

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:-

THE HON'BLE JUSTICE MADHURESH PRASAD
AND
THE HON'BLE JUSTICE PRASENJIT BISWAS

WPST 250 of 2025

STATE OF WEST BENGAL AND ORS.

Vs

LALA MIR AND ORS

For the State/petitioners	: Mr. Guddu Singh, Mrs. Sarda Sha.
For the Respondent No.1	: Mr. Srijib Chakraborty, Mr. Washim Akthir Dafader.
Heard on	: 07.08.2026
Judgment on	: 31.08.2026

Madhuresh Prasad, J.:

1. The present writ petition arises out of an order dated 19.06.2025 passed by the West Bengal Administrative Tribunal (for short "*Tribunal*"), in O.A No. 450 of 2023, setting aside the report dated 13.04.2023 of the Internal Complaints Committee ('ICC' for short), under the "*Sexual Harassment of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013*" (for short '*Act*').
2. The brief factual background is emanating from allegation of sexual harassment at the workplace by the "*aggrieved woman*"/Complainant, who was posted as a staff member in the Office of the CID, West Bengal

as a Data Entry Operator (DEO). The complainant alleged that while she was working on the computer the DSP would touch her inappropriately.

3. In her complaint dated 05.01.2023 supported by statement recorded on 23.02.2023 she alleged that she was a contractual employee. She had a small child at home, and used to leave office in the evening. Under compelling circumstances, she put up with such behavior and remained silent due to fear. The complainant alleged that the DSP touched/stroked her on her back and waist inappropriately on numerous occasions.
4. The complainant alleges such behavior in between September 2021 to July, 2022, but without any specific instance with reference to any specific date, within this period.
5. The complainant further stated in her complain that after July, 2022 she was posted under DSP, SOG and Homicide Section. After some days she again saw the DSP at the CID Office. She came to know that he had joined office after availing leave. On seeing him in the office she apprehended that she may be posted under him again and may have to face the same harassment again. Accordingly, the complaint dated 05.01.2023 was lodged.
6. The ICC by its report dated 13.04.2023 found the allegations to be true. The ICC was thus of the opinion that the DSP be proceeded against for misconduct as per service rules by a departmental action. The report dated 13.04.2023 was assailed by the DSP in OA No.450 of 2023 before

the Tribunal which set aside the report by the impugned order dated 19.06.2025.

7. The order of the Tribunal is put to challenge in the present writ proceeding by the State. The complainant did not appear before the Tribunal. Despite service of notice the complainant also did not appear in the present proceeding. The learned Advocate for the State Mr. Guddu Singh submitted that the finding of the Tribunal that the complaint was belated and that there was no explanation for the delay rendering the complaint to be unsustainable, is fit to be set aside.

8. He submits that the Tribunal's conclusion was founded on consideration that the harassment occurred only till the end of July 2022. The Tribunal overlooked the statement of the complainant made before the ICC:

“After lapse of few months one day the complainant surprising noticed Shri Lala Mir, Dy. SP again at corridor of fourth floor of CID, Bhabani Bhawan, Later on, she learnt that the respondent was on long leave and resumed his Govt. Duty after 03 months.

On seeing him she was frightened with the thought that if she get posted under Shri Lala Mir, Dy. SP again then she would have to go thorough kind of harassment.”

9. The learned State Advocate submits that the complaint disclosed recurring harassment which are in respect of a period from July 21 to July 2022 and then, three months thereafter, that is in October 2022. Therefore, complaint filed in January, 2023 was well within the three months limitation for making a complaint. In this regard he relied on a decision of the Hon'ble Supreme Court of India in the case of **X v. Nirmal**

Kanti Chakrabarti, reported in **2025 SCC OnLine SC 1964** and decision of the learned Single Judge Bench of the Allahabad High Court in the case of **Dr. Tapas Kumar Das v. Harish Chandra Research Institute & Ors.** Reported in **2026 SCC On Line All. 4976**.

10. He referred to Section 9 of the Act to submit that the same prescribes a limitation of three months from the alleged harassment, for making a complaint. The second proviso thereto, vests discretion in the Committee to extend the time limit if it is satisfied that there were circumstances which prevented the complainant/aggrieved woman from filing complaint within the period of limitation, but by a maximum of three months. In the present case since the complaint disclosed allegations up to October 2022, the same having filed in January, 2023, was within limitation specified in Section 9 of the 2013 Act. The order of the Tribunal finding complaint to be barred by limitation, therefore, is unsustainable and order of the Tribunal is fit to be set aside.

11. The learned Advocate for the DSP on the other hand submits that the period of limitation (three months), as per Section 9 of the Act is to be reckoned with reference to the date of the last incident. In the present case the complaint and statement of the complainant before the ICC does not disclose any incident after July 2022. The complaint, therefore, was required to be filed by the end of October 2022. Therefore, ICC report dated 13.04.2023 made recommendation against the DSP on the basis of a complaint lodged in January 2023, which was barred by limitation.

12. He submits that the Legislature specified the limitation in the Act having regard to the nature of harassment which lies at the core of an action taken under the Act and its social consequence upon the alleged perpetrator. The Act provided discretion for condoning the three months' limitation, which also is limited to a period of three months by recording reasons in writing that the Committee was satisfied that there were circumstances which prevented the complainant/aggrieved woman from filing a complaint within the period of limitation (three months).
13. The learned Advocate relied upon a Coordinate Bench decision of this Court in the Case of **Dr. Nirmal Kanti Chakraborti Vs. Vaneeta Patnaik & Ors** Reported in **2024 SCC Online Cal 11896** which as affirmed by the apex Court in the decision reported in **2025 SCC OnLine SC 1964 (supra)**.
14. He submits that the Coordinate Bench after detailed consideration found the complaint made more than three months after the last incident of sexual harassment to be unsustainable. The coordinate Bench took into consideration the decision of the apex Court in the case of **Popat Bahiru Govardhane v. Land Acquisition Officer**, reported in **(2013) 10 SCC 765**. Wherein the apex Court stated that the "*law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes*".
15. The Tribunal therefore, rightly quashed the report of the ICC since complaint itself was barred by limitation.

16. We have considered the rival submission. Only issue arising for consideration is whether the complaint disclosed an incident of sexual harassment after July 2022, for counting the limitation (three months) from any date after July 2022. Such issue is to be considered and decided with reference to the allegation/statement given by the complainant before the ICC extracted above.

17. A plain reading of the allegations discloses that the incident of sexual harassment was continuing, as per allegations made in the complaint, till July 2022. Thereafter, the complainant states that three months later she saw the DSP in the office and was scared. She apprehended such sexual harassment in the office, in future. The apprehension is stated in the complaint to be three months after the last incident (July 2022). Therefore, the apprehension as per the complaint arose in October 2022. The complaint is lodged within three months thereafter, i.e., January 2023.

18. If such apprehension in the mind of the aggrieved woman constitutes sexual harassment as per Section 3 (n) of the Act, then the complaint lodged in January 2023 would be considered within time.

19. Sexual harassment is defined in Section 2 (n) of the Act which reads:

“(n) “sexual harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:-

- (i) Physical contact and advances; or*
- (ii) A demand or request for sexual favours; or*

- (iii) *Making sexually coloured remarks; or*
- (iv) *Showing pornography; or*
- (v) *Any other unwelcome physical, verbal or non-verbal conduct of sexual nature;”*

20. Section 3 (1) contemplates that no woman shall be subjected to sexual harassment at any workplace.

21. Section 3(2) further contemplates circumstances among other circumstances, if occurring or present in relation to or connected with any Act or behavior of sexual harassment will amount to sexual harassment: -

- (i) *implied or explicit promise of preferential treatment in her employment; or*
- (ii) *implied or explicit threat of detrimental treatment in her employment; or*
- (iii) *implied or explicit threat about her present or future employment status; or*
- (iv) *interference with her work or creating an intimidating or offensive or hostile work environment for her, or*
- (v) *humiliating treatment likely to affect her health or safety.*

22. The Act therefore, contemplates an action and/or behavior as per Section 2(n) and/or Section 3(2) of the Act, to constitute a sexual harassment and the circumstances under which the sexual harassment may amount to sexual harassment for the purposes of making complaint under Chapter IV of the Act.

23. The Act does not mention or contemplate a sexual harassment based on apprehension of sexual harassment in the mind of a complainant to

constitute sexual harassment for the purposes of making of a complaint under the Act, let alone a report being submitted, recommending action under the Act, as was done in the present case.

24. Such complaint has to be made within three months from the last incident of sexual harassment, which in this case was in July 2022. A plain reading of the complaint extracted above leaves no ambiguity that the same does not disclose any incident of sexual harassment after July 2022. The complaint merely disclosed apprehension in the mind of the complainant which induced fright leading her to lodging of the complaint. In absence of any incident of sexual harassment within three months' period prior to lodging of the complaint, the same is barred by limitation under the Act.

25. The decision of the apex Court relied upon by the appellant in the case of **2025 SCC OnLine SC 1964 (supra)** was delivered with reference to the facts thereunder. The complainant in that case disclosed the last incident of sexual harassment in July 2023, thereafter the complaint disclosed removal of the complainant by the perpetrator of sexual harassment on 29.08.2023, which the Court found was arising out of a complaint received from the Central Government undertaking wherein the complainant specifically named. The apex Court thus found the removal of the complainant to be an independent event. The apex Court held that such removal in August 2023, does not constitute a recurring wrong. The apex Court thus held:

“32. In view of the aforesaid facts and circumstances as well as the discussion, we are of the view that the Division Bench of the High Court committed no error of law in restoring the decision of the LCC that the complaint of the appellant is time barred and is liable to be dismissed.”

26. In the present case also we find that the complaint extracted above does not disclose any incident of sexual harassment after July 2022 which may justify the making of a complaint in January 2023. The complaint therefore, was barred by limitation under Section 9 of the 2013 Act. The complaint was time barred as per the Act and judgment of the Hon’ble Supreme Court of India in **2025 SCC OnLine 1964** (*supra*).

27. We find no error in the Tribunal’s order quashing the report of the ICC as being time barred. The order of the Tribunal, in our opinion, therefore, requires no interference in exercise of extra ordinary, discretionary jurisdiction under Article 226 of the Constitution of India.

28. The appeal is accordingly dismissed. Connected application, if any, is disposed of. Interim order, if any, stands vacated.

29. Urgent certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Madhuresh Prasad, J.)

I agree.

(Prasenjit Biswas, J.)