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F*** OFF! High Court Quashes Sexual Harassment FIR Against Employer Over Use of Abusive Language in Work Email

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The Punjab and Haryana High Court has quashed criminal proceedings under **Section 354-A of the Indian Penal Code** (sexual harassment) against a company director who used profane language during an email exchange with a female employee. The judgment underscores the statutory threshold required to establish sexual harassment and reinforces that not every instance of workplace incivility or offensive language meets the legal test for criminal prosecution under gender-specific penal provisions.

Factual Background

The petitioner, **Abhikshak Shah**, was Director of CommerceX Solutions Private Limited. The complainant was employed as Business Manager (North) and was part of the core team responsible for an organisational event scheduled for 20 October 2018.

On 16 October 2018, the complainant applied for four days of **medical leave** citing a health emergency. The petitioner responded the following day, requesting her to postpone the procedure until after the event.

Multiple emails were exchanged on 17 October 2018, during which the petitioner used the phrase “f*** off” in the course of the correspondence. The complainant tendered her resignation the same day, which was accepted at 5:58 PM. Her official email access was subsequently suspended.

Following her resignation, the company issued a **legal notice** on 11 November 2018 directing the complainant to discard all proprietary company information and refrain from engaging with its clients.

The complainant replied on 22 November 2018, demanding salary for 17 days in October, two months’ notice period salary, incentives totalling Rs. 1,00,000, legal fees of Rs. 25,000, no negative feedback, a written apology, and a memorandum of understanding. The company reiterated its position on 4 December 2018.

More than four months after her resignation, on 22 February 2019, the complainant lodged **FIR No. 35** at Police Station Women, Gurgaon, alleging harassment and the use of derogatory and abusive language under Section 354-A IPC. A chargesheet was subsequently filed.

Submissions Before the Court

Petitioner’s Counsel

Senior counsel for the petitioner contended that the FIR was an **abuse of process**, filed solely to pressure the petitioner into accepting the complainant’s financial demands. It was emphasised that the investigation was superficial: no statements from other employees were recorded, nor were the legal notices exchanged between the parties considered.

Counsel argued that the remark in question, though admittedly crude, must be read in context as part of a work-related disagreement over leave during a critical organisational event. It was submitted that the phrase did not carry any **sexual overtone or insinuation** and was not directed at the complainant’s modesty or sexuality.

Relying on judgments including *State of Haryana v. Bhajan Lal* (1992) and *Pradeep Kumar Kesarwani v. State of Uttar Pradesh* (Criminal Appeal No. 3831 of 2025), it was argued that the allegations, even if accepted in their entirety, did not disclose the essential ingredients of Section 354-A IPC. Prosecution in such circumstances would be oppressive and an abuse of the court’s process.

State Counsel and Complainant’s Counsel

The State counsel submitted that specific allegations had been levelled and that the statement of the complainant under **Section 164 CrPC** had been recorded on 11 March 2019. It was contended that all issues raised were matters for trial.

Counsel for the complainant maintained that the phrase used was a **sexually coloured remark** and that the petitioner, by misusing his position as Director, subjected the complainant to harassment and humiliation.

Legal Framework: Section 354-A IPC

Section 354-A IPC, inserted as part of the **Criminal Law (Amendment) Act, 2013**, defines and penalises sexual harassment. A man commits sexual harassment if he:

1. Makes physical contact and advances involving unwelcome and explicit sexual overtures;
2. Demands or requests sexual favours;

- Shows pornography against the will of a woman; or
- Makes sexually coloured remarks.

The offences under clauses (i) to (iii) attract **rigorous imprisonment up to three years**. Making sexually coloured remarks under clause (iv) attracts imprisonment up to one year, with or without fine.

The provision is premised on acts that are intrinsically sexual in nature. It is intended to address gender-based harassment and conduct that undermines the dignity or modesty of women through sexualised behaviour.

Court's Reasoning

Justice Kirti Singh applied the well-established principles governing the exercise of **inherent jurisdiction under Section 482 CrPC**, as articulated in *State of Haryana v. Bhajan Lal* and reiterated in *Pradeep Kumar Kesarwani*. These principles require the Court to assess whether the allegations in the FIR, taken at face value and accepted in their entirety, disclose the essential ingredients of the offence alleged.

The Court held that the test is not one of probative value or detailed factual adjudication, but whether **continuation of the criminal proceedings** would serve any lawful purpose or would instead constitute an abuse of process.

Application to the Present Facts

The Court noted several critical features of the case:

Temporal Delay: The remark was made in October 2018, but the FIR was lodged only in February 2019, after the complainant had been served with a legal notice for breach of contract. The sequence of events suggested a retaliatory motive.

Contextual Analysis: The phrase “f*** off” was used during a professional disagreement regarding leave approval. The complainant had sought exemption from a mandatory event for a procedure that did not require immediate medical intervention. The remark occurred in the heat of that exchange.

Absence of Sexual Element: The Court observed that the expression, though undeniably uncouth and discourteous, did not in its ordinary sense carry any sexual overtone or insinuation. It was not directed at the complainant's modesty, sexuality, or gender.

There was no pattern of conduct, no physical advance, no demand for sexual favours, and no repeated sexualised language.

The Court held that the **statutory threshold under Section 354-A(1)(iv)** requires remarks to be “sexually coloured.” A solitary instance of vulgar or abusive language, devoid of any sexual intent or connotation, does not satisfy this requirement.

Judicial Approach to Workplace Conduct

The Court was careful to emphasise that **standards of decorum** ought to be maintained in workplace correspondence. However, it distinguished between unprofessional behaviour and criminal culpability.

The penal provision is intended to address gender-based harassment with a sexual dimension, not every instance of workplace rudeness or intemperate language.

The judgment reflects the principle that **criminal law should not be deployed** as a tool for settling civil or employment disputes, particularly where the allegations do not disclose the core elements of the offence charged.

Conclusion and Order

The Court concluded that the expression attributed to the petitioner, even if taken at face value and accepted in its entirety, **lacked the essential ingredients of Section 354-A IPC**. Continuation of the criminal proceedings would not serve any useful purpose and would amount to an abuse of the process of law.

Accordingly, the petition was allowed. FIR No. 35 dated 10 March 2019 and all subsequent proceedings, including the chargesheet, were quashed.

However, the relief was made conditional upon the petitioner depositing **Rs. 20,000** in the Poor Patient Welfare Fund, PGIMER, Chandigarh, within one month.

Implications for Employers and Employees

This judgment offers important guidance on the scope and application of Section 354-A IPC in workplace settings:

- **Statutory Threshold:** Not every offensive or abusive remark constitutes sexual harassment under criminal law. The remark must be intrinsically sexual in nature or carry a sexual connotation directed at the complainant's gender, modesty, or sexuality.
- **Contextual Evaluation:** Courts will examine the context in which the remark was made, the nature of the relationship between the parties, and whether there was a pattern of sexualised conduct.
- **Abuse of Process:** Criminal proceedings initiated as leverage in civil or employment disputes, particularly where filed with considerable delay and in the wake of legal notices, are liable to be quashed where the foundational elements of the offence are absent.
- **Distinction Between Civil and Criminal Remedies:** Employers and employees alike must recognise that workplace disputes involving incivility, rudeness, or breach of contract are ordinarily matters for internal grievance mechanisms, labour tribunals, or civil courts. Recourse to criminal prosecution under gender-specific provisions should be grounded in genuine allegations of sexual harassment, not employed as tactical pressure.
- **Workplace Policies:** Organisations must ensure robust internal complaints mechanisms under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Such mechanisms provide a forum for inquiry and redressal without the necessity of criminal prosecution in every case.

Final Observations

The judgment is a timely reminder that while the law rightly protects women from sexual harassment and gender-based misconduct, it does not authorise the **criminalisation of every workplace disagreement** or instance of offensive language. The use of criminal law as an instrument of coercion or retaliation undermines the integrity of both the legal process and the protective intent of the statute.

Employers should foster respectful workplace cultures, provide adequate training on appropriate conduct, and ensure that internal redressal mechanisms are accessible and effective. Employees should be encouraged to pursue remedies through the appropriate forum, and to do so without undue delay.

This decision affirms that courts will **scrutinise allegations of sexual harassment** with care, distinguishing between conduct that merits criminal sanction and conduct that, however regrettable, does not meet the statutory threshold.

Source: Punjab and Haryana High Court Order dated 18.04.2026

Citation: Abhikshak Shah v. State of Haryana and Another, CRM-M-36953-2019 (O&M), decided on 18 April 2026 by Hon'ble Ms. Justice Kirti Singh, Punjab and Haryana High Court at Chandigarh.

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