

**INAUGURATION OF
SOUTHERN REGIONAL CONFERENCE ON POCSO ACT**

**'THEME OF THE CONFERENCE' BY
THE HON'BLE CHIEF JUSTICE, MADRAS HIGH COURT**

16.11.2013 – 09.30 am

Vande Mataram.

Vanakkam.

My Lord, the Hon'ble Chief Justice of India, Brother Mr. Justice K.J. Sengupta, Chief Justice of Andhra Pradesh High Court, Mrs. Justice Chitra Venkataraman, President, Tamil Nadu State Judicial Academy, Mr. Justice N. Kumar and Mr. Justice Thottathil B. Radhakrishnan, Judges of High Courts of Karnataka and Kerala, my esteemed sister and brother Judges Madras High Court, Advocate General, Dr. Dinesh Paul, Director, National Institute of Public Cooperation and Child Development, New Delhi, Mrs. Neela Gangadharan, Chairperson, Kerala State Commission for Protection of Child Rights, Dr. Tejinder Kaur, Dr. Sunitha Krishnan, Dr. Shekar, senior advocates, advocates, judicial officers, public prosecutors, officials from police department, juvenile justice boards, child welfare committees and

departments of social welfare, social justice, health and family welfare of southern states, ladies and gentlemen,

A very Good Morning to all of you,

This two-day Conference, being held with the collaboration of the National Institute of Public Cooperation and Child Development, is divided into five Sessions. The first session will deal with the POCSO Act, the second session with Criminal Law Amendment Act, 2013, the third Session with Sexual Violence against Children, the fourth session with Prosecuting Sexual Offences and the fifth and last session will deal with Child Friendly Court Procedure and Judicial Attitude. Mr. Justice K.J.Sengupta, Chief Justice of Andhra Pradesh, will chair the first session and other sessions will be chaired by Judges from various High Courts. Each session will have open floor discussion and will have experts on the relevant fields.

Our country is one of the 193 signatories to the United Nations' Convention on the Rights of Child. Article 39 (e) of the Constitution of India, under the Chapter Directive Principles of State Policy, mandates that the State shall direct its policy towards securing that the health and strength of workers, men

and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; and 39 (f) directs that children should be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. In order to achieve the avowed object, India has enacted many legislations to safeguard the interests of children. Some of them are POCSO Act, Young Persons (Harmful Publications) Act, The Commissions for Protection of Child Rights Act, etc. Apart from these special Acts, Indian Penal Code, Immoral Traffic (Prevention) Act, Protection of Human Rights Act contain provisions dealing with interests of children.

Child rape cases are cases of perverse lust for sex where even innocent children are not spared in pursuit of the sexual pleasure. The child sex abuse does not mean rape only. It involves dependent and developmentally immature children in sexual activities which they do not truly comprehend.

The Protection of Children from Sexual Offences Act, 2012, (POCSO Act) was enacted on 19.6.2012, with a view to protect children from offences of sexual assault, sexual harassment and pornography and to provide for establishment of Special Courts for trial of such offences. The Statement of Objects and Reasons of the Act state that there has been increase in cases of sexual offences against children, which are not adequately addressed by the extant laws. A large number of such offences are neither specifically provided for nor are they adequately penalised and the interests of the child, both as a victim as well as a witness, need to be protected, need to be defined explicitly and countered through commensurate penalties as an effective deterrent.

The POCSO Act, which this Conference is going to deliberate in detail, contains nine chapters. The Act contains procedures in cases relating to sexual assaults on children and punishment therefor.

In SHANKAR KISANRAO KHADE v. STATE OF MAHARASHTRA (2013) 5 SCC 546) the Supreme Court has opined that *"whenever we deal with an issue of child abuse, we must apply the best interest child standard, since best interest of the child is*

paramount and not the interest of perpetrator of the crime. Our approach must be child centric. Complaints received from any quarter, of course, have to be kept confidential without casting any stigma on the child and the family members. But, if the tormentor is the family member himself, he shall not go scot free. Proper and sufficient safeguards also have to be given to the persons who come forward to report such incidents to the police or to the Juvenile Justice Board” and then proceeded to issue directions to various stakeholders.

In situations of violence against children, it is not the child which has to be taught. It is the adults who have to be taught the value of a child. The adults tend to have adultcentrism which is an exaggerated egocentrism towards child nurturing a potential bias in understanding and responding to children. We the adults assume that we know everything we need to know about children because they are children. This comes in the way of various welfare organisations in understanding and incorporating into their module the practice of routine consultation with children about decisions that affect their lives. This Conference can be used to create policy or conduct study that may respond to this type of issues.

A child is an asset of the nation, who will shape the future of the country. We as the responsible members of the society, need to nurture the talents in them and we have to do our utmost to safeguard and protect them. All children have the same rights, irrespective of race, colour, sex, religion, status etc. I hope the deliberations here will take care that from the inception of their first contact with the justice system, through out the judicial process, the children are treated fairly without invoking any fear in them. Professionals should develop ways that the child witnesses give evidence more freely by ensuring that specialists or family members are with the child during his testimony. The children should be protected from being treated badly from the moment a crime has been discovered and all through the investigation of that crime and during the trial also. Those connected with the prosecution shall ensure that the trial is completed as quickly as possible and cases involving children shall be heard first. As far as practicable, the media and the public should be kept out from courtroom lest the child may get frightened. Though as professionals you may be aware of these basic requirements, exchange of information by the stakeholders

will help each of us understand the problems faced by us so that we can plan our action accordingly.

Only yesterday, I saw a news item that in our country child abuse is more than 40%. We have to curb this practice by all means and therefore, proper implementation of the Act will go a long way in curbing this practice.

We have to involve the children themselves in the process of implementing and raising awareness of child rights. When a person of their age or group informs them of their rights, they may listen him properly and will feel free to discuss with him.

I express my gratitude to the organisers of this Conference for giving me an opportunity to express my views before this distinguished and eminent gathering.

NANDRI. VANAKKAM.

JAI HIND.
