

SEXUAL HARASSMENT AT WORKPLACE: LEGISLATIVE FRAMEWORK

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Introduction

*“Beauty provokes harassment, the law says,
but it looks through men's eyes when deciding
what provokes it.”*

Sexual harassment at workplace is not so far perceived as a lawfully unmistakable kind of disallowed act in umpteen quantities of nations over the world.¹ In the beginning the court treated to sexual harassment as a criminal violation or a civil violation which we can say violation of privacy. In this chapter researcher has focused on the various laws those are relating to sexual harassment at workplace.

Before 1997 word sexual harassment directly not in use in any law in India but the behaviour relating to sexual harassment are punishable under various section² of IPC. It was the year of 1997 where Supreme Court gives guideline in *Vishaka v. State of Rajasthan*,³ 1997 about sexual harassment of women at workplace and held that this is violation of women's right. The guidelines defined sexual harassment and Supreme Court stated to impose compulsory duty on the employer to make a complaint mechanism to initiate criminal action against the offender, take certain preventive measures or create awareness among the workers about the guidelines, and protect women against the act who commits against them.⁴

¹ Ritu Gupta, “Sexual Harassment at Workplace” by Lexis Nexis (2014).

² Indian Penal Code, section 354 and section 509.

³ *Vishaka and others v. State of Rajasthan and others*, (1997) SCC 3011.

⁴ Ritu Gupta, “Sexual Harassment at Workplace” by Lexis Nexis (2014).

If we see sexual harassment of women at workplace in the human rights prospective, Article 1 of the Universal Declaration of Human Rights (hereinafter UDHR), 1948 declares that all human beings are born free and they are also equal in dignity and rights.⁵ U.N. declaration on the Elimination of Discrimination against Women, 1967 prohibits every discrimination against women since such discrimination violates the principle of equality of rights and respect for human dignity. The widespread discrimination against women on the ground of sex and violence against women was acknowledged for the first time in convention on CEDAW by the U.N. in the year 1979. The convention prohibits the distinction or exclusion of women from exercising their human rights.⁶

In constitutional law prospective, Article 14, 15(1) and 16(2) of Constitution declares that gender equality is a fundamental right and violation of such right is punishable. In protecting women fundamental rights Supreme Court always play an important role. The Constitution of India guarantees certain basic and fundamental rights to all the citizens of India. These fundamental rights include: the right to equality, right to live with dignity and personal liberty and the right to work. In *Vishaka v. State of Rajasthan*,⁷ 1997 and *Apparel Export Promotion Council v. A.K. Chopra*⁸ Supreme Court observed as each attempt of sexual harassment of women at the workplace result of violation of fundamental rights to gender equality⁹ in Article 14 and right to life and personal liberty¹⁰ in Article 21 of the Constitution obligation to protect and preserve these fundamental rights.

⁵ Universal Declaration of Human Rights, Article 1 reads, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood".

⁶ Convention on Elimination of Discrimination against Women, 1967, Article 1 reads, "For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field".

⁷ *Vishaka and others v. State of Rajasthan and others*, (1997) SCC 3011.

⁸ *Apparel Export Promotion Council v. A.K. Chopra* AIR 1999 SC 625.

⁹ The Constitution of India, Article 14 reads, "Equality before law- The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth".

¹⁰ The Constitution of India, Article 21 reads, "Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to procedure established by law".

In criminal law prospective IPC, 1860 can aid in the event of sexual harassment in the workplace. In the IPC, there is no law specifically dealing with crimes against women and until very early, there was no act listed or described as “sexual harassment”.¹¹ Various provisions in IPC cover such behaviour, but until recently no specific criminal offence of sexual harassment at the workplace existed in the IPC, and the provision under which such offences could be prosecuted were section 354 and 509 IPC. New amendment act of IPC contain the provision creating the offence of sexual harassment under section 354A of IPC, which drawn its definition almost same which laid down in Vishaka judgement by Supreme Court.¹²

1.1 Constitutional Provision

The composers of our Constitution were very much aware of the glaring disparity between the genders in our male overwhelmed society and they, in their own wisdom contrived certain particular protections in the Constitution to make the idea of balance a living reality to the extent women are concerned. They mentioned various rights related to women in the constitution to balance the equality between men and women. These protections find unequivocal expression in the Preamble of the Constitution, the sections on the Fundamental Rights and Directive Principles of State Policy. Such Constitutionally ensured rights go far in guaranteeing that women in India are protected from the issue of sexual harassment at the workplace. In view of the Supreme Court as observed in *Madhu Krishnan v. State of Bihar*, women from half of the Indian population. Women have always been discriminated against men and have suffered denial and are suffering discrimination in silence. Self-sacrifice and self-denial are their nobility and fortitude and yet they have subjected to all kinds of inequities, indignities, incongruities and discrimination.¹³

1.1.1 The Preamble

¹¹ With the enactment of the Criminal Law (Amendment) Act, 2013, a new penal provision, section 354A IPC, has been added defining sexual harassment essentially in terms of the definition of that expression by the Supreme Court in the *Vishaka* case.

¹² Indira Jaising, “*Sexual Harassment at Workplace*” by Universal law publication, New Delhi, (2nd edition, 2014).

¹² Government of India Ministry of Women and Child Development, “*Handbook on Sexual Harassment of Women at Workplace*” (November, 2015).

¹³ *Madhu Krishnan v. State of Bihar*, AIR 1996 5 SCC 125.

In *Berubari's*¹⁴ case Supreme Court held that the preamble is not the part of the Indian constitution. But in the leading case of *Kesavananda Bharti's*¹⁵ case Supreme Court held that it is the part as well as key of the Indian constitution. It does not discriminate men and women but it treats them alike. The framers of the constitution were well aware of unequal treatment meted out of the fair sex, from time to time immemorial.¹⁶ In this nation "WE THE PEOPLE" provided for ourselves a Constitution which ensures, Justice - social, economic and political, Liberty of thought, expression, conviction, confidence and worship; Equality of status and of chance and to advance among all of them; Fraternity, guarantee the dignity of the individual and the unity of the nation.¹⁷

The beliefs cherished in the Preamble of the Constitution are to be secured to every one of the nationals. Women satisfying the states of citizenship are as much a national of India as anyone else. Consequently they are qualified for all the rights, commitments, obligations and assurance under the Constitution. The acknowledgment of the standards appreciated in the Constitution is conceivable just when every one of the natives - men what's more, women have the essential conditions for the progression of their person identity. The Preamble, which is a key of the Constitution, in this manner ensures uniformity of chance and equivalent status to men and women. It coordinates that women should not just have break even with rights and benefits with men additionally that the state should make provision - both general and exceptional for the welfare and pride of Women.¹⁸

¹⁴ In Re:berubari union(1) (1960) 3 SCR 250.

¹⁵ Kesavananda Bharti v. State of Kerala (1973)4 SCC 225.

¹⁶ Prof. (Dr.) Kamaljeet Singh and Vikram Singh, "The Sexual Harassment of Women at Workplace (Preventive, Prohibition and Redressal) Act, 2013: A Bane or Boon" 49(4) CMLJ (2013): J310-J325P.

¹⁷ Dr. J.N. Pandey, "*The Constitutional Law of India*" 29 (CLA, Allahabad, 45th Edition, 2008), WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to protect among them all;

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

¹⁸ Indira Jaising, "*Sexual Harassment at Workplace*" by Universal law publication, New Delhi, (2nd edition, 2014).

¹⁸ Government of India Ministry of Women and Child Development, "*Handbook on Sexual Harassment of Women at Workplace*" (November, 2015).

1.1.2 The Equality Code

Article-14 of the Constitution contains the equality certification. It guarantees "equality before the law and equal protection of the laws". In this manner, women must be treated equivalent to men by the state and the state not to prevent the equivalent insurance from securing law. Article 15 prohibits the state from discriminating against any citizen on the ground of sex and various other secured characteristics. Article 15(3) deals with systematic discrimination against women and the historical factor responsible for such discrimination and it also include the authorities the state to make special provision for women and children. Article 16 provides equality in all the matter of public employment.¹⁹

Article 14 of the constitution of India guarantees equality before the law and equal protection under the law; it has been interpreted as a prohibition against unreasonable classification. The supreme court of India held that equality does not guarantee that the treats all individual the same, but rather that any classification made between similarly situated individuals be reasonable. According to the doctrine of reasonable classification, only those individual who are similarly situated must be treated the same by the law.²⁰ Therefore, the supreme court held that there is no discrimination when the classification meets two conditions, firstly, that the classification is the founded on intelligible criteria, which distinguish persons or things that are grouped together from others left out the group; and secondly, that the criteria have a rational relation to the object sought to be achieved by the impugned legislative or executive action.²¹

¹⁹ The Constitutional Law of India, Article 14 reads, "Equality before law.—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

The Constitutional Law of India, Article 15 reads, "Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.—(1) The State shall not discriminate against any citizen on grounds only on religion, race, caste, sex, place of birth or any of them."

(3) Nothing in this article shall prevent the state from making any special provision for women and children."

The Constitutional Law of India, Article 16 reads, "Equality of opportunity in matters of public employment.—

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. (2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminating against in respect of, any employment or office under the State"

²⁰ State of Kerala v. N.M. Thomas, (1976) 2 SCC 310.

²¹ Budhan Choudhry v. State of Bihar, (1951) 1 SCR 3; Maneka Gandhi v. Union of India, (1978) 1 SCC 248; Ajay Hasia v. Khalid Mujib Sehravardi, (1981) 1 SCC 722.

In *E.P. Royappa v. State of Tamil Nadu*,²² the Supreme Court interpreted the equality guarantee in Article 14 as a dynamic principle and a guarantee against arbitrariness. The court explained that:

“... where an act is arbitrary it is implicit that it is unequal both according to political logic and constitutional law and is therefore violation of Article 14, and it affects public employment, it is also violation of Article 16. Article 14 and 16 strike at arbitrariness in State action and ensure fairness and equality of treatment.”²³

In *Maneka Gandhi v. Union of India*,²⁴ the court further emphasized the dynamic content of Article 14 by stating:

“the principle of reasonableness, which legally and philosophically, is an essential element of equality and non-arbitrariness pervades Article 14 like a brooding omnipresence.”²⁵

Though, if any women are subjected from sexual harassment at workplace, so this is gross violation of their right to equality on the basis of sex. Then Sexual harassment at work place is discrimination on the basis of sex and violation of equality code.

1.1.3 Right to work

The right to guaranteed by clause (g) of Article 19(1) is intended to ensure that the right of a citizen to work in any profession does not depend upon a grant by the state. Each citizen has a privilege to bear on any profession, trade or business taking after the reasonable restrictions under provision (6) of Article-19. The fundamental right to bear on any occupation, trade or business or profession relies on upon the accessibility of a “safe” workplace. Instead, it is a fundamental Right of every citizen to practice a profession and engage in an occupation.²⁶ In *Olga Tellis v. Bombay Municipal Corporation*,²⁷ the right to live and the right to work were

²² *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3.

²³ *Ibid.* at para 85.

²⁴ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

²⁵ *Ibid.* at para 56.

²⁶ The Constitution of India, Article 19(1) (g) reads, “all citizens shall have the right to practice any profession, or to carry on any occupation, trade or business.”

²⁷ *Olga Tellis v. Bombay Municipal Corporation* (1985) 3 SCC 545.

deemed as integrated and interdependent. The court reasoned, “an equally important facet of the right to live is the right to livelihood because no person can live without the means of living, that is, the mean of livelihood.”²⁸ At the point when the work place is risky and working environment is injurious or unfriendly, it encroaches right to carry on occupation. This abuses the freedom to work of both the victim and other female employees. And lastly it creates hostile working environment which grossly affects the right to work of women.

1.1.4 Right to various freedom

Sexual harassment at workplace violates the freedoms which are given in Article 19. As the right to work given in Article 19 (1) (g) is violated by sexual harassment at the workplace, and also are other related freedom. These freedoms include:

- i. The freedom of speech and expression;
- ii. The freedom to form associations and unions;
- iii. The freedom to move freely throughout the territory of India.²⁹

Sexual harassment at work place violates these freedoms. An act of sexual harassment can damage the right to speak freely and expression ensured under Article-19(1)(a) through the nearness of debilitating workplace and being constrained to work close by culprits; The freedom of associations ensured under Article-19(1)(c) by making a hostile environment for the victim making it uncomfortable for her to take an interest in office bunch activities, meetings and get-togethers; Also, the opportunity of development ensured under Article-19(1)(d) When the victim is constrained to keep away from work environments due to the presence of the culprit. In *Kharak Singh v. State of U.P.*³⁰ the Supreme Court held that the freedom guaranteed by Article 19(1) (d) is the right to move freely throughout India. Sexual harassment at the workplace threatens a women’s right of movement with regard to her workplace.

1.1.5 Right to Life

²⁸*Olga Tellis v. Bombay Municipal Corporation* (1985) 3 SCC 545, p. 572, para 32.

²⁹The constitution of India, Article 19(1) (a) (c) (d) reads, “all citizens shall have the right (a) freedom of speech and expression; (c) to form associations and unions; (d) to move freely throughout the territory of India.”

³⁰ *Kharak Singh v. State of Uttar Pradesh*, (1964) 1 SCR 332.

A productive and important life presupposes loaded with respect, honor, wellbeing furthermore, welfare. In the modern "Welfare Philosophy", it is for the state to guarantee these essentials of life to every one of its subjects and if possible to non-citizens. While conjuring the provisions of Article-21, and by alluding to "Better to die ten thousands deaths than wound my honor".³¹ The apex court in *Khedat Mazdoor Chetana Sangath v. state of Madhya Pradesh and others*³², suggested to itself a conversation starter "if respect or honor vanishes what stays of life"? This is the which criticalness of right to life. This is the criticalness of the right to life and personal liberty ensured under the Constitution of India. Article 21 defines fundamental rights guaranteed under part- III of the Constitution declares that- No person shall be deprived of his life or personal liberty except according to the procedure established by law".³³

The Supreme Court in its interpretation of the 'right to life' under Article- 21 has on numerous events focused on that; the right to life couldn't be likened to experience an unimportant animal existence.³⁴ The right to life would essentially infer the right to live with human dignity and would incorporate those parts of life that make life important, complete and worth living. Gender discrimination has been perceived as a snag to the full acknowledgment of the right to life under Article 21. In *C.Masilamani Mudaliar v. Idol of Sri Swaminathaswami Thirukoil*³⁵, the Court held that equality, dignity of individual also, the right to improvement is intrinsic rights in each individual. For the significant satisfaction in the privilege to life under Article 21, each woman is qualified for the disposal of impediments and of segregation in view of sexual orientation. The Court repeated that the State has a commitment to wipe out gender based discrimination and to make conditions and offices favorable for women to understand the right to financial advancement, including social and social rights.

In *Bodhisattava Gautam v. Subhra Chakraborty*³⁶, the Supreme Court expressed that women have the privilege to life and freedom under Article 21. Also, they additionally have the right

³¹ Dr. N.Maheswara Swamy, "New dimensions of Article 21"97, *SCJ*, Vol.3 (1997).

³² *Khedat Mazdoor Chetana Sangath v. State of Madhya Pradesh and others*, 1994 AIR, SCW 4026.

³³ The Constitution of India, Article 21 reads, "Protection of life and personal liberty- No person shall be deprived of his life or personal liberty except according to procedure established by law."

³⁴ *Francis coroli v. Administrator, Union Territory of Delhi*, (1981)1 SCC 608; *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.

³⁵ See also *Madhu Kishwar v. State of Bihar* (1996) 5 SCC.

³⁶ *Bodhisattava Gautam v. Subhra Chakraborty*, (1996) 1 SCC 490.

to be regarded and regarded as equivalent residents. The Court held that offenses of assault were demonstrations of animosity went for debasing and embarrassing ladies. Such offenses were wrongdoings against essential human rights and are likewise violative of the key right to life under Article 21. The judges underlined that "the ... respect of women can't be touched or damaged." Subsequently, the privilege to life incorporates the privilege of women to live with respect and to lead a serene life.

In 2000, the Supreme Court in *Chairman, Railway Board v. Chandrima Das*³⁷ repeated that physical brutality because of government workers who shocked the unobtrusiveness of women damages the right to respect of women. Of unique note for the situation is that the Court held that the directly under article 21 reaches out to non-residents too³⁸. The right to life incorporates the right of women to live with pride and lead a peaceful life. In *Chairman, Railway Board v. Chandrima Das*³⁹, a writ petition was filed against the state and its instrumentality looking for compensation to a victim of rape committed by its workers (railway employees). The appeal likewise looked for different reliefs including the eradication of hostile to social and criminal exercises at the railroad station. The Supreme Court held that, physical viciousness on account of government employees who out seethed the modesty of women violates the right to respect of women.

Article 21 of the constitution of India is our fundamental right. The supreme court of India interpreted this article in very leading case *Maneka Gandhi v. Union of India*⁴⁰, and creates a new dimension of Article 21. The court held that the area of 'right to live' is not only confined the physical existence but it also include 'right to live with human dignity'. It is very difficult to understand the actual meaning of human dignity in the general way. We can say that its mean living by a man in a manner required living like a man in the society. It is wider area, it ensure freedom from cruelty, unnecessary punishment and torture.

³⁷ *Chairman, Railway Board v. Chandrima Das*, (2000) 2 SCC 465.

³⁸ The victim in this case was a Bangladeshi citizen.

³⁹ *Chairman, Railway Board v. Chandrima Das*, (2000) 2 SCC 465.

⁴⁰ *Maneka Gandhi v. Union of India*, (1978) 2 SCJ, 31.

In *Vishaka v. State of Rajasthan*⁴¹, the apex court state that every incident of sexual harassment of women at workplace is grossly violation of right to life under article 21 of the constitution of India, which include the right to dignity. The Supreme Court also held in *Apparel Export Promotion Council v. A.K. Chopra*⁴², that it to be beyond the scope of debate that sexual harassment of women at workplace is incompatible with the dignity of a woman.

Right to life and personal liberty under Article-21 has been translated so generously that, now it covers in its ambit an assortment of rights that constitutes individual freedom of man. Right to life incorporates each one of those rights that make human life worth living. Right to work in a calling of one's decision and right to safe working environment are a vital part of right to life and individual freedom. Consequently, sexual harassment at work spot is an infringement of valuable and important right of freedom which incorporates human dignity. Sexual harassment is also the violation of 'Right to live' under Article 21 of the constitution of India.

1.1.6 Right to Privacy under Article 21

Sexual harassment of women at workplace is also a violation of right to privacy under Article 21 of the Indian Constitution.⁴³ The right to privacy is connected with right to life and personal liberty guaranteed under Article 21. This right was mentioned in the case of *Kharak Singh v. State of Uttar Pradesh*⁴⁴, where Justice Subba Rao J., in a famous judgement, stated:

“The right to personal liberty in Article 21 can be defined as a right to be free from restrictions or encroachment are directly imposed or indirectly brought about by calculated measures.”⁴⁵

The connection between the right to personal liberty and right to privacy under Article 21 was also underscored in the case of *Govind v. State of Madhya Pradesh*.⁴⁶ The court further held

⁴¹ *Vishaka and others v. State of Rajasthan and others*, (1997) SCC 3011.

⁴² *Apparel Export Promotion Council v. A.K. Chopra* AIR 1999 SC 625.

⁴³ The court in *Vishaka* case did not address this issue.

⁴⁴ *Kharak Singh v. State of Uttar Pradesh*, (1964) 1 SCR 332, The petitioner in this case was kept under continuous surveillance by the police on the ground of “certain suspicions.” In a dissenting judgement delivered by Justice Subba Rao and Shah, this was held to be a violation of petitioner’s right to privacy found to be an element of the Right to Personal Liberty under Article 21 of the constitution of India.

⁴⁵ *Ibid.* at para (38) p. 359.

⁴⁶ *Govind v. State of Madhya Pradesh*, (1975) 2 SCC 148, in this case, the petitioner was implicated in several false cases by the police and was acquitted in all but two. The police kept him under continuous surveillance

that the right to privacy in Article 21 should be interpreted in conformity with India's international obligations under the International Covenant on Civil and Political Rights⁴⁷ (hereinafter ICCPR) and the UDHR.⁴⁸ An act of sexual harassment is a violation of a women's right of privacy and also a violation of her right to personal liberty and life under Article 21.⁴⁹ The late instance of *State of Karnataka v. Krishnappa*⁵⁰, which managed the issue of lessening in the sentence granted on account of rape of young lady of delicate a long time, the court watched that sexual violence, aside from being an act of physical violence, is an unlawful interruption of the right to protection and individual uprightness. A demonstration of sexual harassment is an infringement of the privilege to protection of a lady, and in this manner of the right to personal liberty and life under Article 21.⁵¹

1.1.7 Fundamental Duty and Directive Principles of State Policy

Part IV of the constitution of India provides some fundamental duties to the citizen by its 42nd amendment 1972. Article 51-A (a) of the constitution provides that it shall be the duty of every citizen of India to abide by the Constitution and respect its ideals and institutions. This Article include the principles of gender equality and non- discrimination on the ground of sex enshrined in the quality code of the Constitution.⁵² Article 51-A (e) also include that all citizens to renounce practices derogatory to the dignity of women. It is the fundamental duty of each citizen to respect the dignity and honour of women and to renounce derogatory practices.⁵³

because he was deemed a habitual offender. The court held that this conflicted with the right to an individual's privacy guaranteed under Article 21 of the Constitution.

⁴⁷ ICCPR, Article 17 read,

“(1) No one shall be subjected to arbitrary of unlawful interference with his privacy, family, human or correspondence, nor to unlawful attacks on his honour and reputation.

(2) Everyone has the right to the protection of the law against such interference or attacks.”

⁴⁸ P.U.C.L. v. Union of India, (1997) 1 SCC 301.

⁴⁹ Indira Jaising, “*Sexual Harassment at Workplace*” 17-18 (Universal law publication, New Delhi, 2nd Edition, 2014).

⁵⁰ Karnataka v. Krishnappa, (2000) 4 SCC 75, P.83.

⁵¹ Karnataka v. Krishnappa, (2000) 4 SCC 75, P.83.

⁵² The constitution of India, Article 51-A (a) read, “Fundamental Duties- it shall be the duty of every citizen of India to abide and institution, the National Flag and the National Anthem”.

⁵³ The constitution of India, Article 51-A (e) read, “Fundamental Duties- it shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women”.

The following Directive Principles of State Policy are relevant to the prevention of sexual harassment at workplace:

Article 38 enjoins the state to secure a social order, which promotes social, economic and political justice (sub article (a)) and to strive, in particular, to minimize inequalities in status, facilities and opportunities amongst people (sub-article (b)).⁵⁴

Article 39 defined that the state should direct its policy towards securing that all citizens, men and women equally, have the right to an adequate means of livelihood (sub-article (a)) and that there is equal pay for equal work for both men and women (sub-article (d)). It also requires that the state shall endeavor to ensure that the health and strength of workers, men and women, are not abused.⁵⁵

Article 41 requires that the state shall, within the limits of its economic capacity and development, make effective provision for securing the right to work.⁵⁶

1.1.8 Constitutional Remedies

Sexual harassment of women at workplace is a gross violation of fundamental right guaranteed in part-III of the constitution of India. So a woman who has been sexually harassed by anyone can go to certain constitutional remedies which provide for the violation of the fundamental right. Article 32 of the constitution of India provides the right to move the Supreme Court through Writ petition for the enforcement of the Fundamental Right in Part-III.⁵⁷ According to

⁵⁴ The constitution of India, Article 38 reads, “State to secure a social order for the promotion of welfare of the People: (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life;

(2) The State shall, in particular, strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.”

⁵⁵ The constitution of India, Article 39 (a) (d) reads, “Certain principles of policy to be followed by the State: The State shall, in particular, direct its policy towards securing: (a) that the citizens, men and women equally, have the right to an adequate means to livelihood; (d) that there is equal pay for equal work for both men and women.”

⁵⁶ The constitution of India, Article 41 reads, “Right to work, to education and to public assistance in certain cases The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want”.

⁵⁷ The constitution of India, Article 32 reads, “Remedies for enforcement of rights conferred by this Part (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed

this article any woman who has been sexually harassed by any men can go to Supreme Court though appropriate writ petition for the enforcement of fundamental right. Similarly Article 226 of the constitution of India provides for the right to go to the appropriate High Courts for the enforcement of fundamental rights and also other legal rights.⁵⁸ The right to approach the Supreme Court for the enforcement of fundamental rights under Article 32 is itself a fundamental right.⁵⁹

There are various important advantages of using the constitutional remedies in Article 32 and 226 in the cases of sexual harassment at workplace. The extent of Article 32 and 226 and the elucidation of the substance of major rights have been extended. The Vishaka understanding is itself a case of this extensive part embraced by the court. What's more, the rundown of central rights inside the expressions 'life and personal liberty' of Article 21 incorporates the right to privacy⁶⁰ and comparative rights that are of importance to an instance of sexual harassment.

(2)The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part

(3)Without prejudice to the powers conferred on the Supreme Court by clause (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2)

(4)The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution”.

⁵⁸ The constitution of India, Article 226 reads, “ Power of High Courts to issue certain writs- (1) Notwithstanding anything in Article 32 every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibitions, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose; (2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories; (3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without (a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and (b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the aid next day, stand vacated; (4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme court by clause (2) of Article 32”.

⁵⁹ Bodhisatwa Gautam v. Subhra Chakraborty (1996) 1 SCC 490.

⁶⁰ P.U.C.L V. U.O.1 (1997) 1 SCC 301.

The court is qualified for advance new standards of liability⁶¹ and new remedies⁶² under Article 32 and 226 to uphold major rights to cover the hole until the lawmaking body ventures in or until the official releases its part. In honoring a cure in a writ continuing, the court need not restrict itself to the interests of the solicitor and the respondent alone. The court will likewise consider the interests of general society everywhere with a perspective to guaranteeing that open bodies or authorities don't act wrongfully in the release of their open obligation and try not to fall flat in their open obligation to secure the fundamental rights of citizen.⁶³

At the point when a man looks for compensation for an encroachment of fundamental rights by a demonstration of sexual harassment, the Supreme Court and High Court under Article 32 and 226 may honor pay in that very continuing by method for punishing the state for damaging the major right ensured by the Constitution separated from repaying the victim.⁶⁴ Writ cures can be utilized to do 'finish equity' to the individual aggrieved.⁶⁵ In Vishaka case the court explained the force of the court under Article 32 to make central rights important. The commitment of the court under Article 32 to implement major rights was seen to stretch out to the fuse of dynamic global law to accommodate lacunae in the residential law field and to hold that such judge made law would be dealt with as law proclaimed by the Supreme Court under Article 141 of the constitution.

1.1.9 Writ Petition in Cases of Sexual Harassment

A victim of sexual harassment may file a writ petition under article 32 in Supreme Court and under article 226 in the High Court in the following cases:

- Against the employer, if there was an unlawful termination of her services upon refusal to comply with sexual favours;
- Against the employer, for non-conduction of, an enquiry against the harasser, if sexual harassment was committed;

⁶¹ Union Carbide v. Union of India, (1991) 4 SCC 584

⁶² Khatri v. State of Bihar (1981) 2 SCC 493.

⁶³ Nilabati Behra v. State of Orissa, (1993) 2 SCC 746.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

- Against the employer, for failure or refusal to take action, if sexual harassment was committed;
- When the committee established in accordance with the Vishaka guidelines has passed an order in violation of principle of natural justice, one can petition to have it set aside;
- For a transfer from a place where an offender works or for a transfer of the offender;
- For failure to conduct an enquiry in term of full compliance of the Vishaka guidelines⁶⁶ and the 2013 Act;
- Refusal to exercise jurisdiction, violation of principle of natural justice, arbitrary exercise of authority or discretion, a flagrant⁶ error of procedure.⁶⁷

1.2 Criminal Law Provision

The provisions of the Indian Penal Code (IPC) can aid in the event of sexual harassment in the work place and sexual harassment of women. In the IPC, there is no chapter specifically dealing with “Crimes against Women” and there is no act listed or described as “Sexual Harassment”. To invoke the operation of penal provisions, the sole requirement is that the act complained of i.e., sexual harassment must have all the ingredients of the commission or commission of the offence. In the well-known case of *Vishaka* the Supreme Court of India expressed its serious concern over sexual harassment. The Court stated that, where "conduct amounts to a specific offence under IPC or any other law" the employer is under a legal obligation "to initiate appropriate action in accordance with law by making a complaint with the appropriate authority". The Supreme Court observed that “sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:⁶⁸

- (a) physical contact and advances;
- (b) a demand or request for sexual favours;
- (c) sexually-colored remarks;
- (d) showing pornography
- (e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

⁶⁶ Medha Kotwal Lele v. Union of India, (2013) 1 SCC 297.

⁶⁷ Indira Jaising, “*Sexual Harassment at Workplace*” 17-18 (Universal law publication, New Delhi, 2nd Edition, 2014).

⁶⁸ Vishaka and others v. State of Rajasthan and others, (1997) SCC 3011.

Sections 292, 354 and 509 of the Indian penal code cover such behaviour. It may be noted that the definition of sexual harassment given by Supreme Court is an inclusive one. It does not preclude the possibility of other serious manifestations of sexual harassment being covered under offences that are already defined in the penal code.

The provisions of the IPC which may be used in the case of sexual harassment at the workplace are:⁶⁹

Section 107-109	Abetment
Section 120A and 120B	Criminal Conspiracy
Section 166A	Public servant disobeying direction under law
Section 292-294	Obscenity
Section 306	Abetment of Suicide
Section 319-331	Relating to hurt and grievous hurt
Section 326A and 326B	Causing grievous hurt by use of acid, etc.
Section 339-348	Relating to wrongful restraint and wrongful confinement
Section 354	Assault of criminal force to women with intent to outrage her modesty
Section 354A	Sexual harassment
Section 354B	Assault or criminal force with intent to disrobe

⁶⁹ Indira Jaising, “*Sexual Harassment at Workplace*” 115 (Universal law publication, New Delhi, 2nd Edition, 2014).

Section 354C	Voyeurism
Section 354D	Stalking
Section 375 and related provision	Rape
Section 376C	Sexual harassment by a person in authority
Section 415-417	Cheating
Section 499-500	Defamation
Section 503, 506 and 507	Criminal intimidation
Section 508	Act causing by including the person to believe that he will be rendered the object of divine displeasure.
Section 509	Word, gesture or act intended to insult the modesty of a women
Section 511	Attempt to commit offence.

1.2.1 Obscenity

Section 294 of IPC applies when "the guilty party has done any obscene act in an open place or has sung, presented or articulated in or close to any open place; and has so made disturbance others".⁷⁰ In the work put the accompanying exercises may fall under the revolting acts. Composing revolting words or making indecent figures on the divider or furniture of the work place, putting forth revolting motions or expressions or singing profane tunes in the work place. Signals expressly or typically duplicating or speaking to sexual movement would sum to revolting signals. Setting revolting material in one's close to home or authority effects, eg., in

⁷⁰ Indian Penal Code, section 294 reads, "Obscene acts and songs.—Whoever, to the annoyance of others—
(a) does any obscene act in any public place, or
(b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both".

the tote, in the records or among whatever other devices or executes of work, in a PC and so forth., vulgar material may incorporate contraceptives, explicit or like content, or explicit pictures or different representations. The idea of foulness or vulgarity is a part of the bigger body of our arrangement of social profound quality. Social ethical quality is something, which has the vocal and implicit endorsement of the general public. What is past the acknowledged and built up standards of society gets to be unethical.

1.2.2 Assault or Criminal Force

Section 354 of IPC manages "Assault or criminal power to women with the plan of insulting her modesty".⁷¹ Whoever attacks or uses criminal power to any women, expecting to shock or knowing it to be likely that he will consequently offend her unobtrusiveness, should be rebuffed with detainment of either depiction for a term which may augment to two years, or with fine, or with both. An offense is said to be submitted under area 354 when; There is criminal utilization of power on any lady and Firstly, this ambush or criminal utilization of power is either with the goal to offend the unobtrusiveness of a women or Furthermore, the individual must realize that it is likely that along these lines he will offend her unobtrusiveness, Necessity of indicating ambush or criminal power under area 354 of the IPC. Under segment 350 of the IPC "a man is said to utilize criminal power when he utilizes power on someone else either to submit an offense or realizing that it will cause damage, trepidation or inconvenience to someone else".

Under section 350 of the IPC "a person is said to use criminal force when he uses force on another person either to commit an offence or knowing that it will cause injury, fear or annoyance to another person".

- In the event of sexual harassment, criminal force is used if anything the woman is wearing, or has in her possession is moved or its state is altered or modified to intimidate or annoy her;
- If a woman is moving in a rickshaw or car and something is thrown upon her, or the movement of the vehicle is obstructed it shall also amount to use of criminal force;

⁷¹ Indian Penal Code, section 354 reads, "Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both".

- Leaving an intimidating/annoying message on the computer she works at, on the walls of her office, or on the official documents she deals with, or forwarding any intimidating or annoying message to her mobile phone shall also amount to use of criminal force. Unnecessarily inspecting her private documents or compelling her to give explanations unnecessarily coupled with overt or covert demands for sexual favours will fall in the range of the section;
- While passing by in a work place, if a male colleague lifts or drags or moves cloths worn by a woman (eg. Dupatta, Saree, Scarf, Shawl etc.) knowing that he is thereby likely to frighten, injure or annoy her.

1.2.3 Defamation

Under Section 499 of the IPC, a man is said to defame someone else at the point when the individual, knowing or having motivation to trust that such attribution will hurt the notoriety of someone else, makes an ascription against him or her.⁷² Any such ascription ought to have been made or distributed by words talked on the other hand planned to be perused, or by signs or obvious representations. An immediate or backhanded attribution hurts the notoriety of someone else when it: In the estimation of other individual brings down the good or scholarly character of that individual; or Brings down the character of that individual in appreciation of his position or calling; or Causes it to be trusted that the body of the individual is in an accursed state; on the other hand In a state by and large considered as disgraceful.⁷³ Sexual harassment of women at work spot can be argued under this segment in light of the accompanying reasons. Ascription with regards to the character of a lady worker's close to home connections.

1.2.4 Criminal Intimidation

According to section 503 of the IPC, the criminal intimidation occurs when:

- (a) a person threatens another with injury to : his or her person, reputation or property or, to the person or reputation of any one in whom that person is interested,

⁷² Indian Penal Code, section 499 reads, "Defamation.—Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person".

⁷³ Indian Penal Code, section 499 Explanation 4 reads, "Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful".

- (b) with the intention to cause alarm to that person, or
- (c) to cause that person to do any act which he or she is not legally bound to do or
- (d) to omit to do any act which that person is legally entitled to do in order to protect himself or herself against the threat or to prevent the execution of the said threats against him or her.

This section will cover a circumstance where a woman at her work spot is debilitated with harm for opposing, sexual harassment and circumstances where she is debilitated with harm to her family or vocation. A female representative is undermined with unfavorable results, for not going with the business or the unrivaled for a motion picture or an occasion and so forth., A female representative is undermined with critical results in the event that she holds up an objection against badgering; A female representative who has as of now held up an objection is undermined not to seek after the matter further.⁷⁴

1.2.5 Insult the Modesty of Women

Section 509 of IPC manages word, gesture or act expected to affront the insult the modesty of woman: Whoever, planning to affront the unobtrusiveness of any women, articulates any word, makes any sound or signal, or shows any article, meaning that such word or sound might be listened, or that such signal or question should be seen, by such woman, then again interrupts the security of such woman, should be rebuffed with basic detainment for a term which may reach out to one year, or with fine or with both. An offense under this area is said to be conferred.⁷⁵

Firstly, when the wrongdoer has an aim to affront the humility of lady what's more, he with the expectation articulates any word or shows any article keeping in mind articulating the word or showing any article, he assist has the expectation that such word or sound should be heard or that such motion or question might be seen.

Secondly, when the interloper with the aim of offending the humility of woman interferes with the privacy of such woman. Shocking and aiming to shock make area 354 an offense involving

⁷⁴ Section 503 of IPC.

⁷⁵ Indian Penal Code, section 509 reads, "Word, gesture or act intended to insult the modesty of a woman.— Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both".

heavier discipline than section 509, where the demonstration criminalizes offending the humility of a lady. At the end of the day, the expression "insulting" portrays more genuine behavior than 'annoying'.

In *Bajaj v. KPS Gill*,⁷⁶ the Supreme Court held that, a definitive test for discovering whether humility has been shocked is that the activity of the guilty party could be seen as one, which is equipped for stunning the feeling of tolerability of a woman. At the point when the above test is connected in the present case, keeping in perspective the absolute certainty circumstance, it can't yet be held that the charged demonstration of Mr. Gill in slapping Mrs. Bajaj on her back added up to 'shocking of her unobtrusiveness' for it was most certainly not just an attack against the ordinary feeling of female respectability additionally an attack against the pride of the woman 'sexual suggestions' or notwithstanding.

After Bajaj, a demonstration fit for 'stunning the feeling of respectability of ladies' may sum to annoying or offending the humility of a lady whether it has 'sexual hints or not'.

In Bajaj, the ideas of unobtrusiveness and security have been translated in a more libertarian way, so that whatever other sort of badgering comfort, be it in a women's private or open life, may sum to an offense. Presently, subtler cases of offending humility and interrupting a lady's protection can be tended to under the said procurements. Going into a lady's work place or work station with an expectation to confer an offense or threaten, strike or bother her won't just be secured under the aforementioned areas yet may likewise sum to criminal trespass under section 441IPC.

The scope of Acts secured by section 509 and 354 of the IPC. Having the goal to affront/insult the humility of a woman is a fundamental component of both the segments. Aim, as in all criminal offenses, must be demonstrated from the demonstrations of the denounced and the orderly realities and circumstances.

1.3 The Criminal Law (Amendment) Act, 2013

The Criminal Law (Amendment) Act, 2013 was passed by the Lok Sabha on nineteenth March 2013, and by Rajya Sabha on 21th walks 2013, which accommodates change of Indian Penal

⁷⁶ *Bajaj v. KPS Gill*, (1995) 6 SCC 194.

Code, Indian Evidence Act, and Code of Criminal Procedure, 1973. It was Ordinance declared by the President of India on third February, 2013 in the light of the Delhi pack assault case. On 22nd December, 2012 government reported to make a board named as Justice Verma Committee. Equity Verma Committee have two articles, firstly, to see the instance of Delhi pack assault and also to seek the arrangement of the issues of women.

According to the section 166-B of IPC, 1860 whoever, being in charge of a hospital, public or private, whether run by the Central Government, the State Government, local bodied or any other person, contravenes the provisions of section 357 C of the Cr.P.C. 1973 shall be punished with imprisonment for a term which may extend to one year or with fine or with both.⁷⁷

Another provision regarding the acid attack is also included in the new amendment. Section 326-A of IPC says that whoever causes permanent or partial damage or deformity to, or burns, or maims or disfigures or disables, any part or more part of the body of a person or cause grievous hurt by throwing acid on or by administering acid to that person, or by using any others means or with the knowledge that he is likely to cause such injury shall be punished with imprisonment of not less than ten years but which may extend to imprisonment of life.⁷⁸ This section added in the IPC after 2013 amendment. Before 2013, section 326 covers acid attack but by the time pass various cases were seen of acid attack.

Another section 354-A in the IPC is included under the head of sexual harassment. According to this the term sexual harassment includes; physical contact and advances involving unwelcome and explicit sexual overtures; a demand or request for sexual favour; showing pornography; making sexual coloured remarks.⁷⁹ Section 354-B, IPC states that any man who assaults or uses criminal force to any woman or abets with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of three years or up to seven years.⁸⁰ Another offence is included under section 354-C termed as Voyeurism. New section 376-A of IPC provides twenty year rigorous imprisonment or imprisonment of life for inflicting an injury which causes the death of the woman or causes the woman to be in a persisting

⁷⁷ Section 166-B, IPC, 1860.

⁷⁸ Section 326-A, IPC, 1860.

⁷⁹ Section 354-A, IPC, 1860.

⁸⁰ Section 354-B, IPC, 1860.

vegetative state of the victim.⁸¹ If any person commits sexual intercourse with his own wife, who is living separately, whether under a decree or separation or otherwise, without her consent shall be punished for the imprisonment of term not less than two years but extendable up to seven years.⁸² Section 376-C deals with offence of sexual intercourse by a person in authority and section 376-D, IPC deals with gang rape.

It is outrightly clear that sexual offences are to be excoriated, but if death sentence is given to such convicts- so as to deter the rest, then no doubt that the graph of rape cases will come down considerably- but it may also happen that those who commit such offences- simply to leave no witnesses or evidence, may even kill their victims and dispose-off their bodies, therefore it will frustrate the main object of the Criminal Amendment Act, 2013.

Conclusion

In constitutional law prospective, Article 14, 15(1) and 16(2) of Constitution declares that gender equality is a fundamental right and violation of such right is punishable. In protecting women fundamental rights Supreme Court always play an important role. The Constitution of India guarantees certain basic and fundamental rights to all the citizens of India. These fundamental rights include: the right to equality, right to live with dignity and personal liberty and the right to work. In *Vishaka v. State of Rajasthan*,⁸³ 1997 and *Apparel Export Promotion Council v. A.K. Chopra*⁸⁴ Supreme Court observed as each attempt of sexual harassment of women at the workplace result of violation of fundamental rights to gender equality⁸⁵ in Article 14 and right to life and personal liberty⁸⁶ in Article 21 of the Constitution obligation to protect and preserve these fundamental rights. Many provisions are available in the constitution which is against the acts of sexual harassment but these provisions are violating time to time. As is apparent from the foregoing discussion, even prior to the amendments of the criminal law

⁸¹ Section 376-A, IPC, 1860.

⁸² Section 376-B, IPC, 1860.

⁸³ *Vishaka and others v. State of Rajasthan and others*, (1997) SCC 3011.

⁸⁴ *Apparel Export Promotion Council v. A.K. Chopra* AIR 1999 SC 625.

⁸⁵ The Constitution of India, Article 14 reads, "Equality before law- The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth".

⁸⁶ The Constitution of India, Article 21 reads, "Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to procedure established by law".

provisions in 2013, avenues have existed under the IPC for criminal prosecution of offences amounting sexual harassment at the workplace. It is also apparent from the kind of cases which have been adjudicated under such provisions that it has been a rare and courageous woman who has taken up the challenge of activating the criminal justice system when subjected to such offensive behaviour. In July 1998, when Mrs. Rupan Deol Bajaj decided to register an FIR against her superior officer, a person widely acclaimed as 'a national hero', the least of her challenges was the limited spaces for interpretation of the criminal law provisions in a sexual harassment at workplace context. She was confronted by obstructive attitudes every step of the way, starting with the refusal of the police to register an FIR, delays in investigations, multiple delay tactics and appeals, and a plethora of other procedural barricades.

In this context, two important advances in the law must be cited with approval. The first is an amendments introduced in the same Criminal Laws (Amendments) Act, 2013 which we have referred to liberally. Section 166A(c) provides that where a public servant-

“fails to record any information given to him under sub-section (1) of section 154 of the code of criminal procedure, 1973 (2 of 1974), in relation to cognizable offence punishable under.....section 354, section 354A, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509, shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.”

This provision means that where a police officer refuses to register a FIR under section 154 of CrPC when he is informed of the commission of a sexual offence, then such police officer himself has committed a criminal offence, for which he can be prosecuted and punished for a minimum jail term of six months, which can extended up to two years, and also with a fine.

The second important development is a recent judgment of the Supreme Court in *Lalita Kumari v. Govt. of Uttar Pradesh*,⁸⁷ where a five judges constitution bench has held that registration of an FIR is mandatory under section 154 CrPC, when the information discloses the commission

⁸⁷ *Lalita Kumari v. Govt. of Uttar Pradesh*, 2013 (13) SCALE 559.

of a cognizable offence, and it is not permissible for police officers to delay registration of an FIR in such cases on the ground that a preliminary enquiry needs to be conducted in advance.

These two advancements in the criminal law have already demonstrated their impact, reflected in the increasing number of women who come forward with complaint of sexual abuse, violence and harassment, and demanded that these complaints be properly investigated and prosecuted as criminal offences.

