solemn duty towards the people at large to bring the truth rather than blindly and strictly trying to confirm conviction of the accused irrespective of real facts of the case.</p>
<p>2. Which part of the Programme did you find most useful and why</p>	<ol style="list-style-type: none"> 1. All the parts were wonderful. 2. Full programme was useful and nothing was surplus. 3. Victim compensation scheme. 4. Session 1: Professional & Ethical Best Practices for Public Prosecutors and Session 2: Objective, Nature & Contours of Functioning of POCSO Courts– for magnetic power of delivery of speech. 5. Session 2: Objective, Nature & Contours of Functioning of POCSO Courts– was most useful. 6. None. 7. Regarding the use of section 164 5(A) Cr.P.C. in the trials as some of the victims are mentally challenged which is disclosed by Hon’ble Justice A.P. Sahi in discussions. 8. All parts were useful. 9. I found group discussion part most useful. 10. National Law. 11. Elaborate discussion on section 29 and section 30 of the POCSO act with case law references is one of the most useful in this training session because the sections seem easy as the language of statute goes but the interpretation of the same varied in understanding not only by prosecutors but amongst lawyers and judges too which has always been creating confusions amongst the stakeholders be it the prosecutor or judge or any other stakeholder. In my opinion discussion on this very topic by Honorable resource persons are very much helpful and fruitful for the participants and the learning on this topic would cater right approach while dealing with POCSO cases specifically at the time of DC/FC AND ARGUMENT during the stage of trial in POCSO cases. 12. Session 1: Professional & Ethical Best Practices for Public Prosecutors and Session 2: Objective, Nature & Contours of Functioning of POCSO Courts– as it dealt with how to interact with child victim, gain trust and to prepare the victim to explain facts to the court. 13. Interactive sessions with honorable justices were very beneficial and helpful in solving day to day problems during trial.

	<p>14. The special attention to Sec 29 & 30 of The POCSO Act, the ramification, explanation and constitutional validity thereof were elaborately discussed in all the sessions. The Honorable Resource persons finely explained the importance thereof and its presence in other Special Acts as well and that time and again the concept of reverse burden and existence of culpable mental state has been reiterated in different Judgments of the Honourable Apex Court which were also discussed multiple times. The discussion on these matter were the most useful because the POCSO Act predominantly an act designed for child protection and child rehabilitation, hence the burden should always be on the accused to prove his innocence. This makes the Prosecutor’s dilemma easy to present the case for the child/victim. But nonetheless this being only presumptions, the prosecution has to prove the case.</p> <p>15. Justice Roshan Dalvi and Justice P.N. Prakash.</p> <p>16. Elaborate discussion on section 29 and section 30 of the POCSO act with case law references is one of the most useful in this training session because the sections seem easy as the language of statute goes but the interpretation of the same varied in understanding not only by prosecutors but amongst lawyers and judges too which has always been creating confusions amongst the stakeholders be it the prosecutor or judge or any other stakeholder. In my opinion discussion on this very topic by Honorable resource persons are very much helpful and fruitful for the participants and the learning on this topic would cater right approach while dealing with POCSO cases specifically at the time of DC/FC AND ARGUMENT during the stage of trial in POCSO cases.</p>
<p>3. Does the programme need further modulations or change</p>	<ol style="list-style-type: none"> 1. It was well settled programme. 2. No. 3. I think, No. 4. It’s an endless process. 5. It was good and up to the point. 6. None. 7. The already made programme is effective for prosecutors. 8. No. 9. Subject experts, who have practical knowledge should be called. Study material should be provided. 10. No. 11. According to me the programme is already one of the best of its kind since the resource persons are amongst the wisest persons of our nation, our Honourable Justices and learning from them is really a charm. As per me the programme should be held at least twice a year or if possible 4 times a year so that we the prosecutors and other stakeholders can better equip us with knowledge and right interpretation of law. 12. Time may be extended. 13. It was an excellent programme and I feel no change is required. 14. This programme was very enriching and unique in its manner and the information and study material received shall go a long way in helping us in discharging our duties in a befitting manner. The Honourable Resource persons are the peers in this subject and interacting with them and thereby learning in the

	<p>process was truly amazing and charming. The future change in laws and legal system might require modulation but in the present scenario it is perfect.</p> <p>15. Should be more practical than theory.</p> <p>16. According to me the programme is already one of the best of its kind since the resource persons are amongst the wisest persons of our nation, our Honourable Justices and learning from them is really a charm. As per me the programme should be held at least twice a year or if possible 4 times a year so that we the prosecutors and other stakeholders can better equip us with knowledge and right interpretation of law.</p>
<p>4. Kindly make any suggestions you may have on how NJA may serve you better and make its programmes more effective</p>	<p>1. It was a virtual training but would be better if possible for physical appearance training.</p> <p>2. Well the time is precious commodity, hope there is provision for bigger and elaborate sessions.</p> <p>3. No. thanks, it was outstanding.</p> <p>4. Increasing the number of programmes of this level throughout the year.</p> <p>5. None.</p> <p>6. None.</p> <p>7. The case law on POCSO Act has not been available in law generals; Need a programme on NDPS Act is required.</p> <p>8. All good.</p> <p>9. Offline training programmes with special judges POCSO Act should be planned.</p> <p>10. Better comprehensive structure should be followed.</p> <p>11. NJA should make the training programme a must and mandatory for the stakeholders especially the investigating agency and prosecutors so that the noble vision behind this becomes a success.</p> <p>12. If time is extended the resource person will get more time for discussion.</p> <p>13. Please conduct such programme frequently.</p> <p>14. In my personal understanding it will be advisable to bring in all the stakeholders relating to the subject matter or the laws/topic in discussion so all round opinion and backlogs could be cleared and all grey areas could be covered. It might be advisable that in legal parlance investigation is very important, hence the investigate agencies should also be represented because it is the investigate agencies who handle the matter first and a botched up investigation totally scuttles the otherwise good and presentable prosecution case and thereby terminates the hope of Justice. Such session must be held frequently in the coming times for better understanding and integration.</p> <p>15. Can make resource persons to share their experiences work.</p> <p>16. NJA should make the training programme a must and mandatory for the stakeholders especially the investigating agency and prosecutors so that the noble vision behind this becomes a success.</p>