POCSO Act and the Recent SC Ruling

Prelims: Public policy| Social development | Current events of national and international importance.

Why in news?

Recently, Supreme Court declined to impose a sentence on a man convicted under the POCSO Act, noting that the victim did not view the incident as a crime and had suffered more from the legal fallout.

POCSO - Protection of Children from Sexual Offences Act
• It was enacted in **2012** to protect children under **18 years** from sexual offences. • It criminalises, - **Penetrative and non-penetrative sexual assault** - **Sexual harassment** - **Child pornography** • **Gender-Neutral Law** – The Act applies **equally to all children under the age of 18**, regardless of gender. • It also recognizes that **offenders can be of any gender**. • **Consent of Minors is Not Legally Valid** – Any sexual activity involving a person below 18 is considered non-consensual by law. • Even if the minor claims it was consensual, the law deems it **sexual offence under the law**. • **Special Courts –** It establishes Special Courts in every district for **speedy trials**. • **Child-Friendly Procedures –** It ensures **in-camera trials**, where the public is not allowed during proceedings. • It allows **video-recorded testimonies** and statements to prevent re-traumatizing the child. • **Presumption of Guilt –** Under **Section 29**, if a person is accused of a sexual offence under POCSO, the court **presumes the accused is guilty** unless proven otherwise. • **Time-Bound Trials –** The law mandates that r**ecording of the child's evidence** should be completed within **30 days** of the Special Court taking cognizance. • The entire trial should be completed **within one year** from the date of taking cognizance.

- **Case background –** In 2018, a **13-year-old girl** went missing and was later found married to a **25-year-old man**.
- Despite her mother's rescue attempts, she stayed with him and later gave birth to a child.
- The accused was convicted in 2022 under POCSO, and various IPC Sections.
- Special POCSO Court sentenced the accused to **20 years imprisonment.**
- The **Calcutta High Court overturned the conviction** and recommended **exclusion of consensual adolescent relationships** from POCSO.
- **Supreme Court set aside** the Calcutta HC's ruling and withheld sentencing and sought a deeper understanding of the victim's present situation.

- It **deferred sentencing under** Article 142 of the Constitution, citing:
  - The **victim's welfare**
  - Her continued support for the accused
  - Her **social isolation and poverty**
- A **three-member expert committee** was formed to assesses the situation before a final decision.
- **Expert panel findings –** It flagged the inadequate implementation of the POCSO Act as a "**collective failure**".
- It recommended keeping the family unit intact for the child's welfare, alongside providing financial, legal, and educational support.
- SC **withheld sentencing** and directed the West Bengal government to ensure her welfare and rehabilitation.

Controversy in SC ruling

- SC's withholding of punishment using its extraordinary jurisdiction (Article 142) is unusual.
- It could lead to misuse by perpetrators claiming "**consensual" relationships with minors**.
- It undermines the **core intent** of **absolute protection** for children from exploitation.

Way Forward

- Need for **comprehensive sex education** and a **stigma-free curriculum** in schools.
- **Reforms in POCSO implementation** to make justice more sensitive and effective.
- **Exceptions must remain rare** and guided strictly by law and welfare but not social pressure or sentiment.

Reference

The Hindu| SC deviated from the POCSO Act in a recent judgment

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