

A VERDICT THAT HAS ENDED A LONG SILENCE

Relevant for: Developmental Issues | Topic: Rights & Welfare of Women - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

The [acquittal of Priya Ramani](#), a journalist, on a complaint of criminal defamation by former Union Minister M.J. Akbar has come as a vindication to a long line of women who have not been taken seriously earlier when they have alleged sexual harassment. Many an allegation has often remained unvoiced for fear of ridicule, shaming, or on grounds of sheer financial necessity. There have also been those who feel that anything short of rape or outraging a woman's modesty is not actionable. That long silence has now been broken by this verdict. A powerful man's predatory past has caught up with him, when a not-so-powerful victim chose to come forward with her story and even at the risk of imprisonment, turned down suggestions of a compromise and persisted with telling her truth.

The story begins in December 1993 when the very term sexual harassment was rather unknown. Ms. Ramani, then 23, was being interviewed for a job by the then 43-year-old celebrity editor, at 7 in the evening, in a five-star hotel, the Oberoi, in Mumbai. Rather than having a meeting in the lobby that she was expecting, she was surprised to be called up to the man's room. She says, "It was more date, less interview. You offered me a drink from the mini bar (I refused, you drank vodka), we sat on a small table for two that overlooked the Queen's Necklace (how romantic!) and you sang me old Hindi songs after inquiring after my musical preferences. You thought you were irresistible. The bed, a scary interview accompaniment, was already turned down for the night. Come sit here, you said at one point, gesturing to a tiny space near you. I'm fine, I replied with a strained smile. I escaped that night, you hired me, I worked for you for many months even though I swore I would never be in a room alone with you again."

Also read | [My victory belongs to everyone who spoke up during the #MeToo movement, says Priya Ramani](#)

This account from [her article](#) dated October 12, 2017 in *Vogue India*, did not name Mr. Akbar, who since June 2016, was a Minister of State, in the Ministry of External Affairs. However, on October 8, 2018 Ms. Ramani put out on Twitter "I began this piece with my MJ Akbar story. Never named him because he didn't 'do' anything. Lots of women have worse stories about this predator maybe they'll share." A media storm followed which forced [Mr. Akbar to resign his position as a Minister](#) on October 17, 2018. The next day, he filed a criminal complaint for defamation against Ms. Ramani for her article and her tweets.

The law of criminal defamation is premised on a person's right to a reputation. Making or publishing "any imputation concerning any person, intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person", is criminal defamation. Mr. Akbar alleged that Ms. Ramani's allegations, "by their very tone and tenor, are *ex facie* defamatory and had not only damaged the complainant's goodwill and reputation in his social circles and on the political stage, which was established after years of toil and hard work but also had affected the personal reputation of complainant in the community, friends and colleagues, thereby caused him irreparable loss and tremendous distress."

Ms. Ramani premised her defence on the First Exception to Section 499 which postulates that "It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published." She also relied upon the Ninth Exception which says that, "It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of

the person making it, or of any other person, or for the public good.”

Editorial | [Defamation as crime: On the acquittal of Priya Ramani](#)

The Third Exception was also pressed into service saying: “It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct” Thus Ms. Ramani’s lawyers, led by Rebecca John, “plead[ed] truth as her defence, made in good faith, in public interest, and for public good”. They “also contended that [the] complainant is not a man of stellar and impeccable reputation and [the] accused did not defame him by publishing the tweets and article”.

What seems to have turned the case is the testimony of witnesses produced by Ms. Ramani in her defence. Her friend, [Niloufer Venkataraman, corroborated](#) that Ms. Ramani had narrated the incident to her soon after it had occurred. The journalist, [Ghazala Wahab](#), who had also worked with Mr. Akbar at a later point of time, narrated her own horrifically detailed experience of harassment by him. Relying on these witnesses, the court accepted the “defence of the accused that she disclosed the truth regarding the incident of sexual harassment against her at the Oberoi Hotel, Bombay in December 1993 on the basis of testimony of accused DW1 and its corroboration by the testimony of DW2 Niloufer Venkataraman. The Court also accepts the contention of the accused that the complainant is not a man of stellar reputation on the basis of testimony of accused DW1 and testimony of DW3 Ghazala Wahab.” The judgment has thus ruled that Ms. Ramani spoke the truth, and that Mr. Akbar had a pre-existing tarnished reputation which had been exposed for the public good.

Also read | [Lawyers, activists hail ‘historic’ judgement acquitting Priya Ramani](#)

Many have wondered why the acquittal on a charge of defamation by a victim of sexual harassment is being celebrated when the alleged perpetrator has faced no criminal prosecution at all. The answer is that this judgment shines like a good deed in a naughty world when contrasted against a series of cases where the legal process has failed to bring closure and justice to women complainants.

In the Mathura rape case of 1978, the Supreme Court’s acquittal of the policeman, Tukaram, earned it a stinging rebuke from legal scholars that “consent involves submission, but the converse is not necessarily true”. A decade later, in 1988, IAS officer Rupan Deol Bajaj prosecuted Punjab’s [super-policeman K.P.S. Gill](#), for outraging her modesty. Mr. Gill’s conviction was maintained right up to the Supreme Court but he was released on probation and suffered no imprisonment.

Two years later, in 1990, S.P.S. Rathore, another senior policeman in the neighbouring State of Haryana, tried to force himself on a 14-year-old tennis player. When the girl and her family complained to the authorities, a targeted pattern of vengeance and harassment followed which led to her death by suicide. Nevertheless, even after a prolonged uproar, in 2016, [Mr. Rathore got away in the Supreme Court](#), with a six-month term of imprisonment already undergone, in view of his advanced age. The founder-editor of a magazine, Tarun Tejpal’s trial for an alleged digital rape, in 2013, of his subordinate in a hotel lift, is still [pending trial in a court in Goa](#).

By rarely visiting retribution upon the perpetrators, the legal process has hitherto yielded little in terms of relief to the victim. Against all odds, the sight of Ms. Ramani and Ms. Rebecca John triumphing in court may come to be a defining image in India’s long walk towards respecting female sexual autonomy. Many more women will now be emboldened to resist harassment at the workplace and elsewhere. Hopefully a few men are now deterred from trading power and

position to secure sexual favours. Mr. Akbar may yet file an appeal and the wheels of justice may yet be kept grinding, but Ms. Ramani today stands tall and vindicated.

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