

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.739 OF 2019

PRIYA GUNAJI GAONKAR

... PETITIONER.

VERSUS

**SAVITA PRASHANT DORLEKAR
AND OTHERS**

... RESPONDENTS.

Mr. Bhushan V. Deshmukh for the Petitioner.

Mr.S.B.Rao, Advocate i/b Gauri Rao for respondent nos.1 and
2.

Mr.R.M.Pethe, APP for State-respondent no.3.

CORAM : A. M. BADAR, J.

DATE : 27TH FEBRUARY 2020.

P.C.:

1. Heard the learned counsel appearing for the petitioner/original first informant. Perused the impugned order dated 23.02.2016 passed by the learned Metropolitan Magistrate, 60th Court, Kurla, Mumbai in Criminal Case

No.489/PW/2015 for the offences punishable under Sections 354-A r/w 34 of the Indian Penal Code.

2. Learned counsel for the petitioner/first informant submits that the respondent nos.1 and 2 can be punished for the offences punishable under Section 354-A with the aid of Section 34 of the Indian Penal Code. Therefore, the learned trial court erred in discharging these respondents/accused persons. Section 354-A of the Indian Penal Code reads thus;

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

(1) A man committing any of the following acts-

- i) physical contact and advances involving unwelcome and explicit sexual overtures; or
- ii) a demand or request for sexual favours; or
- 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.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

3. The term ‘man’ is defined by Section 10 in Chapter-II dealing with general explanation in the Indian Penal Code. The word ‘man’ denotes male human being of any age as per this definition. Thus, the penal liability for the offence punishable under Section 354 is attributed only to a ‘man’ and not to a ‘woman’.

4. In this view of the matter, it cannot be said that with the aid of Section 34 of the Indian Penal Code, the

penal liability of a woman can be inferred for the offence punishable u/s 354-A of the Indian Penal Code. In the result, no infirmity can be found in the impugned order. The petition, therefore, fails and is accordingly, dismissed.

(A. M. BADAR, J.)