









## 12.6 SOME COMMONLY HELD PERCEPTIONS ABOUT SEXUAL HARASSMENT: MYTHS AND REALITY

There are many myths and commonly held perceptions about sexual harassment of women in the workplace. Such myths are far from reality, and serve to undermine justice for the aggrieved woman.

	<b>Myth</b>	<b>Reality</b>
1.	Women enjoy sexual harassment / 'eve teasing'	Sexual harassment is humiliating, intimidating, painful & frightening
2.	It is harmless flirtation; women who object have no sense of humour	Behaviour that is unwelcome to women cannot be considered harmless or funny. Sexual harassment at the workplace is defined by its impact on the woman, not by intent of the perpetrator.
3.	Women keep quiet about it; that means they like it	Women keep quiet to avoid the stigma attached & retaliation from the harasser, & afraid of being called liars and blamed for the harassment
4.	When women say 'no', they actually mean 'yes'	It's a common myth held by men to justify one-sided advances & sexual aggression; when women mean 'no', they mean 'no'!
5.	Sexual harassment is natural male behaviour; boys will be boys; a man is the hunter & the woman is a prey	Men are not born knowing how to sexually harass others. It's learnt within the context of a sexist and patriarchal environment that perpetuates control over women's sexuality
6.	Women ask for sexual harassment by being provocatively dressed; decent women do not get harassed	This is a classic way of shifting the blame from the harasser to the victim. Not all women who are harassed are provocatively dressed; women have a right to dress, act & move freely without feeling the threat of harassment
7.	If the woman ignores sexual harassment, it will stop	In most cases, the sexual harassment increases as the harasser interprets the silence as silent enjoyment
8.	Women always lie about being sexually harassed	There is much at stake for the woman once she complains about sexual harassment. There is a stigma attached, she is often blamed for it; she faces hostility and harassment at the workplace, sometimes dismissed; so the possibility is minimal.

## 12.7 SOME CASE STUDIES ON SEXUAL HARASSMENT

### *K P S Gill case*

RupanDeol Bajaj worked as the Special Secretary, Finance as an IAS officer. In 1998, Rupan and her husband went to a party hosted by the then Punjab Financial Commissioner S L Kapoor in Chandigarh, for which they had been invited. At the party, the women invitees were seated in one semicircle and the male invitees in another semicircle facing each other. As Rupan sat and conversed with other women, KPS Gill – the then Director General of Police, Punjab – went and sat at a chair with the ladies. One by one, the women left the place due to his misbehaviour. He then called out to Rupan and asked her to sit with him as he had something to discuss with her. When she approached him and was about to sit, he pulled her chair close to his, so that their chairs were touching each other. She sensed that something was not right and went back to sit with her other women friends.

After some time, he approached the place where she was sitting, stood very close to her, so that his legs were about 4 inches from her knees. He ordered her to get up immediately and go with him. All the women were shocked and speechless. Rupan objected to his behaviour and asked him to go away from the place. When he repeated his command, Rupan tried to leave the place out of fear, but was unable to do so as KPS Gill had blocked her way. She pulled her chair back, and got up and turned backwards to leave the place, KPS Gill slapped her on her posterior, in the presence of all the guests. This became a high profile, publicized case that was talked about for many years.

Rupan informed her superiors including the Chief Secretary, Advisor to the Governor and the Governor of Punjab. After eleven days, when this did not result in the registration of an FIR with the police, Rupan formally lodged a police complaint. KPS Gill used his influence and power as the then Commissioner of Police to stall the investigation. He approached the High Court and obtained an order quashing the complaint made against him. The High Court had said that it was highly unlikely that KPS Gill – a well-respected police official – would outrage Rupan's modesty in the presence of all the guests, and that even if he had done so, the offence was too trivial to lodge a complaint!!!Rupan approached the Supreme Court which reversed the High Court order, so that the investigation could be completed.<sup>3</sup>

The trial court held KPS Gill guilty of charges under S. 354 IPC (outraging the modesty of a woman) and S. 509 IPC (word, gesture or act intended to insult a woman). The High Court and Supreme Court upheld the trial court's judgment.

The trial court sentenced KPS Gill to a fine of Rs. 2,00,000 (Rupees two lakhs), three months' rigorous imprisonment, two months' simple imprisonment and three years of probation. The High Court modified the sentence by reducing the probation period from three years to one year and keeping the sentence suspended during this period on his undertaking of maintaining good behaviour and not indulge in drinking in public places and parties. Since KPS Gill did not violate terms of the undertaking and had served one year's probation, the

Supreme Court said that the probation was assumed to have been completed by him.<sup>4</sup>

Rupan refused to accept the fine amount, and donated it to a women's organization which could assist women in difficult circumstances. Rupan was praised by the media largely because she had lodged a complaint against a powerful and influential police officer, and refused to be threatened into silence.

### ***Ruchika Girhotra's case***

Ruchika Girhotra was a 14 year old girl studying in Class X in Chandigarh. She was a promising tennis player. S.P.S. Rathore was a senior police official and the founding president of the Haryana Lawn Tennis Association. He used the garage of his house as the Association's office and had built a tennis court too. In August 1990, Rathore visited Ruchika's house and met her father S. C. Girhotra. As the head of the Haryana Lawn Tennis Association, Rathore promised to get special training for Ruchika. He requested that Ruchika meet him the following day in connection with this.

The next day, Ruchika, along with her friend Aradhana Prakash, went to play at the lawn tennis court and met Rathore in his office (in the garage of his house). On seeing both of them, Rathore asked Aradhana to call the tennis coach, Mr. Thomas, to his room. Aradhana left, and Rathore had created an opportunity to be alone with Ruchika. He immediately grabbed her hand and waist and pressed his body against hers. Ruchika tried to push him away, but he continued molesting her. In a short while, Aradhana returned and saw what Rathore was doing to Ruchika. On seeing Aradhana, Rathore released Ruchika and fell back in his chair. He then asked Aradhana to go out of his room and personally bring the coach with her. When she refused, Rathore scolded Aradhana loudly, asking her to bring the coach. He insisted that Ruchika stayed in his room, but she managed to run out. She later told Aradhana what Rathore had done with her. The girls initially did not tell their parents what had happened, but when Rathore called them to his office again, they decided to tell their parents and seek their help.

The residents of the area, mostly parents of tennis players, decided to take the matter up with higher authorities. Due to the pressure put by them, DGP R R Singh conducted an inquiry, in which he found Rathore to have molested Ruchika and recommended that an FIR be lodged against him. However, the report, issued in September 1990, never reached the Chief Minister, as Rathore used his influential connections in the government. Instead of filing an FIR as recommended by the report, the government initiated departmental action, and, a year later, in May 1991, it issued a chargesheet against Rathore. However no further action was taken.

Meanwhile, Rathore used his influence to cause extreme harassment to Ruchika and her family members. A few weeks after the incident, Ruchika was expelled from her school – a school she had studied in from Class I. The school authorities claimed that she was expelled because she had not paid the school fees, although it was later admitted that she had been targeted and other students in a similar situation had not been expelled. Her expulsion was used later by Rathore's lawyers to cast aspersions on Ruchika's character. After being expelled, for weeks, Ruchika stayed in her room, and was unable to travel out without being heckled by Rathore's supporters.

Several false complaints of theft, murder and defamation were registered against Ruchika, her father and brother, as well as Aradhana and her parents. Ruchika's brother, Ashu, was illegally detained by the police, tortured, and severely beaten in the presence of Ruchika in order to force her to take back her complaint. Unable to withstand the immense pressure, Ruchika consumed poison and committed suicide in December 1993, days after her brother was paraded in handcuffs by the police in his locality. Rathore refused to release Ruchika's body to her father Subash unless he signed blank sheets of paper. The blank papers were later used by the police to establish that the family had accepted Ruchika's forged autopsy report. Ruchika's father and brother soon moved out of Chandigarh, due to the constant harassment.

Rathore filed ten civil cases against Aradhana – Ruchika's friend and the sole witness in the molestation case. She received abusive and threatening calls for months until she got married and left for Australia. Pankaj Bhardwaj, the lawyer who took up Ruchika's case, was slapped with two court cases by Rathore - a defamation case and a case for compensation. Rathore also filed cases against some journalists who had reported on the case, claiming a huge amount of damages for defamation.

In 1998, there was finally a CBI inquiry, after eight years of inaction by the government due to Rathore's misuse of his power and influence to threaten and silence those who supported Ruchika. Aradhana's parents supported and followed up the case consistently. Rathore adopted many delaying tactics to prolong the trial. Finally, in 2009, 19 years after the incident, Rathore was convicted and given a sentence of six months' imprisonment, and released on bail a few minutes later. He was stripped off the police medal for meritorious service awarded to him earlier by the central government.

Both Rupan's and Ruchika's cases have some similarity – they are both cases of sexual harassment against influential and powerful police officials. In both cases, the concerned molesters tried to misuse the law to scuttle justice for the women concerned. In both cases, the act was trivialized, and the women pursuing justice were made to seem as if they were at fault. In both cases, the sentence given was minimal even though the consequence of the act on the concerned women was large.

In Ruchika's case, she was unable to handle the extreme harassment that Rathore subjected her and her family members to, as a result of which she committed suicide. In Rupan's case, being an adult and an IAS officer, with the strong support of her husband, she was more successful in her pursuit of justice.

## 12.8 RESPONSE OF THE LAW

### *Bhanwari Devi's case*

Bhanwari Devi was a Dalit woman who worked as a 'saathin' – a grassroots worker employed by the Women's Development Project run by the government of Rajasthan. In discharge of her responsibilities at work, she would go from village to village, and prevent child marriages. In 1992, when she stopped a child marriage in the village of Bhatari, the upper caste men who were in favour of child marriages, decided to teach her a lesson and gang-raped her. While her



gang rape led to a criminal trial that resulted in acquittal of accused persons, Bhanwari Devi's rape also became a flash point for the women's movement to demand protection from the employers for discharging their responsibilities at work. A non-governmental organization by the name of Vishaka filed a public interest litigation in the Supreme Court, seeking guidelines in this regard.

#### Guidelines Issued by the Supreme Court Judgment in *Vishakha vs. State of Rajasthan*<sup>5</sup>

In 1997, the Supreme Court of India passed a landmark judgement observing that sexual harassment at the workplace is a violation of a woman's fundamental right to pursue a trade, occupation or profession of her choice, as guaranteed by the Indian Constitution. This is because she is deprived of a 'safe' working environment. The Supreme Court also emphasized that right to life means right to life with dignity.

The primary responsibility for ensuring such safety and dignity was through a suitable legislation by the legislature, and the creation of a mechanism for its enforcement. However, as a stop gap arrangement, till such a law was passed by the legislature, the Supreme Court laid down some guidelines that should be followed with regard to sexual harassment at the workplace in order to protect women's rights. The guidelines laid down employers' responsibility for taking due steps to prevent, prohibit and redress grievances of sexual harassment, by establishing a Sexual Harassment Complaints Committee.

#### S. 354A of the Indian Penal Code

Sexual harassment was criminalized in 2013 and spelt out as a punishable offence in S. 354A of the Indian Penal Code (IPC). It includes sexual offences in public spaces (such as roads, trains, buses) as well as private spaces (such as educational institutions and workplaces).

#### The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013

Sixteen years after the Vishaka judgement was pronounced, in 2013, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act was passed. It has been enacted with the stated objective of providing protection against sexual harassment of women at workplace and prevention and redressal of complaints of sexual harassment and related matters. This is a civil law that lays down measures to prevent and prohibit sexual harassment at the workplace and to provide redress of complainants. It provides for the establishment of complaints committees to investigate and redress grievances. The IPC provision on sexual harassment, discussed above, complements the civil legislation, and provides an option to women and girls to pursue remedies under criminal or civil law or both. Both the IPC provision as well as the 2013 Act consider woman to be the victim and man to be the perpetrator. After the enactment of the 2013 law, the Vishaka guidelines are no longer operational.

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## 12.9 SUMMING UP

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- Sexual harassment does not stem from men's inability to control sexual desires; it stems from the need of some men to assert their power and control

over women, including in educational institutions, work places and public places, and to demonstrate male superiority.

- There are two key aspects of what amounts to sexual harassment at the workplace: a) 'unwelcome' behaviour from the woman's perspective and how it affects her rather than the intention of the harasser; and b) the conduct in question should be of a sexual nature.
- Sexual harassment could be non-verbal, verbal or physical in nature;
- It could be in the form of quid pro quo, retaliation or creating a hostile working environment;
- Most women who face sexual harassment at the workplace are intimidated into silence, due to the power dynamics at the workplace, a lack of confidence in the organization that action will be taken upon a complaint, the stigma and strong social taboo associated with sexual harassment, the societal tendency of victim-blaming and the woman's financial dependence on the job.
- There are many myths and commonly held perceptions about sexual harassment of women in the workplace. Such myths are far from reality, and serve to undermine justice for the aggrieved woman;
- In 1997, the Supreme Court issued guidelines on preventing, prohibiting and redressing grievances related to sexual harassment at the workplace in the landmark judgment – Vishaka vs. State of Rajasthan;
- In 2013, the Parliament inserted S. 354A in the Indian Penal Code (IPC) recognizing sexual harassment as a criminal offence;
- It also enacted a civil legislation - The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013;
- The IPC provision on sexual harassment complements the civil legislation, and provides an option to women and girls to pursue remedies under criminal or civil law or both; and
- Both the IPC provision as well as the 2013 Act consider woman to be the victim and man to be the perpetrator.

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## 12.10 KEY WORDS

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**Case Studies:** It is a research method in which the researcher documents a process of development of a particular situation, a person or a group over a period of time.

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## 12.11 SUGGESTED READINGS

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Pratiksha Baxi, Sexual Harassment, available at [http://www.undp.org/content/dam/india/docs/sexual\\_harassment.pdf](http://www.undp.org/content/dam/india/docs/sexual_harassment.pdf)

The Lawyers Collective, Women's Rights Initiative (2004), *Law Relating to Sexual Harassment at the Workplace*, New Delhi: Universal Law Publishing Co. Pvt. Ltd.

Tom Dannenbaum and Keya Jayaram (2005), *Combating Sexual Harassment at the Workplace: A Handbook for Women, Employers and NGOs*, Mumbai: India Centre for Human Rights and Law

Vibhuti Patel, A Brief History of the Battle Against Sexual Harassment at the Workplace, available at <http://infochangeindia.org/women/analysis/a-brief-history-of-the-battle-against-sexual-harassment-at-the-workplace.html>

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## 12.12 UNIT END QUESTIONS

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- 1) Explain two case studies of sexual harassment on women
- 2) Explain different forms of sexual harassment



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