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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8443/2018**

MS. X

..... Petitioner

Through Ms Warisha Farasat, Advocate with
Ms Rudrakshi Deo, Advocate.

versus

THE DISTRICT MAGISTRATE & ANR

..... Respondents

Through Ms shobhana Takiar, Advocate for
GNCTD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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13.08.2018

CM No. 32406/2018 & 32408/2018

1. Allowed, subject to all just exceptions.
2. The applications are disposed of.

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3. The petitioner has filed the present petition, *inter alia*, impugning the Inquiry Report dated 13.06.2018 submitted by the Local Complaints Committee (hereafter 'LCC') constituted under Section 6 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereafter 'the Act').
4. The petitioner had made a complaint accusing respondent no.2 of sexual harassment. She had stated that respondent no.2 had visited her house in connection with providing services for setting up a kitchen garden in the balcony. She alleges that on 12.07.2017, on one such visit, he had assaulted

her. The petitioner further states that she also received an e-mail on 06.09.2017 which had certain sexual innuendos.

5. The LCC has declined to entertain the aforesaid complaint as the said complaint was filed on 19.03.2018 which was beyond the period of three months as specified under Section 9 of the Act.

6. Section 9 (1) of the Act is set out below:

“9. (1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.”

A plain reading of Section 9 (1) of the Act indicates that the complaint is required to be made within a period of three months from the date of the incident. The second proviso to Section 9 (1) of the Act enables the LCC to extend time limit for making the complaint by a further period not exceeding three months for reasons to be recorded in writing.

7. Undisputedly, the petitioner’s complaint was made beyond the time as

specified under Section 9 (1) of the Act.

8. The petitioner's explanation for such delay is that she could not complain in time as she was pursuing other remedies with police authorities.

9. Plainly, the fact that the petitioner was pursuing other remedies cannot be construed as circumstances which "prevented" her from filing a complaint within the prescribed period. Thus, even assuming that the LCC could entertain the complaint beyond the period of three months after the expiry of the initial period of three months, there is no credible reason for doing so. This Court finds no infirmity with the decision of the LCC.

10. This petition also raises another question as to the applicability of the Act in cases such as this. In this case the allegation pertaining to misbehaviour/misconduct by a person who has been called upon to render services by the complainant at her residence. There is no relationship of an employer or employee. The relationship is that of a service provider and service recipient. Even if it accepted that LCC can enquire into such complaints, it is not clear as to whom would such recommendations would be forwarded. However, this question would be examined in an appropriate case.

11. Needless to mention that the petitioner is not precluded in any way in pursuing all other remedies as available in law.

12. The petition is, accordingly, disposed of.

VIBHU BAKHRU, J

AUGUST 13, 2018

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