

## **"TO BE A CHILD/CHEERFUL OR SINFUL"**

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"Child shows me in her playful smiles the divine in everyone".

Is, she really allowed to smile?

"Child is equal to God."

But, this Goddess has tears in her eyes!

"Children are pillars of our nation."

But, the pillars are crushed from grown?

Then, how it crown?

"Children are like seed to plant for harvesting the sweet fruits ie., future Bharath!"

But, is seed in healthy and good quality?

All the above million dollar questions remain unanswered. Because, as a good nation and good citizen, we are not able to protect them. Yes, of-course, so many enactments are there. Yet, the sexual exploitation against child still continues.

More particularly, my heart is broken when I see a child of even one year or two years in witness box to adduce evidence about the sexual assault and harassment perpetrated against her.

In our criminal penal system, we consider killing of human being is most grievous crime. But, in my view it is not, since it takes only breathe of one. But, the offences of rape and sexual assault are most barbaric crime, since, it takes not only one's sense and chasity, also ruins the entire family and shames the society. At this moment, we hang our heads without doing anything.

Above all, the very barbaric crime is sexual assault to child. Since because before understanding their childhood, they are given another child. So, the child carries another child! Is this hope for healthy nation?

We may pompost that the child is future of our Nation. But, what in reality is different. For the tremendous future of nation, how much care to the child should be given and protected, but what happens here. So, this child needs to be protected.

So that, Protection of children from Sexual Offences Act,2012 was enacted. As far as this Act is concerned, it is very good Act, since in this fast developing world in which crime rate also increases, this type of Act is utmost necessary.

For making easy access to child, special procedures are adopted. That is right from beginning, in our society, every one whether he is illiterate or even well educated keeps some distance from Judiciary and there is a hesitation to participate in legal proceedings. In such situation, how a child can be expected to come and adduce evidence in witness box. But, by this Act, some special procedures are adopted in the Special Courts for coming down to the comfort level of child witness. That is

- (1) The Special Court should ensure the friendly atmosphere to the child for adducing evidence without fear.
- (2) During her evidence, she should not be focused to the accused by whom she will be in fear.
- (3) In her evidence, both Special Public Prosecutor and defence counsel should put the questions to the court and court will put questions to her.

Like such mandatory procedures, this Special Act makes the child not to get exposed to cumbersome process of regular trial.

Even excepting Section 193 of Cr.P.C., by giving powers to Special Courts of direct cognizance, it makes special Courts to monitor investigation by way of sending victim and accused for medical examination and directing Magistrates to record Statements U/s 164 (5) of Cr.P.C., and sending materials for chemical analysis.

That apart, it is very unique since because unlike our adversary system, in this Act, the burden of proof lies on the accused. So, the conviction rate will certainly increase.

Even then, the conviction rate is very low so far, as per the report of National Crime Record Bureau.

So, if achieved at-least one percent of success, then the purpose of enactment will be fulfilled. But, what really have been doing in special Courts under Protection of Children from Sexual Offence Act.. So far as my experience, the special Courts under Protection of Children from Sexual Offence Act.. are burdened by the matters of love affair between a boy and girl, who is in border of 17-18 years. Is that the purpose for which this legislation was enacted?

It is ridiculous, if one man can be punished for having sexual intercourse with a girl who is 17 years,11 months and 29 days since, next day it will not be an offence instead it will be appreciated as Marriage. So, here what is an offence, whether crime or marriage?

Previous day, it can be seen as crime.

Next day, it can be considered as marriage.

So, it has to be taken away. So, the consent should not be determined by age, it must be determined by her ability and capability. The reason follow is children are generation snowflake. They are developing day by day not only in good, but in evil things also. So, the Special Courts under Protection of Children from Sexual Offences, Act should not only turn its eyes to the adolescent love.

Though this Act is very good, protective, effective and beneficial legislation for children, but, it slowly becomes rustic. As part of legal family, we should not allow the same. Then, what is to be done. How to effectively give the benefits of Protection of Children from Sexual Offence Act to victims. So, the following has to be considered by the legislators.

1.In our criminal system, the Police Officer who registered the case is founder of the case. Then, the Investigating Officer builds the super structure on foundation. If the foundation is strong, the surface will be strengthened. So, the police officer who at first deals with the case should be given proper training.

2.The women police Officers must be constituted as special wing only for the purpose of investigating the Offence under Protection of Children from Sexual Offence Act.

3.The women Special Public Prosecutors and women judicial Officers must be exclusively appointed in these special Courts and given proper training.

4.The cases that end in acquittal due to technicalities should be avoided.

5.The child who is in trauma should be adopted by State. The Special Officers and homes should be constituted for rehabilitating the children effectively.

6.There is a concern that the Special Courts under Protection of Children from Sexual Offence Act now are increasingly constrained to act as Family Court which is to be avoided.

By such new effective steps, the children can be benefited. So, this Act should be only for the children who have not even understood the essence of childhood and are victims due to their innocence. A child made to bear the child should be protected and culprits should be dealt with iron hands. The perpetrates of the crime and the persons who commit such crime should be heavily punished. Then only, child sinful can become child cheerful.

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