



2026:AHC:105093

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HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 12736 of 2018

Dr. Tapas Kumar Das

.....Petitioner(s)

Versus

Harish Chandra Research Institute And
3 Others

.....Respondents(s)

Counsel for Petitioners(s) : Badal Chatterjee, Chandan Sharma,
Roshni Shukla, Sri P.N. Saksena, Sr.
Advocate, Vishakha Pande

Counsel for Respondent(s) : Udai Chandani, Rahul Agarwal

Court No. - 32

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Petitioner, an Associate Professor-G of Astrophysics, is working at a premier Institute engaged in research in Mathematics and Theoretical Physics, namely, Harish Chandra Research Institute, Allahabad (*hereinafter referred to as "HCRI, Allahabad"*).

2. Petitioner has claimed himself to be an internationally reputed Scientist of Astrophysics, an expert in the subject of Black Hole and Analogue Gravity and has published more than sixty research papers in intentionally reputed scientific journals.

3. Petitioner has faced an inquiry initiated by Internal Complaints Committee (*hereinafter referred to as "ICC"*) of HCRI, Allahabad constituted under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (*hereinafter referred to as "POSH Act"*) as there were multiple complaints filed by girl students who have studied under the petitioner for purpose of Ph.D.

4. ICC initiated inquiry and sought petitioner's response on complaints. According to record during proceedings some more complaints were also received against petitioner. The complaints were with regard to sexual harassment at workplace by petitioner, which includes physical contacts and advances and making sexually coloured remarks also.

5. Petitioner has asked various documents including copy of complaints and also asked for oral examination as well as cross-examination of complainants, however, it appears that during proceedings statements of victims/ complainants were even not recorded and considering gravity of the complaints, ignoring time period provided under Section 9 of POSH Act to take cognizance of complaints, inquiry was concluded and petitioner was found guilty.

6. For reference "Summary and Recommendations" of ICC are reproduced hereinafter:

"Summary and Recommendations"

The Women Grievances' Cell noted that:

- As many as 10 women altogether have complained of sexual harassment and/or misconduct against Dr. Tapas K. Das and some of these complaints are backed-up with documentary proof or corroboration by other students.
- At least 3 complaints are of a very serious nature. One of them has documentary evidence while both the others have corroboration from other students.
- *The women concerned are all very young and vulnerable, who could be easily manipulated, threatened and intimidated and who had many reasons to fear for their careers, and hence took time to complain against Dr. Das.*

- The incidents about which these women have complained spans a prolonged period of time between 2013 - 2016 during which Dr. Das has been involved in harassing and misconduct, making Dr. Das a serial harasser and repeat offender.
- Most of the incidents of serious nature happened within his closed-door office and at very late in the night.
- In his meeting with the Women's Grievances' Cell, Dr. Das has admitted to have sent an email with a link to pornography/erotica to one of the complainants. Dr. Das later denied this in his written response. But since Dr. Das had admitted to sending this link in his meeting with the committee on July 20, 2016 and since he had himself given the name of the recipient to whom he sent this link, and since the name he mentioned in the July 20, 2016 meeting matched with the name of the complainant who alleges that he sent this link to her, the committee concludes that Dr. Das is lying in his written response.

Given the volume of complaints, seriousness of the nature of complaints, and repeated misconduct by Dr. Das over a prolonged period of time, the Women's Grievances' Cell feels that Dr. Tapas K. Das is guilty of sexually harassing his female students/postdocs over an extended period of time. The committee feels that even though none of the incidents reported to the committee occurred in the last 3-6 months as required by the Sexual Harassment of Women in Workplace (Prevention, Prohibition and Redressal) Act 2013, the complaints, and more importantly, the number of complaints, cannot be ignored. Since Dr. Tapas K. Das is seen guilty of sexual harassment and mental harassment of young women by using his position of power in the institute, the committee recommends that appropriate disciplinary action be taken against Dr. Das. Therefore, the committee recommends that the service rule be found for appropriate punishment and disciplinary action be taken against Dr. Das as per the rules of HRI. In particular, the committee recommends that at the very minimum the following actions be taken against Dr. Das:

1. The institute stop Dr. Tapas K. Das' increment for one year. This should show in his service book.
2. His promotion must be stopped until 2020.
3. Dr. Tapas K. Das be suspended for a period of 6 months and/or an equivalent punishment given to him, as per HRI rules.
4. Dr. Tapas K. Das be forbidden from taking female students as visiting students, PhD students or post-doctoral fellows.

5. Dr. Tapas K. Das be removed from all institute committees which might bring him in contact with any young student. This includes the VSP committee.

6. Dr. Taps K. Das be shifted to an office which is either open or even if closed has glass on all sides so that the inside of his office be clearly visible from outside.

7. Dr. Tapas K. Das be required to go for gender sensitisation program.”

7. The matter was thereafter put before Council of HCRI, Allahabad and after considering petitioner's response, punishment proposed by ICC an order was passed whereby a punishment of 'Censure' and a direction was passed that petitioner was barred to take any female students or PDFs or RAs to work with him. For reference the decision of Council is reproduced hereinafter:

“(a) Sexual Harassment Case

In continuance of the decision taken in the last GC meeting dated 30-09-2016, the Director summarised the evidences considered by the committee (ICC) and Prof Tapas Das's responses as per the following:-

(1) Two complaints refer to face book posts between two projects students and Prof Tapas das indecent on both sides.

(2) One complaint is by a set of concerned students with whom the project students had discussed their problems in the past. The statements made by these students confuse pornographic literature with Marxist literature and hence cannot be considered seriously.

(3) One long complaint with one-sided posts by a former PDF, Prof Das responded to this by producing 100 pages of the face book posts, showing the posts made by both sides. The posts from both sides were highly inappropriate.

(4) Though a former Kanpur IIT student had complained to the enquiry committee of harassment by Prof Tapas Das on one of her visits, she returned the following summer to complete the project with Prof Tapas Das.

According to Director the picture that emerges is - Prof Das engaged in flirtatious behavior with female project students and PDFs. The case particularly with PDF mentioned above shows that two consenting adults having a "good" time on face book.

After considering the above, the council came to conclusion that the case against Tapas Das is strong enough to take punitive action.

Considering this as a case of misconduct, the council decided the following:-

(1) Prof Das will not be permitted to take any female students or PDFs or RAs to work with him.

(2) Selection committees for these positions are to be informed of this so that they do not assign any women to work with him in any of the above mentioned capacities.

(3) This is the first such official reported case of misconduct against Prof Tapas Das. Prof Das shall be issued with 'censure'. In case, he is found indulged in such activities again, stern action shall be taken against him.

The council authorized Chairman/Director to issue penalty of "censure" to Prof Tapas Das mentioning above decision of the council. The Chairman also directed that respective committees responsible for the activities mentioned in point (1) and (2) above should also be informed about the decision separately”

8. On basis of aforesaid proposal, impugned order dated 09.07.2017 was passed by Chairman, Governing Council of HCRI, Allahabad imposing a penalty of ‘Censure’ and that petitioner will not be permitted to take any female students or PDFs or RAs to work with him. For reference aforesaid order is reproduced hereinafter:

“ORDER

The Sexual Harassment at Workplace (Prevention, Prohibition and Redressal Act 2013) is an act that provides protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment. Sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and the right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment.

As many as 10 complaints of sexual harassment have been received against Dr Tapas Kumar Das, Associate Professor ‘G’, Harish-Chandra Research Institute, Allahabad. Many of these complainants were from young woman project students and PDF who were visiting the Institute and working under Dr Tapas Kumar Das. The inquiry against these complaints was conducted by the “Internal Complaints Committee / Women’s Grievances Cell”.

WHEREAS, Dr Tapas Kumar Das was provided the copies of the alleged complaints, Dr Tapas Kumar Das submitted his responses

to the alleged complaints. The Internal Complaints Committee / Women's Grievances Cell examined the responses of Dr Tapas Kumar Das and found the responses of Dr Tapas Kumar Das totally unconvincing. The committee found Dr Tapas Kumar Das guilty of sexual harassment and mental harassment of young women by using his position of power in the Institute.

NOW THEREFORE, after taking into account the responses of Dr Tapas Kumar Das, the facts and circumstances of the case and findings of the Committee, the Governing Council is satisfied that the allegations of Sexual Harassment against Dr Tapas Kumar Das are correct. After consideration, the Governing Council (as disciplinary authority) came to conclusion that the case against Dr Tapas Kumar Das is strong enough to take punitive action.

Considering this as a case of misconduct on part of Dr Tapas Kumar Das, the Governing Council has, therefore, decided to impose the penalty of "Censure" on him. A copy of this order shall be placed in the personal file of Dr Tapas Kumar Das. Governing Council also decided that Dr Tapas Kumar Das will not be permitted to take any female students or PDFs or Ras to work with him. In case, Dr Tapas Kumar Das is found indulged in such activities again, stern action shall be taken against Dr Tapas Kumar Das."

9. Aforesaid order is under challenge in present writ petition.
10. Sri Ritzu Ghoshal, learned Senior Advocate assisted by Sri Sayantan Chatterjee, Sri Anirban Ghosh and Ms. Vishakha Pandey, Advocates for petitioner, vehemently referred various documents annexed alongwith this writ petition and counter affidavit as well as referred various provisions of POSH Act and made following submissions on facts as well as on law:

(A) POSH Act is a Special Act, therefore, its provisions have to be followed strictly in its letter and spirit. Section 9 of POSH Act provides complaint on sexual harassment that any aggrieved women may make in writing a complaint of sexual harassment at workplace to ICC within a period of three months from the date of incident and in case of series of incidents, within a period of three months from the date of last incident. In the present case admittedly complaints were filed beyond said period, i.e., after more than six months without any reason to condone such delay.

(B) Period of limitation as provided under Section 9 of POSH Act was also taken note by ICC in its report dated 17.08.2016 that though the incidents were not reported within three months or six months, still considering that complaints against petitioner were extremely serious and multiple, therefore, ICC proceed to consider the complaints. According to learned Senior Advocate POSH Act does not provide any such liberty or extension of time period provided under the Special Act.

(C) Learned Senior Advocate submitted that in aforesaid circumstances, ICC could not proceed on basis of such belated complaints which appear to be of alleged occurrence occurred between 2013 to 2016. The complaints were undated and without disclosing specific dates of alleged incidents, i.e., all complaints were vague.

(D) In support of above submissions, learned Senior Advocate has placed reliance on a judgment passed by this Court in **X vs. Nirmal Kanti Chakrabarti and others, 2025 SCC OnLine SC 1964** and refers its paragraphs no. 8, 13, 14, 15, 22, 29, 31, 32 and 33. For reference said paragraphs are reproduced hereinafter:

“8. The neat question which falls for consideration of this Court is: whether the Division Bench of the High Court is justified in non-suiting the appellant on the ground that her complaint was barred by limitation.”

“13. Section 9 of the Act postulates that any aggrieved woman may make a complaint, in writing, of sexual harassment at the work place to the Local Committee within a period of three months from the date of incident, and in the case of series of incidents, within a period of three months from the date of the last incident. The second proviso to Section 9 provides that the LCC may for reasons to be recorded in writing, extend the time of making the complaint not exceeding three months, if it is satisfied that the circumstances prevailing prevented the woman from filing of the complaint within the period prescribed.

14. In other words, a complaint of sexual harassment is mandatorily required to be filed within a period of three

months from the date of the last incident of such harassment or within a further extended period of three months, i.e., within a maximum period of six months from the date of the last incident of sexual harassment.

15. No doubt, the issue of limitation is ordinarily a mixed question of fact and law and it may not be possible to throw out a complaint at the threshold without collecting material on the factual aspects relating to the limitation. Nonetheless, where a complaint on the simple reading of the averments made therein appears to be patently barred by limitation, it can be rejected at the very first instance on the analogy of Order VII Rule 11 CPC, without even calling the other side to participate in the proceedings.”

“22. The complaint of the appellant from the last incident of sexual harassment of April 2023, is certainly beyond time. However, the issue is whether the subsequent event of removal of the appellant from the post of the Director, CFRGS or initiation of inquiry by the Executive Council are in any way linked to sexual harassment or amounts to sexual harassment as described under Section 3(2) of the POSH Act.”

“29. The alleged act of harassment of April 2023, was a complete act in itself and had not continued thereafter. The administrative measures of August 2023, were independent and were collective decisions of the NFCG and the Executive Council which cannot be solely attributed to the Vice-Chancellor. The said decision may have caused inconvenience to the appellant or may have given an impression that they are in line with previous acts of harassment, but they were not part of the continued sexual harassment. The subsequent events have no connection to the earlier act of sexual misconduct and as such, fall clearly out of the preview of acts or behaviours amounting to sexual harassment. In this way, the incident of April 2023, remains the last event related to sexual harassment.”

“31. The appellant, in filing the complaint, also moved an application for condonation of delay stating that there were “mitigating circumstances” which she had attempted to resolve within the institution and when she failed, she then filed the complaint. The very fact that the appellant was conscious of the fact that her complaint was delayed, proves that she herself treated the act of April 2023, to be the last incident of sexual harassment and as such, tried to explain the delay in filing the complaint.

32. In view of the aforesaid facts and circumstances as well as the discussion, we are of the view that the Division Bench of the High Court committed no error of law in restoring the decision of the LCC that the complaint of the appellant is time barred and is liable to be dismissed.

33. It is advisable to forgive the wrongdoer, but not to forget the wrongdoing. The wrong which has been committed against the appellant may not be investigated on technical grounds, but it must not be forgotten.”

(E) Learned Senior Advocate further submitted that even if in above circumstances the ICC proceed to consider complaints, the inquiry has to be conducted in terms of provisions provided under Section 11 of POSH Act read with Rule 7 of Rules made thereunder that statements of victims shall be recorded, petitioner be granted opportunity to make cross-examination and subsequently both parties be granted opportunity of being heard and only thereafter on basis of consideration, a report be submitted, however, same was not followed.

(F) Learned Senior Advocate further submitted that on bare perusal of inquiry report of ICC it is evident that statements of victims were never recorded, therefore, there was no occasion for cross-examination, petitioner was not provided any opportunity of oral hearing and only on basis of a reply, which was submitted without details of complaints etc. which admittedly not provided, it was held that petitioner was guilty of sexual and mental harassment of young students/ postdocs by using his position and power in HCRI, Allahabad. According to learned Senior Advocate even the outcome of inquiry was not based on any material or specific consideration.

(G) Learned Senior Advocate lastly submitted that complaints filed by complainants does not indicate dates of complaint, no specific date was also mentioned of alleged sexual harassment and complaints were of alleged occurrence occurred many years ago.

11. Per contra, Sri Rahul Agarwal, learned Senior Advocate assisted by Ms. Akashi Agarwal, learned counsel for respondents, on basis of material, was not able to show that statements of victims were recorded before ICC or that petitioner was granted any opportunity of personal hearing as well as that there was no consideration on allegation made by complainants on basis of their complaints, i.e., in the impugned order nature of allegation was not reflected or considered to that extent that petitioner was guilty of sexual harassment.

12. Learned Senior Advocate for respondents further submitted that in case the Court finds that due procedure was not followed by ICC, the matter may be remitted back to ICC for fresh consideration and to recommence from the stage an irregularity was committed, i.e., entire material be provided to petitioner so that he may submit a fresh reply.

13. Learned Senior Advocate has opposed the argument of learned Senior Advocate for petitioner that complaints were time barred in terms of provisions of Section 9 of POSH Act and he referred contents of complaints that it were serious so much as that petitioner used to call his students in night at his office and harassed them sexually and mentally. He was engaged in sending message to his girl students having unwelcome acts and making sexually coloured remarks as well as one of the victim has complained about unwelcome physical contact and advances, therefor, he was rightly subject to inquiry.

14. Learned Senior Advocate for respondents further submitted that in such circumstances, rigor of delay can be relaxed taking note of object of POSH Act, i.e., to provide protection against sexual harassment of women at workplace and for prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

15. Learned Senior Advocate referred para 31 of **X vs. Nirmal Kanti Chakrabarti (supra)** that condonation of delay can be considered in certain circumstances, such as circumstances of present case.

16. Heard learned Senior Advocates for the parties and perused the material available on record.

17. POSH Act is a Special Act, which was enacted in pursuance of directions passed by Supreme Court in **Vishaka and others vs. State of Rajasthan and others**, 1997(6) SCC 241 after about 16 years with following object:

“An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.”

18. The Court first proceed to consider, whether procedure prescribed for inquiry into complaints as provided under Section 11 of POSH Act read with Rule 7 of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013, were strictly followed or not. For reference aforesaid Section 11 and Rule 7 are reproduced hereinafter:

“11. Inquiry into complaint.—(1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or

in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the Court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

3. For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents; and

(c) any other matter which may be prescribed.

(4) The inquiry under sub-section (1) shall be completed within a period of ninety days.”

“7. Manner of inquiry into complaint.—*(1) Subject to the provisions of section 11, at the time of filing the complaint, the complainant shall submit to the Complaints Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.*

(2) On receipt of the complaint, the Complaints Committee shall send one of the copies received from the aggrieved woman under

sub-rule (1) to the respondent within a period of seven working days.

(3) The respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of the documents specified under sub-rule (1).

(4) The Complaints Committee shall make inquiry into the complaint in accordance with the principles of natural justice.

(5) The Complaints Committee shall have the right to terminate the inquiry proceedings or to give an ex parte decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Chairperson or Presiding Officer, as the case may be:

Provided that such termination or ex parte order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.

(6) The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Complaints Committee.

(7) In conducting the inquiry, a minimum of three Members of the Complaints Committee including the Presiding Officer or the Chairperson, as the case may be, shall be present.”

19. The Court finds that manner of inquiry, as referred above, was not followed by ICC. Though petitioner was provided copy of complaints but certain details were not provided, such as when they are served upon ICC and that though no specific procedure was prescribed under Rule 7 still it has been consistently held in various judgments of this Court and Supreme Court that principle of natural justice be followed and that ICC shall have power as vested in Civil Courts under Code of Civil Procedure so far as summoning and enforcing attendance of any person and examine him in Court is concerned.

20. However, there is no reference in ICC report, whether statements of complainants were recorded before Committee or not and if statements were recorded, whether a copy of same was provided to petitioner or not. There is no reference, whether petitioner was asked to cross-examine the complainants or was provided any opportunity of oral

hearing as well as that learned Senior Advocate for respondents has also not able to satisfy this Court about above referred lacuna in procedure. Therefore, the Court finds that procedure adopted by ICC was defective. Accordingly, its outcome, i.e., inquiry report as well as order passed by Council and Institute cannot sustain.

21. After observing above, now the question is, whether matter can be remitted back to ICC to recommence from the stage of a fresh reply from petitioner. However, before it, the Court has to consider rigor of time period provided to make complaints under Section 9 of POSH Act, which is reproduced hereinafter:

“9. Complaint of sexual harassment.—(1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.”

22. In order to verify, whether complainants have made serious allegations of harassment or not, the Court takes note of copy of complaints annexed alongwith this writ petition and relevant part of some complaints, without disclosing name of respective victim, are mentioned hereinafter:

“He was going to Varanasi to meet with one of the ex-student of HRI who happened to be my very good University friend. My friend was visiting Varanasi with his parents and also invited me over. TD offered me to come along with him and share his room. I was utterly shocked and dropped the visit altogether. I have the mail he sent for booking details. He probably realised that I can’t be manipulated like this and never gave any such indelicate direct proposal later on.”

xxx

“First was his tendency to call very late at night sometimes, and his insistence on me coming in to work or discuss things very late too. It was my very first research project, and I was still trying to figure out the dynamics of academia and put down my misgivings about the late hours to ‘this is how things are in research’. The second was him adding me as a friend on facebook, and sometimes sending messages there (which I never replied to). Even though the content of the messages at that point were not inappropriate, they were also in no way related to the project, and the medium of communication seemed improper. He also started commenting on my posts and I eventually blocked him there.”

xxx

“He had a tendency to bring up highly inappropriate things under the guise of ‘sexuality in philosophy’ and so on. He even mentioned masturbation and incest (he knew I read a lot and sent me a French book once that dealt with this topic).”

xxx

“This was the general scheme of things till one day he proceeded to take my hand and hold it while he talked in his office, and I froze and was in utter shock and fear and didn’t do anything other than just sit there in creeping fear. This then happened pretty soon a couple of days later, and this time I was prepared and protested, and he said not to make things complicated. He then again proceeded to grab my arm, and this time tried to pull me towards him and probably get me to sit on his lap. By then I was already in tears and told him to let me go and managed to splutter out that I was not okay with what he was doing.”

xxx

“He used to ask me to come in at night at his office. In day time he won’t take classes, he call me at night. But usually I avoid to go because I got some hint about his behaviour. But one day I was having some problem in my project and I asked him during day time but he told me to come at night after the dinner. When I go there he didn’t solve my problem rather he harasses me sexually

and mentally. I started weeping and was going to tell these things to security guards, but he stopped me forcefully and didn't let me go out and asked me not to tell these things to anybody can't explain how much I was scared and what was my mental condition at that time. But I tell these things to Mrityunjay Bhaiya, Research Scholar at HRI."

23. The contents of aforesaid complaints are serious in nature and would fall within the four corners of definition of "sexual harassment" as mentioned in Section 2(n) of POSH Act, which is reproduced hereinafter:

"(n) "sexual harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely.--

(i) physical contact and advances; or

(ii) a demand or request for sexual favours; or

(iii) making sexually coloured remarks; or

(iv) showing pornography; or

(v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature."

24. Aforesaid complaints refer various incidents though specific dates are not mentioned and that Court is not aware that when these complaints were made to ICC as on complaint no date was mentioned in record and also taking note that even in **X vs. Nirmal Kanti Chakrabarti (supra)** Supreme Court has observed that in certain circumstances delay may not be considered adverse to the extent that complaints may be rejected at threshold as it would not be in consonance of object of POSH Act and that normally such complaints are not made immediately, specially when complainants were working under delinquent as it would affect their respective future.

25. In aforesaid circumstances, the Court finds that complaints cannot be rejected at threshold without specific consideration. Therefore, impugned order dated 09.07.2017 is hereby set aside. ICC is directed to consider all complaints afresh on basis of details such as time period of allegation, specific date of complaints as well as any explanation by

complainants to approach at belated stage and after considering all aspect, ICC will take a fresh decision, whether complaints have to be rejected at threshold or to proceed further and there must be a reasoned decision on this issue.

26. A copy of the decision be provided to petitioner though at this stage it is not required that petitioner may participate in inquiry. His locus to participate in inquiry will only commence if after on basis of above referred decision, ICC proceed to conduct inquiry in a manner provided under the provisions of POSH Act and Rules. The fresh decision to proceed further with complaint or not shall be passed within a period of eight weeks from today.

27. The writ petition is accordingly disposed of.

May 07, 2026
AK

(Saurabh Shyam Shamsbery,J.)