



# Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820  
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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## Is Justice always equivalent to the change in society? (In Case of MJ Akbar v Priya Ramani)

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*Received* 24 July 2022; *Accepted* 21 August 2022; *Published* 23 August 2022

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*The ongoing battle between the Right to Reputation and women's respect and dignity in society is the dilemma courts confronted while delivering their judgment. Dealing with external factors like social & political suspects over executing the outcome in regards to proving social solidarity in the country is a challenging job for the courts too. At the time of sexual abuse and harassment, men accuse women of harming their prestige and standing in society whereas sexual harassment becomes invisible as a result, and women's voices are suppressed and discredited in society. The court's verdict highlights that a woman's right to life and dignity cannot be safeguarded at the expense of her reputation. The significance of reviewing the judgment ensures that time has no bearing on a woman's right to speak out about her rights through the help of #MeTooMovement. And according to the Ramani decision, a woman cannot be punished for speaking out against sexual harassment in the guise of a criminal charge of defamation, because the right to reputation cannot be preserved at the detriment of the right to life and dignity guaranteed by Article 21 of the Constitution. The paper tries to understand the complexities of the case despite providing justice to the victim still which factors make it hierarchical and patriarchal. The research helps the readers to ensure power discrepancy in society and judicial conscience.*

**Keywords:** *sexual harassment, metoo movement, defamation, patriarchy, women's rights.*

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## INTRODUCTION

This research focuses on the understanding of the complex and unveiling interactions and intersections between society and the institution of law. So comprehending the infamous judgment of 2021 *Mobashar Jawed Akbar v Priya Ramani*<sup>1</sup> leaves a deep imprint on Indian society and polity as well. So, introducing the analysis of the verdict based on subsequent and periodical social changes takes place in society. The judgment is pretty recent but its thoughts are stagnant, regressive, and patriarchal.

The case depicts the conflict between two parties MJ Akbar (*complainant*) is a Right-wing Politician and was a Minister of State in External Affairs and a Member of Parliament. He is the editor-in-chief and a renowned Indian journalist and on the other side, Priya Ramani (*defendant*) is also a veteran journalist by profession. The issue revolves around whether the criminal defamation charges were averred by an accused using the way tweets, articles, social media, etc for damaging and defaming Akbar were false and defamatory. Ramani also put accusations against Akbar, her boss, of sexual harassment and obscene acts that took place during her working time in 1993 concerning the #MeTooMovement. The relevance of comprehending this case in society is to understand the multiple contestations behind the courts' judgement based on the role of power dynamics and feminist ideologies and also explore various audacities used by the courts to ensure judicial and constitutional morals in society.

## RESEARCH OBJECTIVE

- To know about the need for reviewing the judgement based on the scenario of women's dignity and respect in India.
- To highlight the importance of judgement concerning political and social affairs.
- To study the patriarchal and hierarchical nature of courts and the role of power dynamics in ensuring fair justice.

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<sup>1</sup> *Mobashar Jawed Akbar v Priya Ramani* (2021) Complaint Case No. 05/2019

- To acknowledge the judicial process and the court's framework in protecting the rights of women despite the patriarchal mindset of society.
- To analyse the paternalistic behaviour of courts and irrelevant text used in the timeline of the case.

## RESEARCH METHODOLOGY

The research will be entirely based on secondary sources. The secondary method used by the researcher will be newspaper articles and periodicals. It also focused on online sources, websites, books, magazines, and journals to establish authentic research.

## RESEARCH QUESTION

- Does Law challenge the Systemic Structure while giving Justice in favour of Women?
- can a Judicial verdict alone work in favour of Women in Indian society?

## REVIEW OF LITERATURE

Critically analysing the law and assessing its impact on society by using extensive secondary sources. Reviewing the case '*Mobasher Jawed Akbar v Priya Ramani on 17 February 2021 DLCT12-000025-2019*' is a reading of socio-legal aspects through a deep analysis of judgement given by the honourable Delhi High court. The paper lays down the connections and contradictions between reputation and women's dignity and how it is still relevant in present times of the legal realm. The researcher also examines the newspaper articles and journals to comprehend the significance of the verdict that is progressive but highlights the courts as regressive in delivering justice. '*MJ Akbar v Priya Ramani: Reading between the lines of the Ramayana tales cited by the judge*' is an article by Madhavi Menon that gives an elaborate account of understanding the court's behaviour towards sexuality and nationalism as a cause of concern despite the judgment being socially and legally sound.

## LAW AND SOCIETY

The birth and growth of sociology in society have given a new orientation to the study of law. Behind all legal aspects, there are sociological principles, theories, and methods. In the controversial case of *Mobashar Jawed Akbar v Priya Ramani*<sup>2</sup> the two years, three judges and a 91-page judgment leave no stone unturned to treat the asymmetry of patriarchal power in society. The sociological approach towards legal problems might be able to assert its social progressiveness in society but ends up highlighting the judgement as sexually dubious and having the political suspect over it. All these years later the world has changed but the judgements, legal decisions, and court's discretion towards women, in general, reflect the same connotations only focusing on providing fair justice and not actual respect which means the actual change in a systematic structure like patriarchy.

The connection between law and society is both interdisciplinary as well as multidisciplinary; for example, in present political realities, society has various frameworks i.e., all varieties of people that are trying to dismantle the natural society's balance, that is where the law finds its resilience in recovering the tenderness of dissent in societies and getting people around each other collectively. And reading through the Indian historic moment '#Metoomovement' in which law helps in preventing abuse against women and framing legislation in policing the desire of society in safeguarding the interest in the wider view.

The paralegal functioning of the law along with its social changes plays an important role in determining the sources of extinguishing the idea of structural functionalism toward women in society. Social factors like reputation, professional degree, status, and social networking reflect in courts judgment very often and likewise in our case, attack social solidarity and are contrary to fundamental social norms formed for women. Therefore, the purpose of law on societal development is to secure the satisfaction of human wants but more repeatedly the law focuses on the will of the predominant man and the collective opinion of the society which shows the opportunity of disregarding the interest of women.

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<sup>2</sup> Mobashar Jawed Akbar (n 1)

## **#METOO MOVEMENT: A RESULT OF SEXUAL HARASSMENT AGAINST WOMEN**

The #MeToomovement emerges from the perspective of women and issues the intersectionality of women's ramifications from unwarranted dominance prevailing within the society. In this context, our victim Priya Ramani came forwards in the MeToomovement which provided her with a safe platform to discuss her sexual harassment by accusing the so-called famous personality, Akbar after 20 years of the incident. John, Priya's lawyer also said that as many as 14 women have also made similar allegations against Akbar. *"Silence can't refute her truth"* The observation was done with open-ended and closed-ended questions to assess awareness of the MeToo Movement, by exploring the subject of sexual harassment, and obtaining opinions on social media as a venue for sharing sexual harassment incidents. The concrete reason for picking this case was that it was one of the most recent arguments, put up forward by the aggrieved women who suffered at different ages in their lives despite being quiet for most of their existence. Viewing this controversial judgment and sensitive movement highlights the judicial conscience linked with law-keepers and the courts. Priya Ramani's case expresses solidarity toward females with the rise of the #Metoo Movement against sexual assault, sexual harassment, and sexual abuse anywhere.

## **IS CRIMINAL DEFAMATION A KEY TO SUCCESS FOR MJ AKBAR?**

The lack of a mechanism to address the issue of sexual harassment filed by the victim in 2018 by stating the facts, *"She disclosed the truth regarding the incident of sexual harassment took place against her at the Oberoi hotel, Bombay in December 1993, putting forward the allegation against Akbar."* shows the bureaucracy of law by contemplating the issue and saying what makes the victim come forward after 20 years putting the accusation by the way of tweets and publishing articles in social media, print media and online. She reiterated identical reasons in response to such bogus questions taken up by the court: fear of familial opposition to their work, loss of economic independence, lack of institutional support or grievance redress mechanisms, and internalized societal attitude that "quiet is a virtue."

In charge of this, MJ Akbar filed a criminal defamation case in opposition to Ramani for deteriorating and damaging his reputation in society by using Section 499<sup>3</sup> of the Indian Penal Code as applicable. Analyzing the role of power dynamics in society is still significant and relevant to a great extent. The big picture of the case shows how the minister of state external affairs overpowered and exploited the interest of women just for the sake of his steady reputation and status in society. The card of defamation used by Akbar over the ambitious and hardworking journalist is a move of using authority and control over the powerless and incapable of getting justice when their position in society is weak and they are entitled to get sympathy from the courts. The idea of defamation is retrospective and deriding the courts from their jurisdiction of providing justice to women who came forward in the #MeToo movement against the misconduct and misbehaviour contended by men in the society. The scandalous controversy and impugned judgement will never end up favouring the accused and also acquitted Ramani for false defamatory charges produced against her with aim of protecting the wider interest of women but supporting them through patriarchal and mythological texts shows the court's progressiveness in general.

#### **CHAPTER 4: WORKPLACE SEXUAL HARASSMENT**

Women and the workplace are one of the never-ending problems in society despite the multiple opportunities and provisions in the organisations, still, the workforce of women constitutes less than that of men i.e., 25%. This is because invisible authorities and power rest in the hands of senior officials and a lack of concern in protecting the employees, especially females, shows the insecurities of the organization in losing their reputation and brand name. MJ Akbar's reputation and his position of dominance in the workplace are one of the reasons for stepping down Priya and 14 other women in 1993. Sexual harassment must be treated with zero tolerance by all organizations either big or small. No matter how high up the pecking order the perpetrator is or how low down the victim is on the pecking order, the policy should be to act on instances of sexual harassment with an iron hand (Paul, 2021) without questioning the intention of the victim coming forward no matter after decades, because 'scars of crime

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<sup>3</sup> Indian Penal Code, 1860, s 499

remain always over the victim's head'. Workplace sexual harassment overhaul and intensifies the fear among women lacking the intimidation of using the courts as a priority for social justice.

Priya's<sup>4</sup> and Vishakha's case<sup>5</sup> in 2013 introduced the need for immediate guidelines for *Sexual harassment in the workplace* as a serious problem. This prompted the enactment of the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("POSH")*, which allows women to complain about sexual abusers and deviants directly through their *Workplace's Internal Committee ("IC")* rather than going to judicial bodies. Back in 1993, the lack of statutes and legal provisions instigated the victim to register a case in the inaccessible courts for women and in general. The masculine toxicity in the workplace is evident in the predatory behaviour of MJ Akbar over his women employees also, ushering over females in the middle of the room. It portrays how the allegation of Ramani inclusively changed and involved Indian women v MJ Akbar in society and highlights the delinquency of the accused towards the woman.

## **CHAPTER 5: IS COURT JUDGMENT PROGRESSIVE OR REGRESSIVE IN NATURE?**

Both legally and socially, the decision is liberal and progressive. However, the judgment views on jingoism and eroticism are problematic. The majority of the 91-page verdict is devoted to the prosecution and defence arguments; Chief Justice's decision is barely six and a half pages long and his ideas on providing fair justice in favour of women are perpetuated by the paternalistic behaviour of the courts for protecting the female victim by blindly supporting feminist ideology. This manifests that women in society can never be independent in their thoughts and lifestyle. Even when a woman is an adult, the control of the patriarch remains; it merely shifts from the father to the husband and in cases of sexual harassment to the courts. The case instigates how efficiently courts helped the victim by ensuring a lack of prejudice but miserably fails to provide freedom of thought and expression to women in Indian society. The

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<sup>4</sup> Mobashar Jawed Akbar (n 1)

<sup>5</sup> *Vishaka & Ors v State Of Rajasthan & Ors.*, (1997) 6 SCC 241

case also sheds light on how differently through its verdict they expressed solidarity by citing mythological text showing it as 'social concern –

*"Unfortunately, acts of crime and violence against women are occurring in the country where great epics such as the Mahabharata and Ramayana were created around the topic of respect for women (Menon, 2021)." According to the well-informed judge, "respect for women" is one of the Ramayana's theme. Is this not the same scripture that says Sita will be rejected because she carries "The Shame," as the judge puts it? Or isn't this the novel in which Sita is sorely tested of fire to show her sexual virtuosity? Or aren't these the same chapters where Sita, although clearing the trial, is an outcast because she can't halt the citizens' irrational fears? And this is a text that the court praises for its "feminism"? In which universe does it exist? The court's unanimity towards women is visible but its attitude to sexuality is of concern.*

The oppressive tone of the Ramayana's Sita story is likewise hard to swallow for Indian women today. In this case, the ruling should have praised the fact that it stopped a prominent man from tormenting a woman. Instead, the magistrate chose to base his decision on one of Indian mythology's most traditional interpretations. 'As a legal scholar, *RatnaKapur* has noted about 'sexual harassment laws in general, their puritanical cast inevitably makes them more about sexuality, and less about harassment.' To put it another way, they become techniques of disproportionately policing desire while failing to prevent its exploitation and it can be put forward by the paternalistic nature of the courts.

## **POLITICAL AFFINITIES LINKED WITH THE TIMELINE OF MJ AKBAR *v* RAMANI CASE**

The leading case supposedly left no chance to enter into the political domain and indirectly the court's judgment exclusively needs to figure out if the decision is a victory for feminism or yet another communalism<sup>6</sup>. Is it more likely that Ramani won because she was correct or because she was up against a Muslim? Admittedly, the government has repeatedly proved its

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<sup>6</sup> Madhavi Menon, 'MJ Akbar vs Priya Ramani: Reading between the lines of the Ramayana tales cited by the judge' (*Scroll*, 21 February 2021) <<https://scroll.in/article/987470/mj-akbar-vs-priya-ramani-reading-between-the-lines-of-the-ramayana-ales-cited-by-the-judge>> accessed 16 July 2022



determination to stigmatise Muslim men in society. The *Muslim Women (Protection of Rights in Marriage) Act of 2019*<sup>7</sup> (which this judge happily praises as an example of a progressive India), as well as the spectre of "love jihad," are mostly just two instances of this government's outlawing objectives. This judgement has a community flavour of paternalistic gender biases. This is a common occurrence in right-wing India, where patriarchy and communalism are both actively promoted and shown up through the verdict. The complainant was a member of the current government's cabinet of ministers, which is hilarious in this regard, and also got charged with sexual harassment. This determines the role of ideologies and intentions of the court on the behalf of the referring to this as the Hindu state.

Thus, the result of the political suspect in the case of *MJ Akbar v Priya Ramani* interprets that women are inexorably pushed to the bottom of the hierarchy and stratification by our lawkeepers. Perhaps it is not a mere coincidence that *MJ Akbar* has borne the brunt of prevalent communalism in India and if the plaintiff was not from the Muslim community the court judgement could have taken a different turn.

#### **EPILOGUE IN THE MATTER OF MJ AKBAR *v* PRIYA RAMANI**

The conclusion is well aware of its biases over preserving steering reputation while delivering protection to women against sexual harassment at the same time. The role of power structures plays a significant role in portraying the cerebral powers that vests in one of the hands that have an edge over the other. The ability to analyze the verdict logically and critically as a researcher helps to comprehend the patriarchal hegemony that exists and how the power dynamics we witnessed between *MJ Akbar and Priya Ramani* may sound conventional but involve absolute genuine and valid facts. Looking at the components that made the victim raise her voice after 20 years of an incident, this shows her position with regards to professional affinities and obviously, she is a vulnerable group within the society.

The judgment is justified both in terms of legal and social status but what it lacks is reasonable apprehension behind its decision. Protecting the interest of the public and cohesively working

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<sup>7</sup> Muslim Women (Protection of Rights in Marriage) Act, 2019

on women's welfare is not enough in patronizing the song of justice. It must be extensively visible in the connotations and intention of courts to exert themselves in delivering fairness. Sympathizing victims by providing excessive unwanted and irrelevant mythological text for just wavering the idealistic thoughts within society is not a real solution but a rising problem of unrealistic expectations that are linked with the position of women in general. The type of text referred to in this judgement was the patriarchal cast of the tale of Sita in '*Valmiki Ramayana*' in portraying 'respect for women'. But it further facilitates the cultural genealogy by using the conventional approach to derive from modern decisions making which highlights the paternalistic behaviour of courts in asserting powers anyway. Unfortunately, the court's idea of women's empowerment is counterproductive in framing such judgement. Because it is women who are unavoidably pushed to seek protection from the father – courts and male members without any say in making decisions of their life independently.

#### **A WAY FORWARD AND RECOMMENDATIONS: CONCLUDING REMARKS**

All suggestions and recommendations are personal. Ramani's decision is quite encouraging for feminists and social reformers. But, as subjects are trapped in the state's patriarchal and communal goals, we must exercise caution over choosing the authorities. Political and social influence over the verdicts shows the escapism of the authorities rather than working for people; they go indirectly against the public interest in a wider picture. In view of the above discussion, the nature of courts is what we are looking at as a problem, and having a "great reputation" is not a guarantee of anything. Courts welcoming intervention are highly hierarchical and stratified. The judgement is both progressive and regressive at the same time.

The key suggestion of the researcher is that courts should be more mindful of their thoughts and should avoid using context that rather reflects the way for a social change no matter how justified the court's decision is in terms of delivering justice. Apart from similar judgments, society requires a cultural revolution in which women are treated equally, fairly, and even with respect. The larger aim of the judicial system should be to facilitate change in the mentality of people such that institutions like patriarchy can be uprooted from the ground level and women's empowerment comes through critical thinking from the courts as well.