



# भारतीय विधिज्ञ परिषद् BAR COUNCIL OF INDIA

(Statutory Body Constituted under the Advocates Act, 1961)

21, Rouse Avenue Institutional Area, Near Bal Bhawan, New Delhi - 110002

## AN APPEAL TO THE MEMBERS OF LEGAL FRATERNITY, THE HON'BLE JUDGES AND THE PEOPLE OF OUR COUNTRY

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## OUR RESPECT FOR JUDICIARY AND OPINION OF THE BAR ABOUT THE COMPLAINT AGAINST CHIEF JUSTICE OF INDIA: -

Respected Sir(s)/Madam(s),

1. **Judiciary is the only ray of hope for the poor people of the country.**

The Bar Council of India, all the State Bar Councils and Bar Associations of the country believe in maintaining the dignity and sanctity of the Judiciary. A common Advocate always feels that his first duty is to protect the Institutions of Judiciary and we cannot tolerate any attempt to damage or demolish the dignity and authority of our Courts of Law.

## COMPLAINT OF SEXUAL HARASSMENT AGAINST CHIEF JUSTICE OF INDIA: -

Respected Sir(s)/Madam(s),

2. We Indians are wise enough to understand the dirty game to spoil the dignity of our Judicial System, Mass is realizing that there was/is some very strong backing/support behind the complaint against Chief Justice of India and complainant was/is not at all a simple lady.
3. In this regard we are just trying to draw the attention of the Hon'ble, respectable and sensible members of our Legal Fraternity towards a few glaring things of this episode of so called sexual harassment.
4. If you examine the complaint and the annexures and see the way facts are narrated; the manner in which she claims to have recorded everything in her mobile while at police station, and the way she has been dealing with police, the Courts, CBI, IB, everyone; If one analyses these things carefully, you will find something fishy.

After Mr. Justice Gogoi, she started blaming and commenting against Mr. Justice R. V. Ramana for favour to him. He recused; two very noble, fair, polite and soft spoken Lady Judges were included in the panel for in-house inquiry. And the Committee has found no substance in the allegations. The decision is totally just and proper.



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5. The members who practice in Supreme Court and those who are aware of the functionings of Supreme Court, are fully aware of the politeness and nice behavior of Justice Bobde, he is a man who always smiles, we have never seen him in angry; same is the case with the other two lady judges (Mrs. Justice Indira Banerjee and Mrs. Justice Indu Malhotra). But the complainant opted to make allegations of unfairness even against this Committee and refused to appear before this panel; we were of the considered opinion that the Committee should proceed ahead and the inquiry should be completed at the earliest. This could be called an attempt to scandlise the Institution. It is due to this reason that we appreciate the procedure adopted by the Committee

## PROCEDURE ADOPTED BY THE COMMITTEE: -

6. Complainant, as per her own story, was at Police Station for quite long time. Neither she had demanded any Videography nor any audio-recording, nor did she need the help of any Advocate there. She was quite comfortable there; but surprisingly before the Panel of three Hon'ble Judges of Supreme Court, which includes two ladies, this complainant allegedly became nervous and she needed Video/Audio recording etc. of the in-house proceedings.

Even the proceedings of Courts, or in camera proceedings held in chambers of Judicial officers or Hon'ble Judges are not Video-graphed. Therefore, there is nothing wrong in the procedure adopted by the Committee in this particular case. Why there should be some deviation in this special case?

7. Those who love this Institution and whose livelihood is attached to it, those who love the constitution and our democracy, will never tolerate disrespect of our Supreme Court, High Court or our Judges by anybody.

We fully respect Hon'ble D. Y. Chandrachud's opinion, but all those concept and suggestions expressed by his goodself for providing liberties and Legal assistance to complainant were/are for innocent, ignorant and helpless people (complainants) and not for a litigant who, apparently is trying to malign the highest Institution. There was, thus in our opinion, in this case, no need to include any other outsider or of any assistance of any Lawyer when the lady boldly came out and refused to participate in the inquiry. We are sure that Hon'ble Mr. Justice Chandrachud will also agree with our view.



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8. The Committee has taken the decision after examining the materials and everything carefully, it has adopted the right procedure, which was required in this case. We should not doubt the decision of our three Judges of the committee, otherwise, it will send a very wrong signal and there shall be no end to such malicious complaints against the responsible authorities/persons discharging important functions.
9. Before questioning the validity of probe by in-house Committee of three Judges, we should not forget that the lady (Complainant) had approached and lodged her complaint to the Judges of Supreme Court only; she did not opt to lodge a complaint or FIR. She herself has opted this forum and the Judges have decided to hold in-house inquiry on her complaint before them. Even Supreme Court Bar Association had proposed for holding in-house inquiry.

There is nothing wrong about the procedure. The committee has decided the matter, nobody would be justified in criticising or making comment on the Committee. There should be an end to this unfounded controversy.

### JUDGES THEMSELVES ARE RESPONSIBLE FOR SUCH UNFORTUNATE SITUATION: -

10. We should not forget that our Judiciary is only responsible for such complaints (mostly malicious) being encouraged today.

Some of the totally absurd sentimental and reckless Judicial verdicts of our Judges of Supreme court has resulted in lodging of such complaints frequently.

“The oral testimony of the prosecutrix is enough to convict under Section 354 or 376 IPC,” Why? We are not in 18<sup>th</sup> century, that one can presume that a female will never make such allegations to falsely implicate her enemies. We have great respect for our women. But time has changed, we must keep it mind.

Our Judges are expected to be practical now, they should think of common man and other respectable citizen also while deciding or dealing with such cases. They should not be guided by the sentiment or presumptions only. Always think that like 498A IPC, such cases of false implications have now become very common/very easy/rampant.



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## HOPE THAT OUR JUDGES WILL LAY DOWN SOME LAW SOON: -

Bar is hopeful that our Judges would now realize the problems, the mental and physical agony and harassments of the common men. So long our traditional Laws, Evidence Act were properly applied by our Law Courts, we found 90% cases resulting in acquittals; but, when our Honorable, Learned, Experienced, Knowledgeable Judges started keeping the settled principals of Evidence Act is waste paper boxes, the incidents of false implications started increasing and today we have reached to this situation.

## LIMITATION: -

11. When Indian Judiciary and our Legislature are treating such offences of Section 354 or 376 I. P. C. very serious, then why should not there be some period of limitation for reporting such offences? If some delay is there in lodging a case of murder, it is viewed with doubt, then why should the case of 354 or 376 I. P. C. could be taken and accepted so casually, without considering the delay factor? The delay normally very much proves and establishes that the so called prosecutrix was/is either a liar or was a consenting party. And after sometimes, when the situation changes or for blackmailing, complaints are lodged.

But our Judges have made this most vital factor of delay in such cases totally meaningless and redundant. Is it not against the set principles of our Criminal Jurisprudence? If such cases are not reported immediately, the benefit of doubt should go to the accused. What is the sense in entertaining such cases reported after several days, several weeks, several months or even after several years of alleged occurrence/story?

This is the high time, the Parliament and our Supreme Court are required to apply their mind over this important factor in the changed social scenario and degeneration of moral values.

## REQUEST TO RESPECTED MEMBERS OF THE BAR: -

12. I request the members of the Bar to **drop this episode from their minds and gossiping**; it is causing serious harm to the Institution; one should imagine the mental agony suffered by a respectable man because of some one's conspiracy to malign his image and/or to lay so much of undue pressure upon him.



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This is a serious damage to our Institution, we all should feel hurt due to such baseless matters getting highlighted and discussed about our highest court of Justice. We must state that Indian Bar is with our Supreme Court and its Judges on this issue and the Bar will never allow the Institution to let-down and/or get demoralized in this fashion.

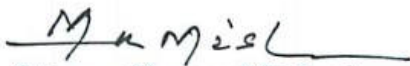
## HUMBLE REQUEST TO REPUTED MEMBERS OF THE BAR & PEOPLE OF THE COUNTRY: -

13. Bar is duty bound to protect our democracy and independence of our institution, therefore, we should not form a habit to comment and criticize each and every step of the Institution and the Authorities.

Bar Council of India thus, makes an humble request to the respectable Senior and other Advocates of Supreme Court of India, and of all the High Courts and the respected office-bearers and Member of Executive Committee of Supreme Court as well as the entire Legal Fraternity of the country to get united, come forward, be vocal and discourage all such negative forces who are active to weaken the Institution. It is the duty of the entire Legal Fraternity to save and protect the Institution on such occasions of crisis. Bar is sure that not only its members, but every sensible citizen of the country will agree with the views expressed by the apex body of Advocates, and will stand with the highest Institution of Justice. We are to save our Constitution and the Democracy. And for that purpose, the independence of Judiciary, creation of a fearless atmosphere for the smooth discharge of functions by our Judges, would be first and foremost necessity.

Bar solicits the support of every citizen in this regard.

Thanking you,

  
(Manan Kumar Mishra)  
Chairman  
Bar Council of India.