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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment pronounced on: 03.11.2025**
+ **W.P.(C) 4107/2023 and CM APPLs.21771/2023, 33707/2023,**
36393/2023, 24301/2025, 24302/2025, 31227/2025

XPetitioner
Through: Ms. Shobha Gupta, Sr. Advocate
along with Mr. Manish Kumar and
Mr. Seraj Khan, Advocates.

versus

STATE OF NCT OF DELHI & ANR.Respondents
Through: Ms. Vaishali Gupta, Panel Counsel,
GNCTD (R-1).
Mr. Shashank Garg (Sr. Advocate)
along with Mr. Rajender Singh,
Mr. Moinuddin Khan, Mr. Dig Vijay
Singh, Ms. Upasana Nayyar,
Mr. Shergill Singh, Ms. Rashi Yadav,
Ms. Riya Verma, Mr. Rishabh
Chauhan, Mr. Saahen Sharma,
Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

1. The present petition has been filed by the petitioner seeking the following prayers:

- “a. issue a Writ of mandamus or any other appropriate writ, direction or order thereby directing the Respondent No.1 to comply with its statutory obligation under the POSH Act; and*
b. issue a Writ of mandamus or any other appropriate writ, direction or order thereby directing the Respondent No.1 to call for relevant records and to seek appropriate report from the Respondent No. 2/employer evidencing violation of its statutory duties as an employer, in the facts and circumstances of the case; and



c. issue a Writ of mandamus or any other appropriate writ, direction or order thereby directing the Respondents to compensate the Petitioner fairly for their gross violation of Petitioner's fundamental rights in the facts and circumstances of the case;”

2. The controversy sought to be agitated by the petitioner pertains to sexual harassment allegedly endured by the petitioner during the course of her employment with respondent no.2 (Adidas India Marketing Pvt. Ltd.) from November 2017 to January 2019.
3. On 29.01.2019, the petitioner submitted a formal complaint of sexual harassment to officials of respondent no.2. The petitioner contends that the respondent no.2 failed to forward the complaint to the Internal Committee (IC), thereby violating its statutory obligations under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter ‘POSH Act’).
4. Consequent to the alleged inaction on part of respondent no.2, the petitioner filed a complaint through the SHe-Box portal (Sexual Harassment Complaint Portal of Ministry of Women & Child Development), which was then transferred to the Local Committee, Gurugram.
5. It is notable that after the Local Committee issued notices to the concerned employees, Civil Writ Petition nos. 32707 of 2019 and 32708 of 2019, came to be filed before the Punjab and Haryana High Court, seeking quashing of the proceedings initiated by the said Local Committee. Another writ petition i.e. W.P.(C) 32712/2019 came to be filed by the respondent no.2 before the Punjab and Haryana High Court seeking similar relief as sought by the concerned employees.
6. *Vide* judgment/order dated 22.03.2021 passed in the aforesaid writ petitions, the proceedings before the Local Committee arising from the



petitioner's complaint were quashed by the Punjab and Haryana High Court.

The operative directions therein are as under:

"In the present case, the last incident is alleged to have taken place on 03.11.2018. The respondent remained in job till 16.01.2019. She did not file any complaint during that period to the Committee. On 16.01.2019, she resigned from the company. Even thereafter, she did not file any complaint to the committee. It is not her allegation that she made a complaint to the Internal Complaints Committee or to the Local Committee. No doubt, she has pleaded in the written statement that she was in touch with the Management and some sort of inquiry was being held, however, that would not result in extending the period of limitation, particularly, when the language used in Section 9 is clear. The period of three months have been prescribed from the date of incident and in case of a series of incidents, within a period of three months from the date of the last incident. The last incident is alleged to have taken place on 03.11.2019. This Bench has also examined the communication dated 12.06.2019 which is with respect to the full and final settlement. From the reading of the aforesaid communication, it is not possible to conclude that it can be treated as an act of sexual harassment. The employer has only intimated her that there was an internal investigation and certain discrepancies including financial irregularities have been found against her. Such communication as noticed above, does not fall within the four corners of sexual harassment, which can give fresh cause of action to the respondent to extend the limitation period to file a complaint.

Keeping in view the aforesaid facts, it will not be appropriate for the Court to go into the second issue raised by the learned senior counsel that the complaint was required to be first filed with the Internal Complaints Committee. It may be noted here that learned counsel for the parties do not dispute that on the complaint of the respondent an FIR has been registered which is under investigation of the police.

Keeping in view the aforesaid facts, the writ petitions are allowed.

The complaint as well as the proceedings before the Local Committee are hence, quashed. No costs."

7. The factum of the aforesaid judgment dated 22.03.2021 was not disclosed in the present writ petition; the same has been adverted to in CM. APPL. 33707/2023 filed by the respondent no.2. The said application seeks to highlight that relevant facts have been withheld in the petition and hence



it is sought that the petition is required to be dismissed on that ground alone.

8. It has further been brought out that an LPA bearing No. 846/2021 has been preferred by the petitioner against the aforesaid judgment/order dated 22.03.2021. The said LPA is still pending before the Division Bench of Punjab and Haryana High Court.

9. In CM. APPL. 33707/2023 filed by the respondent no.2, it has been pointed out that an FIR bearing no. 140/2019 was also registered against the concerned employees of the respondent no.2 at Women Police Station, Sector-51, Gurugram.

10. It is submitted that a detailed investigation into the FIR was conducted and a cancellation report was prepared by the concerned Investigating Officer on 29.12.2019. Thereafter, the petitioner approached the Haryana State Women Commission seeking re-investigation. Pursuant thereto, a Special Investigation Team(SIT) was constituted for conducting a re-investigation. The SIT after conducting an in-depth investigation into the said FIR, prepared a closure report on 06.03.2020.

11. It is further averred in the CM. APPL. 33707/2023 that a subsequent re-investigation was conducted by the State Crime Branch which reaffirmed that the allegations leveled in the said FIR are false and again, a cancellation report was prepared on 25.12.2020.

12. The said FIR came to be the subject matter of proceedings before the Punjab and Haryana High Court in CRM-M 17806/2020 and CRM-M 17817/2020.

13. Orders dated 17.03.2021 and 26.03.2021 were passed by the Punjab and Haryana High Court in the context of the said FIR. The said petitions were filed by the concerned employees seeking a stay on further



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inquiry/investigation against them, contending that no further inquiry/investigation was warranted. It is informed that interim orders came to be passed by the Punjab and Haryana High Court in the said proceedings.

14. Subsequently, on 25.08.2022, a complaint was filed by the petitioner before the District Magistrate, South-West, Delhi, reiterating the allegations of sexual harassment and adverting to the same set of allegations which are subject matter of LPA No. 846/2021. The petitioner also filed a complaint bearing no. 2424/2022 before the Metropolitan Magistrate, Patiala House Courts, New Delhi alleging non-compliance of the provisions of POSH Act by the respondent no.2.

15. *Vide* CM APPL. No. 24301/2025, the respondent no.2 has brought on record certain order/s passed in CRM-M 17806 of 2020 titled *Vivek Tyagi Vs State of Haryana & Ors.* and CRM-M 17817 of 2020 titled *Pulin Kumar Vs State of Haryana & Ors.*, in reference to the FIR bearing No. 140/2019 dated 16.11.2019 registered by the petitioner.

16. Further, it has been brought out that notwithstanding the 3 cancellation reports already prepared, the Commissioner of Police, Gurugram, re-investigated the matter and filed before the High Court of Punjab & Haryana, a final status report dated 20.01.2025, prepared by an SIT, stating that no offence against the petitioners is made out. A copy of the final status report dated 20.01.2025 has also been placed on record and the same reads as under:

“I, the above named deponent, do hereby solemnly affirm and state as under:

That the deponent is posted as Commissioner of Police, Gurugram and is swearing the present affidavit in his official capacity. The deponent has made himself acquainted with the facts having arisen out of FIR No. 140



dated 16.11.2019, registered at Women Police Station, Gurugram, for the commission of offences punishable under Sections 354A, 354D read with 34 of IPC and is filing the present affidavit on the basis of contents of the official record of the same, which the deponent believes to be true and correct.

2. That this Hon'ble Court, in terms of order dated 06.11.2024, had directed the deponent to file an affidavit explaining as to why the material submitted by the complainant/ respondent no. 6 has not been taken into consideration and hence this affidavit.

3. That pursuant to the passing of the order dated 06.11.2024, the deponent had constituted a Special Investigation Team under the stewardship of the Deputy Commissioner of Police, Traffic cum CAW, Gurugram in terms of order dated 03.12.2024, directing the team to examine the aspect as to why the material produced by the complainant/respondent no. 6 had not been taken into consideration by the erstwhile investigators. The copy of the order is being appended to along with the present affidavit as Annexure R1.

4. That pursuant to the passing of the order Annexure R1, the Special Investigation Team had examined the aspect aforementioned. The team had associated the respondent no. 6 in the proceedings on 04.12.2024 and had taken into possession the entire material, that was sought to be relied upon by the respondent no. 6. As per the report of the Special Investigation team, which is being appended to as Annexure R2, the entire material had been produced by the respondent no. 6 on 04.12.2024 had already been submitted by her during the course of investigation on 14.12.2019 and the said material had been duly considered by the investigators while preparing cancellation reports dated 26.12.2019, 25.12.2020 and 19.02.2021 and there is specific reference to the said material in all the three reports."

17. In the above conspectus, learned senior counsel for the respondents has raised an objection to the maintainability of the present petition on the ground that no part of the substantive cause of action has occurred within the territorial jurisdiction of this Court. It is further brought out that the High Court of Punjab and Haryana is already seized of the same set of allegations, which form the subject matter of the present petition, in LPA No. 846/2021.

18. On the contrary, it has been contended on behalf of the petitioner that



the communication dated 12.09.2022, addressed by the petitioner to the District Magistrate, New Delhi serves as a valid cause of action to prefer the present petition before this Court.

19. Respective counsel for the parties have been heard.

20. The hearing in the matter was concluded on 26.09.2025 and the matter was adjourned on that day for the purpose of seeking clarifications. The parties were also directed to file their synopsis of submissions.

21. Although there was no appearance on behalf of the petitioner on 17.10.2025, the judgment was reserved, as the hearing in the matter had been concluded.

22. Having considered the relevant factual conspectus and the submissions advanced by the respective learned counsel for both the parties, I find that the present petition is not maintainable. The reasons are enumerated hereunder.

23. The substantive controversy between the parties, as canvassed in the present proceedings, has been the subject matter of the proceedings before the Punjab and Haryana High Court in W.P.(C) 32712/2019 and LPA No. 846/2021. Notably, all the material events including the alleged act of harassment, submission of complaints, proceedings conducted by the Local Committee occurred in Gurugram, Haryana, which is outside the territorial jurisdiction of this Court.

24. Notably, the petitioner has been actively participating in the proceedings before the Punjab and Haryana High Court. In fact, the prayer¹

¹ “a) That the impugned order dated 22.03.2021, by which the Writ Petition No. 327 12/2019 was allowed and proceedings before the Local Committee, Gurugram Haryana was quashed; may kindly be set aside;
b) To dismiss the Writ Petition no. No. 32712/2019 with cost in favour of the Appellant;



sought by the petitioner in LPA No. 846/2021 are broad and overarching and to a large extent, overlap with the prayers sought in the present proceedings.

25. As such, it would be inapposite for this Court to entertain the present petition given that the Punjab and Haryana High court is already seized of the controversy between the parties.

26. Reference is apposite to the judgment of the Supreme Court in **ONGC v. Utpal Kumar Basu** (1994) 4 SCC 711 wherein it has been held as under-

“5. Clause (1) of Article 226 begins with a non obstante clause — notwithstanding anything in Article 32 — and provides that every High Court shall have power “throughout the territories in relation to which it exercises jurisdiction”, to issue to any person or authority, including in appropriate cases, any Government, “within those territories” directions, orders or writs, for the enforcement of any of the rights conferred by Part III or for any other purpose. Under clause (2) of Article 226 the High Court may exercise its power conferred by clause (1) if the cause of action, wholly or in part, had arisen within the territory over which it exercises jurisdiction, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories. On a plain reading of the aforesaid two clauses of Article 226 of the Constitution it becomes clear that a High Court can exercise the power to issue directions, orders or writs for the enforcement of any of the fundamental rights conferred by Part III of the

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- c) To direct the Ld LC/ Respondent No. 2 to resume proceedings and conclude investigation within 30 days or such time limit as this Hon’ble Court may deem fit;
 - d) To pass necessary direction against the Respondent No 3 for misleading this Hon’ble Court and delaying proceedings before Ld LC/ Respondent No. 2;
 - e) To direct an inquiry to be conducted against Respondent No 3 for submitting forged document i.e. Annexure P-9 of the petition and further for making several deliberate and intentional, false averments in the petition;
 - f) To direct an inquiry to be conducted against Respondent No. 3 for not having validly constituted IC as per provisions of the PoSH Act;
 - g) To direct Respondent No. 3 compensate Appellant for loss of reputation, emotional distress, loss of employment opportunity and loss of salary of 27 months for no fault on her part resulting into deprivation of right to live with dignity.
 - h) Exempt the Appellant from filing the certified, original, single space, les margin, dim and illegible copies of Annexures;
 - i) Exempt the Appellant from filing true types copies/more legible copies of Annexures;
 - j) dispense with the advance service to the Respondents, and
 - k) Pass such order(s) or direction as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case, may kindly be passed in favour of the Appellant.”



Constitution or for any other purpose if the cause of action, wholly or in part, had arisen within the territories in relation to which it exercises jurisdiction, notwithstanding that the seat of the Government or authority or the residence of the person against whom the direction, order or writ is issued is not within the said territories. In order to confer jurisdiction on the High Court of Calcutta, NICCO must show that at least a part of the cause of action had arisen within the territorial jurisdiction of that Court. That is at best its case in the writ petition.”

27. While relying upon the aforesaid decision, the Supreme Court in ***Kusum Ingots & Alloys Ltd. v. Union of India*** (2004) 6 SCC 254 has held as under :

“18. The facts pleaded in the writ petition must have a nexus on the basis whereof a prayer can be granted. Those facts which have nothing to do with the prayer made therein cannot be said to give rise to a cause of action which would confer jurisdiction on the Court.

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*30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. [See *Bhagat Singh Bugga v. Dewan Jagbir Sawhney* [AIR 1941 Cal 670 : ILR (1941) 1 Cal 490] , *Madanlal Jalan v. Madanlal* [(1945) 49 CWN 357 : AIR 1949 Cal 495] , *Bharat Coking Coal Ltd. v. Jharia Talkies & Cold Storage (P) Ltd.* [1997 CWN 122] , *S.S. Jain & Co. v. Union of India* [(1994) 1 CHN 445] and *New Horizons Ltd. v. Union of India* [AIR 1994 Del 126] .]”*

28. In ***Sterling Agro Industries Ltd. v. Union of India and Others*** 2011 SCC OnLine Del 3162, this Court held as under:

*“33. The concept of forum conveniens fundamentally means that it is obligatory on the part of the court to see the convenience of all the parties before it. The convenience in its ambit and sweep would include the existence of more appropriate forum, expenses involved, the law relating to the lis, verification of certain facts which are necessitous for just adjudication of the controversy and such other ancillary aspects. The balance of convenience is also to be taken note of. Be it noted, the apex court has clearly stated in the cases of *Kusum Ingots and Alloys Ltd. v.**



Union of India (2004) 120 C-C 672; (2004) 6 SCC 254, Musaraf Hossain Khan v. Bhagheeratha Engg. Ltd. (2006) 130 C-C 390; (2006) 3 SCC 658 and Ambica Industries v. CCE (2007) 213 ELT 323; [2009] 20 VST 1 (S.C.), about the applicability of the doctrine of forum conveniens while opining that arising of a part of cause of action would entitle the High Court to entertain the writ petition as maintainable.

34. The principle of forum conveniens in its ambit and sweep encapsulates the concept that a cause of action arising within the jurisdiction of the court would not itself constitute to be the determining factor compelling the court to entertain the matter. While exercising jurisdiction under articles 226 and 227 of the Constitution of India, the court cannot be totally oblivious of the concept of forum conveniens. The Full Bench in New India Assurance Co. Ltd. v. Union of India, AIR 2010 Delhi 43; (2011) 166 Comp Cas 87 (Delhi), has not kept in view the concept of forum conveniens and has expressed the view that if the appellate authority who has passed the order is situated in Delhi, then the Delhi High Court should be treated as the forum conveniens. We are unable to subscribe to the said view.”

29. Reliance may also be made to the judgment of this Court in ***M/s. Shristi Udaipur Hotels and Resorts (P) Ltd. v. Housing and Urban Development Corporation Ltd.*** 2014 SCC OnLine Del 2892 wherein it has been held as under –

“18. Taking a cue from the ratio laid down in a catena of decisions of the Supreme Court as also the High Courts, it is evident that for the purpose of deciding as to whether the facts averred by a petitioner would or would not constitute a part of the cause of action, the court is required to examine as to whether such facts constitute a material, essential or integral part of the cause of action. Even if a small fraction of the cause of action arises within the jurisdiction of the court, the said court would be vested with the territorial jurisdiction to entertain the petition. However the condition is that it must be “a part of the cause of action” and nothing short of that.

19. Coming to the issue of forum conveniens, the argument advanced by the counsel for the petitioner that the situs of the head office of the respondent/Corporation is in Delhi and that itself is sufficient ground to file the petition in Delhi, has to be examined in the light of the decision in the case of Kusum Ingots and Alloys Ltd. (supra). In the said case, it was clarified that the situs of the office of Parliament, Legislature of a State or authorities empowered to make subordinate legislation would not by



itself constitute any cause of action for cases arising. Consequently, framing of a statute, statutory rule or issuance of an executive order or instruction would not confer jurisdiction upon a court only because of the situs of the office of the maker thereof.

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22. The position of law that clearly emerges from the above is that the expression “cause of action” means and includes the circumstance resulting in breach of right or immediate occasion for the party to react. The said expression shall take in its fold the whole bundle of material facts which a party must prove in order to succeed. It also includes the circumstances and situations that entitle a party to maintain an action in court. For determining as to whether a particular fact constitutes a cause of action, would depend on the facts and circumstances of each case and while considering the facts averred, the court has to consider the substance of the matter and not the form. Simply because a miniscule part of the cause of action arises within the territorial jurisdiction of a particular High Court may not be sufficient to compel the said court to decide the matter on merits. In appropriate cases, discretion still rests with the court to decline to exercise the jurisdiction vested in it by invoking the doctrine of forum conveniens or the doctrine of non-conveniens. The said doctrine of forum non-conveniens can be invoked when the court deciding to refrain from exercising its jurisdiction, is vested with the jurisdiction to decide the case.”

30. This Court is constrained to note that the conduct of the petitioner has been unfortunate, inasmuch as the relevant details of the proceedings pending before the Punjab and Haryana High Court have not been fully disclosed in the present petition and the said details came to light only upon the filing of CM. APPL. 33707/2023 by respondent no.2. In particular, there has been an omission to disclose the factum of judgment dated 22.03.2021 passed by the Punjab and Haryana High Court in CWP 32712/2019, whereby the said petition was allowed and the proceedings initiated before the Local Committee pursuant to the petitioner’s complaint were quashed.

31. Also, LPA No. 846/2021, filed by the petitioner in July, 2021, against the aforesaid judgment dated 22.03.2021 has also not been disclosed despite



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the present petition having been filed only in March, 2023. Such non-disclosure is conspicuous and impinges on the credibility of the petitioner.

32. In any event, since the High Court of Punjab and Haryana is already seized of the substantive controversy in LPA No. 846/2021, it would be apposite for the petitioner to urge all her outstanding grievance/s against the respondent no.2 and/or concerned employees in the said proceedings.

33. In the circumstances, this Court is not inclined to entertain the present petition; the same is, accordingly, dismissed. Pending applications also stand disposed of.

SACHIN DATTA, J

NOVEMBER 3, 2025/ss