Age of Consent in POCSO

What is the issue?

Older adolescents engaging in consensual and non-exploitative acts find themselves embroiled in the criminal justice system.

What is the issue with age of consent in POCSO?

- The POCSO Act 2012, by defining a child as a person below 18 years of age, fixes the age of consent at **18 years**.
- Under POCSO, the consent of a "child" is immaterial and consensual sexual intercourse with or among adolescents is treated on a par with rape.
- While boys/young men are charged with sexual offences, the girls are treated as victims and institutionalised in children's homes on refusal to return to their parents or if their parents refuse to accept them.
- The only relief available to the couple is to urge the High Court to quash the case under **Section 482 of the CrPC** to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

What about the Court judgements regarding the issue?

- In ***Rama @ Bande Rama v. State of Karnataka***, the High Court quashed criminal proceedings under the IPC and Protection of Children from Sexual Offences (POCSO) Act.
- The case had been initiated based on a complaint of a 17-year-old girl's father against her 20-year-old partner.
- The girl stated in court that the acts were consensual and she had married the accused after she had turned 18 and a child was born to the couple.
- In ***Vijaylakshmi v. State Rep (2021)***, the Madras High Court observed that punishing an adolescent boy who enters into a relationship with a minor girl by treating him as an offender, was never the objective of the POCSO Act.
- In ***Raj Kumar v. State of Himachal Pradesh (2021)***, the Himachal Pradesh High Court allowed a petition filed by the minor girl's father for quashing the trial against his son-in-law.
- In ***Skhemborlang Suting v. State of Meghalaya (2021)***, a couple got entangled under the POCSO Act as the wife was a minor.

What is the need of the hour?

- The high rate of acquittals shows that the law is not in sync with social realities of adolescent relationships.
- Blanket criminalisation of such consensual sexual acts involving older adolescents erodes their dignity, liberty, privacy, evolving autonomy, and development potential.

- It also impacts the delivery of justice as these cases constitute a large burden on our courts, and divert attention from investigation and prosecution of actual cases of child sexual abuse and exploitation.
- Merely creating awareness among children will not solve the issues arising out of consensual relationships between teenagers.
- There is a **need for law reform** to revise the age of consent and prevent the criminalisation of older adolescents engaging in consensual and non-exploitative acts.

References

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