

Sexual harassment at workplace: SC rejects plea

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Petitioner says there is no provision in the Act mandating safety for victims, witnesses in such cases.

The Supreme Court has refused to entertain an appeal seeking protection for complainants and witnesses in sexual harassment-at-workplace cases from victimisation or retaliation by accused persons or organisations involved.

A Bench of Justices R. Banumathi and A.S. Bopanna disposed of the special leave petition filed by Sunita Thawani highlighting the issue that the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013 does not have any provision mandating protection for victims and witnesses in workplace sexual abuse cases.

The court, in its February 6 order, however granted the petitioner liberty “to work out her remedy in accordance with law, including by making representation before the authorities concerned.”

The Delhi High Court had dismissed the plea in July 2019, saying the petitioner was effectively seeking the creation of a new offence under the head of ‘retaliation’, something which the Act has not provided. The High Court had reasoned that courts cannot legislate. It had concluded that Ms. Thawani’s plea was “ fundamentally misconceived.”

“Retaliation or victimisation, are only the provocation for an act of assault. If an act of assault amounts to sexual harassment, it would anyway be punishable under the Sexual Harassment of Women at Workplace

(Prevention, Prohibition and Redressal) Act 2013. If it does not, it cannot be punishable under the Act, as it deals with only offences of a sexual nature,” the High Court had reasoned.