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# **MISUSE OF CHILD PROTECTION LEGISLATION: A LEGAL STUDY OF FALSE COMPLAINTS UNDER THE POCSO FRAMEWORK**

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## **Abstract**

The Protection of Children from Sexual Offences (POCSO) Act, 2012 represents a landmark legislative effort in India to safeguard children from sexual abuse through stringent provisions and child-friendly procedures. However, alongside its progressive framework, concerns have emerged regarding its misuse through false or exaggerated complaints. This article critically examines the phenomenon of false allegations under the POCSO regime and evaluates its implications on the criminal justice system, the rights of the accused, and the credibility of child protection laws. It analyses statutory provisions, judicial interpretations, and constitutional safeguards to assess whether existing mechanisms adequately address misuse. The study argues for a balanced legal framework that preserves victim protection while preventing wrongful prosecution through improved safeguards, evidentiary scrutiny, and accountability measures.

## **1. Introduction**

The enactment of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) marked a significant shift in India's approach toward addressing sexual offences against children. Designed to ensure child-friendly procedures, speedy trials, and stringent punishment, the Act reflects a victim-centric legal philosophy. However, the increasing incidence of false or exaggerated complaints has raised concerns about its misuse.

Traditional criminal law is grounded in the principles of *actus reus* and *mens rea*, requiring both a guilty act and a guilty mind.<sup>1</sup> In cases of false POCSO complaints, these principles

become difficult to apply, as allegations may stem from personal vendettas, family disputes, or consensual relationships misrepresented as offences. This creates challenges in distinguishing genuine cases from fabricated ones.

False accusations can have severe consequences for the accused, including reputational damage, psychological trauma, and prolonged litigation. At the same time, unchecked misuse risks undermining the credibility of genuine victims. Therefore, a balance between victim protection and fairness to the accused is essential.

## **2. Legal Framework Governing False Complaints**

### **2.1 POCSO Act, 2012**

The POCSO Act provides a comprehensive framework for addressing child sexual abuse but does not explicitly deal with false complaints. Certain provisions, however, indirectly affect such cases:

- Section 29 introduces a presumption of guilt against the accused.<sup>2</sup>
- Section 30 presumes culpable mental state.<sup>3</sup>

While these provisions strengthen victim protection, they may disadvantage individuals falsely accused.

### **2.2 Bharatiya Nyaya Sanhita, 2023**

The Bharatiya Nyaya Sanhita (BNS), 2023 replaces the IPC and includes provisions relating to:

- False information to public authorities
- Fabrication of evidence
- Malicious prosecution<sup>4</sup>

However, these are general provisions and lack specific applicability to POCSO-related misuse.

### **2.3 Code of Criminal Procedure, 1973**

Procedural safeguards exist under:

- Section 154 – Registration of FIR
- Section 173 – Investigation
- Section 482 – Quashing of proceedings<sup>5</sup>

These provisions act as checks but are often insufficient in preventing wrongful prosecution at an early stage.

## 2.4 Indian Evidence Act, 1872

The evidentiary framework relies heavily on witness testimony. In POCSO cases, over-reliance on uncorroborated statements can lead to difficulties in distinguishing false allegations.<sup>6</sup>

## 3. Constitutional Dimensions

False POCSO complaints raise serious constitutional concerns:

- **Article 14** – Equality before law; misuse may result in arbitrary prosecution.
- **Article 19** – False allegations may restrict freedom and damage professional life.
- **Article 21** – Protects life, liberty, dignity, and reputation.<sup>7</sup>

The Supreme Court has consistently held that fair trial and due process are integral to Article 21. False accusations may violate these principles by causing unjust deprivation of liberty and social stigma.

## 4. Judicial Interpretation

Indian courts have attempted to balance child protection with fairness to the accused. In *Maheshwar Tigga v. State of Jharkhand*, the Supreme Court emphasized contextual evaluation and acquitted the accused due to inconsistencies in evidence.<sup>8</sup> Similarly, in *Rajoo v. State of Madhya Pradesh*, the Court warned against false allegations being used as tools for personal vendetta.<sup>9</sup> In *Arnesh Kumar v. State of Bihar*, guidelines were laid down to prevent unnecessary arrests, reinforcing procedural safeguards.<sup>10</sup> These decisions highlight the judiciary's role in preventing misuse while upholding the objectives of the law.

## 5. Causes and Nature of False Complaints

False complaints under the POCSO framework arise from multiple socio-legal factors:

- Personal vendettas and family disputes
- Consensual adolescent relationships criminalized under the Act
- Social pressure or coercion
- Lack of awareness of legal consequences<sup>11</sup>

Such misuse places an additional burden on the criminal justice system and risks diluting the seriousness of genuine cases.

## 6. Impact of False Allegations

### 6.1 On the Accused

- Social stigma and reputational harm
- Psychological trauma
- Financial burden due to prolonged litigation
- Loss of employment opportunities<sup>12</sup>

### 6.2 On the Justice System

- Increased burden on courts
- Delays in genuine cases
- Erosion of public confidence

### 6.3 On Victims

Repeated instances of false complaints may create a “credibility gap,” making it harder for genuine victims to be believed.

## 7. Critical Analysis

The current legal framework reveals significant gaps:

- Absence of specific provisions addressing false complaints under POCSO
- Over-reliance on presumptions against the accused
- Lack of preliminary scrutiny mechanisms
- Inconsistent investigative standards

While victim protection is essential, unchecked misuse undermines fairness and constitutional guarantees. The law must therefore evolve to address both concerns simultaneously.

## 8. Suggestions and Reforms

To address misuse while preserving the intent of the POCSO Act, the following reforms are suggested:

### 1. Statutory Recognition of False Complaints

Introduce explicit provisions addressing malicious prosecution under POCSO.

### 2. Preliminary Assessment Mechanism

Allow limited scrutiny before FIR registration in doubtful cases.

### 3. Stricter Evidentiary Standards

Encourage corroboration and scientific evidence where possible.

#### **4. Penalties for Malicious Complaints**

Ensure accountability without discouraging genuine victims.

#### **5. Training for Law Enforcement**

Specialized training to distinguish between genuine and false cases.

#### **6. Judicial Guidelines**

Develop consistent standards for handling false allegations.

### **9. Conclusion**

The POCSO Act remains a crucial instrument for protecting children from sexual offences. However, its misuse through false complaints poses serious challenges to the criminal justice system and the rights of the accused. The absence of specific safeguards within the Act necessitates reliance on general criminal law provisions, which are often inadequate. A balanced approach is essential—one that strengthens child protection while preventing wrongful prosecution. Legal reforms, improved investigation standards, and judicial vigilance can help achieve this balance. Ultimately, the credibility and effectiveness of child protection laws depend on their fair and just application.

#### **Footnotes**

1. K.D. Gaur, *Textbook on Indian Penal Code* (6th ed., 2016).
2. Protection of Children from Sexual Offences Act, 2012, §29.
3. *Ibid.*, §30.
4. Bharatiya Nyaya Sanhita, 2023.
5. Code of Criminal Procedure, 1973, §§154, 173, 482.
6. Indian Evidence Act, 1872, §§101, 114.
7. Constitution of India, arts. 14, 19, 21.
8. *Maheshwar Tigga v. State of Jharkhand*, (2020) SCC.
9. *Rajoo v. State of Madhya Pradesh*, (2008) SCC.
10. *Arnesh Kumar v. State of Bihar*, (2014) SCC.
11. S. Kumar & R. Mehta, "Misuse of POCSO Act," *IJLLR*.
12. Flavia Agnes, *Law and Gender Inequality in India*.