

A Hospital Records-Based Study on the Profile of Accused in Sexual Assault Cases under the POCSO Act (2021–2023)

Nishanth.V.S¹, P. Rajaram², B.V.Naga Mohan Rao³,
R. Sudha⁴, Kattamreddy Ananth Rupesh⁵

¹Resident, Department of Forensic Medicine, Government Medical College, Nizamabad, ²Assistant Professor of Forensic Medicine, Pondicherry Institute of Medical Sciences, Puducherry, ³Professor of Forensic Medicine, Government Medical College, Nizamabad, ⁴Professor of Forensic Medicine, Osmania Medical College, Hyderabad, ⁵Assistant Professor of Forensic Medicine, Andhra Medical College, Visakhapatnam.

How to cite this article: Nishanth.V.S, P. Rajaram, B.V.Naga Mohan Rao et. al. A Hospital Records-Based Study on the Profile of Accused in Sexual Assault Cases under the POCSO Act (2021–2023). Indian Journal of Forensic Medicine and Toxicology/Volume 19 No. 3, July - September 2025.

Abstract

The Protection of Children from Sexual Offences (POCSO) Act, 2012, was enacted to safeguard children from sexual abuse. Over the years, India's rape laws, including those covering child rape, have evolved significantly, especially with the criminal law amendments in 2013 and 2018. With the broadening of the definitions of rape and sexual assault, routine potency testing in sexual assault cases is no longer necessary. This study aimed to analyze the profiles of accused individuals involved in sexual assault cases under the POCSO Act from 2021 to 2023 and reported for medical examination at Government Medical College, Nizamabad. In the 122 cases studied, it was found that a majority of the accused (118) were known to the victims, with a large chunk of them (76) of them being intimate partners. Most incidents occurred at the accused's home (88), and the majority of accused were unmarried males (97) aged 18-25 (67) employed as daily laborers (86). Of the 28 cases of non-penovaginal sexual assault, no potency test was required, yet the police requested it. The study emphasizes that routine potency tests should be abandoned, and instead, they should only be used judiciously in cases where necessary, as proposed by several high courts and the Supreme Court of India.

Keywords: Child abuse, Rape, Sexual assault, Potency test, Criminal procedure, Erectile dysfunction.

Introduction

Child abuse is an ever-growing social menace across the globe. In line with the United Nations

Convention on the Rights of the Child, 1989, and the United Nations Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, 2000¹ and considering its legal obligation towards the

Corresponding Author: Nishanth. V.S, Resident, Department of Forensic Medicine, Government Medical College, Nizamabad.

E-mail: nishanthsenthilvel@gmail.com

Submission date: February 28, 2025

Acceptance date: April 23, 2025

Published date: July 10, 2025

This is an Open Access journal, and articles are distributed under a Creative Commons license- CC BY-NC 4.0 DEED. This license permits the use, distribution, and reproduction of the work in any medium, provided that proper citation is given to the original work and its source. It allows for attribution, non-commercial use, and the creation of derivative work.

children of the country, India enacted the Protection of Children from Sexual Offences (POCSO) Act in 2012. This law provides a comprehensive legal framework for the protection of children from sexual abuse, sexual exploitation, and sexual harassment, and establishes procedures for the investigation and trial of such offenses in a fast-track way².

The Indian rape laws have undergone significant transformations over the years. The first phase of reform came after the '*Mathura case*,' following which the custodial rape was made a serious offense. The Section 114A of the Indian Evidence Act that allows for presumption of absence of consent in rape cases also came into existence. Subsequently, in a catena of judgements the supreme court remarked that even the slightest penetration of penis was sufficient to constitute rape. After the tragic Nirbhaya incident, the rape laws underwent a radical change with the introduction of the Criminal Law Amendment Act, 2013³. Following two other horrific cases, the Unnao and Kathua rapes, the Criminal Law (Amendment) Act, 2018 was enacted, providing for stricter punishments when rape is committed against minors. The new criminal law paradigm under the BNS, BNSS and BSA also has brought some more changes to the existing rape laws⁴.

The definition of rape has been broadened in view of evolving patterns of sexual violence, now including penetration by fingers or objects, as well as non-penetrative acts, under the scope of rape or sexual assault. Even the slightest penetration of the penis into a woman's genitals constitutes rape, with no requirement for an erect penis or complete penetration⁵.

When an accused of sexual assault is apprehended by the police, it is customary to seek a medical opinion on whether the individual is physically capable of performing an act of sexual intercourse. In proper medico-legal discourse, the individual is typically examined for impotency (more so erectile dysfunction which is a consistent or recurrent inability to attain/ maintain a penile erection sufficient for sexual intercourse), and if the medical opinion concludes otherwise, it is presumed that the individual is capable of doing a sexual act. The procedure mentioned herein is labelled '*potency test*' by the police for conversational convenience⁶.

Several courts have consistently stated that a potency test is not required as a routine procedure. The Madras High Court⁷, for instance, has directed courts across Tamil Nadu not to insist on conducting potency tests unless the accused voluntarily requests it to prove his innocence.

Conducting a potency test as a routine procedure in non-peno-vaginal cases can be problematic, leading to unnecessary expenditure of time and resources in proving a point that is not legally contested. Bringing an accused from judicial remand to a hospital for examination is a cumbersome and technically challenging process. Furthermore, the multidisciplinary evaluation required – often involves specialties such as urology or endocrinology – is difficult to facilitate, as many civil hospitals lack super-specialty departments. There have also been instances where accused individuals have escaped from custody during such examinations, emphasizing the security risks involved.

Furthermore, courts have emphasized that the timely examination of the victim is important for establishing the facts of the case and determining the role of the accused. While the examination of the accused for evidence collection is important, a potency test does not necessarily contribute to the criminal trial⁸.

This study aims to analyze the profile of accused individuals examined at our hospital in sexual assault cases under the POCSO Act. The objectives are examining the socio-demographic profile of the accused, their relationship with the victim, and the details of the incident as per the information available in the police requisition. In addition, the study will evaluate the necessity of a potency certificate in these cases.

Methodology

The study was conducted in the Department of Forensic Medicine and Toxicology at Government Medical College, Nizamabad, reviewing sexual offense (SO) cases from the period 2021-2023. Out of a total of 185 SO cases registered during the study period, 122 POCSO act related cases were included in the present study. The following data was retrospectively extracted from the case files: the

accused's age, occupation, marital status, relationship to the victim, location and timing of the incident, time of reporting, the victim's sex, and the type of sexual assault.

Results

The majority of the accused in the POCSO cases were within the age range of 18-25 years, i.e., 67 individuals (Table 1). Among the accused, 86 were daily laborers, 23 were students, and 13 were engaged in business. In terms of marital status, 97 were single, while 25 were married. Out of the 122 cases, 109 involved penetrative sexual assault, while 13 involved non-penetrative sexual assault. The relationship between the accused and the victim is summarized in Table 2, with "lover" being the most common association, reported in 72 cases. Details of non-penovaginal assaults are provided in Table 3, with penetration using fingers observed in 15 cases. In most cases, the place of the offense was the accused's home, with 88 instances recorded, as detailed in Table 4. The most common time of reporting after the offense was between 1 week and 1 month, with 47 cases, as shown in Table 5.

The most common age group of victims in the study was 17 years old, with 49 cases, followed by 16 years old with 24 cases and 15 years old with 9 cases. There were 7 victims each in the 13, 11, and 8-year age groups, while 6 victims were 10 years old and 4 were 12 years old. Additionally, there were 3 victims aged 6 years, 2 each aged 14 and 7 years, and 1 victim each aged 9 and 5 years. In terms of sex, 119 victims were female, and 3 victims were male.

Table 1: Age distribution of accused individuals in POCSO cases

Age of the accused	No. of cases
Less than 18 years	27
18-25 years	67
26-30 years	15
31-40 years	10
41-60 years	2
61-80 years	1
Total	122

Table 2: Relationship of accused with the victim

Relationship with the victim		No. of cases
Intimate	Lover	72
	Father	2
	Husband (Child marriage)	1
	Stepfather	1
Friend	Neighbor	5
	Escort/Takes to school	1
	Friend (uncategorized)	12
Other relative	Uncle	3
Acquaintance		21
Stranger		4
Total		122

Table 3: Non penovaginal cases summary

Type of sexual assault	No. of cases
Penetrated with fingers	15
Undressed and kissed	2
Undressed and touched private parts	7
Undressed and laid upon victim	4
Total	28

Table 4: Place of sexual assault

Place	No. of cases
Accused home	88
Victim home	16
Outside	18
Total	122

Table 5: Time of reporting

Time	No. of cases
1 day	11
1 day - 1 week	30
1 week - 1 month	47
1month - 6months	11
>6 months	13
Pregnancy in	7
Delivered in	3
Total	122

Discussion

The present study aligns with NCRB statistics⁹ and several other studies in the field¹⁰⁻¹². Unmarried males between the ages of 18 and 25 constitute most of the accused involved in POCSO cases in our study. The incidents most commonly occurred at the accused's home, and in 118 cases, the accused was a known person to the victim, while in only 4 cases, the accused was a stranger. This highlights the prevalence of sexual violence within close circles.

In the study by Hugar BS et al.¹⁰, 87 perpetrators were examined, with the majority falling within the age group of 18-24 years (40%). Similarly, in our study, most of the accused were in the 18-25-year age group (55%). In Hugar et al.'s study, most of the accused were either the victims' friends or acquaintances, comprising 74.6% of cases. In contrast, in our study, most of the accused were the victims' lovers (59%), followed by acquaintances (17%). In Hugar et al.'s study, most of the incidents took place in the perpetrator's home (20 cases), and similarly, in our study, most incidents occurred in the accused's home (88 cases). Hugar et al. reported 67 cases of alleged rape, 15 cases of molestation, and 5 cases of sodomy. In our study, penetrative sexual assault was present in 109 cases, and non-penetrative sexual assault was found in 13 cases.

Our results are consistent with those of Moses et al.¹², where intimate partners were identified as the primary perpetrators of sexual assault. In our study, 'lovers' was the most common relationship between the accused and the victim.

In cases where an allegation of penovaginal intercourse is made, a potency test may be relevant if the accused claims impotence as a defense, especially under rape or POCSO (Protection of Children from Sexual Offences) Act charges. Currently, various Indian textbooks suggest that the opinion of a potency test should be issued in a double negative format when an organic cause of impotence is absent, and this practice is followed in many institutions. Courts and investigative agencies would benefit from a clear, objective, and unequivocal opinion rather than a vague one. Potency testing requires a multidisciplinary approach, involving the expertise of

forensic medicine specialists, psychiatrists, urologists, physicians, neurologists, endocrinologists, and other allied specialists¹³. It is not advisable to put a larger medical workforce in unnecessary trouble for each and every sexual assault case. Instead, an optimal use of human resources is the need of the hour.

The issue of preventing POCSO cases is complex and includes serious deliberations and discussions about the legal age for sexual intercourse, how teenage relationships can lead to litigation, and the importance of proper sexual education. It is also essential to recognize that in certain regions of the country, false POCSO cases are prevalent, sometimes used as a means to settle disputes or for revenue generation. Addressing these issues requires careful consideration of legal, socioeconomic, and educational factors to protect minors from sexual assaults or else their young adult phase of life will be marred by never-ending litigation.

Conclusion

In our study, out of the 122 SO cases registered under the POCSO act, 28 cases involved non-penovaginal offenses that did not require a potency certificate, yet one was still requested by the police. Moreover, 7 victims became pregnant, with 3 having delivered, and in these cases, DNA profiling could have been directly performed in solving the case and *potency test* serves no purpose.

We suggest that if an accused is apprehended for penetrative sexual assault not involving the penis or for non-penetrative sexual assault, they should be exempted from the potency test. As advocated by the courts, potency tests in males or the two-finger test in females in sexual offense cases are outdated, dehumanizing, and obsolete. The impotency of an individual may only be considered by the courts in civil matters, such as the nullity of a marriage, or if the accused wishes to prove their innocence in a criminal case. Furthermore, we recommend increasing awareness of the provisions of the POCSO Act among the public, children, and their parents, as well as providing periodic training to relevant personnel, including police officers, and judicial officers as stipulated by the law.

Limitations:

This retrospective, records-based study was conducted using data from only a single tertiary care institution. However, it did not include information on the legal outcomes of these cases, such as whether they resulted in successful prosecution. Furthermore, several critical details about the incidents were derived from police records, while the accused's version of events was not considered.

Recommendations:

Multi-center studies on large data sets are needed. Future research should explore the impact of pornography on sexual violence, migration from rural to urban areas as a risk factor, and the role of low socioeconomic conditions in promoting violent behavior. As we noticed in our study that a significant proportion of accused individuals in POCSO cases are daily laborers and likely migrants, understanding these factors also becomes crucial for developing targeted interventions to prevent sexual violence.

Financial support: Nil

Conflict of interest: None to declare

Ethics committee approval: The institutional ethics committee of Government Medical College, Nizamabad, Telangana, approved the study under reference number ECR/1896/Inst/TG/2023, dated 20.02.2024.

References:

- UNICEF, The Convention on the Rights of the Child: The children's version, Unicef.org. [cited 2025 Feb 28]. Available from: <https://www.unicef.org/child-rights-convention/convention-text-childrens-version>
- The Protection of Children from Sexual Offences Act, 2012 Last update- 28-02-2023, Nic.in. [cited 2025 Feb 28]. Available from: <https://www.indiacode.nic.in/bitstream/123456789/2079/1/AA2012-32.pdf>
- Nagpal H. The historical journey of rape laws in India [Internet]. Feminism in India. 2017 [cited 2025 Feb 28]. Available from: <https://feminisminindia.com/2017/06/22/historical-journey-rape-laws-india/>
- Rai D. Criminal law amendment act, 2018 : Overview and analysis [Internet]. iPleaders. 2019 [cited 2025 Feb 28]. Available from: <https://blog.ipleaders.in/criminal-law-amendment-act-2018-2/>
- Jiloha RC. From rape to sexual assault: Legal provisions and mental health implications. *Ind J Soc Psychiatr* [Internet]. 2015;31(1):9. Available from: <http://dx.doi.org/10.4103/0971-9962.161992>
- Express News Service. 'Potency test' for Prajwal Revanna: Is this even relevant for sexual assault cases? *The Indian Express* [Internet]. 2024 Jun 2 [cited 2025 Mar 12]; Available from: <https://indianexpress.com/article/explained/potency-test-for-prajwal-is-this-even-relevant-for-sexual-assault-cases-9364564/>
- Times Of India. HC bars potency test of suspects [Internet]. Times Of India. 2025 [cited 2025 Feb 28]. Available from: <https://timesofindia.indiatimes.com/city/chennai/hc-bars-potency-test-of-suspects/articleshow/118072542.cms>
- Ramana Dhara V. In India, 'potency tests' of those accused of rape Aren't very scientific [Internet]. *Thewire.in*. 2022 [cited 2025 Feb 28]. Available from: <https://science.thewire.in/law/jubilee-hills-sexual-assault-potency-test/>
- Roy E. NCRB data, Crime against kids: a third still under POCSO. *The Indian Express* [Internet]. 2022 Aug 30 [cited 2025 Feb 28]; Available from: <https://indianexpress.com/article/india/crime-against-kids-a-third-still-under-pocso-8119689/>
- Hugar BS, Jayanth SH, Praveen S, Chandra YPG, Harish S. Profile of perpetrators of alleged sexual assault. *J Indian Acad Forensic Med* [Internet]. 2019;41(4):253. Available from: <http://dx.doi.org/10.5958/0974-0848.2019.00074.5>
- Raheel MS, Yadav A, Pooniya S, Kumar Gupta S, Jaiswal AK. Potency test of a rape accused in India - Rationale, problems and suggestions in light of the Criminal Law (Amendment) Act, 2013. *Egypt J Forensic Sci* [Internet]. 2016;6(4):333-6. Available from: <http://dx.doi.org/10.1016/j.ejfs.2016.11.004>
- Moses TMK, Sravani Y, Rao PV, Reddy NS, Manasa M, Alekhya M. An analysis of demographics and attributing events in sexual offence cases reported at One Stop Centre - A retrospective study. *J Indian Acad Forensic Med*. 2024;46(1 Suppl):153-157.
- Akhade SP, Kothari P, Sabale PR, Chavali KH. Comprehensive Review and Recommendations for Evaluation of Sexual Potency of Male in Context of Current Indian legal system. *jiafm* [Internet]. 2023;45(1):95-101. Available from: <http://dx.doi.org/10.48165/jiafm.2023.45.1.23>