

CASE STUDY OF SEXUAL HARASSMENT AGAINST WOMEN AT WORKPLACE IN GOA

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Abstract: Sexual harassment constitutes a gross violation of Women's Right to equality and dignity. It is a mirror reflecting male power over women that sustains patriarchal relations in society. Workplace Sexual Harassment, like other forms of violence, is harmful. In the workplace, harassment may be considered illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision, such as the victim being fired or demoted, or the victim decides to quit the job.

For the protection of women, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was passed which intended to include all women employees in its ambit, including those employed in the unorganized sector, as well as domestic workers. The paper is divided into three parts; the first part focuses on the Magnitude of the Sexual Harassment, the second part of paper talks about the Legal Aspects, and third part discuss some of the Cases in Goa on Sexual Harassment. The paper concludes with a view that sexual Harassment Against women is being increasing, most of the cases are going Unreported, It also involves serious health, human, economic and social costs, which Manifests themselves in the overall Development of nation. There is a need for effective Remedies for proper Management to minimise the occurrence of the problem.

Keywords: Sexual Harassment, Women, Victims, Workplace ,Accuse, Complainant.

Introduction: Sexual Harassment affects all women in some form or the other. Sexual Harassment has been a universal problem. It is all about male dominance over women that sustain patriarchal relations.

Sexual harassment, by definition, is unwanted and not to be tolerated. The term Sexual Harassment in legal sense was first coined by united states of America .in India the term Sexual Harassment was first define din legal sense in the year 1997, in Vishaka .v. State of Rajasthan.

Sexual harassment may have diverse and varied forms. One of the difficulties in understanding Sexual Harassment is that it involves a range of behaviors. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

In most cases (although not in all cases) it is difficult for the victim to describe what they experienced. This can be related to difficulty classifying the situation or could be related to stress and humiliation experienced by the recipient. Moreover, behavior and motives vary between individual cases Sexual harassment constitutes a gross violation of Women's Right to equality and dignity. In the workplace, harassment may be considered illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision, such as the victim being fired or demoted, or the victim decides to quit the job.

Objectives of research study:

- I. To study the Magnitude of Sexual Harassment against Women at Workplace
- II. To study Legal frame work for protection of Women against Sexual Harassment at Workplace

III. Case Study of Women Victims of Sexual Harassment at Workplace in Goa.

I. Magnitude of Sexual Harassment against Women at Workplace:

1.1 Scope of Study: Sexual Harassment at work is an extension of violence in everyday life and is discriminatory, exploitative, thriving in atmosphere of threat, terror and reprisal.

Sexual harassment is defined by law and includes requests for sexual favors, sexual advances or other sexual conduct when (1) submission is either explicitly or implicitly a condition affecting academic or employment decisions; (2) the behavior is sufficiently severe or pervasive as to create an intimidating, hostile or repugnant environment; or (3) the behavior persists despite objection by the person to whom the conduct is directed.

1.2 Types of Sexual Harassment: Generally speaking, there are two types of sexual harassment,

1. Quid pro quo seeking sexual favours or advances in exchange of work benefit .sexual harassment occurs when it is stated or implied that an academic or employment decision about employee depends upon whether the employee submits to conduct of a sexual nature. for example, if an employee is made to believe that a promotion is likely if the employee goes on a date with the employee's supervisor, the employee is possibly being subjected to "quid pro quo" sexual harassment.

2. Hostile environment Sexual Harassment occurs when unwelcome conduct of a sexual nature creates an intimidating, threatening or abusive working or learning environment or is so severe, persistent or pervasive that it affects a person's ability to perform or benefit from employment. While a person engaging in harassing behavior most often has some

form of power or authority over the person being harassed.

1.3 Examples of Sexual Harassment: Behavior that are considered “conduct of a sexual nature” and that, if unwelcome, may constitute sexual harassment: Unwanted sexual statements:- Sexual or “dirty” jokes, -comments on physical attributes, -spreading rumors about or rating others as to sexual activity or performance, -talking about one’s sexual activity in front of others and displaying or distributing sexually explicit drawings, pictures and/or written material.

Unwanted sexual statements can be made in person, in writing, electronically (email, instant messaging, blogs, web pages, etc.) and otherwise.-Unwanted personal attention: Letters, telephone calls, visits, pressure for sexual favors, pressure for unnecessary personal interaction and pressure for dates where a sexual/romantic intent appears evident but remains unwanted. Unwanted physical or sexual advances: Touching, hugging, kissing, fondling, touching oneself sexually for others to view, sexual assault, intercourse or other sexual activity.

1.4 Impact on women: Effects of sexual harassment can vary depending on the individuality of the recipient and the severity and duration of the harassment. it may lead to temporary or prolonged stress ,depression depending on the recipient's psychological abilities to cope and the type of harassment, and the social support or lack thereof for the recipient.

Sexual Harassment deprives women from active social and economic participation . it also results being constantly absent at work, defamation of character and reputation, effects sexual life, marital relationship even amounts to divorce, one's personal life offered up for public scrutiny—Having to relocate to another city, seek another job. It may also result in anxiety and/or panic attacks, sleeplessness and/or nightmares, shame and guilt, difficulty concentrating, headaches, fatigue or loss of motivation, stomach problems, eating disorders (weight loss or gain), alcoholism, feeling betrayed and/or violated, feeling angry or violent towards the perpetrator, feeling powerless or out of control, increased blood pressure, loss of confidence and self-esteem, withdrawal and isolation, overall loss of trust in people, suicidal thoughts or attempts, suicide.

1.5. Combating Sexual Harassment:

- The Prime objective should change behaviour and attitudes , to seek ensure prevention of sexual harassment
- Sexual Harassment should be affirmatively discussed in meetings of Institutions

- Guidelines should be prominently displayed to create awareness about the rights of female employee
- Names and contact numbers of members of the complaint committee must be prominently displayed
- Sexual harassment must be recognised as serious problem
- Complaint channels need to provide different routes that employees can take to file complaints
- Tanning the employees and educating them with different issues and promote healthy discussion of policy
- Conducting of surveys among the employees to check if any employee has experienced sexual harassment
- Women have to raise voice, demand to stop harassment
- Hold the harasser accountable for his action

II .Legal Frame work for protection of Women against Sexual Harassment at Workplace in India.

2.1 Constitutional Provisions: Sexual harassment is a universal problem. Occurrence of sexual harassment was first recognised as an infringement of the fundamental Rights of a woman under article 19(1)(g) of the constitution of India “to practice any profession or to carry out any occupation ,trade or business.”

In India Article 14, 15, 16, and 21 of Indian constitution provide safeguard against all form of discrimination.

Article 14 states that the State shall not deny to any person Equality before Law and Equal Protection of Law. Article 15 state shall not discriminate against any citizen on grounds of religion, race,caste, sex, place of birth, or any of them. Article 16 deals with equal opportunity in matters of public employment

Part IV of the constitution, Directive Principles of state policy is considered fundamental in the governance of the country ,Art 39 -Says State shall in particular direct its policy towards securing among other things ,a right to adequate means of livelihood for men and women equally, equal work for both Art 42-Says State shall make provisions for securing just and humane conditions of work and maternity relief.

In India the term Sexual Harassment was first given formal legal definition in the case of **Vishaka v State of Rajasthan in 1997**. Vishaka case was of a gang rape which took place by five upper caste men in Rajasthan in 1992. The court defined the sexual harassment very clearly as well as provides guidelines for the employers to redress and prevent sexual harassment at workplace

The guidelines categorically stated that the employer in the workplace or institution to prevent sexual harassment and provide mechanism for the resolution of complaints.

2.2. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013: legislative act in India that seeks to protect women from sexual harassment at their place of work. It was passed by the Lok Sabha (the lower house of the Indian Parliament) on 3 September 2012. The Act came into force from 9 December 2013.

The Act will ensure that women are protected against sexual harassment at all the work places, be it in public or private. This will contribute to realisation of their right to gender equality, life and liberty and equality in working conditions everywhere.

The Act uses a definition of sexual harassment which was laid down by the Supreme Court of India in *Vishaka v. State of Rajasthan* (1997). Under the Act, which also covers students in schools and colleges as well as patients in hospitals, employers and local authorities will have to set up grievance committees to investigate all complaints. Employers who fail to comply will be punished with a fine of up to 50,000 rupees.

- **Features of the Act**---The Act defines sexual harassment at the work place and creates a mechanism for redressal of complaints. It also provides safeguards against false or malicious charges.
- The Act also covers concepts of 'quid pro quo harassment' and 'hostile work environment' as forms of sexual harassment if it occurs in connection with an act or behaviour of sexual harassment.
- The definition of "aggrieved woman", who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status, whether in the organised or unorganised sectors, public or private and covers clients, customers and domestic workers as well.
- While the "workplace" in the Vishaka Guidelines is confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes much further to include organisations, department, office, branch unit etc. in the public and private sector, organized and unorganized, hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by

the employee during the course of employment including the transportation. Even non-traditional workplaces which involve tele-commuting will get covered under this law.

- The Committee is required to complete the inquiry within a time period of 90 days. On completion of the inquiry, the report will be sent to the employer or the District Officer, as the case may be, they are mandated to take action on the report within 60 days.
- Every employer is required to constitute an Internal Complaints Committee at each office or branch with 10 or more employees. The District Officer is required to constitute a Local Complaints Committee at each district, and if required at the block level.
- The Complaints Committees have the powers of civil courts for gathering evidence.
- The Complaints Committees are required to provide for conciliation before initiating an inquiry, if requested by the complainant.
- The inquiry process under the Act should be confidential and the Act lays down a penalty of Rs 5000 on the person who has breached confidentiality.
- The Act requires employers to conduct education and sensitisation programmes and develop policies against sexual harassment, among other obligations.
- Penalties have been prescribed for employers. Non-compliance with the provisions of the Act shall be punishable with a fine of up to ₹ 50,000. Repeated violations may lead to higher penalties and cancellation of licence or registration to conduct business.
- Government can order an officer to inspect workplace and records related to sexual harassment in any organisation.

Penal Code Criminal Law (Amendment) Act, 2013: Through the Criminal Law (Amendment) Act, 2013, Section 354 was added to the Indian Penal Code that stipulates what consists of a sexual harassment offence and what the penalties

shall be for a man committing such an offence. Penalties range from one to three years imprisonment and/or a fine. Additionally, with sexual harassment being a crime, employers are obligated to report offences.

Criticism : Bill does not cover women in the armed forces and excludes women agricultural workers, "a gross injustice to agricultural workers who are the single largest female component of work force in the country.

The burden of proof is on the women who complain of harassment. If found guilty of making a false complaint or giving false evidence, she could be prosecuted, which has raised concerns about women being even more afraid of reporting offences.

There is no stipulated liability for employers in cases of employee-to-employee harassment, something upheld in many other countries. Compliance to this statute has so far been left to the vagaries of the employers and government has not taken any significant step to enforce the law so far.

Drawback of Laws--Despite of the developments the problem of Sexual Harassment is assuming alarming proportions. India is rapidly advancing in its developmental goals and more and more women are joining work force. For any sexual harassment law to be successful in India, it is important to be aware of the difficulties confronting our society and ways to overcome them. The police and judiciary also need to be gender sensitized, there is no speedy redressal and conviction rate is less.

III. Case Study On Sexual Harassment of Women at Workplace in Goa

3.1 Position of Women in Goa: The state of Goa is a tiny speck of land on the west coast of India that was a Portuguese colony until 1961. Goa was then a pre-industrial economy dominated by agriculture and mining. Historically, the Portuguese have displayed a deep concern for women's rights one can see this in the equal access to education and the resultant freedom to choose a full time profession, the increase in the age of marriage and the Portuguese Uniform Civil Code, later called the Uniform Civil Code. Today, Goa has an 82.32 % literacy level and a high Human Development Index, thus making it one of the better-developed States in the country. There is a high public presence of women in the State, yet one cannot use this, as an indicator that everything is bright and cushy. Thousands of Goan women are employed in the tourism industry, both directly and indirectly. Personal safety of women is another growing concern. Goa desperately needs a labour policy for

women, especially one that seeks to adequately protect the health of women, and where the sexual harassment at the workplace law is implemented.

3.2. Sexual harassment Cases at Work place in Goa.

Case 1.case in Collector office in south Goa: The office of the collector is a busy place, daily number on issues relating to tenancy, taxation, issuing NOC's etc are dealt with.

The clerk of the office was closely associated with the deputy collector relating to official as well as personal matters

Before approaching, the deputy collector the client had to give information to the clerk

In case of female clients, the clerk would ask them to meet the deputy collector in his rest house during the lunch break, to get the work done faster. if they refused there were chances that their work may be delayed or not done.

Many females would go to meet him in order to get their work done. the deputy collector would listen to their case ,slowly try getting closer to them, and touch their body parts,

This continued for a long time, nobody dared to speak out in order with fear that their work will not be done,

When complainant was also told to visit the rest house, she refused and after a long debate she took a chance to see what was happening, she came across the same situation and complained to higher authorities regarding the sexual harassment authority.

On inquiry the actual situation was found out and deputy collector as well as the clerk was made liable for misconduct. The matter was settled by giving compensation to the complainant, and the authorities convinced the complainant not to file a complaint.

Case 2; case in Aventis company at Verna: The complainant and the accuse were employees of the Avantis Company at Verna. The complainant was beautiful and the accuse got always attracted toward her.

He is to make several sexual advances but she always ignored. He was getting frustrated since she was ignoring him.

One occasion there was a National Conference in their Company. The complainant was told to click a picture of delegates during the presentation.

Accuse came closer to her when she was clicking pictures and told the complainant(female employee)to click his nude photo outside the gate so that she can keep the photograph for her, thereby insulted her modesty.

The complainant got angry and made a complaint to the management .when it was time to take action

management did not show any response just to protect the image of the company.

The complainant filed a complaint to police station .the accuse was made to pay compensation to the complainant.

Case 3: Dempo college case: This particular case relates to the principal of Dempo College and a lady professor of the college.

The complainant was the lectures in the college, she made allegation against the principal of the college that he would at different occasion make advances to her, amounting to sexual harassment. She stated whenever she went to principals cabin he would make attempt to touch her body, which made her feel harassed and ashamed.

He would make attempt to get closer to her, give her car lift, inquire about her marriage relation and also insisted her to have extra marital affair with him.

When a complaint was filed by the complainant, the accuse refused and on contrary terminated the service of female lecture (complainant)

The complainant gathered the courage to face public scrutiny. An action committee came for her support; the Goa State Commission for Women also conducted inquiry.

The matter was taken to Directorate of Higher Education. in meanwhile the accuse filed defamation case against the lecturer(complainant)

Later after completion of inquiry an order was passed .the principal was penalized for his actions in a case of sexual harassment of the lecturer.

Case 4: case at Goa medical college: This case is of junior doctor, practising in Goa medical college. Junior doctors were accompanying the senior doctors on shift basis. Two junior doctors one male and the female were together one batch so they would for a night shift together.

Both would go for a cup of coffee in canteen at night, chat and do case study of different patients. Slowly it was found that the male doctor started taking advantage of the situation .at instances he would get closer to her, touches her hair and made an attempt to kiss her.

This went on for many days; the complainant (female doctor) had kept quiet out of shame and fear of shifts getting changed.

But on one occasion in the cabin the male junior doctor tried to touch her breast, the complainant was scared and ran away. She went and complained to a women organisation (NGO).

Both the parties were heard and it was found that there was Sexual harassment that took place. The male doctor admitted his behaviour and apologizes to the complainant and promised that such incidents will not be repeated in future.

Case 5: case in Majorda beach resort (south Goa): Majorda beach resort is a five star hotel in South Goa.

This case is about a hotel manager and his secretary who was doing all official work for him.

The manager (accuse)would the complainant(secretary)at odd timings, kept her back late evening and at times drop her home in late evenings. The secretary would adjust because the income of her husband was sufficient and the hotel was close to her house.

Such acts went on for a long time, the husband started doubting the wife and when he asked her she said there is lot of work in the office for which she comes late.

The secretary had neither intention nor feelings for the manager. On one occasion, the complainant hold around her hips and got closer to her, she shouted, the office staff gathered.

The staff of hotel went on strike asking to remove the manager from his services

A complainant was also filed in police station but since there was no evidence the case could not be registered. So a complaint was made to management to remove the manager.

After inquiry it was found the manager was liable for acts of sexual harassment and was removed from his services. This assured her safe working atmosphere and security of her job.

3.3 Implication of findings: In the first case of |Deputy Collector, it was not a genuine settlement. The Deputy Collector should have been removed from his services since he did not have respect for his position. The clerk should have also been dismissed from his work.

In the second case of Avetis Company, the police took a action on the basis of the complaint made by female employee even though the company refused to take any action to protect their status. The case was a serious misconduct of sexual nature and is derogating and insulting to the lady of status.

Making the principal liable was appropriate decision taken in case three .even though the matter was prolonged and the college management refused to take action in the beginning. Justice was given to the complainant and it is commendable for the courage she has shown.

In Goa Medical Case, the female doctor should have taken action in the beginning itself or at least inform the other colleague .but reporting the case was right on her part.

In Majorda Beach Resort case the decision taken by the hotel management was appropriate, but a police complaint was difficult to register because there was no proof. This is the reason may cases go unreported because most of the time it becomes difficult to becomes difficult to prove the occurrence of sexual harassment.

3.4 Survey Findings: Person subjected to sexual harassment experiences a wide range of physical and

psychological ailments. There are economic consequences for the victim's physical and mental wellbeing and the organisation productivity, efficiency and work ethics.

It has seen that women committees in various establishments are not functioning in proper manner. Most of the establishment are unaware of the Vishaka guidelines and hence no women committee are formed

Many women in Goa take job out of necessity, therefore going against the employer there is fear of losing job.

Many cases go unreported, some do not report due to shame there is increase in sexual harassment activities because cases go unreported. Many women do not report because of inner morality and self respect.

Conviction rate is less in Goa. Where there is political connections, no charge sheets are filed.

The legal framework in Goa needs amendments to address the current essentials need of women if it is to bring gender equality

The infrastructure to assist women victim of violence as well as preventive action has to be a state priority with the growing incidence of crimes against women.

Challenges Ahead: Goa with its high human development index, literacy rate and historically egalitarian perspective presents a unique set of problems for women. These manifest themselves in subtle ways and need to be addressed innovatively. Some of the solutions lie in women's movements, others with the Government .women work at the construction sites, as domestic labour and even in the tourism industry. Understandably these women come from conservative patriarchal social backgrounds and do not experience many of the benefits available to the average Goan of widening the movement to encompass this wider set of people and also deal with the attitudinal challenge they pose.

The prominent women's groups are mostly located in urban areas and have often addressed problems faced by urban women and developmental issues.

Women lack of ability, to express themselves in English and access to faster means of communication has often deprived them of a voice. There is an urgent need for bridging this urban- rural divide. The challenge before women's groups in Goa is on how to create a platform to discuss issues across socio-economic and geographical divides.

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But as we in Goa are constantly reminded, Goa has a small population and things are achievable. The challenges before the women's movement are many and there is an urgent need for a comprehensive understanding of economic and political trends, both state level, regional, national and international.

3.5 Role of some local authorities for Protection of Women in the State

1. Goa state Commisison for women: With the aim of improving status of women in Goa ,the Goa State Commission for Women Act was passed in 1996.The First women Commission was established in 1997 in Goa. The term of each committee is three years. The GSCW is primarily engaged in, investigating, examining and recommending a course of action on all matters relating to the provisions for women under the constitution and other laws with a view to improve the condition of Women in the State; it entertains complaints and takes suo moto notice of matters relating to deprivation of women's rights; and renders guidance and advice to needy women to institute proceedings in any judicial forum or tribunal for violation of constitutional provisions or any other laws relating to women.

2. Stay homes for women and girls: This scheme extends temporary shelter to women and children in distress, who have no social support due to family problems, mental strain ,social ostracism, exploitation and other cause

3. Baailancho Saad: A Women's Collective, Goa headed by Sabina Martines, aims to counter violence they struggle and demand, for various facilities for protection of women like, a 24hour helpline for women, policy to deal with all forms of trafficking etc.

4. Baailancho Ekvott: Headed by Auda Veiges, also strive for upliftment of women in all aspects in society and help the women in their difficulty and problems and strive to give them justice.

Conclusion: Patriarchal Attitudes and values are the biggest challenge in implementation of any law concerning Women in Society. Women find it difficult to gain respect and security at home and at workplace. Sexual Harassment is humiliating, intimidating, painful and frightening. Discriminatory behaviour and abuse is unlawful. Laws must be made more stringent to stop the violence of Sexual Harassment.

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