

Sexual Harassment Laws – Onus on Preventing Misuse Also on Women

SV Ramachandra Rao
Resource Inputs Limited
svrr@resourceinputs.com

Indian society is male dominated society and women on many occasions are suppressed and victimised. The dowry system in Indian culture has aggravated the situation. However, during the last two decades there has been tremendous change in the situation and women are also found in all walks of life and becoming independent. Yet we come across exploitation of women in different corners of our country and that seems to happen quite often. To prevent such activities, the Government has enacted many laws and provisions such as introduction of 498 A in the Indian Penal Code, The Protection of Women From Domestic Violence Act, 2005, *The Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act*, 2013, The Criminal Law Amendment Act, 2013 (Popularly known as Nirbhaya Act).

Unfortunately few unreasonable women by their actions jeopardise the interests of the many women and this will lead to dilution of the intent with which the legislation has been passed.

For example, 'Section 498-A of the IPC was introduced with the sole objective combating the menace of harassment to a woman at the hands of her husband and his relatives. The offence committed under this section is made cognisable and non-bailable. Few unreasonable women utilised this provision of law as a weapon to harass the husband for what so ever reason rather than shield the women from harassment in the hands of the husband and his relatives. Over a period, this has become a simplest way to harass the husband and his relatives, who are also arrested. In quite a number of cases, even the bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for decades are intentionally made part of the complaint and harassed.

Supreme Court has been giving judgments on Section 498a of the Indian Penal Code and found that this section has been misused by many women and thus asked the law ministry to consider amending the same. Before arresting under 498a, the police have got circulars, under which they have to investigate before arresting or higher police like DCP has to be consulted, before arresting someone under this section.

The Supreme Court bench headed by Justice Chandramauli Kr. Prasad and Justice Pinaki Chandra Ghose, in its judgment in *Arnesh Kumar vs State of Bihar* gave certain guidelines to be followed, they are, all state governments has to instruct its police officers that they cannot automatically arrest a person under Section 498a of IPC and Section 4 of Dowry Prohibition Act without following the parameters of Section 41 of Cr PC. This has happened only due to misuse of few individual women in the society while the majority women silently suffer and cannot get relief as desired.

To protect women from harassment at workplace, in the year 2013, *The Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act* was enacted as it has been termed as a violation of basic fundamental rights of women under Article 14 that deal with Right to Equality and right to life and to live with dignity under Article 21 of the Constitution of India. Sexual Harassment is also considered as violation of the right to practice any profession or to carry on any trade, occupation or business under Article 19(1)(g) of the Constitution of India.

One such instance before the Central Administrative Tribunal (CAT) bench, Judges KB Suresh and PK Pradhan highlighted the misuse of the Sexual Harassment Act, after hearing four cases on sexual harassment complaints. One such case details are as under:

One Mr. T Ramesh, Stores Officer newly transferred to Kudermukh Iron Ore Company Limited and restricted the movement of contractors to ensure better inventory control. With his efforts the CISF

has intercepted five coal loaded trucks being stolen from the company premises and the company thanked him for his efforts. Later, three women employees of that particular company filed a written complaint against him. First women complaint is that when she told Ramesh that she had lost her Mangalsutra, he remarked that she should wear the same inside. And this remark according to the women employee was computed as 'Sexually Colored'. The second women complaint is that Mr. Ramesh used to sit close to her and put his hand on her chair while dictating letters to her. The third women made the complaint that he use to make remark's about her as Riding Pillion with a male colleague of that Office only.

Ramesh after this had approached the CAT. The bench observed a conspiracy involving the women employees and contractors which had led to the "**silly complaints**" whose intentions were to silence the whistleblower.

Women should not fall as victims in the hands of unreasonable contractors and corrupt officials to make false, fabricated and silly complaints against good citizens of the country. The allegations should be true and nobody should have a complaint of being implicated in false cases. While the premise of the law often is used to its spirit, there are some which are often not used judiciously. It hurts one, damages reputation, and costs millions to the person as well as the employer and the society.

Laws in India have undergone a phenomenal change to tackle the menace of crime against women and to ensure their safety, security and dignity. However, in the hands of few unreasonable woman, there has been abuse of these women –friendly laws. If the law is not put to proper use by the women themselves, the basic intent with which it has been brought into force will defeat its objective and exploitation against women will increase. The learning is that women alone can protect the women by utilising the protections created by the legislature.