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WHAT CONSTITUTES A POSH COMPLAINT?

The Division Bench of the Kerala High Court (**HC**), on August 1, 2025, in the *X v. Abraham Mathai & Ors* case,¹ examined the scope and procedural requirements for inquiries conducted by the Local Committee (**LC**) under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (**Act**).

Brief Facts

The complainant woman (**X**)² was employed as an Accountant-cum-Manager at Amstor Information Technology (India) Pvt. Ltd. (**AIT**). She was terminated from her services in 2017. X challenged it before the Labour Court. In parallel, AIT filed a suit before the Munsiff's Court, Thiruvananthapuram, seeking to interdict X from trespassing into its office premises.

Meanwhile, a complaint raising certain allegations against Abraham Mathai, Director of AIT was forwarded to the District Collector, who forwarded it to the Local Committee (**LC**). LC summoned X and recorded her statements when she admitted that she had not made any written complaint under the Act. She had distanced herself from the complaint and suggest that Mathai might have complained. She raised certain fresh allegations against Mathai, including that he:

- Clandestinely spread rumours within AIT that X had claimed that the father of the receptionist's child was Mathai. X viewed this as an intentional attempt to discredit her;
- Behaved in a rash and abusive manner with her, used offensive and sexist language such as “*ne*” and “*eddy*,” and shouted at her to leave AIT's premises; and
- He used derogatory language against her and terminated her services when she refused to sign certain documents.

X, however, stated to the LC that Mathai did not physically touch her or demand any sexual favours and that she was unsure whether there was any sexual harassment in the case.

The LC concluded in its report (**Report**) that the oral statements made by X amounted to complaints of sexual harassment.

Mathai appealed against the Report before a Single Judge of the HC (**SJ**), who quashed it, concluding:

- The absence of a written complaint by X;

¹ *X v. Abraham Mathai and Ors.*, 2025 LiveLaw (Ker) 541.

² The complainant's name is anonymized by the HC.

- The allegations in the oral complaint did not make out a case of sexual harassment; and
- Mathai was denied the opportunity to cross-examine X and the witnesses, thus violating principles of natural justice.

X, aggrieved by SJ’s order, preferred an appeal to the HC.

HC’s Judgement & Reasoning

The HC dismissed the appeal affirming SJ’s decision on multiple grounds.

The oral statement made before the LC, after distancing herself from the original anonymous complaint, cannot be accepted as a substitute for the written complaint contemplated under Section 9 of the Act. It observed that X had multiple forums available to her (the police, Women’s Commission, and Labour Court), and she was not incapable of submitting a written complaint to the LC. Consequently, the inquiry conducted by the LC was held to be legally unsustainable.³

Her allegations were that Mathai created a hostile work environment, used offensive/sexist language (“*ne*” and “*eddy*”),⁴ his abusive behaviour, and subsequent termination of her services. The HC held these acts were connected to a labour dispute rather than constituting sexual harassment as defined under Section 2(n) of the Act. Citing the *Prasad Pannian* case,⁵ it clarified that while Section 3(2) lists circumstances (like creating a hostile environment), these will amount to sexual harassment only if they occur in relation to or in connection with any act or behaviour of sexual harassment.⁶

It noted that the LC had relied on the statements of three witnesses, which were recorded over the telephone and not in the presence of Mathai. He was not granted opportunity to cross-examine the witnesses or challenge their statements. Citing established precedents,⁷ it held that denying the Mathai the right to defend himself constituted a clear violation of the principles of natural justice, rendering the resulting order a nullity.⁸

Responding to the argument that an alternate remedy existed, the HC confirmed that the existence of such a remedy is not an absolute bar to HC’s intervention under Article 226. Its intervention is justified in cases of recognized exceptions, including where there is a violation of the principles of natural justice or where the proceedings are wholly without jurisdiction.⁹

This *Counselence Connect* contains information in a nutshell on a recent change in law.

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³ Paragraphs 16 and 17 of the Judgement.

⁴ These are terms used to address a woman in singular. These usages are disrespectful and derogatory when the relationship is not close.

⁵ *Prasad Pannian v Central University of Kerala*, 2020 SCC OnLine Ker 6550.

⁶ Paragraphs 11, 16 and 17 of the Judgement.

⁷ *Mohinder Singh Gill v. Chief Election Commissioner, New Delhi*, (1978) 1 SCC 405; and *State of Orissa v. Dr. (Miss) Binapani Dei*, 1967 SCC OnLine SC 15.

⁸ Paragraphs 18 and 19 of the Judgement.

⁹ Paragraphs 4 and 24 of the Judgement.