

INTERNATIONAL JOURNAL OF LAW & HUMANITIES

[ISSN 2581-5369]

Volume 3 | Issue 3

2020

© 2020 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at editor.ijlmh@gmail.com.

Critical Analysis on Sexual Harassment at Workplace of Women in India

SAKSHAM CHHABRA¹

ABSTRACT

As we all know that our Indian society has been a male-dominated society for ages because of which power and strength are the two cores of the feminist theories when we talk on the topic of sexual harassment. We have seen that generally males when in power have taken undue advantage of the female subordinates. The study aims to analyze the situation what was in the past and what is the current situation. It has also been quite a trend that generally sexual harassment takes place when the men in the authority. The concept of sexual harassment arose in Vishakha and Bhawani Devi case on which extensive study has been done in this paper. The research paper is an analysis of the survey done for the collection of various kinds of data on the topic, relevant case laws, workplace ratio and how this whole harassment takes place. In relation, to the women supervisors as they are more likely to report harassing behaviors. Sexual harassment is that serves as power as a balance against the women in power which dominates due to their position and control rather than their sexual desire. Although the victims have tried to escape the embarrassment there have been landmark judgments that have shown how can one can defend their right against such a heinous act.

The researcher in this paper has tried to critically appraise all the evidence and facts on the topic to come out with a clear observation and what have been the landmark judgments in the past and how one gender oppresses the other in place of sexual desire. Finally, the current paper aims that the society understands the sensitiveness of the issue and take further steps to completely stop such kind of activities in society.

Keywords: Sexual harassment, Workplace, Women, Patriarchal Society.

I. INTRODUCTION

The Constitution of India confers various fundamental rights under part III which are granted to every citizen of India. When we talk about the rights, we understand the Principle of golden Triangle which was laid down in the case of *Maneka Gandhi vs Union of India*² the

¹Author is a student at UPES, Dehradun, India..

² 1978 AIR 597, 1978 SCR (2) 621

honorable court stated that Article 14, 19 & 21 are interrelated and infringing even one of them infringes all the three. The most important fundamental right guaranteed by the constitution is the right to personal life and liberty under Article 21. Since the rise in the crime against women has started it has become a tendency of the people to take the law in their hands to get justice instead of waiting for years in the court proceedings. These kinds of activities are against the law and our constitution which might result in the breach of peace and trust of the public in the government which might even lead to retaliation³. But due to the rise in crimes and specifically crime against women, it is the need of the hour to address the problems of the victims. One such crime that has been on the rise is the Sexual Harassment at workplace⁴. According to the Black's Law Dictionary⁵, the term Sexual Harassment has been defined as “a type of employment discrimination consisting verbal or physical abuse of a sexual nature”⁶ Sexual can be classified into two forms mainly as “*Quid Pro Quo (Something for Something) and Hostile Environment Harassment*”⁷.

This is not at all new and many citizens face such kind of problem at their workplace. In this patriarchal society, women have always been victims of such activities including acts like eve-teasing, stalking, etc. which is a clear demonstration of the male-dominated society which creates fear and stress in the minds of the society. When we study in-depth, we see that sexual harassment at the workplace has been a great concern in recent past as people have taken undue advantage of their positions to harass the subordinates. It has been proven by various scholars that sexual harassment can be done against men as well as women but in most of the cases, it is women who are the victim but in general no one should tolerate such kind of misconduct against the morals, rights, and respect of the other⁸. In India, these acts have been on the rise irrespective of the profession the person is in and due to the corrupt and inactive legal system of our country.

These activities are not restricted only to the ground level it has been seen that it prevails in top organizations and at higher levels but their women face problems like getting fired due to lack of performance, burdened unnecessarily, social and mental pressure, long working hours and whatnot that leads the person cornered where she has to give up. Thus, in 2013 the legislature woke up after the Nirbhaya case of 2012 and passed the (prevention, prohibition, and redressal) of Sexual Harassment Act for the protection of the rights and liberty of the

³Rajagopal v State of Kerala, (2018) (1 KLJ 106)

⁴ Sally A. Piefer, Sexual Harassment from the Victim's Perspective: 77 Marq. L. Rev. 85 (1993)

⁵ <https://www.worldcat.org/title/blacks-law-dictionary/oclc/420487111>

⁶ (9th Edition, 2009) Black Law Dictionary

⁷ Article 2 of Vishvakha guidelines

⁸ Ashok Kumar v. University of Delhi (2017 LLR 366)

women who face such discrimination. The main object of the act is to safeguard the fundamental rights of women and an equal opportunity like men in society so that they can also lead their life with dignity. Although the act is made only for women as men also face harassment but urging to the need of the majority the act was put to force⁹.

Sexual harassment is a very serious crime that should be looked upon as one incident can affect the whole life of any individual. The landmark case when sexual harassment was seen to be a heinous crime was in the case of *Vishakha & others vs State of Rajasthan & others*¹⁰ where a female social worker Vishakha who used to work in a village in the state of Rajasthan where she was brutally gang-raped. The matter when reached the court for justice it has seen that how India lacked mechanisms to resolve such trivial and emotional issues and it saw the need that the legislature should propose certain mechanism and provide justice to the victims of such crimes as the safety of any individual is important when she is being exposed to diverse situations while working in the field. The honorable after hearing all the facts of the case exercised its power of the Indian Constitution (U/A 32) and states that not only crime has been committed against the women but also her fundamental rights have been infringed. The court further concluded by giving various guidelines in this respect that should be followed. The regulations are as follows:

- It is the responsibility of every employer to provide a sense of security to every female worker in his organization,
- The legislature should come forth and take effective measures such as including penal provisions, various remedies, speedy justice, compensatory measure and inculcating the same in the education so that the attitudes and attributes of the society can understand and maintain the status of both genders and this kind of discrimination should be stopped,¹¹
- To Prohibit Sexual harassment as it is a serious crime and the culprit should be punished,
- Every organization should have a grievance redressal system where any employee irrespective of gender could get their complaints resolved without any hindrance,

⁹Dr. Samshi, Protection of woman from sexual harassment at workplace, Indian Bar volume xxxviii 2011, page 162

¹⁰ AIR 1997 SC 3011

¹¹ Indian Journal of Industrial Relations, Vol. 36, No. 1 pp. 79-91 (13 pages) (Jul., 2000),

- To broaden this, preview every organization should have a redressal committee that should be headed by a female and the majority of the members of the committee should be women so that women should not feel embarrassed while expressing their complaint. There should be complete transparency in the working of the committee with the inclusion of a third party so that quick and non-biased decisions can be taken.

The court in the case took an important step in addressing the importance that is being done in workplaces on the based-on gender, race, caste, color which is against the rule of laws and customs on which the Constitution of India is made. The above-mentioned guidelines are known as the Vishakha Guidelines so that in future if any case related to sexual harassment is there then the resolution can be done efficiently. The court even took cognizance of the situation and observed that:

“Unwelcome sexually determined behavior & demands from males employees at a workplace, such as: any physical contacts and advances, sexually colored remarks, showing pornography, passing lewd comments or gestures, sexual demands by any means, any rumors/talk at a workplace with sexually colored remarks about a working woman, or spreading rumors about a woman’s sexual relationship with anybody¹²”

The International Labor Organization is one of the few organizations which have adopted a policy against sexual harassment workplace¹³. The ILO has also taken steps in this regard whether in 1992, 2003 tripartite committee or the meeting of scholars to discuss the topic- “Special Protective Measures for women and equality of opportunity and treatment”¹⁴. The legislation enacted in 2013 has broadened the scope of the workplace by including all types of institutions, organizations, departments irrespective of private or public organizations and all such kinds of places where the employee is required to travel for his employment. It also helps in establishing the nexus between the harassment and the place of employment where the crime took place¹⁵

II. RELEVANT CASE LAWS RELATED TO VICTIMS OF SEXUAL HARASSMENT AT WORKPLACE:

(A) APPAREL EXPORT PROMOTION COUNCIL VS A.K. CHOPRA¹⁶:

This is another important judgment which the honorable supreme court has pronounced in

¹²(Vishakha vs State of Rajasthan) (AIR 1997 SC3011)

¹³Ritu Gupta, Lexis Nexus, Sexual Harassment at workplace, page 177 2014,

¹⁴Supra Note 5

¹⁵ 1st Edition, Indira Jai Singh, Sexual harassment at the workplace pg. 27

¹⁶ 1997 Delhi 646, 68 (1997) DLT 233, 1997 (24) DRJ 515

respect to sexual harassment and laid down its observations seeing that there is a lack of anti-sexual harassment laws in India. The observations made by the court are as follows:

- The widened the definition and scope of Sexual Harassment and stated that physical touch is not mandatory for a woman to claim sexual harassment on the men if he has used verbal or any other mode to sexual harass her,
- The honorable court observed that smallest of the act concerning sexual harassment is in violation to the fundamental rights of the victim guaranteed under “Article 14(right to equality), Article 19(1)(g) (freedom of speech and expression) & Article 21 (right to personal life and liberty)”¹⁷,
- Sexual Harassment has been explained as a mode of discrimination where unwanted sexual favors requests, unwelcome sexual behavior, and implications are imposed either directly or indirectly when rejected by the women is used against her to terminate her employment will not be tolerated at all.

The honorable court while framing its observations in this case relied upon the guidelines laid down in the case of *Vishakha & others vs State of Rajasthan*¹⁸.

(B) RUPAN DEOL BAJAJ VS K.P.S GILL(1998)¹⁹:

The facts of the case, in brief, are that there was a senior female IAS officer by the name of Rupan Deol Bajaj. She had gone out for a dinner party where she was slapped by one of the persons present in the party, Mr. K.P.S Gill who was the Chief of the Punjab Police due to some argument between the two Infront of all the people present in the party. After the incident, she felt quite harassed and lodged a complaint against the chief of Punjab police. People stood against her stating that she is exaggerating the incident to come into the limelight. Even her colleagues and senior officers tried to settle the matter, but when the matter before the honorable Supreme Court of India, it was seen as a grave violation of her rights. The court imposed a fine of 2.5 lakh and 3 months imprisonment to Mr. Gill under the Indian Penal Code²⁰. The court stated that any kind of abuse against women cannot be accepted under any circumstance.

(C) N.RADHABAI V. D. RAMACHANDRAN (1995):

The facts of the case are that N. Radha Bhai was the secretary of Ramachandran who was a

¹⁷ 7th Edition Constitution of India, M.P. Jain, (Lexis Nexis 2018)

¹⁸ AIR 1997 SC 3011

¹⁹ 1996 AIR 309, 1995 SCC (6) 194, 195, 196

²⁰ Whytes & Co, Indian Penal code (2017)

minister of the then government. Radha Bhai was well aware of the nature and attitude of Ramchandra and how he used to harass and abuse women in his state since he was working with him for a long time. Ramchandra also once harassed his secretary after which Radha Bhai came forward and filed a complaint against the minister. When the matter came before the honorable court it was and it revealed that not only Ramchandra abused his secretary but also harassed various other women from his state. The court gave its verdict in favor of the victim for the breach of her rights and compensation from her boss for the act he had committed.

There are several issues that are related to sexual harassment which should be discussed openly with all the employees in the organizations to spread awareness and curb this problem. Women should also be educated about the rights and remedies they have so that they do not feel weak and helpless if in future they face harassment. The employer should take every step within his means to stop such acts and in case such action takes place then he should support the victim and take steps as to provide justice to the victim. There should also be no differentiation sexual harassment can only take place in the private sector as it can take place anywhere.

(D) MEDHA KOTWAL & OTHERS VS UNION OF INDIA & OTHERS²¹:

The honorable court, in this case, stated that every citizen has a social and moral obligation against all forms of violence. The court once again emphasized the Vishakha guidelines and said that if anyone is found in violation of the same then the victims can directly approach the High Court of their respective state where the cause of action has arisen. To reduce the crime the court based on the earlier directions gave certain new guidelines which are follow²²:

- Firstly, all the state governments to amend Central Civil Service Rules with proper measures within 2 months,
- Incorporate more complaint committees so that if any crime has been committed then the victim's problem should be heard and resolved in the best scenario,
- The state should initiate themselves to incorporate different measure for the follow up of the guidelines stated herein and that of Vishakha guidelines for the betterment of the society,
- Directed all bodies, institutions, bars, universities to implement the Vishakha guidelines with proper care.

²¹ 2012 STPL 616 SC Jurisdiction

²² Economic Weekly Vol. 48, No. 40 (2013), pp. 18-19, 22-23 (4 pages)

This was another time when the court gave specific instructions in this respect. The court understood the nature and seriousness of the crime and the consequences it has on the victims.

(E) TUKA RAM AND ANOTHER VS STATE OF MAHARASHTRA²³:

This is another landmark judgment in the history of cases of sexual harassment. The facts of the case are that a young girl by the name of Mathura was alleged to have been gang-raped in one small town of Maharashtra by two police constables while they were on duty. The girl was under their custody in the police station. The matter gained a lot of public sympathy and questioned the rape laws of the country. The matter went before the Supreme Court in appeal before which the session and the Bombay high court heard the case. The sessions court held that it was not rape and the girl had consented to the sexual intercourse as there is no evidence to prove that they had been raped. After which it went to the High court where the court in its verdict stated that she had not consented and that it was forceful without consent (involuntary) on the ground that there is a clear distinction between the rape and sexual intercourse. The honorable court overruled the session court's judgment in its verdict. Then the matter came into the Supreme Court took cognizance of all the facts in issue. The court analyzed that the girl was indulged in sexual activities earlier. In the case where she has been allegedly gang-raped has no evidence to prove the same. There is no indication or element to connect to prove that the girl was raped and acquitted the culprits stating that the girl must have induced the two policemen²⁴.

After the judgment there were a lot of protests against it because of the grounds stated by the court and people came up on roads with rage and anger. The situation was very critical and the legislature took to the task to bring certain reforms to the rape laws which were not that strong. The legislature introduced the Criminal Law Act of 1983 (2nd amendment) which incorporated the following modifications to the then-present law:

- The amendment inserted *Section 376 (A) (B) (C) (D)*²⁵ after *section 376 in the Indian Penal Code, 1860*²⁶ to make the rape laws more stringent and rigid for the culprits,
- It further added *section 114(A)* under the Indian Evidence Act²⁷ where even if sexual intercourse has taken place then it will be treated as evidence against the accused,

²³ AIR 1979 SC 185

²⁴ 2014 SCC Online Raj 3510

²⁵ Supra Note 23.

²⁶ Ibid

²⁷ Universal Law Publishing Co., Monir M., 15th Edition, 2012.

- Seeing to the situation of the case the concept of custodial rape was introduced under *section 376 (2)*²⁸ of the Indian Penal Code with will have grave punishment including heavy fine and imprisonment,
- Another important reform which was brought under the evidence act was that earlier the burden to prove its allegation was on the victim should now be shifted on the accused to prove his part that he is innocent in sexual harassment cases,
- Lastly, the amendment acts inserted section 228(a) in the IPC which will prohibit anyone to publish the details of the identity of the victims from any kind of mental trauma and pressure.

Thus, this case is very important in strengthening the position of the laws in the country for sexual harassment as it recognized the importance of the rights of women which were being infringed granted by the constitution.

(F) STATE OF MAHARASHTRA VS MADHUKAR NARAYAN MARDIKAR (1991)²⁹:

The facts of the case were that there is was a lady who was forcefully ravished by a police inspector at night. The lady was redundant and her history was that she was involved in various extramarital affairs. The Police inspector on duty stated that he had found the girl dealing in illegal alcohol. The high court acquitted the accused because the women is unchaste and her character is not good. But when the matter went in the Supreme Court, all the facts of the case were analyzed in detail and the court overturned the verdict of the Bombay High Court and stated that as a rule of law history cannot be relied upon to pronounce a judgment and every victim of sexual harassment has equal right to defend the case. The honorable court in its verdict stated that- "*even a woman of easy virtue is entitled to privacy and no one can invade her privacy as and when he likes. Therefore, merely because she is a woman of easy virtue, her evidence cannot be thrown overboard.*"³⁰ This case is important because it is binding on all courts under the powers of the S.C under Article 141 and is precedent that women cannot be deprived of their rights and remedies. Also, while deciding such sensitive matters every situation is to be taken into account so that justice is delivered in the best manner.

(G) MUKESH & ANOTHER VS STATE FOR NCT OF DELHI & OTHERS³¹:

Another case which is relevant in the offenses of sexual harassment is the *Nirbhaya case*. In

²⁸ Supra Note.23

²⁹ AIR 1991 SC 207

³⁰ AIR 1991 SC 207, para. 8

³¹ (2018) 8 SCC 149

this case, the facts were that a girl was gang-raped by a group of 6 people in a bus brutally after which she died while he was treated in a hospital in Singapore. The medical reports of her showed how brutally she was raped again and again beaten up. Her internal organs her damaged as an iron rod was inserted in her abdomen. The disastrous attack on her shocked the entire country. The laws of the country were not stringent enough at that time to provide the desired punishment to the culprits. The court ordered capital punishment to all the 6 members who were involved in the incident. After the verdict by the court, a committee was formed under the Supervision of former Chief Justice of India³² Mr.JS Verma which gave its report stating the amendments in various laws to make the laws more stringent for sexual harassment. The definition of gang rape was widened and many provisions were inserted in the relevant acts. The new provisions are strict and provide for the death penalty in cases where the victim dies or is left in a persistent vegetative state³³.

Thus, from the above case laws, we can conclude that “*if the employer believes that an allegation of bias is true, then a new IC needs to be formed and the proceedings should start afresh*³⁴”. The Principles of natural justice³⁵ should be followed and the legislative enactments which have made the laws stringent should be followed and the judicial precedents should be implemented at the local level.

III. WHAT ARE THE REMEDIES UNDER INDIAN LAW FOR VICTIMS OF SEXUAL HARASSMENT?

The government has taken action but that has not proven to be strong enough to stop sexual harassment at the workplace. Women daily are facing discrimination. Their rights and dignity are hampered by people in power and left in a difficult situation to come out. Since 1997 when the Supreme Court first recognized the seriousness of the crime in the *Vishakha case*³⁶ and laid down guidelines to be implemented at the local level to prevent sexual harassment at the workplace. There have incidents like gang rape in the Bhandari Devi and the Nirbhaya case wherein the Apex Court has come to the task to define that Sexual Harassment is an infringement of the golden triangle laid down in the *Maneka Gandhi case*³⁷. After which the 2013 act came into force but the first attempt which was made by the government against the issue was when the drafted the Protection of Women against Sexual Harassment Bill in 2010

³² Supra Note.20

³³ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4078237/>

³⁴ *Tejinder v UOI*, (2017 SCC OnLine DeL 2221)

³⁵ Supra Note.20

³⁶ *Ibid*

³⁷ *Ibid*

were in the main objective was to effectively resolve the issue with a proper inquiry of the committee instituted under the command of the district officers. After proper investigation utilizing their power to grant imprisonment or impose fine or both depending on case to case basis. The bill had proper policies and procedures to be followed and how to implement it at the local level to curb the problem. There is a hierarchy of authority to properly channelize the body and to ensure quick redressal.

India has adopted more than 30 articles of the *Universal Declaration on Human Rights*³⁸ in making its protection keeping in mind the rights of equality, employment, life, dignity, liberty, freedom, education, speech and expression which have been incorporate in our constitution in the form of fundamental rights under part III³⁹. In the case of *Saubi Arabian Airlines vs Shehnaz*⁴⁰ the honorable court stated that a female employee was terminated from her services after she had complained about sexual harassment to the employer. The Court came to the task and understood a step-in eradication sexual harassment is necessary to be taken and it issued certain guidelines in this respect. The court stated that there are various strict laws in the International Sphere for sexual harassment as laid by the UN Conventions. The court stated that till the time there aren't any strict laws being made in India for Sexual Harassment and there is no conflict between the Domestic and the International legislature the international should be applied as India has ratified, the UN Conventions and ordered these all guidelines to be implemented.

There have been case laws that have made the laws stringent because of crimes committed in the past. Punishments like Death Penalty being inserted is not a normal thing in the judicial system of the country. To understand the measures taken by the legislature and the laws made the various enactments to protect and stop sexual harassment are as follows:

(A) CONSTITUTION OF INDIA:

Our Indian Constitution is vested with various fundamental rights that are granted to every citizen for their safety and protection. In relation, Article 14, 15, 19, 21, 32⁴¹ are some of the rights and constitutional remedies granted to the citizens of India for their welfare and well-being.

(B) THE INDIAN PENAL CODE:

After the Nirbhaya case various amendments were made to the IPC to strengthen the rape and

³⁸ Supra Note.41

³⁹ Supra Note.20

⁴⁰ AIR 1999 (1) Bombay, LR 687 pg.44

⁴¹ Supra Note.20

sexual harassment laws. The various sections about the same are as follows:

- The Punishment under section 354 and Section 509⁴² concerning assault by criminal force to outrage the modesty of a woman⁴³ has been increased from 2 years to 5 years maximum or fine of both,
- Section 354 (A)⁴⁴ Punishment of Sexual Harassment was added to the act where punishment can be given between 1 to 3 years,
- Section 354 (B)⁴⁵ was also inserted where the assault is with intent to disrobe and punishment can be granted between 3 to 7 years,
- Section 354 (C) relates to Voyeurism is also added where the Punishment for the habitual offender is maximum 7 years and for first time offender is between 1 to 3 years,
- Section 354 (D) was the last addition to section 354 which specifies punishment relating to stalking which is between 3 to 5 years,
- Section 375 talks about rape and the punishment there has also been amended and made rigorous.
- The Punishment under Section 376 (A) (B) (C) (D)⁴⁶ has been amended and made more rigorous.
- Section 376 (E) has also been inserted for the Habitual offenders where capital punishment can be given to the culprit for destroying the life of the victim⁴⁷.

(C) CODE OF CRIMINAL PROCEDURE, 1973⁴⁸ AND INDIAN EVIDENCE ACT, 1872:

- Section 26 of the act related to the offenses under IPC section 376 (A to E) made more stringent,
- Section 160 was amendment relation to cognizable offenses where the process of collecting information has been widened,

⁴² Supra Note.23

⁴³ Supra Note.23

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ Ibid

⁴⁷ Ibid

⁴⁸ Universal Law Publishing, Gaur K., 2013 Edition

- Section 161, 197 and 273⁴⁹ have been amended by inserting new provisions under them relating to rape, sexual assault, and remedy for victims have been further categorized,
- Also, a new provision is inserted in the Evidence Act relating to the background or history of the victim to not be taken into account⁵⁰.

Concerning the above laws which provide the remedy to the victims of Sexual Harassment at Workplace⁵¹ the legislation passed in 2013 has defined the workplace and which is an inclusive definition under the Sexual Harassment at Workplace Act, 2013⁵². The act states as follows:

- *“Any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit in the public sector; either established/owned, controlled or wholly or partly financed by funds received directly or indirectly by the government or local authority or a government company or corporation or a co-operative society*
- *Any private sector organization or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organization, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service*
- *Hospitals or nursing homes*
- *Any sports institute, stadium, sports complex or competition or games venue, even the residence if used for training, sports or other related activities v. Any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey vi. A dwelling place or house vii. Workplace of the unorganized sector”⁵³.*

The above stated are the remedies and laws which have been implemented after considering all perspectives. The laws have been amended from time to time for the betterment of society. The society and the laws have also grown with time and now we have strict laws for sexual harassment at the workplace⁵⁴ so that the safety of employees can be maintained.

⁴⁹ Ibid

⁵⁰Supra Note.30

⁵¹Supra Note.3

⁵² Ibid

⁵³ Section 2(o) of the Prevention, Prohibition, Redressal Act of 2013.

⁵⁴ Supra Note.3

IV. WHAT ARE THE STEPS TO CURB SEXUAL HARASSMENT AT WORKPLACE?

Sexual Harassment in India is on the rise and it is necessary to take action for its prevention. The act passed in 2013, imposes an obligation on the employer for the safety and proper working conditions for the employees failing to comply with vicarious liability can be imposed on the employer of the organization. To reduce the crime the POSH Act as well as the rules, 2013 imposes various kinds of duties and obligations on the employer which will help in the safe working conditions, so that the offense can be curtailed. The duties of the employer are as follows:

- Provide Safe Working conditions and proper equipment as per the labor laws,
- Institute a grievance redressal committee in the organization,
- Take steps to curb any kind of practice of sexual harassment,
- Ensure proper grooming and orientation of the employees regularly,
- Ensure transparency in the working of the redressal committee,
- Proper communication of the consequences of indulging in any kind of such activities,
- Formulating various seminars for the overall development and growth of the employees which will make them understand the sensitiveness of such issues

The above mentioned are some of the measures that every employer must adopt in his organization. The colleagues of such victims and all people who if not faced only seen should also come up and take up as their oral and social responsibility to bring this in the notice of everyone and stop such activities. As it is rightly said prevention is better than cure thus, preventing such kind of activities related to harassment is another step to curb the crime. The honorable Supreme Court has in the case of *Rupan Deol vs K.P. Gill*⁵⁵ stated that harassment is a direct infringement of the fundamental rights of victims⁵⁶ granted to them by the constitution.

The prevention of Sexual Harassment at workplace⁵⁷ act is one of the Major regulations which was brought in 2013 for the prevention and to stop sexual harassment at workplace⁵⁸. The act is based on the guidelines of the Vishakha case where sexual harassment was defined

⁵⁵ Ibid

⁵⁶ Supra Note.20

⁵⁷ Supra Note.3

⁵⁸ Ibid

as unwelcome behavior, physical contacts.⁵⁹ Another case of ***Shanta Kumar vs Council of Scientific and Industrial Research*** the honorable court stated:

*“Undoubtedly, physical contact or advances would constitute sexual harassment provided such physical contact is a part of the sexually determined behavior, a physical contact which has no undertone of a sexual nature and is not occasioned by the gender of the complainant may not necessarily amount to sexual harassment.”*⁶⁰

Another step to be implemented is to change the attitude of the people in the society to accept and think positively. They should follow the laws and even contribute to protecting anyone if they find from being a victim of sexual harassment irrespective of their position and capacity. In addition to the above-mentioned points there are certain measures which have come up in various research and studies done by experts which can be implemented to curb the crime which is as follows:

- a. There should be a redressal committee in every organization which should handle all the complaints of the employees efficiently and resolve it quickly. No one should feel hesitant in filing a complaint if he/she faces any issue,
- b. If anyone faces any kind of sexual harassment, he/she should immediately bring into consideration of the committee without any fear and the committee is obligated to resolve with full secrecy so that no one is bothered unnecessarily,
- c. Orientation session should be conducted consistently to make a healthy environment for all to work in with proper knowledge of the consequences of sexual harassment,
- d. All the male employees should make sure that all the female employees working in the organization feel a sense of security and belonging in their workplace instead of being scared,
- e. The employer should be the person concerned for all the actions and make sure that such things do not happen as it will hamper the work of the organization and productivity.⁶¹

All the policies and regulations established in recent years have been failed to implement their objectives as people in the society are not serious and their approach to the issue is very casual due to which such activities are on the rise today. The honorable Supreme Court gave 12 guidelines in the Vishakha case but employers have been careless and implementing the

⁵⁹ Ibid

⁶⁰ W.P.(C)8149/2010 para.15

⁶¹ H.A.S.P.E.L.S., Steps against Sexual Harassment at Work in Asia and the Pacific, Hunan University Press, 2003, p. 15

same at the workplace which in turn hampers the safety of women. It has been observed that institutions don't have any redressal committee and if some have, they are just sleeping. People believe that in this modern era no one is bold enough to take such steps because of which the culprits are getting motivated to harass women which are resulting in more victims who are being harassed and now they have nowhere to go.

In matter related to harassment the honorable High Court stated in its verdict that "*POSH Act and the rules enable a three-member IC to conduct the inquiry so long as the Presiding Officer is present*"⁶². Therefore, an inquiry report does not stand vitiated if not less than three members had conducted the inquiry⁶³. It is essential to understand that the laws passed to curb sexual harassment at workplace⁶⁴. Although the laws today are stringent but still has many loopholes where people try to misuse their rights and position to use others and harass them for their gains. Thus, employers should come forward and take the necessary steps in their organizations with new policies and procedures and contribute to the welfare of all. Employers should be proactive in every situation and should take the initiative to make people aware and ensure that there is no gender discrimination or biasedness of any sort at the workplace. Thus, with the help of the measures stated we can try to stop sexual harassment and people who are indulged in such activities will not dare to do it as when there will be strict punishments then nobody will dare to indulge again in such crimes.

V. CONCLUSION:

In today's era when we talk about Women Empowerment and uplifting the status of women in society. It is difficult for the male-dominated society to digest it but due to the current situation it is necessary for the people to stop the harassment that women have to face. The research paper reveals how the law came into force for the protection of the victims and what were the circumstances that arose the cases of sexual harassment in India⁶⁵. Till date, sexual harassment exists in India because of which victims have to face a lot of discrimination which proves that the states have somewhere not able to implement for the protection of women, their rights, dignity, and provide sufficient redressal measures for the victims. The crime should be taken into consideration by authorities for the prevention and removal of this crime. Thus, we can say that although the cases of sexual harassment are on the rise due to some loopholes in the laws as discussed in the paper we should come up with some system to stop and bring down the increasing rate in the crime as rights and safety is the principles of

⁶² Shital Prasad Sharma vs State of Rajasthan and Ors, (2018 SCC OnLine Raj 1676)

⁶³ Kodate Jaya vs University of Rashtrahant (2014 SCC OnLine Bom 814)

⁶⁴ Supra Note.3

⁶⁵ Supra Note.3

law on which the constitution is based and such acts are against the constitution.
