

Xxxxxxxxxxxxx vs Xxxxxxxxxxxxx on 18 April, 2026

CRM-M-36953-2019 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-36953-2019 (O

Reserved on:-08.04.

Date of Decision: 1

Abhikshek Shah

Versus

State of Haryana and another

- | | | |
|---|---|------|
| 1 | The date when the judgment is reserved | 08.4 |
| 2 | The date when the judgment is pronounced | 18.0 |
| 3 | The date when the judgment is uploaded on the website | 18. |
| 4 | Whether only operative part of the judgment is Full pronounced or whether the full judgment is pronounced | |
| 5 | The delay, if any, of the pronouncement of full N.A. judgment, and reasons thereof. | |

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Argued by: Mr. Kunal Dawar, Senior Advocate with
Mr. Jagjot Singh, Advocate
for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

Mr. H.S.Randhawa, Advocate (Legal Aid Counsel)
for respondent No. 2.

KIRTI SINGH, J.

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No. 35 dated 10.3.2019, under Section 354-A IPC, registered at Police Station Women, Gurgaon, District Gurugram (Annexure P-8) and all the subsequent proceedings arising therefrom including the challan/final report under Section 354-A IPC (Annexure P-9).

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Factual matrix

2. The facts in brief are that the petitioner is the Director of CommerceX Solutions Private Limited Company (for short 'the company'), which had hired the complainant as a Business Manager (North) vide appointment letter dated 19.3.2018. As per the version narrated in the FIR, the company had planned an organization event on 20.10.2018, which was required to be attended by all the employees. The complainant, being a member of the core team, was managing the network side and was thus expected to be present at the event. However, due to a health emergency, the complainant was constrained to apply for a 04 day medical leave, which she did vide email dated 16.10.2018 addressed to the petitioner. In response, the petitioner vide email dated 17.10.2018 requested the complainant to adjust the medical procedure and plan the same after the event of the organization. Thereafter on 17.10.2018, multiple e-mails were exchanged between the complainant and the petitioner, during the course of which certain cuss words were used, whereupon the complainant conveyed that she was resigning from her job. The said resignation was accepted at 5.58 P.M. on email dated 17.10.2018. After accepting the resignation of the complainant, her official email ID was suspended. It was clarified to the complainant that since she has left the job without any prior notice, therefore as per the terms of the letter of appointment, two months' salary of the complainant was the compensation due to the company and the termination clause of the appointment letter could be brought into force, however, keeping in mind the reputation of the company, vide email dated 4.11.2018, the complainant was offered a clear exit from the company. Thereafter a legal notice was issued to the complainant on 11.11.2018 for discarding all digital/non digital information related to the company list, contract, CRM-M-36953-2019 (O&M) -3- proposals, internal process etc. of the company and not to engage or deal with the clients of the company. The complainant vide reply dated 22.11.2018 to the said legal notice, raised a claim for salary for the period of 17 days for the month of October 2018 alongwith two months' notice period salary and incentive totalling to Rs. 1,00,000/-; Rs. 25,000/- towards legal fee; no negative feedback; a written apology from the petitioner and a MoU. In the response of the company dated 4.12.2018, the complainant was again called upon to comply with the legal notice regarding breach of contract. Thereafter on 22.2.2019 i.e. after about more than 04 months from her resignation from the company, the complainant got lodged the present FIR against the petitioner with the allegations of harassment, and use of derogatory and abusive language.

Submissions made by learned senior counsel for the petitioner

3. The learned senior counsel for the petitioner has argued that petitioner has falsely been implicated in the present case by the complainant- respondent No. 2, who was working as a Business Manager in the company of the petitioner. The present FIR has been lodged by the complainant after four months from her resignation, after she was served with a legal notice for breach of contract. It is further argued that the present FIR is an abuse of process of law and has been lodged only to pressurize the petitioner to accede to the unreasonable demands of the complainant made in the legal notice dated 11.11.2018 (Annexure P-5). Learned senior counsel has further argued that during investigation, neither the statements of any of the employees of the company were recorded, nor the legal notices exchanged between the parties were taken into

consideration.

4. It is submitted that a perusal of the correspondence through e- mails between the petitioner and the complainant would reveal that there CRM-M-36953-2019 (O&M) -4- was a mild verbal spat between the both, whereby the complainant threatened to resign from her assignment and during the course of the said conversation, at one point of time, the petitioner used the words 'f*** off', which has now been made the basis for settling scores by the complainant. It is the submission of the learned senior counsel that the said remarks, though admittedly not made in good taste, must not be taken in isolation, but be read as a part of the entire correspondence whereby the complainant was seeking exemption from an important event of the company at the last minute for a procedure which did not require immediate medical intervention and had blatantly refused the request of the petitioner to postpone the same.

5. It is the further submission that be that as it may, since no overt allegations of any unwelcome sexual advance, physical contact or sexual favours have been leveled against the petitioner, therefore, the ingredients of Section 354-A IPC are not attracted in the present case. It is contended that the utterance of an abusive word in an email cannot be construed as falling with the ambit of sexual harassment, even if seen from the parameters laid down under Section 354-A IPC or even the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. In support of his submissions, learned senior counsel has placed reliance upon the judgments passed by the Hon'ble Supreme Court in (i) Bindeshwari Prasad Singh versus Kali Singh (SC), 1977 AIR (SC) 2432, (ii) Veeda Menezes versus Yusuf Khan Haji Ibrahim Khan 1966AIR (SC) 1773, (iii) Ms. NeelamMahajan Singh versus Commissioner of Police and others (FB) 1994 (1) RCR (Criminal) 6, (iv) Asharam Bapu versus Aman Singh Dangi 2015(5) RCR (Criminal) 458 and (v) State of Karnataka versus L. CRM-M-36953-2019 (O&M) -5- Muni Swami AIR 1977 SC 1489. Therefore, it is prayed that the instant petition be allowed and the present FIR be quashed and set aside.

Submissions made the learned State counsel

6. Learned State counsel submits that there are specific allegations levelled against the petitioner and that all contentions raised herein are a subject matter of trial. It is further submitted that the statement of the complainant-respondent No. 2 under Section 164 Cr.P.C. was recorded on 11.3.2019. However, further proceedings before the learned trial Court were stayed by a Co-ordinate Bench of this Court vide order dated 03.09.2019.

Submissions made by the learned counsel for respondent No.2

7. Learned counsel for respondent No.2-complainant contends that there are specific allegations qua the present petitioner in the instant FIR that he made the sexually coloured remark of 'f*** off' against the complainant- respondent No. 2, and by misusing his position as a Director of the company, he subjected the complainant-respondent No. 2 to harassment and humiliation. Therefore, it is prayed that the instant petition be dismissed.

Analysis & conclusion

8. Having heard learned counsel for the respective parties and having perused the material on record, the singular moot point for the consideration of this Court is whether the present FIR lodged against the petitioner herein deserves to be quashed.

9. Before proceeding to adjudicate the instant case, a gainful reference can be made to the judgment passed by the Hon'ble Supreme Court in Criminal Appeal No.3831 of 2025 titled as 'Pradeep Kumar Kesarwani V. The State of Uttar Pradesh and another', wherein the steps to be followed to determine the veracity of a prayer for quashing, raised by an CRM-M-36953-2019 (O&M) -6- accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C. were enlisted, which are as follows:-

"20...(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant ?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: Rajiv Thapar & Ors. v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013)]."

10. It would also be apposite to refer to the dictum of law as laid down in the celebrated judgment cited as "State of Haryana Vs. Bhajan Lal", 1992 SUPP (1) SCC 335, whereby the Hon'ble Supreme Court discussed different categories of cases wherein, the power under Section 482 Cr.P.C. could be exercised either to prevent abuse of process of law or otherwise to secure the ends of justice, while also observing that it might not CRM-M-36953-2019 (O&M) -7- be possible to lay down an exhaustive list or myriad kind of cases where such powers should be exercised. The following principles were culled out therein:-

"(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima

facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

11. This Court is mindful of the settled parameters governing the exercise of inherent jurisdiction under Section 482 Cr.P.C. At this stage, the CRM-M-36953-2019 (O&M) -8- Court is not required to assess the probative value of the evidence or conduct a detailed examination of disputed facts. The sole consideration is whether the allegations contained in the FIR, read as a whole and taken at face value, disclose the essential ingredients of the offences alleged, so as to justify the continuation of the criminal proceedings.

12. Before proceeding further, it would be apposite to extract the provisions of Section 354-A IPC, which are as under:-

"354-A. Sexual harassment and punishment for sexual harassment-

- (1) A man committing any of the following acts-
- (i) physical contact and advances invol

(ii) and explicit sexual overtures; or
a demand or request for sexual favours

(iii) showing pornography against the will of a woman; or

(iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(e) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either de-

scription for a term which may extend to one year, or with fine, or with both."

13. The said statutory provision contemplates sexual harassment to include all acts which are intrinsically sexual in nature, including unwelcome physical contact, a demand or request for sexual favours, showing pornography or making sexually coloured remarks.

14. Reverting to the case in hand, the correspondence wherein the remarks in question were made took place in October 2018, but the instant FIR was got registered only in February 2019. Admittedly, the parties had a CRM-M-36953-2019 (O&M) -9- disagreement regarding an issue of leave, while discussing which the said remark was made by the petitioner. The same, though undeniably uncouth and discourteous, does not, in its ordinary sense carry any sexual overtone or insinuation, directed at the modesty or sexuality of the complainant.

15. It is also pertinent that the context of the communication in the present case prima facie arises out of a work related interaction. No doubt the standards of decorum ought to be maintained in every such correspondence, yet at the same time, a solitary instance of an abusive remark, in the absence of any element of sexual intent or pattern of conduct, would not meet the threshold of criminal culpability under the penal provision intended to address gender-based harassment.

16. In the considered opinion of this Court, the expression attributed to the petitioner, even if taken at its face value and accepted in its entirety, lacks the essential ingredients of Section 354A IPC. Trite to say that where the uncontroverted allegations and the material collected fail to disclose the basic ingredients of the offences alleged, the continuation of criminal proceedings would not serve any useful purpose, but would amount to abuse of the process of law.

17. Accordingly, to secure the ends of justice and prevent the misuse of the criminal process, the present petition is allowed and FIR No. 35 dated 10.3.2019, under Section 354-A IPC, registered at Police Station Women, Gurgaon, District Gurugram (Annexure P-8) and all subsequent proceedings arising therefrom, including challan/final report under Section 354-A IPC (Annexure P-9) are quashed qua the petitioner, albeit subject to payment of Rs. 20,000/- to be

deposited by the petitioner in the Poor Patient Welfare Fund, PGIMER, Chandigarh within a period of one month.

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18. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

April 18, 2026

Gurpreet Singh

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No