

“Implementation of Pocso Act – With Specific Reference to Wayanad District, Kerala”

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ABSTRACT

The implementation of Protection of Children from Sexual Offences Act (POCSO), 2012 and the prevailing custom of child marriages, customary laws and other rituals and ceremonies in Wayanad District of Kerala. The legal awareness about the Act to the tribals and extending of the knowledge about the Act to them for reducing or preventing future crimes or offences. In Wayanad District of Kerala young tribal men were charged under POCSO Act in the last years. But they are telling, still following tradition that doesn't recognize the modern definitions of adulthood. When one person brought his wife having 17 years old, he was not aware about that, committing a crime that would land him in jail for months.

KEYWORDS: Crime, Prevailing Custom, Child Marriages, Recommendations.

I. INTRODUCTION

A 21 year old tribal youth was simply following community customs, where the age of the bride is immaterial and marriage allowed post puberty. But, youth was picked up by police and charged under the Act. But the youth hadn't heard of the 2012 Protection of Children from Sexual Offences Act (POCSO). In another case, a youth was sentenced under POCSO to 10 years in prison for raping his underage wife in spite of the woman pleading before court to let him go. So many men in Wayanad District have been charged under POCSO in the last years. The local tribal population had little awareness.

Awareness about POCSO: When even those in cities are also not aware of POCSO. The youths are not justifying child marriage but pointing out the lack of awareness of laws like POCSO among the community. A majority of tribal youth in Kerala's prisons come from the Paniya tribe, a 98,000-strong community that were mainly bonded laborers for centuries. Most are still landless with 30 families often dependent on half an acre of land.

Forest Rights Act (FRA) : Tribals make up nearly a tenth of India's population and live mainly in rural and forested regions, following customs that are often odds with modern laws. Their poverty and lack of formal education aggravate the problem of obtaining bail. The youths pledged the title deeds of his aunt's property and other mortgaged his mother's land. Considering their past as bonded labourers, it would be difficult for them to claim land even under the Forest Rights Act (FRA).

Implementation of Act: The arrests have triggered mass protests. There was some directions that to abstain from POCSO on customary tribal child marriages occurring with the support of family. It is also decided that, if there is any doubt whether POCSO should be invoked in a case, police can refer it to the district government pleader to bring it to the notice of the District Level Committee. In the future, such cases will be addressed within the bailable provisions of the British-era Child Marriage Restraint Act. It is also stated that, if there is no malicious intention behind their practices, the executives should see it as a part of a custom and not a penal offense.

Customary Marriage : The customary marriage is traditional for the tribal people. There are no rituals or ceremonial practices for the marriages of specific tribal categories such as Paniya and Kattunaykkans. They will start living together in their parental homes during their teenage. These customs make them vulnerable to the

law, and this is why these two communities are severely affected. Since they live mostly in isolated settlements, they do not comply with the required legal procedures including marriage registration and obtaining marriage certificate.

Enquiry: When the police come for an enquiry, they fail to produce their marriage certificates or even wedding photographs. The POCSO Act ensures harsh punishments and does not give rooms for the courts to mitigate it based on particular circumstances or also to exercise the discretionary power conferred on judges to decide and take action. The main aim of the Act is to protect children from sexual offences. But the law does not distinguish between sexual assaults and child marriage. So, what is prevalent among the tribes of Wayanad is child marriages rather than child sexual abuse.

II. CONCLUSION AND RECOMMENDATIONS

The government should take initiatives for extending awareness programs related with the implementation of POCSO Act and the consequences of its violations. Also ensure to reduce child marriages through continuous awareness to the tribal people. The youth and their parents should aware about the health/medical issues etc while supporting for child marriages. They should support the implementation of POCSO Act for their own welfare in the present and also for future generation.

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