Sexual Harassment at Workplace against Men

Sexual Harassment is one of the biggest crimes that exist in the society now and even after the advent of several statutes to remove it. Sexual harassment has been described in section 354 of the Indian Penal Code, 1860, which states that ‘Sexual harassment is: unwelcome physical contact and advances, including unwanted and explicit sexual overtures, a demand or request for sexual favors, showing someone sexual images (pornography) without their consent, and making unwelcome sexual remarks’. Touching a person inappropriately without their consent, or making a person feel uncomfortable by staring at them, stalking them, looking at them in an uncouth manner and making sexual actions like kissing noises and or touching oneself sexually in the presence of another all account towards sexual harassment. However, when it comes to men being the victims of sexual harassment, the government unfortunately does not have any measures of preventing it. The beginning of section 354A, starts with ‘any man..’, giving sexual harassment a gender, and making it extremely difficult for any man to report crimes of sexual assault against them. There has been an extreme rise in sexual harassments against men, a few of them reported against but no actions as such have been taken for mending it.

Sexual harassment laws in India barely contain any recognition of male victims thus making it an increasingly difficult situation for any man that has to go through the trauma of being sexually harassed by either a woman or a man.

A male who has been subjected to sexual assault in a workplace can always go ahead and report it to the police in the form of an FIR. An FIR under section 351 of the Indian Penal Code, 1860 can possibly be applicable to a male who has been the victim of sexual assault. There have been several instances where men have reported against sexual harassment at workplaces wherein a female colleague has touched them inappropriately or flooded their phone with inappropriate pictures and messages, but all these reports against these women were ignored and in the literal sense ‘laughed off’ by the police who claimed that such matters cannot be reported.

Apart from resorting to section 351 of the Indian Penal Code, 1860, men who have been victims to assault can also report it to their Internal Complaints Center that may be located within their workplace. If a workplace organization, firm or hospital or university has it’s own complaint cell, and if their workplace harassment guidelines are gender neutral and provide protection to men against sexual harassment, then in a given situation, such a case can possibly have a situation to. It should also be kept in mind that in May, 2016, the University Grants Commission (or UGC) came up with a set of regulations that sexual harassments had to be gender neutral and no one could be differentiated on the basis of sex when it came it to victims of the assault.

An article that had been published by Scroll.in in the year 2014, where certain differences between sexual assaults against men and women had been dealt with in the following words; ‘In 2013, the Centre passed its stop-gap Criminal Law (Amendment) Ordinance, which substituted "sexual assault" for "rape" and made the crime gender-neutral from the aspect of both perpetrator and victim. Yet this was, in effect, a mixed bag. While the recognition of male victims and female perpetrators was solved, it did not use the word "rape", which was a significant omission. A vociferous lobbying force achieved a reversal on both counts that same year with the Criminal Law (Amendment) Act. These groups argued that rape was an explicitly patriarchal crime, directly stemming from the grotesque abuse of male power and privilege. Thus, for charges to stick, the perpetrator must be male and the victim female. The exception to this rule has been, somewhat oddly, the retaining of gender-neutral language for the perpetrators of gang-rapes only.” Even with a minor hope of changing the stigma of sexual harassment laws being centered around women was being changes, the entire thought process of men not being victims to any sexual harassment crimes continued to persist.

Section 351 of the Indian Penal Code states that, ‘Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or prepa­ration will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.’ In a given situation where a man has to go through the trauma of being subjected to sexual assault, he can report the crime against section 351 of the Indian Penal Code. The punishment of any perpetrator under section 351 is stated in section 352 of the Act as, ‘Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.’

The guidelines by the which the University Grants Commission has made sexual harassment a gender neutral crime is the only ray of hope. Any male student facing any form of sexual harassment in any university is liable to get protection under the university, once they report such crime.

After the Vishaka guidelines were laid down by the Supreme Court, after the landmark case of Vishaka and others vs. State of Rajasthan, there was the enactment of the Sexual Harassment (Prevention, Prohibition and Redressal) Act, 2013. However, this act too only protects women from harassment at workplaces and providing women with a harassment free work environment. As much as this Act was required, it also became difficult for men to report any possible crime of sexual harassment that took place against them.

Sexual harassment is a crime that torments every gender and every age, and in today’s society, it is extremely important to report it in order to make sure the rate of such a heinous crime drops. Men have been subjected to inappropriate gestures and acts at workplaces for a long time but this has always gone unreported or ignored. Victims of sexual assault whether man or woman, go through the same amount of trauma when faced with such an uncomfortable situation. As it is the duty of male colleagues to make a harassment free work environment for their female colleagues, it is also the duty of female colleagues to make a harassment free environment for their female counterparts.