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ICC Overreach Reined In: Kerala High Court Dismisses Baseless Sexual Harassment Complaint

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In a recent judgment, the High Court of Kerala has dismissed proceedings initiated by the Internal Complaint Committee (ICC) against a manager of the Kerala State Financial Corporation (KSFE) under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act, 2013). The case highlights the importance of correctly interpreting the provisions of the POSH Act and the potential for misuse of its provisions.

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Background of the Case

The petitioner, Harish M.S., is the Manager of the KSFE, Vikas Bhavan Branch, Thiruvananthapuram. He filed a writ petition challenging the jurisdiction of the ICC to proceed with a complaint filed by a third respondent, who claimed to be an office bearer of a political labour union. The complaint alleged that the petitioner had insulted her and used obscene language, but it did not mention any sexual harassment.

Incidents Leading to the Complaint

On 31 May 2024, the petitioner issued a memo to eight junior female staff members for not achieving a chitty canvassing target. The memo asked them to explain their failure within seven days. On 20 June 2024, the third respondent and other members of the union forcibly entered the petitioner's cabin without permission. They allegedly misbehaved, attempted to snatch the petitioner's mobile phone, and created a hostile atmosphere. The petitioner lodged a police complaint on 21 June 2024. Subsequently, the third respondent filed a complaint with the ICC.

Rival Contentions

The petitioner argued that the ICC had no jurisdiction to proceed with the complaint as there were no allegations of sexual harassment. The complainant had forcibly entered his cabin and was the one who misbehaved. The respondents contended that the ICC was empowered to decide whether the complaint required further proceedings and that the court should not interfere at this preliminary stage.

Findings of the Court

The court examined whether the complaint disclosed allegations of sexual harassment as defined in Section 2(n) of the POSH Act, 2013. The definition includes unwelcome acts or behaviour such as physical contact, demands for sexual favours, sexually coloured remarks, showing pornography, or other unwelcome sexual conduct. The court found that the complaint did not contain any allegations of physical contact, demands for sexual favours, sexually coloured remarks, showing pornography, or any other unwelcome sexual conduct. The complaint only alleged that the petitioner tried to record a video and used abusive language, which did not fall under the definition of sexual harassment.

Final View Taken by the Court

The court concluded that the complaint did not constitute sexual harassment as defined under the POSH Act, 2013. Therefore, the ICC lacked jurisdiction to proceed with the complaint, and the notice issued to the petitioner was set aside. The writ petition was allowed, and the court dismissed the ICC's proceedings against the petitioner.

Conclusion

The Kerala High Court's judgment highlights the importance of correctly interpreting the provisions of the POSH Act. The case highlights the potential for misuse of the Act's provisions, which are designed to protect women from sexual harassment in the

workplace. It is crucial to ensure that complaints are genuine and fall within the defined scope of sexual harassment. The POSH Act prescribes punishments for false complaints, including penalties for those who misuse the Act's provisions. This judgment is a reminder that the ICC must exercise its powers judiciously and that the courts will scrutinize its actions to ensure justice is served. For further details write to contact@indialaw.in