



Home > Nation

Don't cut age of consent from 18 to 16, urges 22nd Law Commission

Report submitted to law ministry recommends keeping it at 18 despite SC push to revisit it

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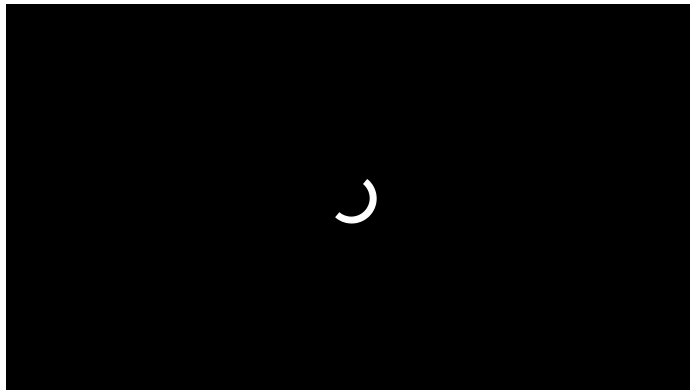
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By Preetha Nair
Express News Service

NEW DELHI: Amid a raging debate on the criminalisation of adolescent sex, the 22nd Law Commission, in its report, has opposed reducing the minimum age of consent from 18 to 16 under the Protection of Children from Sexual Offences (POCSO) Act, it was learnt. The Commission submitted its report to the Union Law Ministry on Wednesday.

“The Commission made several recommendations in the report. The panel is not in favour of lowering the minimum age of consent from 18 to 16 under the POCSO Act,” said an official, who is familiar with the developments.

The POCSO Act, 2012, criminalises all sexual activities for those under 18, even if there is consent between the two minors. The minimum age of consent for sexual intercourse was raised from 16 to 18 years in November 2012.



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The POCSO Act says that any sexual activity with or without the woman’s consent if she is below 18, will be considered as ‘rape’.

In the recent past, the higher judiciary, including the Supreme Court, as well as civil society organisations had raised concerns over the criminalisation of consensual relationships between adolescents.

Raising concerns over the rise in the number of cases under the POCSO Act where consenting adolescents engage in sexual activity, Chief Justice of India D Y Chandrachud urged the legislature to review the age of consent under the 2012 Act.

Several NGOs and activists have also approached courts to review the POCSO Act, 2012. According to a study on underage marriage cases from 2008 to 2017 in India by ‘Partners for Law in Development’, most cases were initiated by parents against marriages self-arranged by their daughters.

In these cases, the husband may be jailed for up to 20 years under the POCSO law.

A large number of consenting couples, even those who are married, are being prosecuted under POCSO.

According to another study by the National Law School of India University, in several cases, most girls between 16 and 18 years of age declined to testify against the accused under the POCSO Act.

CJI had expressed grave concern

“The POCSO Act criminalises all sexual activity for those under the age of 18, regardless of whether consent is factually present between the two minors in a particular case,” CJI Chandrachud said at a consultation on child protection organised by the SC committee on juvenile justice in December last year



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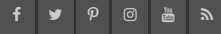
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