



# FIRESIDE CHAT SERIES

From the desks of Jayant Bakshi and Asawari Kapur



## INTEMPERATE LANGUAGE ISN'T SEXUAL HARASSMENT - MADRAS HIGH COURT

We wish to share with you a recent case\* decided by a Division Bench of M. Sathyanarayanan and R. Hemalatha, JJ. (Madras High Court), while addressing the issue of Sexual Harassment of Women at Workplace. The short summary of the case is as below:

### **The Ruling**

The Madras High Court has observed that a solitary allegation of intemperate language against a woman employee does not constitute an offence under the law on sexual harassment at work place.

### **The Case**

The court granted relief to a senior central government official who was accused of sexual harassment by a woman officer. The woman had lodged a complaint against the petitioner, accusing him of high-handed and arrogant behaviour, causing hurt to her self-respect. In a subsequent complaint, she mentioned the word "sexual harassment" at several places apart from citing incidents about his "rude behaviour".

*\*Union of India v. Reema Srinivasan Iyengar, WP Nos. 10689, 24290 and 4339 of 2019, decided on 17-02-2020*

## The Argument

The court said the woman's first complaint was generic and its essence was "intemperate" language used by the officer and 'bias' shown against her. But the subsequent complaint smacked of 'tutoring' and talked about "physical advances" and "lewd remarks" though it did not mention any date or sequence of events in support. "This also appears to be an afterthought. Therefore, a solitary allegation of intemperate language against a female employee does not constitute an offence" under the act, the court said.

## The Message

"Though the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is intended to have an equal standing for women in the work place and to have a cordial workplace in which their dignity and self-respect are protected, it cannot be allowed to be misused by women to harass someone with an exaggerated or non-existent allegations, the court said.

## Our View

The HC observed that "Every office has to maintain a certain decorum and women employees cannot be allowed to go scot free without completing their assignments. The Administrative Head or the Chief has every right to extract work and he or she has his or her own discretion and prerogatives. If a woman employee is discriminated against due to her inefficiency or for any other official reasons, the recourse for her is not the one taken by this complainant."

This ruling is especially important for the **members of the Internal Committee** while investigating complaints of harassment. Some of the key areas that merit consideration are:

- Whether the complaint is generic in nature or specifically related to sexual harassment?
- Where the complainant mentions the words "sexual harassment" without providing sufficient details, the IC must seek further information from the complainant.
- Should there be substantial changes in a subsequent complaint as compared to the first (original) complaint, the IC should be vigilant and watch-out for such inconsistencies (i.e. possibility of a malicious complaint).



Should you like to discuss this particular case or any POSH related matter, please let contact us at:

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