Reserved on : 01.09.2026
Pronounced on : 04.11.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF NOVEMBER, 2026

R

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.10415 OF 2026

BETWEEN:

1 . PRITHVI
S/O KIRAN S.P.,
AGED ABOUT 35 YEARS,
RESIDING AT A-301,
JAGADHABI MITHILA APARTMENT
3RD FLOOR, 2ND BLOCK
JAYANAGAR, KAMAKSHIPALYA
BENGALURU SOUTH
BENGALURU - 560 011.

Digitally signed by PADMAVATHI B K
Location: High Court of Karnataka

2 . KIRAN S.P.,
AGED ABOUT 55 YEARS,
S/O S.PADMANABHA,
RESIDING AT NO.10/2,
RAM IYENGAR ROAD
V.V.PURAM, OPPOSITE NMH HOTEL
BENGALURU SOUTH, BENGALURU
KARNATAKA - 560 004.

3 . GAYATHRI SUNKU KIRAN,
AGED ABOUT 54 YEARS,
W/O KIRAN S.P.,
RESIDING AT NO. 10-2, SURYA KIRAN,

RAMA IYENGAR ROAD,
V.V. PURAM,
BASAVANAGUDI, BENGALURU,
KARNATAKA - 560 004.

4 . DHARTHI SUNKU KIRAN,
AGED ABOUT 28 YEARS,
D/O KIRAN S.P.,
RESIDING AT NO.10-2,
SURYA KIRAN,
RAMA IYENGAR ROAD,
V.V. PURAM,
BASAVANAGUDI, BENGALURU,
KARNATAKA - 560 004.

... PETITIONERS

(BY SRI RANGANATH REDDY R., ADVOCATE)

AND:

1 . STATE OF KARNATAKA
BY MALLESHWARAM POLICE STATION,
BENGALURU,
REPRESENTED BY
THE STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDINGS,
BENGALURU - 560 001.

2 . SUKRUTHA,
AGED ABOUT 33 YEARS,
W/O PRUTHVI,
RESIDING AT NO. 61/62,
15TH CROSS, MALLESHWARAM,
BENGALURU - 560 003.

3. DR.BINDU P.,
C/O CLOUDNINE HOSPITAL
NO.47, 11TH MAIN ROAD
NEAR MES COLLEGE

MALLESHWARAM
BENGALURU - 560 055.

4. DR.ANURADHA SADASHIVAMURTHY
C/O CLOUDNINE HOSPITAL
NO.47, 11TH MAIN ROAD
NEAR MES COLLEGE
MALLESHWARAM
BENGALURU - 560 055.

(R-3 AND R-4 ARE AMENDED VIDE ORDER DATED 20.08.2026)

... RESPONDENTS

(BY SMT.WAHEEDA M.M., HCGP FOR R-1;
SRI NAGESH VINAY S., ADVOCATE FOR R-2;
SMT.ARCHANA K.M., ADVOCATE FOR R-3 AND R-4)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF BNSS., PRAYING TO 1.ALLOW THIS CRL.P PETITION; 2.QUASH THE FIR REGISTERED IN CR.NO.85/2026 IN ANNEXURE-A BY MALLESHWARAM P.S. BENGALURU CITY FOR THE ALLEGED OFFENCES P/U/S 8 AND 10 OF POCSO ACT, 2012 NOW PENDING ON THE FILE OF THE COURT OF THE FTSC-1 BENGALURU CITY INSOFAR AS THE PETITIONERS ARE CONCERNED IN EXERCISE OF THE POWERS CONFERRED UNDER SECTION 528 OF BNSS, 2023.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 01.09.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioners are before the Court calling in question registration of a crime in Crime No.85 of 2026 registered for offences punishable under Sections 8 and 10 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act').

2. Before embarking upon an examination of the controversy that has brought the parties to the portals of this Court, I deem it appropriate to first introduce the protagonists of the present legal imbroglio. Accused No.1 is the husband of the complainant/2nd respondent; accused No.2 is the father of accused No.1; accused No.3 is his mother; and accused No.4 is his sister. Respondents 3 and 4 have come to be arrayed as parties pursuant to an order of this Court. Thus, the protagonists are members of a family whose matrimonial discord has now travelled beyond the confines of a troubled marriage and entered the realm of criminal prosecution, invoking the stringent provisions of the POCSO Act. **At the centre of this unfortunate familial tempest stands a minor child,**

whose welfare ought to transcend the bitterness that has engulfed the relationship between her parents.

3. Facts, in brief, germane, are as follows: -

3.1. The 1st petitioner and the 2nd respondent entered into the solemn bond of matrimony on 01-07-2018. The wedlock was blessed with the birth of a daughter on 14-11-2022. What commenced as a matrimonial union, however, appears to have gradually descended into discord. The relationship between the spouses began to flounder, and the fissures in their matrimonial life widened to such an extent that the parties found themselves embroiled in a multiplicity of legal proceedings against each other. The matrimonial bond may have become strained, but the parental bond with their minor daughter remained an enduring reality, giving rise to yet another contentious chapter in their already embittered relationship.

3.2. One such proceeding was instituted by the 1st petitioner before the competent Family Court in G & WC No.438 of 2024. The grievance projected therein was that the 2nd respondent/mother

was consistently obstructing the father from meeting, interacting with and spending time with his minor daughter. The father, asserting his entitlement to the companionship of his child, therefore, approached the Family Court seeking custody and visitation rights. The proceedings witnessed the passing of certain orders and ultimately travelled to this Court in Writ Petition No.14861 of 2026.

3.3. A coordinate Bench of this Court, by an interim order, permitted the father to exercise visitation rights and have the company of his daughter on specified Saturdays and Sundays during the hours stipulated therein. Pursuant to the said judicial imprimatur, the father is said to have exercised visitation rights on 16-05-2026 and 17-05-2026. The minor child, then aged about 3½ years, was received from the mother, taken to the residence of the father and thereafter returned to the mother in terms of the order of this Court.

3.4. It is the categorical assertion of the petitioners that during the aforesaid period of visitation, neither was any grievance voiced by the mother nor was any allegation levelled that the father

had acted in transgression of the directions issued by this Court. According to the petitioners, the child remained in their company without any untoward occurrence and was returned to the mother. The father, therefore, contends that the visitation arrangement was being exercised in accordance with the orders of the Court.

3.5. It is at this juncture that the narrative takes a disquieting turn. On a particular occasion, after the child was returned to the custody of the mother, it is alleged that the child complained of redness and discomfort around her private parts. What followed was the registration of Crime No.85 of 2026 for offences punishable under Sections 8 and 10 of the POCSO Act against the father and other members of his family.

3.6. The registration of the crime did not remain confined to the precincts of criminal investigation. The complainant/mother also approached this Court by filing an application seeking cancellation or modification of the visitation rights granted to the father, placing reliance upon the allegations and the registration of the FIR. Thus, an allegation arising in the course of a fiercely contested custody dispute, has now become the foundation of a criminal prosecution

under a statute enacted for the protection of children against sexual offences.

3.7. It is this registration of crime that has driven the petitioners to the doors of this Court, seeking its obliteration. **The controversy, therefore, presents a delicate intersection of matrimonial acrimony, parental rights, the welfare of a minor child and the protective rigour of criminal law.**

4. Heard Sri **Ranganath Reddy R**, learned counsel appearing for petitioners, Smt **Waheeda M M**, learned High Court Government Pleader appearing for respondent No.1, Sri **Nagesh Vinay S.**, learned counsel appearing for respondent No.2 and Smt **Archana K. M.**, learned counsel appearing for respondents 3 and 4.

SUBMISSIONS:

PETITIONERS:

5. The learned counsel appearing for the petitioners would vehemently contend that the provisions of the POCSO Act, conceived by the legislature as a formidable shield to protect

children from sexual exploitation, are being pressed into service in the case at hand, as an instrument to settle matrimonial scores. It is his emphatic submission that the father, who is accused No.1, is not a stranger to the child but her biological parent, whose right to enjoy the companionship of his daughter has already received judicial recognition. The learned counsel would submit that the father had been exercising visitation rights without any allegation of misconduct for the preceding period and that no complaint of the nature now projected had ever surfaced. It is only when the visitation arrangement was permitted to continue that the mother has come forward with an allegation of sexual harassment of the minor child by the father and his family members. The timing of the accusation, its emergence against the backdrop of the pending custody proceedings and the immediate attempt to secure cancellation of visitation rights are, according to the learned counsel, circumstances that cannot be brushed aside as inconsequential. He would, therefore, urge that a legislation intended to be a sanctuary for vulnerable children ought not to be permitted to become a weapon in the hands of one estranged spouse against the other. The learned counsel would contend that

the criminal process cannot be allowed to degenerate into an instrument of vengeance, nor can the solemn protection afforded by the POCSO Act be invoked to extinguish the parental relationship, merely because the matrimonial relationship has turned acrimonious. On these premises, he seeks quashment of the proceedings.

COMPLAINANT:

6.1. Per contra, the learned counsel appearing for the 2nd respondent/complainant would stoutly resist the submissions advanced on behalf of the petitioners. She would contend that the complaint is neither a product of imagination nor an invention born of matrimonial hostility, but owes its origin to the discomfort complained of by the minor child herself. It is her submission that after the child returned from visitation, she complained of itching and redness in her private parts, which prompted the mother to take her to Cloudnine Hospital for medical examination. The examination, according to the learned counsel, revealed redness in the area surrounding the vagina, though such redness could be attributable to several causes. She would contend that the mother,

confronted with the complaint of a child of tenderness, could not have remained a mute spectator and was justified in setting the criminal law in motion.

6.2. The learned counsel would further submit that the mother is unwilling to expose the child to any apprehended recurrence of the alleged conduct and that her reluctance to send the child to the father is founded upon concern for the child's safety and well-being. She would, therefore, seek to sustain the registration of the crime.

7. In view of the nature of the allegations and the medical circumstances brought to the notice of this Court, a direction was issued to secure the affidavits of the doctors of Cloudnine Hospital who had examined the minor child. Pursuant thereto, learned counsel Smt. Archana K.M., appearing for Cloudnine Hospital, has placed on record the affidavits of both the doctors concerned. The medical material thus having been brought before this Court, and the rival contentions having been heard, the matter is taken up for consideration. The question that arises is one demanding judicial circumspection, for the Court is called upon to examine allegations

of considerable gravity in the midst of an equally bitter contest over the custody and companionship of a minor child.

8. I have given my anxious consideration to the submissions made by the learned counsel for the respective parties and have perused the material on record.

CONSIDERATION:

9. The relationship between the protagonists is not in dispute. Equally undisputed is the matrimonial discord that has cast its long shadow over their lives and has now drawn their minor daughter into the vortex of adversarial litigation. The estrangement between the spouses resulted in the father approaching the competent Family Court in G & WC No.438 of 2024, seeking custody and visitation rights over his daughter. The Family Court, while considering the competing claims of the parents and bearing in mind the paramount welfare of the minor child, passed an order on 27-09-2025 permitting visitation on specified occasions and festivals. The order reads as follows:

"**ORDER**

I.A.No.13 filed by the petitioner under Section 12 of the Guardians and Wards Act read with Section 151 C.P.C is allowed in part.

The respondent is directed to handover the custody of the minor daughter Kumari xxxxxx to the petitioner on following occasions and festivals:

1. Navaratri – 01-10-2025, from 10 a.m. to 1.00 p.m.

2. Dewali – 21-01-2025, from 10.00 a.m. to 1.00 p.m.

3. Birthday of the child – 14-11-2025 from 4.00 p.m. to 6.00 p.m. and

4. Christmas – 25-12-2025 from 10.00 a.m. to 1.00 p.m.

The respondent shall handover the custody of the minor child Kumari xxxxxxx to the petitioner during the above referred period and the petitioner in turn return the custody of the minor child to the respondent on completion of interim custody period.

The parents must ensure that the child does not feel uneasy or discomfort when the child is residing with the petitioner.

Petitioner is directed not to give any ill advice to the child about the mother/respondent and make the child feel comfortable when she returns to the custody of the mother.

The respondent is directed to cooperate and facilitate the petitioner in exercising interim custody.

The petitioner is directed to record video during the entire interim custody of the child without giving any scope for allegation and produce the same on every visit/interim custody to the Court.

> The above directions would be scrupulously obeyed by the petitioner and respondent which are in the best interest of the child and keeping in mind the comfort well being and paramount interest of the minor child."

The visitation right was due to the order dated 27-09-2025. The dispute ultimately reached this Court in Writ Petition No.14861 of 2026 wherein a coordinate Bench passed the following order on 12-05-2026:

> "ORAL ORDER ON I.A.NO.1/2026
>
> Accepting the reasons stated in the application, I.A.No.1/2026 is allowed. Production of certified copy of Annexures-B to G is dispensed with for the present. Sri. Nagesh Vinay S., for Smt. Dhanalakshmi Y., learned counsel for the caveator/respondent seeks time to file objections.
>
> Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the material on record.
>
> Learned counsel for the petitioner would reiterate the various contentions urged in the petition and invite my attention to the impugned order in order to point out that the Family Court committed an error in depriving the petitioner's visitation rights on Saturdays and Sundays from 10:00 a.m. to 05:00 p.m. by rejecting the application filed by the petitioner and passing the impugned order, which deserves to be set aside.
>
> Per contra, learned counsel for the respondent supports the impugned order and submits that the same is liable to be dismissed.
>
> Statement of objections shall be filed by the next date of hearing.

> Meanwhile, having regard to the undisputed fact that the petitioner is the biological father of the minor child, Kumari xxxxxx, who is aged about 3½ years and that both the petitioner-father and the respondent-mother are before the Family Court in the aforesaid G & WC No.438/2024, wherein the petitioner seeks permanent custody of the minor child against the respondent-mother, who presently has custody, without expressing any opinion on the merits or demerits of the rival contentions and without prejudice to the rights and contentions of the parties, I deem it just and appropriate to make an interim arrangement that shall remain in force till the next date of hearing of the present petition.
>
> Under the following interim arrangement, the petitioner shall be entitled to visitation rights during 10.00 a.m. to 05.00 p.m. on following dates:
>
> 16.05.2026, 17.05.2026, 23.05.2026, 24.05.2026. 30.05.2026 and 31.05.2026.
>
> The petitioner, who is residing in V.V. Puram, at the address shown in the cause title, shall pick up the minor child from the residence of the respondent, who is residing at Malleshwaram at 10.00 a.m., every Saturday and Sunday on the aforesaid dates and shall drop the child back at the residence of the respondent at 5.00 p.m., as stated supra. The petitioner shall take good and proper care of the child and shall ensure that no harm, inconvenience or hardship is caused to the minor child during the period of visitation. List the petition after Summer Vacation. Meanwhile, the parties are directed to appear before the Karnataka Mediation Center, Bengaluru on 06.06.2026.
>
> Hand delivery of this order is permitted."

The order of the Family Court is significant for more reasons than one. It did not merely recognise the father's entitlement to the companionship of his daughter; it also sought to insulate the child

from the bitterness of the matrimonial dispute. The directions requiring the father to ensure the comfort of the child, refrain from speaking ill of the mother and record the period of interim custody were evidently intended to safeguard the child's welfare and prevent avoidable allegations or controversies. The mother was, in turn, directed to cooperate in facilitating the visitation.

10. The order thus reflected an attempt by the Family Court to preserve, within the limits of a fractured matrimonial relationship, the child's association with both parents. The judicial endeavour was to ensure that the discord between the spouses did not altogether deprive the child of the affection and companionship of either parent. The dispute, however, did not rest there. It travelled to this Court in Writ Petition No.14861 of 2026, wherein a coordinate Bench, by order dated 12-05-2026, considered the grievance of the father regarding denial of visitation rights on Saturdays and Sundays. The coordinate Bench, without expressing any opinion on the merits of the rival claims and without prejudice to the rights and contentions of the parties, fashioned an interim

arrangement permitting the father to spend time with his daughter. The order dated 21-05-2026 reads as follows:

> "1. IA No.2/2026 is filed by the respondent to modify the order dated 12.05.2026. The allegations made in the affidavit filed in support of the application are serious in nature. The learned counsel for the petitioner vehemently disputes the same and submits that the respondent is making reckless allegations only with the intention of scuttling the orders passed by this Court. He seeks for a short accommodation to file his detailed objections to IA No.2/2026.
>
> 2. Objections of the petitioner to IA No.2/2026 will be filed before the next date of hearing with an advance copy to the learned counsel for the respondent.
>
> 3. In view of the above, in modification of the order dated 12.05.2026, the remaining dates of visitation shall be exercised in the following manner:-
>
> a) The visitation on 23.05.2026 shall be exercised between 10.00 a.m. to 01.00 p.m.;
>
> b) Visitation shall be exercised on 25.05.2026, 27.05.2026 and 29.05.2026 between 03.00 p.m. to 05.00 p.m.
>
> 4. The aforementioned visitation shall be exercised by the petitioner/father at the Karnataka Mediation Center. The respondent - mother shall bring the child to the mediation center to enable exercise of the visitation rights. The petitioner shall be entitled to exercise the visitation rights without the presence of the respondent.
>
> 5. Re-list on 01.06.2026."

After this emerges the impugned complaint. The complaint reads as follows:

Date: 18/5/2026

"To

Police inspector,
Malleshwaram Police Station,
Bangalore.

From,

Sukrutha P.B
w/o Prithvi, 33 years,
#61/62, east park road,
15th cross, malleshwaram,
Bangalore-560003

9945722779
Sukrutha 297@gmail.com
vysyas.

Respected Madam,

Subject: Complaint regarding Child.

I Sukrutha, 33 year old married to Prithvi Sunku on 1/07/2018. My child xxxxx was born out of this wedlock on 14-11-2022. Due to family disputes we are residing separately from 14-9-2024. There is an on going G&WC case 438/24 in front of family court Bangalore.

As per the high court direction dated 12-05-2026 (WP 14861/26) I was directed to send the child to the father on 16-05-2026 (Saturday) and 17-05-2026 (Sunday) for timings morning 10:00 AM to evening 5:00 P.M. both the days.

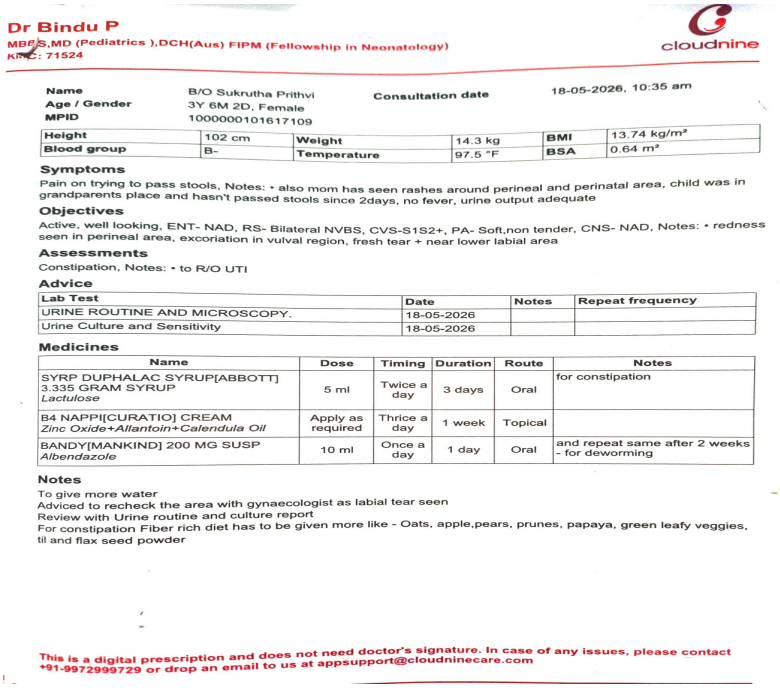
When the Child was retuned by her father Pritivi Sunku, the child was upset and feeling low. After enquiring the child about uneasiness she pointed out to her private parts complaining about difficult to sit comfortably. **I took her to cloud 9 Hospital on 18-05-2026 morning for examination.**

It was confirmed by the Doctor that there was Excoriation and redness of Vulva/anus. The child was sexual abused on suspicion of sexual assault. Kindly register the case and bring the Culprit under the law and provide us Justice. I strongly Suspect Prithvi and his family members Kiran Sunku-Father, Gayathri-Mother, Dharthi Sunku- Sister, involved in this crime

Thanking you,

yours, faithfully
Sd/-
(SUKRUTHA P.B)"

The allegation in the complaint is with regard to acts of accused No.1, the husband on the child. Therefore, Sections 8 and 10 of the POCSO Act are alleged against the husband. The medical report that gave rise to registration of crime is as follows:



Dr Bindu P
MBBS,MD (Pediatrics),DCH(Aus) FIPM (Fellowship in Neonatology)
KMC: 71524

cloudnine

Name	B/O Sukrutha Prithvi	**Consultation date**	18-05-2026, 10:35 am
Age / Gender	3Y 6M 2D, Female		
MPID	1000000101617109		

Height	102 cm	**Weight**	14.3 kg	**BMI**	13.74 kg/m²
Blood group	B-	**Temperature**	97.5 °F	**BSA**	0.64 m²

Symptoms
Pain on trying to pass stools, Notes: • also mom has seen rashes around perineal and perinatal area, child was in grandparents place and hasn't passed stools since 2days, no fever, urine output adequate

Objectives
Active, well looking, ENT- NAD, RS- Bilateral NVBS, CVS-S1S2+, PA- Soft,non tender, CNS- NAD, Notes: • redness seen in perineal area, excoriation in vulval region, fresh tear + near lower labial area

Assessments
Constipation, Notes: • to R/O UTI

Advice

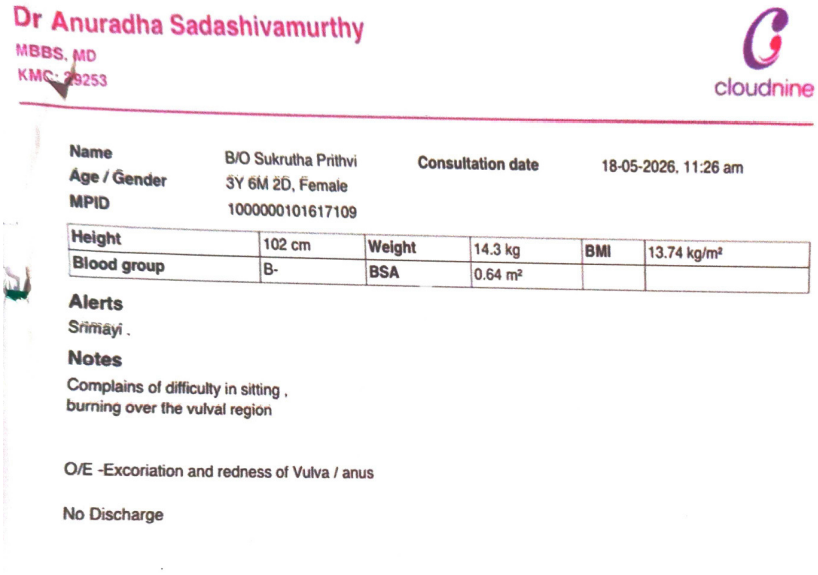
Lab Test	Date	Notes	Repeat frequency
URINE ROUTINE AND MICROSCOPY.	18-05-2026		
Urine Culture and Sensitivity	18-05-2026		

Medicines

Name	Dose	Timing	Duration	Route	Notes
SYRP DUPHALAC SYRUP[ABBOTT] 3.335 GRAM SYRUP *Lactulose*	5 ml	Twice a day	3 days	Oral	for constipation
B4 NAPPI[CURATIO] CREAM *Zinc Oxide+Allantoin+Calendula Oil*	Apply as required	Thrice a day	1 week	Topical	
BANDY[MANKIND] 200 MG SUSP *Albendazole*	10 ml	Once a day	1 day	Oral	and repeat same after 2 weeks - for deworming

Notes
To give more water
Adviced to recheck the area with gynaecologist as labial tear seen
Review with Urine routine and culture report
For constipation Fiber rich diet has to be given more like - Oats, apple,pears, prunes, papaya, green leafy veggies, til and flax seed powder

This is a digital prescription and does not need doctor's signature. In case of any issues, please contact +91-9972999729 or drop an email to us at appsupport@cloudninecare.com



Dr Anuradha Sadashivamurthy
MBBS, MD
KMC- 29253

cloudnine

Name	B/O Sukrutha Prithvi	Consultation date	18-05-2026, 11:26 am
Age / Gender	3Y 6M 2D, Female		
MPID	1000000101617109		

Height	102 cm	Weight	14.3 kg	BMI	13.74 kg/m²
Blood group	B-	BSA	0.64 m²		

Alerts
Srimayi .

Notes
Complains of difficulty in sitting ,
burning over the vulval region

O/E -Excoriation and redness of Vulva / anus

No Discharge

In the light of the controversy surrounding the nature of the medical examination conducted upon the minor child and the treatment administered to her, this Court deemed it appropriate to secure the affidavits of the very doctors who had examined and treated the child, so that the medical findings could be appreciated in their proper perspective, unclouded by the competing interpretations sought to be placed upon them by the estranged parents.

11. Pursuant to the said direction, two affidavits have been placed on record, one by Dr. Bindu P. and the other by Dr. Anuradha Sadashivamurthy, both of whom had occasion to examine the minor child. The affidavits read as follows:

"**AFFIDAVIT OF DR. BINDU P.**

I, Dr. Bindu P., aged about 44 years, W/o Harish S.G., residing at No. 32, 10th A Cross, Kempegowda Layout, Prashantha Nagar, Basaveshwaranagar, Bengaluru North, Karnataka 560079, do hereby solemnly affirm and state on oath as follows:

1. I am a qualified paediatrician holding MBBS, MD (Paediatrics), DCH (Aus) and FIPM qualifications and Karnataka Medical Council Registration No. 71524, practising at Cloudnine Hospital, Malleshwaram, Bengaluru. I examined the minor child, then aged approximately 3 years and 6 months, on 18 May 2026. The statements made below are based on my clinical examination.

2. The history recorded at the consultation included pain while attempting to pass stools, rashes reported around the perineal/perianal area, and that the child had not passed stools for two days.

3. On clinical examination, I recorded redness in the perineal area, excoriation in the vulval region, and a fresh tear near the lower labial area.

4. **My OPD note records an assessment of constipation and advice to rule out urinary tract infection. I prescribed the treatment recorded therein and advised that the affected area be rechecked by a gynaecologist, as a labial tear had been seen.**

5. The redness, excoriation and fresh tear near the lower labial area recorded by me were non-specific

clinical findings. Findings of this nature may occur for several reasons, including irritation or allergic reaction, Infection, pinworm infestation, or physical irritation or injury caused by rubbing or scratching. The presence of the tear or the other findings did not, by itself, enable me to determine their precise cause or mechanism. On the basis of my clinical examination alone, I was unable to attribute the findings to any particular cause.

6. I was not requested to undertake, and did not undertake, a medico-legal or forensic examination. My examination was confined to the clinical complaints presented to me at the consultation.

7. The examination and findings referred to above were contemporaneously recorded by me in the OPD note dated 18 May 2026. The said OPD note is a true account of the clinical entries made by me in the course of the consultation.

Wherefore What is stated here in above is true and correct to the best of my knowledge, information and belief.

....

AFFIDAVIT OF DR. ANURADHA SADASHIVAMURTHY

I Dr. Anuradha Sadashivamurthy, aged about 60 years, D/o Dr.B.Sadashivamurthy, residing at No. 11, 4th Main, SBM Colony, Anand Nagar, Bangalore North, H.A. Farm, Bengaluru, Karnataka - 560024, do hereby solemnly affirm and state on oath as follows:

1. I am a qualified medical practitioner holding MBBS and MD qualifications and Karnataka Medical Council Registration No. 29253, practising as a Consultant at Cloudnine Hospital, Malleshwaram, Bengaluru. I examined the minor child, then aged approximately 3 years and 6

months, on 18 May 2026. The statements made below are based on my clinical examination.

2. At the consultation, the complaints recorded were difficulty in sitting and burning over the vulval region. On clinical examination, I recorded excoriation and redness of the vulva and anus. I also recorded that there was no discharge.

3. **I was aware of the treatment and advice already given by the treating paediatrician, Dr. Bindu P. On examining the child, I considered the treatment already prescribed and the clinical management advised by her to be appropriate for the complaints and findings presented at that time. I therefore did not consider it necessary to prescribe any additional medication or alter the treatment already advised.**

4. The findings recorded by me were non-specific clinical findings. Findings of this nature may occur from several causes, including irritation, infection, scratching, rubbing, or other accidental or mechanical causes. On the basis of my clinical examination alone, I was unable to determine their precise cause.

5. I was not requested to undertake, and did not undertake, a medico-legal or forensic examination. My examination was confined to the clinical complaints presented to me at the consultation.

6. The examination and findings referred to above were contemporaneously recorded by me in the medical record dated 18 May 2026. The said record is a true account of the clinical entries made by me in the course of the consultation.

Wherefore What is stated here in above is true and correct to the best of my knowledge, information and belief."

(Emphasis added at each instance)

12. A careful perusal of the affidavit of Dr. Bindu P. would reveal that the redness, excoriation and fresh tear noticed near the lower labial region were described as *non-specific clinical findings*. The doctor has categorically stated that such findings may arise from a variety of causes, including irritation, allergic reactions, physical irritation or injury occasioned by rubbing or scratching.

13. What assumes considerable significance is the doctor's unequivocal assertion that, on the strength of the clinical examination alone, she was unable to attribute the findings to any particular cause. The affidavit of Dr. Anuradha Sadashivamurthy is no different in its essential purport. The latter doctor also indicates that redness in the region concerned may arise for several reasons and that her examination was confined to the clinical complaints presented before her.

14. **Thus, the medical evidence, which ought to have furnished an objective foundation for the allegation, does not, by itself, establish the cause of the symptoms noticed in the minor child. Neither doctor attributes the clinical findings to sexual assault. Equally, the affidavits do not**

purport to conclusively exclude such a possibility. The distinction is of considerable importance, for a clinical finding is one thing, and the conclusion sought to be drawn from that finding is quite another. Suspicion may set the investigative machinery in motion, but suspicion cannot be elevated to the status of medical opinion, nor can an inference drawn by a complainant be attributed to a doctor who has expressed no such conclusion.

15. The complaint lodged by the 2nd respondent/mother narrates that the child was taken to Cloudnine Hospital, where the doctors noticed excoriation and redness in the vulval region. From this clinical observation, the mother proceeds to draw an inference that the child had been subjected to sexual assault and, on that premise, seeks registration of a crime against the husband and members of his family. The medical findings, however, do not speak in the language in which the complainant seeks to portray them. Had the doctors expressed an opinion that the findings were attributable to sexual assault, the matter would have presented an

altogether different complexion. That is not what the affidavits placed before this Court disclose.

16. The circumstances obtaining in the case at hand present a deeply disturbing spectacle. A marriage that has descended into acrimony, a contest for the custody and companionship of a minor daughter, successive proceedings before the Family Court and this Court, and, in the midst of this matrimonial conflagration, a child of tender years being drawn into the vortex of criminal litigation. **The child, who ought to have been the beneficiary of the affection of both parents, is now at the centre of their adversarial battle. The discord between the parents appears to have travelled far beyond the boundaries of their matrimonial relationship and threatens to cast its shadow upon the innocence, emotional security and well-being of the child.**

17. The sequence of events, the nature of the allegations and the medical material now placed on record, prima facie give rise to a serious apprehension that the complainant/mother is seeking to employ the criminal process, as an instrument to overcome the

orders granting visitation rights to the father. It appears, at this stage, that the child is being made the fulcrum of a dispute that essentially rages between the parents. **The Court cannot remain oblivious to the possibility of a protective legislation being invoked for a collateral purpose, particularly when the accusation emerges against the backdrop of an intensely contested custody proceeding.**

18. What compounds the concern of this Court is the manner in which the parents and sister of accused No.1 have also been drawn into the dragnet of criminal prosecution. Accused No.2 is the father of the husband, accused No.3 his mother and accused No.4 his sister. The allegation is one attracting Sections 8 and 10 of the POCSO Act, **wherefrom the criminal culpability of the father, mother and sister of accused No.1 emerges is a question, to which the complaint furnishes no discernible answer.**

19. The complaint does not disclose any specific act attributable to these family members that would constitute the ingredients of the offences alleged. There is no distinct narration of their individual participation, no particular overt act ascribed to

them and no factual foundation indicating how they are said to have committed or participated in the alleged offences. Their relationship with accused No.1 appears to be the only thread by which they have been woven into the fabric of the accusation. The criminal law recognises individual responsibility, founded upon legally cognisable acts and omissions, not guilt by familial association.

20. **The indiscriminate implication of the husband's family members, without any specific allegation constituting an offence against them, prima facie bears the unmistakable features of an attempt to settle personal scores arising out of matrimonial bitterness. A criminal prosecution cannot be converted into a collective punishment of an entire family, merely because one of its members is embroiled in an acrimonious matrimonial dispute. To permit such proceedings to continue, in the absence of even the rudiments of an accusation against these family members, would be to lend the coercive authority of criminal law to a grievance that does not disclose their criminal culpability.**

21. **The process of criminal law is itself a serious matter. It cannot be permitted to become the punishment where the complaint does not disclose the commission of an offence.** The sword of prosecution cannot be allowed to hang over persons against whom the complaint attributes no legally cognisable act. To do so would not advance the cause of justice; it would permit the criminal justice system to be employed as an instrument of harassment. Therefore, insofar as accused Nos.2, 3 and 4 are concerned, the continuation of investigation, in the absence of any specific allegation disclosing the ingredients of the offences alleged, would amount to a manifest abuse of the process of law. The criminal process against them cannot be permitted to continue even for a day, merely on the strength of their relationship with accused No.1. The proceedings, insofar as these accused are concerned, deserve to be interdicted at the threshold.

22. This brings me to the case of accused No.1, the husband of the complainant and, more importantly, the biological father of the minor child. The allegation against him requires consideration on its own footing, for the accusation is one of sexual assault upon

a child of tender years, invoking the stringent provisions of Sections 8 and 10 of the POCSO Act. The child was aged about 3½ years at the time of the event in question. What is striking in the material presently placed before this Court is that no statement of the child appears to have been recorded during the investigation or by the doctors who examined her. The accusation, as it presently stands, emanates from the mother. It is the mother who narrates the alleged occurrence, the mother who interprets the clinical findings and the mother who proceeds to attribute sexual assault to the father. There is, on the material placed before this Court, no independent account of the alleged occurrence from the child herself.

23. This circumstance assumes significance when examined alongside the contents of the application filed by the complainant seeking vacation or modification of the interim order granting visitation rights. Paragraph 8 of the said application contains allegations, which according to the petitioners, are conspicuously absent from the complaint subsequently lodged before the jurisdictional police. If those allegations constituted the factual

foundation of the accusation, the omission to narrate them in the criminal complaint is a circumstance that calls for judicial scrutiny. The complainant has not placed those allegations in the complaint with the specificity with which they appear to have been projected in the proceedings concerning visitation rights.

24. The complaint, in substance, proceeds on the footing that the medical examination disclosed excoriation and redness in the vulval region and that, therefore, the child must have been subjected to sexual assault. Upon this inference rests the suspicion directed against the father and his family members. But the doctors, whose clinical findings constitute the very foundation of the accusation, have not attributed those findings to sexual assault. The medical material thus does not, by itself, supply the causal connection which the complainant seeks to draw.

25. The question, therefore is, whether the allegations, considered in their entirety and in the setting of the events that preceded the registration of the crime, disclose the ingredients of the offences alleged against accused No.1, or whether the criminal

prosecution is sought to be employed as yet another weapon in the continuing matrimonial contest?

26. It is necessary to underscore that the POCSO Act is a legislation of profound social importance. It was enacted to protect children from sexual assault, sexual harassment and exploitation, and to ensure that their vulnerability does not become an invitation to abuse. Its protective mantle must remain inviolable. At the same time, the gravity of the legislation cannot dispense with the necessity of examining whether the allegations disclose the ingredients of the offences invoked. **The more serious the accusation, the greater the need for a careful and legally disciplined examination of the material, without either prejudging the allegation or allowing the solemnity of the statute to substitute for the factual foundation required by law.**

27. **The Courts are increasingly confronted with matrimonial disputes in which allegations of grave criminal misconduct are intertwined with proceedings concerning custody, visitation and parental access. In such cases, the**

child sometimes stands at the intersection of two competing narratives, each parent claiming to act in the child's paramount interest. The danger is not merely that a parent may be falsely accused; it is equally that a genuine grievance of a child may be obscured by the surrounding matrimonial hostility. Both possibilities demand vigilance. Neither can be presumed merely from the existence of matrimonial discord.

28. **A child cannot be reduced to a weapon in the armoury of an estranged spouse. The innocence of childhood cannot be made the currency with which matrimonial scores are settled. Equally, the protection of a child cannot be sacrificed at the altar of a parent's claim of false implication.** It is this delicate balance that a constitutional Court must preserve. The judicial task, therefore, is neither to accept an allegation merely because it is clothed in the language of the POCSO Act nor to discard it, merely because it arises amidst matrimonial acrimony. The Court must examine the substance of the accusation, the specificity of the allegations, the attendant circumstances and the

material placed on record. **Where the complaint rests upon broad assertions, unsupported inferences and an absence of particulars connecting the accused to the alleged offence, the Court must be alert to the possibility of the criminal process being invoked for an ulterior purpose.**

29.1. The Apex Court in the case of **ISHWAR CHAND SHARMA v. STATE OF UTTAR PRADESH**[1], has held as follows:

"…. …. ….

Rising Trend in Vexatious Litigation:

9. In the backdrop of the facts of the present case, we wish to underline a worrying trend that has come to our attention. Parties involved in matrimonial or commercial relationships with one another are resorting to filing of frivolous and vexatious claims and allegations of a criminal nature to settle personal scores and grudges against each other and therefore turn to nefarious/oblique means to attain the said objective. **We also painfully take judicial cognizance of the fact that the courts of law are being misused and overburdened by such vague and vexatious litigations between spouses as many a times, the recourse to law and police is taken, in an oblique way so as to antagonise, pressurise, hound and harass the other spouse and their family members in order to retaliate and exact revenge that is carried out due to sheer hatred and disdain for the said spouse and their family members.**

9.1 While we are cognizant of the fact that there are genuine and *bona fide* cases in the courts wherein the aggrieved parties are genuinely looking for relief and

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[1] **2026 SCC OnLine SC 1004**

respite from the actions and omissions of their spouses, that often require immediate care and attention of the courts of law and public authorities, such cases get frequently overshadowed and obscured by the overwhelming number of false and frivolous cases filed by spouses against one another as an 'arm-twisting' method so as to reach a more favourable outcome or settlement or more lucrative monetary settlement. The onus is on courts to be careful and cautious so as to separate the wheat from the chaff and separate the genuine cases of matrimonial oppression, rape and offences against women from the cases wherein the legal process and procedure is being used as a tool to file false and frivolous cases out of vengeance. While doing so, care should be taken to ensure that the rights and freedoms of innocent parties are not trampled or arbitrarily taken away by unscrupulous and baseless litigation.

9.2 We are conscious of the fact that there are many instances where women are gravely affected by matrimonial disputes and violence that they have to endure at the hands of the spouse and in-laws and other family members. Such cases deserve our utmost attention and judicial scrutiny so as to make sure that **the ends of justice are met and the offenders do not go scot-free and rather get the punishment they deserve. However such a zeal to meet the ends of justice should be countenanced, by courts of law and executive authorities of the State, with a pragmatic approach bearing in mind the recent trend of criminal litigation in this country wherein the legal machinery and statutes are being used as a tool by mischievous litigants so as to create unnecessary hurdles and punish unsuspecting and often innocent citizens particularly in the sphere of matrimonial disputes. The litigating parties and their advocates should also be cognizant of the fact that such vexatious filing of false and frivolous claims and cases cast unnecessary burden on the already overburdened machinery and apparatus of the State and Judiciary.** This factor also diverts the attention of courts and its resources whereas genuine cases of the parties with actual verifiable grievances are not being able to be adjudicated in time owing to the time spent in adjudicating upon phantom claims of

mischievous litigators seeking to create litigation out of thin air or in the absence of a cause to do so.

9.3 One particular offshoot or a species of vexatious and frivolous litigation is in family disputes, particularly, a 'matrimonial bouquet' that is presented by the estranged wife against the husband and his family out of personal animosity and spite once the relationship turns sour and rancorous and *vice versa*. This 'matrimonial bouquet' often includes claims of dowry demands; cruelty under 498A IPC; harassment by in-laws and domestic violence, made by the complainant against her spouse and in-laws. This set of cases frequently include bogus and empty allegations and false claims of harassment, cruelty and marital hardships that, more often than not, contain little to no substance at all and are usually not backed by any material or other documentary evidence. A tell-tale sign of such vexatious cases is that often they contain vague and sweeping general allegations that are not specific in nature but rather are aimed at arraying several family members if not all of the spouse's family, including those who are old and ailing, as accused and consequently cast the prosecution net as wide as possible by invoking multiple provisions of law by using general, vague and omnibus allegations that are not backed either by fact or law. We say so while being mindful of the fact that although any complaint or a FIR is not an encyclopaedia of evidence and factual circumstances so as to contain all details of the alleged incident, by no means can it be a general conglomeration of statements made by the disgruntled spouse with a *mala fide* intent, containing little or no details of the alleged criminal acts that often lack a chronology of events. Further, sweeping allegations and vexatious claims often fail to highlight and elaborate upon how the alleged acts happened, the manner in which such acts were undertaken, the aftermath of such incidents etc.

9.4 In this regard, we would be remiss to not highlight the recent upswing in the false and frivolous matrimonial cases which have unfortunately brought to the fore the uglier side of litigation. **A recent trend in this regard is when the wife resorts to filing false complaints and cases under POCSO Act alleging that the husband, who is also the father of the minor child, has committed wanton acts which are sexual in nature especially against the minor daughter. At**

the centre of this sort of litigation is a child who is often used by her mother against her father, against her will and wishes, so as to make false and vexatious complaints against her father and other male members of her paternal family in order to exact revenge or as an arm-twisting tactic to obtain a higher monetary settlement or to simply harass.

9.5 There are also instances where in cases of enmity between the members of a family, between neighbours or business partners or associates, or even between borrowers and lenders of financial assistance, a weapon of harassment being resorted to is a complaint under the POCSO Act at the instance of a parent of a child (in most cases being the daughter) so as to wreak vengeance or to get over civil disputes between the parties by a subdued accused under the said Act yielding to the demands of the complainant. Also, the threat of a false complaint under the POCSO Act is used as a means to escape legal consequences arising out of a commercial transaction, a matrimonial dispute or such other disputes.

9.6 While we are conscious of the fact that there are instances and a plethora of cases that are true and deserve the utmost attention and deft handling on the side of authorities and Courts and which should be pursued vigorously to reach a logical conclusion, on the other side of the spectrum, are cases invoking such serious and heinous allegations which are prima facie vague, omnibus and general in nature and thereby lacking any material backing or evidence which should be shunned at the very threshold. We say so for the reason that if a person is made an accused and forced to face a criminal trial on general and sweeping allegations without bringing on record any specific instances of criminal conduct, it would tantamount to an abuse of the process of law and court. Hence, legal practitioners who tender advice in such cases must restrain parties from filing such false/frivolous complaints when requested to do so. Further, lawyers/advocates must also not advise filing of criminal complaints which are false/concocted so as to keep the opposite parties under a tight leash so that they could come forward for a settlement on the terms dictated by their parties or else, to face a criminal prosecution which can prolong for

years. When such is the trend, on the other side, efforts are made to seek anticipatory bail by persons apprehending arrest owing to a false/frivolous complaint being lodged which sometimes reach the portals of this Court after being unsuccessful at the level of the trial court and High Court. Also, steps are taken for seeking quashing of such false/frivolous complaints before the High Court which has its own saga of uncertainties causing undue pressure, harassment, stress and tension on the so-called accused. The consequence of all this is docket explosion and burden on Courts resulting in genuine complaints and cases not being given due time and attention that they need.

9.7 Courts then owe a duty to subject the allegations levelled in the complaint to a thorough scrutiny to ascertain if a *prima facie* case is made out or not, and whether there is any kernel of truth in the allegations or whether the said allegations have been made only with the sole intent of spite so as to harass the opposite party with a prolonged process of criminal litigation, arrest and sometimes a conviction which later on may result in an acquittal by a higher Court or in a worse case, no relief at all being given to an innocent party. This stands more true when prosecution arises from a matrimonial dispute."

29.2. The Apex Court again, in a judgment rendered on 24-09-2026, in **'R'** v. **'E'**[2], has held as follows:

"…. …. ….

JUDICIAL NOTICE OF ABUSE OF LEGAL PROVISIONS:—

37. We opened the judgment observing an alarming trend that is on the rise where one parent misuses the legal provisions to gain strategic legal advantage. This Court and some High Courts have already taken judicial notice of this unfortunate but a chronic syndrome.

[2] **2026 SCC OnLine SC 2002**

…. …. ….

40. In *Ishwar Chand Sharma* v. *State of Uttar Pradesh*, 2026 SCC OnLine SC 1004, directly addressing the issue as to how the POCSO Act is used as a weapon to wreak vengeance and advised the legal fraternity to refrain parties from filing frivolous complaints, this Court, speaking through B.V. Nagarathna J., held as under:—

> **"9. In the backdrop of the facts of the present case, we wish to underline a worrying trend that has come to our attention. Parties involved in matrimonial or commercial relationships with one another are resorting to filing of frivolous and vexatious claims and allegations of a criminal nature to settle personal scores and grudges against each other and therefore turn to nefarious/oblique means to attain the said objective. We also painfully take judicial cognizance of the fact that the courts of law are being misused and overburdened by such vague and vexatious litigations between spouses as many a times, the recourse to law and police is taken, in an oblique way so as to antagonise, pressurise, hound and harass the other spouse and their family members in order to retaliate and exact revenge that is carried out due to sheer hatred and disdain for the said spouse and their family members.**
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> 9.1 While we are cognizant of the fact that there are genuine and bona fide cases in the courts wherein the aggrieved parties are genuinely looking for relief and respite from the actions and omissions of their spouses, that often require **immediate care and attention of the courts of law and public authorities, such cases get frequently overshadowed and obscured by the overwhelming number of false and frivolous cases filed by spouses against one another as an 'arm twisting' method so as to reach a more favourable outcome or settlement or more lucrative monetary settlement. The onus is on courts to be careful and cautious so as to separate the wheat from the chaff and separate the genuine cases of matrimonial oppression, rape and offences against women from the cases wherein**

the legal process and procedure is being used as a tool to file false and frivolous cases out of vengeance. While doing so, care should be taken to ensure that the rights and freedoms of innocent parties are not trampled or arbitrarily taken away by unscrupulous and baseless litigation.

9.2 We are conscious of the fact that there are many instances where women are gravely affected by matrimonial disputes and violence that they have to endure at the hands of the spouse and in laws and other family members. Such cases deserve our utmost attention and judicial scrutiny so as to make sure that the ends of justice are met and the offenders do not go scot-free and rather get the punishment they deserve. **However such a zeal to meet the ends of justice should be countenanced, by courts of law and executive authorities of the State, with a pragmatic approach bearing in mind the recent trend of criminal litigation in this country wherein the legal machinery and statutes are being used as a tool by mischievous litigants so as to create unnecessary hurdles and punish unsuspecting and often innocent citizens particularly in the sphere of matrimonial disputes. The litigating parties and their advocates should also be cognizant of the fact that such vexatious filing of false and frivolous claims and cases cast unnecessary burden on the already overburdened machinery and apparatus of the State and Judiciary. This factor also diverts the attention of courts and its resources whereas genuine cases of the parties with actual verifiable grievances are not being able to be adjudicated in time owing to the time spent in adjudicating upon phantom claims of mischievous litigators seeking to create litigation out of thin air or in the absence of a cause to do so.**

9.3 One particular offshoot or a species of vexatious and frivolous litigation is in family disputes, particularly, a 'matrimonial bouquet' that is presented by the estranged wife against the husband and his family out of personal animosity and spite once the relationship turns sour and rancorous and vice versa. This 'matrimonial bouquet' often includes claims of dowry demands; cruelty under 498A IPC; harassment by in

laws and domestic violence, made by the complainant against her spouse and in-laws. This set of cases frequently include bogus and empty allegations and false claims of harassment, cruelty and marital hardships that, more often than not, contain little to no substance at all and are usually not backed by any material or other documentary evidence. A tell-tale sign of such vexatious cases is that often they contain vague and sweeping general allegations that are not specific in nature but rather are aimed at arraying several family members if not all of the spouse's family, including those who are old and ailing, as accused and consequently cast the prosecution net as wide as possible by invoking multiple provisions of law by using general, vague and omnibus allegations that are not backed either by fact or law. We say so while being mindful of the fact that although any complaint or a FIR is not an encyclopaedia of evidence and factual circumstances so as to contain all details of the alleged incident, by no means can it be a general conglomeration of statements made by the disgruntled spouse with a mala fide intent, containing little or no details of the alleged criminal acts that often lack a chronology of events. Further, sweeping allegations and vexatious claims often fail to highlight and elaborate upon how the alleged acts happened, the manner in which such acts were undertaken, the aftermath of such incidents etc.

9.4 In this regard, we would be remiss to not highlight the recent upswing in the false and frivolous matrimonial cases which have unfortunately brought to the fore the uglier side of litigation. **A recent trend in this regard is when the wife resorts to filing false complaints and cases under POCSO Act alleging that the husband, who is also the father of the minor child, has committed wanton acts which are sexual in nature especially against the minor daughter. At the centre of this sort of litigation is a child who is often used by her mother against her father, against her will and wishes, so as to make false and vexatious complaints against her father and other male members of her paternal family in order to exact revenge or as an arm-twisting tactic to obtain a higher monetary settlement or to simply harass.**

9.5 **There are also instances where in cases of enmity between the members of a family, between neighbours or business partners or associates, or even between borrowers and lenders of financial assistance, a weapon of harassment being resorted to is a complaint under the POCSO Act at the instance of a parent of a child (in most cases being the daughter) so as to wreak vengeance or to get over civil disputes between the parties by a subdued accused under the said Act yielding to the demands of the complainant. Also, the threat of a false complaint under the POCSO Act is used as a means to escape legal consequences arising out of a commercial transaction, a matrimonial dispute or such other disputes.**

9.6 While we are conscious of the fact that there are instances and a plethora of cases that are true and deserve the utmost attention and deft handling on the side of authorities and Courts and which should be pursued vigorously to reach a logical conclusion, on the other side of the spectrum, are cases invoking such serious and heinous allegations which are prima facie vague, omnibus and general in nature and thereby lacking any material backing or evidence which should be shunned at the very threshold. We say so for the reason that if a person is made an accused and forced to face a criminal trial on general and sweeping allegations without bringing on record any specific instances of criminal conduct, it would tantamount to an abuse of the process of law and court. Hence, legal practitioners who tender advice in such cases must restrain parties from filing such false/frivolous complaints when requested to do so. **Further, lawyers/advocates must also not advise filing of criminal complaints which are false/concocted so as to keep the opposite parties under a tight leash so that they could come forward for a settlement on the terms dictated by their parties or else, to face a criminal prosecution which can prolong for years**. When such is the trend, on the other side, efforts are made to seek anticipatory bail by persons apprehending arrest owing to a false/frivolous complaint being lodged which sometimes reach the portals of this Court after being unsuccessful at the level of the trial court and High Court. Also, steps are taken for seeking quashing of such false/frivolous

> complaints before the High Court which has its own saga of uncertainties causing undue pressure, harassment, stress and tension on the so-called accused. The consequence of all this is docket explosion and burden on Courts resulting in genuine complaints and cases not being given due time and attention that they need.
>
> 9.7 Courts then owe a duty to subject the allegations levelled in the complaint to a thorough scrutiny to ascertain if a prima facie case is made out or not, and whether there is any kernel of truth in the allegations or whether the said allegations have been made only with the sole intent of spite so as to harass the opposite party with a prolonged process of criminal litigation, arrest and sometimes a conviction which later on may result in an acquittal by a higher Court or in a worse case, no relief at all being given to an innocent party. This stands more true when prosecution arises from a matrimonial dispute.
>
> **9.8 We are also cognisant of the fact that a genre of matrimonial litigation is on the rise in this country which inevitably includes, within its ambit, a rise in filing of false, frivolous and vexatious cases with a mala fide intent and ulterior motive to wreck havoc and vengeance on the spouse and in the bargain seek the best compromise. Therefore, the Courts have to exercise utmost caution and restraint while entertaining such suits and criminal proceedings as any misstep and overreach can have a cascading effect on the health, both mental and physical, of the parties involved and the sanctity of the institution of marriage itself.....**"
>
> (Emphasis supplied)

41. The High Courts, across the country, have also been cognizant of this malaise. The Kerala High Court, in *Suhara* v. *Muhammed Jaleel*, 2019 SCC OnLine Ker 1237, while cautioning the Family Courts to not be carried away by allegations of commission of offences under the POCSO Act by a parent, noticed the growing tendency as early as in 2019, to foist false crime against the biological father. The Court held as under:—

"28. In our opinion, mere registration of a crime under the provisions of the POCSO Act against the parent of the ward is no assurance to a Family Court that allegation of sexual abuse made against him is nothing but true. The allegation made against the biological father could be true in rare cases, but could be wholly false also. The Family Court, before which such registration of crime is proved must necessarily apply its mind and endeavour to find out the true circumstances which activised the registration rather than being allured by the mere fact of registration. Unless a very cautious approach is adopted by the Family Court to ensure that information on which crime was registered is not frivolous and vexatious, many a innocent parent fighting for custody of his own ward would be victim of false implication of crimes under the POCSO Act. **There is a growing tendency in the recent years to foist false crimes against the biological father alleging sexual abuse of own child misusing the provisions of the POCSO Act when serious fight for custody of ward is pending resolution before the Family Courts. The Family Courts to whose notice registration of crime under the POCSO Act is brought owe an onerous responsibility to ensure that the registration of crime against the parent is not a ruse for defeating his legitimate claim for custody of the ward. The Family Courts ought to examine the outcome of investigation of the crime placed before the court and also take into consideration all relevant facts and circumstances which would help the Judge form a prima facie opinion as to whether the allegation of sexual abuse of the ward is baseless or not. Each case requires to be approached and evaluated on its own facts and we realise that no hard and fast approach could be laid in this respect at all. We do not mean to say that Family Courts should disregard the materials collected by the investigating agency in the crime and hold a total independent enquiry in order to get at the truth or veracity of the allegation. We make it clear that unless there are reliable materials capable enough to convince the allegation of sexual abuse to be well founded, mere registration of crime shall not be reckoned as a ground for rejecting the claim of the parent for custody of the child."**

(Emphasis supplied)

42. In *N. Chandramohan* v. *State*, 2019 SCC OnLine Mad 3666, the High Court of Judicature at Madras, highlighting the damage caused to a parent, in case of false accusations, made the following telling observations:—

> **"11. There were instances when the attention of this Court was drawn to similar such incidents, where false complaint were given as if the husband has committed an offence under POCSO Act against the daughter and it was informed to this Court that such cheap tactics are adopted in the family court cases, just to arm twist the husband and make him fall in line. This Court was not willing to believe that such instances can happen and this case is an eye opener for this Court. This Court was made aware, the extent to which POCSO Act can be misused.**
>
> **12. The object of the POCSO Act was to protect children from offence of sexual assault, sexual harassment, etc., and that is why the Act specifically provides for a legal presumption as to the commission of the offence and the culpable mental state, once a prosecution is launched under this Act. The burden of proof is upon the accused to prove that he had no such mental state with respect to the Act charged as an offence in that prosecution. The consequences of prosecuting a person under this Act are very serious and apart from providing for stringent punishments, the person who is prosecuted virtually comes down in the eyes of the society at large and he is virtually shunned from the main stream of the society."**

(Emphasis supplied)

43. The judgments set out above thus recognise a trend of misuse of the provisions of the POCSO Act for extraneous considerations. In some cases, the provisions are invoked as a pressure tactic in divorce or custody proceedings, while in others they are used simply to settle scores or seek revenge. No doubt, the POCSO Act,

under Section 22, provides for prosecution of persons making false complaints or giving false information in respect of Sections 3, 5, 7 and 9 of the POCSO Act respectively. However, by the time Section 22 is invoked substantial damage would be caused to the party falsely charged. Section 22 of the POCSO Act reads as under:—

> "***22. Punishment for false complaint or false information****.—(1) Any person, who makes false complaint or provides false information against any person, in respect of an offence committed under sections 3, 5, 7 and section 9, solely with the intention to humiliate, extort or threaten or defame him, shall be punished with imprisonment for a term which may extend to six months or with fine or with both.*
>
> *(2) Where a false complaint has been made or false information has been provided by a child, no punishment shall be imposed on such child.*
>
> *(3) Whoever, not being a child, makes a false complaint or provides false information against a child, knowing it to be false, thereby victimizing such child in any of the offences under this Act, shall be punished with imprisonment, which may extend to one year or with fine or with both.*"

44. The possible misuse of the POCSO provisions was highlighted in the 240th Report on the POCSO Bill by the Parliamentary Standing Committee on Human Resource Development. The Report observed thus:—

> *"11.4 The Committee observes that the National Commission for Protection of Child Rights, the statutory body at the national level meant to act as a watch dog for protection of child rights is in agreement with this provision. The Committee understands that the proposed law is meant to instill in children a sense of confidence to report abuse and exploitation instead of deterring them from reporting.* ***But at the same time, provision of this proposed law is not meant for settling scores and such attempts need to be curbed. The argument that the CrPC contains adequate provisions to deal with false complaints is also not very convincing****. The Committee has observed that all such legislations invariably have a*

provision which would serve as a deterrent in case of false complaints being made. The only thing is to ensure that such a provision is free from any unnecessary or uncalled for stipulation."

(Emphasis supplied)

45. Thus, it is clearly mentioned in the aforesaid report that the POCSO Act is not meant for settling scores and any attempt made to misuse the provisions would accordingly need to be curbed. Although Section 22 of the POCSO Act is meant to deter false complaints, yet by the time this provision comes into application, irreparable harm may already have been done to the accused. This harm can take two forms. First, the accused may suffer prolonged incarceration, with the loss of liberty and the other adverse consequences that ordinarily accompany the registration of an FIR. Secondly, the accusation may adversely affect guardianship or custody proceedings being litigated in a different forum. Therefore, we are of the considered opinion that certain precautions must be taken, within the four corners of the law, to prevent such harm from befalling the accused.

46. We shall now discuss the safeguards, the context in which they would come into play, and their scope.

SAFEGUARDS TO PREVENT IRREPARABLE HARM:—

47. While we are cognizant that the provisions of the POCSO Act are, in some situations, misused, it would be remiss not to bear in mind the avowed object and purpose for which the Act was enacted i.e., to provide a self-contained, comprehensive legislation to protect children from the offences of sexual assault, sexual harassment and child sexual exploitation and abuse material (CSEAM), with due regard to safeguarding the interest and well-being of the child at every stage of the process. **Any precaution we envision to prevent irreparable harm to the accused in certain contexts and circumstances must, therefore, not run counter to the stated object of the Act, or dilute the stringency with which such offences are meant to be treated. What is needed is a balancing exercise: precautions that neither dilute the object of the Act nor weaken its provisions,**

while allowing sufficient leeway to ensure that irreparable harm is not caused to the accused. Therefore, any safeguard we introduce should be read in this specific context.

48. Before the precautions to prevent such harm are set out, we must be clear as to the exact context in which they would apply. They would apply only when both of the following threshold conditions are met:—

i) *Firstly*, an offence under the POCSO Act is alleged to have been committed by a parent, or any other family member who is living under the same roof as the child victim.

ii) *Secondly*, a matrimonial dispute of some form, irrespective of whether it is before a court of law or not, exists between the parents of the child victim, thereby indicating the possibility of a strained relationship. It would be the duty of the police officer receiving the complaint to verify, at the time of receipt of the complaint, that a matrimonial dispute as aforesaid exists between the parents."

(Emphasis supplied at each instance)

A conspectus of the law laid down by the Apex Court in **ISHWAR CHAND SHARMA** v. **STATE OF UTTAR PRADESH and reiterated in 'R'** v. **'E'** would unmistakably reveal a judicial concern of considerable gravity. **The Apex Court has recognized the disturbing phenomenon of matrimonial disputes spilling over into the domain of criminal law, where the protective provisions of the POCSO Act are, in certain cases, invoked not to vindicate the rights of a child, but to visit an**

estranged spouse with the rigours of criminal prosecution and thereby secure an advantage in proceedings concerning custody or visitation. The Apex Court has cautioned that an allegation, however grave its character, cannot be permitted to acquire the sanctity of truth, merely by its incorporation in a complaint. The accusation must disclose the essential ingredients of the offence, supported by specific factual particulars and considered in the setting of the attendant circumstances. A complaint is undoubtedly not expected to be an encyclopedia of events, but it cannot be a mere assemblage of sweeping accusations, unsupported inferences and unparticularised suspicions.

30. **The Apex Court has further deprecated the tendency to cast the net of prosecution so wide as to engulf the entire family of an estranged spouse, without attributing any specific criminal act to its members**. In **'R'** v. **'E'**, the Apex Court has taken the principle a step further by recognizing that the mere registration of a crime under the POCSO Act cannot, by itself, become a passport to defeat the legitimate claim of a parent for the companionship or custody of a child. **The Court has also**

acknowledged the irreversible consequences that may follow an unfounded accusation, for reputation once sullied, liberty once curtailed and a parental bond once disrupted may not be easily restored by an eventual acquittal.

31. The principles enunciated in **STATE OF HARYANA** v. **BHAJAN LAL**[3] would therefore assume significance, where the allegations do not disclose an offence, or the offences alleged are inherently improbable or the proceedings are demonstrably actuated by an ulterior motive. These pronouncements do not dilute, even in the slightest measure, the protection afforded to children under the POCSO Act. They instead underscore the necessity of distinguishing a genuine cry for protection from a criminal accusation employed as an instrument of matrimonial retribution.

32. **The law cannot permit the innocence of a child to become the battlefield upon which estranged parents wage their wars of vengeance. Neither can it permit the solemn shield of child protection to be converted into a sword of**

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[3] ***1992 Supp. 1 SCC 335***

personal vendetta. The paramount consideration must remain the welfare of the child, and the paramount judicial obligation must remain the preservation of justice, both for the child who may have suffered abuse and for the person who may have been falsely accused. It is on this touchstone that the allegations in the case at hand must be examined.

33. The provisions invoked against the petitioners are Sections 8 and 10 of the POCSO Act. Sections 8 and 10 of the POCSO Act read as follows:

> "**8. Punishment for sexual assault**.—Whoever, commits sexual assault, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine.
>
> … … …
>
> **10. Punishment for aggravated sexual assault**.—Whoever, commits aggravated sexual assault shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine."

Section 8 prescribes punishment for sexual assault as defined under Section 7, while Section 10 prescribes punishment for aggravated sexual assault as contemplated under Section 9 of the POCSO Act. A bare perusal of the complaint would reveal that **not a solitary**

instance, not a specific overt act, nor even the faintest factual foundation is narrated which would prima facie constitute the ingredients of the offences alleged. There is nothing that can be called as ingredients of offences under Sections 8 and 10 of the POCSO Act.

34. The entire edifice of the accusation rests upon the medical observation of redness and excoriation in the private parts of the minor child, a clinical finding which the complainant/mother has sought to transform into an allegation of sexual assault. What the doctors have described as non-specific clinical findings, capable of arising from a multitude of causes, is sought to be given the colour of a grave sexual offence. **The medical opinion is thus made to speak what it does not say, and the silence of medical science on the cause of the clinical findings is sought to be filled by the suspicion of the complainant.** Neither Dr. Bindu P. nor Dr. Anuradha Sadashivamurthy, whose affidavits have been placed before this Court pursuant to directions, have attributed the findings to any act of sexual assault. Had the affidavits disclosed any clinical circumstance lending support to the accusation, or had

the complaint narrated any specific act constituting the ingredients of the offences alleged, the matter would have presented an altogether different complexion, warranting investigation in accordance with law. But the material placed before this Court discloses no such foundation. **It is the complainant/mother who has drawn the inference of sexual assault and, upon that inference, has sought to embroil not merely the husband, who is the father of the child, but also his father, mother and sister in the formidable web of criminal prosecution.**

35. The chronology of events cannot be lost sight of. The estranged spouses are locked in a bitter contest over the custody and companionship of their minor daughter. The father secures visitation rights under orders of competent Courts. The visitation arrangement is thereafter sought to be curtailed on the strength of allegations which subsequently become the foundation of the criminal complaint. **The medical findings, which constitute the very substratum of the accusation, do not attribute the symptoms to sexual assault. The complaint, on its face, does not narrate the acts necessary to attract Sections 8 or 10 of**

the POCSO Act. The other members of the husband's family are drawn into the prosecution without any specific act being attributed to them. These circumstances, when considered cumulatively and in the light of the law declared by the Apex Court in **ISHWAR CHAND SHARMA** and **'R'** v. **'E'**, render the continuation of the impugned proceedings an abuse of the process of law.

36. **The criminal law cannot be reduced to a means of achieving indirectly what a litigant seeks to secure directly in proceedings concerning custody and visitation. The process of law is meant to advance justice, not to become the punishment itself.** In the peculiar and unmistakable circumstances obtaining in the case at hand, this Court is of the considered view that permitting further investigation against the petitioners would amount to a manifest abuse of the process of law, warranting its interdiction in exercise of the inherent jurisdiction of this Court.

37. Before parting, it is necessary to observe that Section 22 of the POCSO Act itself recognises the mischief of false complaints and false information furnished with the intention of humiliating,

extorting, threatening or defaming a person. The legislature, while erecting a formidable protective edifice around children, has simultaneously provided a safeguard against its deliberate misuse. The protection of childhood and the prevention of malicious prosecution are not competing objectives; they are complementary obligations of a justice system founded upon fairness. Therefore, **it is open to the petitioners, if so advised, to initiate appropriate proceedings under Section 22 of the POCSO Act**, subject to satisfaction of the statutory ingredients and in accordance with law. Any such proceedings shall necessarily be considered on their own merits, uninfluenced by observations made herein beyond the determination of the present *lis*. **The law must protect the child from abuse, the innocent from persecution and the criminal justice system from being converted into an arena for settling private scores**.

38. For the aforesaid reasons, the following:

O R D E R

(i) Criminal petition is **allowed**.

(ii) FIR in Crime No.85 of 2026 registered by Malleshwaram Police Station and pending before the Fast Track Special Court-I, Bengaluru City stands quashed *qua* the petitioners.

Consequently, I.A.No.2 of 2026 also stands disposed.

Sd/-
(M.NAGAPRASANNA)
JUDGE

Bkp
CT:MJ