

# Saket Gakhar And Others vs State (Govt Of Nct) Of Delhi And Anr on 6 January, 2022

**Author: Anu Malhotra**

**Bench: Anu Malhotra**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 46/2022

SAKET GAKHAR AND OTHERS ..... Petitioners  
Through: Mr.Mohit Batra, Advocate

versus

STATE (GOVT OF NCT) OF DELHI AND ANR ..... Respondents  
Through: Ms.Manjeet Arya, APP for State with  
SI Garima Bhatia  
Ms.Aanchal Budhraj, Advocate for  
R-2 with R-2 in person.

CORAM:  
HON'BLE MS. JUSTICE ANU MALHOTRA  
ORDER

% 06.01.2022 (Through Video Conferencing) Exemption allowed, subject to just exceptions.

Vide the present petition, the petitioners No.1 to 3, seek quashing of the FIR no. 102/2019, Police Station Mukherjee Nagar under Sections 498A/406/34 of the Indian Penal Code, 1860 submitting to the effect that a settlement has since been arrived at between the parties vide a settlement agreement dated 12.1.2021 pursuant to which the marriage between the petitioner No.1 and the respondent No.2 has also been dissolved vide a decree of divorce through mutual consent under Section 13 B (2) of the Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:07.01.2022 14:25:48 This file is digitally signed by PS to HMJ ANU MALHOTRA.

Hindu Marriage Act, 1955 vide decree dated 7.9.2021 in HMA No. 986/2021 of the Court of the Judge, Family Courts, Rohini North, Delhi and that all claims of the respondent No.2 stand settled and no useful purpose would be served by the continuation of the proceedings qua the FIR in question.

The Investigating Officer of the case is present and has identified the petitioners 1 to 3 present in Court today through Video Conferencing as being the three accused arrayed in the case FIR no. 102/2019, Police Station Mukherjee Nagar under Section 498A/406/34 of the Indian Penal Code,

1860 and the respondent No.2 present in the Court today through Video Conferencing as being the complainant thereof.

The respondent No.2 in her deposition on oath in replies to specific Court queries, has affirmed having signed her affidavit dated 14.12.2021 as well as the settlement agreement dated 12.1.2021 between the parties voluntarily of her own accord without any duress pressure or coercion from any quarter. She submits that in terms of the settlement arrived at between her and the petitioners she has received a sum of Rs.33 lacs from the petitioners of which a sum of Rs.31,50,000/- has been received by her previously and the balance sum of Rs.1,50,000/- has been received by her today vide a demand draft bearing No. 005591 dated 06.01.2022 drawn on State Bank of India in her favour and that there are now no claims of hers left against the petitioners. She also affirms the factum of the dissolution of the marriage between her and the petitioner No.1 vide a decree of divorce through mutual consent under Section 13B(2) of the Hindu Marriage Act, 1955 dated 7.9.2021 in HMA No. 986/2021 of the Court of the Judge, Family Courts, Rohini North, Delhi. She further states that in term of the Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:07.01.2022 14:25:48 This file is digitally signed by PS to HMJ ANU MALHOTRA.

settlement arrived at between her and the petitioner the minor child born of the wedlock between her and the petitioner No.1, named Lovish Gakhar is in her custody.

Inter alia the respondent No.2 states that she does not oppose the prayer made by the petitioners seeking the quashing of the FIR no. 102/2019, Police Station Mukherjee Nagar under Section 498A/406/34 of the Indian Penal Code, 1860 nor does she want the petitioners 1 to 3, Saket Gakhar, Vijay Gakhar and Swati Arora to be punished in relation thereto. She states that she has made her statement voluntarily of her own accord without any duress pressure or coercion from any quarter.

Inter alia the respondent No.2 states that she is a graduate and has understood the implications of the statement made by her and does not want to think again.

On behalf of the State, there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in question in view of the settlement arrived at between the parties and the deposition made by the respondent No.2.

There being no reason to disbelieve that statement of the respondent No.2 that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress pressure or coercion from any quarter and the factum that marriage between the petitioner No.1 and the respondent No.2 has since been dissolved vide a decree of divorce through mutual consent making it apparent that the FIR has emanated due to a matrimonial discord between the petitioner No.1 and the respondent No.2 which has since been resolved vide a decree of divorce through mutual consent aforementioned, it is considered appropriate to put a quietus to the litigation Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:07.01.2022 14:25:48 This file is digitally signed by PS to HMJ ANU MALHOTRA.

between the parties qua the FIR in question and for the maintenance of peace and harmony between them in view of the observations in the verdict of the Hon ble Supreme Court in Gian Singh vs. State of Punjab & Another, (2012) 10 SCC 303, to the effect : -

"58..... No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:07.01.2022 14:25:48 This file is digitally signed by PS to HMJ ANU MALHOTRA.

case will depend on its own facts and no hard-and-fast category can be prescribed." [Refer to B.S. Joshi, (2003) 4 SCC 675; Nikhil Merchant, (2008) 9 SCC 677 and Manoj Sharma, (2008) 16 SCC 1.]"

and in view of the verdict of the Hon ble Supreme Court in Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr. (2013) 4 SCC 58, to the effect : -

"15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non- compoundable, if they relate to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

16. There has been an outburst of matrimonial disputes in recent times. They institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising their extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the Court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of process of court or that the ends Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:07.01.2022 14:25:48 This file is digitally signed by PS to HMJ ANU MALHOTRA.

of justice require that the proceedings ought to be quashed...."

(emphasis supplied), FIR no. 102/2019, Police Station Mukherjee Nagar under Section 498A/406/34 of the Indian Penal Code, 1860, and all consequential proceedings emanating therefrom are thus quashed against the petitioners 1 to 3, namely Saket Gakhar, Vijay Gakhar and Swati Arora.

However it is essential to observe that despite quashing of the FIR as directed herein above despite the terms of settlement that have been detailed in the settlement agreement dated 12.1.2021 vide Clause „d which reads to the effect:

"d. That the first party shall not claim any maintenance for child namely Lovish from the second party and shall not claim any right, title or interest in the property of the second party or his family members. That the permanent custody of the child namely Lovish will remain with the first party and the second party shall not have any visitation or custody rights towards the child in future."

whereby thus respondent no.2 has stated that she would not make any claim for maintenance for the child Lovish from the second party and shall not claim any right, title or interest in the property, it is essential to observe that the said agreement and the quashing of the FIR in question cannot amount to any embargo to the minor child born of the wedlock between the petitioner No.1 and the respondent No.2 seeking his right qua maintenance or otherwise in accordance with law in terms of the verdict of the Ganesh V. Sudhir Kumar Shrivastava & Ors.; Civil Appeal Nos. 4031-4032/2019 arising out of SLP(C) Nos. 32868-32869/2018 as adhered to and followed by this Court in Rakesh Jain & Ors. v. State and Anr. in Crl.M.C. No.2935/2019.

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The petition is disposed of.

ANU MALHOTRA, J JANUARY 6, 2022/SV Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:07.01.2022 14:25:48 This file is digitally signed by PS to HMJ ANU MALHOTRA.

IN THE HIGH COURT OF DELHI, NEW DELHI SAKET GAKHAR V. STATE & ANR.

CW-1 SI GARIMA BHATIA Police Station MUKHERJEE NAGAR ON S.A. I am the Investigating Officer of the case FIR no. 102/2019, Police Station Mukherjee Nagar under Section 498A/406/34 of the Indian Penal Code, 1860. I identify the petitioners No. 1 to 3, namely, Saket Gakhar, Vijay Gakhar and Swati Arora as being the three accused present in the Court today through Video Conferencing arrayed in FIR no. 102/2019, Police Station Mukherjee Nagar under Section 498A/406/34 of the Indian Penal Code, 1860. I also identify the respondent No.2 present in the Court today through Video Conferencing as being the complainant of the FIR in question.

ANU MALHOTRA, J RO & AC 06.01.2022 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:07.01.2022 14:25:48 This file is digitally signed by PS to HMJ ANU MALHOTRA.

IN THE HIGH COURT OF DELHI, NEW DELHI SAKET GAKHAR V. STATE & ANR.

CW-2 GEETA SAPRA D/O SH. PREM NATH SAPRA R/O H. NO. 150 2ND FLOOR (LEFT SIDE) HAKIKAT NAGAR, G.T.B. NAGAR, DELHI-110009, AGED 38 YEARS.

ON S.A. My affidavit dated 14.12.2021 bears my signatures thereon and the settlement agreement dated 12.1.2021 bears my signatures thereon which I have signed voluntarily of my own accord without any duress pressure or coercion from any quarter. In terms of the settlement arrived at between me and the petitioners I have received a total sum of Rs.33 lacs from the petitioners of which a sum of Rs.31,50,000/- has been received by me previously and the balance sum of Rs.1,50,000/- has been received by me today vide a demand draft bearing No. 005591 dated 06.01.2022 drawn on the State Bank of India in my favour. There are now no claims of mine left against the petitioners. The marriage between me and the petitioner No.1 has since been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the Hindu Marriage Act, 1955. dated 7.9.2021 in HMA No. 986/2021 of the Court of the Judge, Family Courts, Rohini North, Delhi. The minor child, Lovish Gakhar born of the wedlock between me and the petitioner no.1 is in my custody. There are now no claims of mine left against the petitioners and thus I do not oppose the prayer made by the petitioners seeking the quashing of the FIR no. 102/2019, Police Station Mukherjee Nagar under Section 498A/406/34 of the Indian Penal Code, Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:07.01.2022 14:25:48 This file is digitally signed by PS to HMJ ANU MALHOTRA.

1860 nor do I want them to be punished in relation thereto.

I am a graduate. I have made my statement after understanding its implications and I do not want to think again. I have made my statement voluntarily of my own accord without any duress pressure or coercion from any quarter ANU MALHOTRA, J RO & AC 06.01.2022 Signature Not Verified

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