

# Amit Jain & Ors vs State Of Nct Of Delhi & Anr on 27 November, 2020

**Author: Anu Malhotra**

**Bench: Anu Malhotra**

\$~27

\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ CrI.M.C. No. 2322/2020 & CrI.M.A. 16401/2020

AMIT JAIN & ORS. . . . . Petitioners  
Through: Mr. Neeraj Gupta, Advocate  
With petitioners in person.

versus

STATE OF NCT OF DELHI & ANR. . . . . Respondents  
Through: Mr.Sanjeev Sabharwal, APP for State  
With SI Mahender Pratap  
Mr.Varun Mittal and Mr.Prateek  
Goswami, Advocates for R-2 with R-  
2 in person.

CORAM:  
HON'BLE MS. JUSTICE ANU MALHOTRA  
ORDER

% 27.11.2020 (Through Video Conferencing) Vide the present petition, the petitioners No.1 to 6, namely Amit Jain, Ram Gopal Jain, Trishla Jain, Rahul Jain, Poonam Jain and Suman Jain seek quashing of the FIR No. 186/2013, Police Station Adarsh Nagar registered under Sections 406/498A/34 of the Indian Penal Code, 1860 submitting inter alia to the effect that a settlement has since been arrived at between the parties vide a settlement agreement dated 9.2.2015 at the Delhi Mediation Centre, Rohini District Courts, pursuant to which the petitioner No.1 and the respondent No.2 are living together peacefully without any problems now and that they have been living together for the last 5 ½ years and that they also have two children born of the wedlock, a daughter aged Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.11.2020 20:26:50 This file is digitally signed by PS to HMJ ANU MALHOTRA.

14 years and a son aged 20 months .

The Investigating Officer of the case is present and has identified the petitioners present in Court today through Video Conferencing as being the three accused arrayed in the FIR No. 186/2013, Police Station Adarsh Nagar registered under Sections 406/498A/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 who is also identified by her learned counsel whose vakalatnama is placed on

the record.

The respondent No.2 in replies to specific Court queries on oath has affirmed the factum of settlement arrived at between her and the petitioner No.1 and stated that in terms of the settlement arrived at between her and the petitioner No.1 she is now living peacefully with the petitioner No.1 for the last 5 ½ years and that she wants to continue to live with the petitioner No.1 and thus does not oppose the prayer made on behalf of the petitioners seeking quashing of the FIR No. 186/2013, Police Station Adarsh Nagar registered under Sections 406/498A/34 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto. Inter alia she states that she has made her statement voluntarily of her own accord without any duress, pressure or coercion from any quarter and states that she has studied till standard XII and also submitted that she understands the implications of her statement.

On behalf of the State, in view of the deposition of the respondent No.2 there is no opposition to the prayer made by the petitioners seeking quashing of the FIR in as much as the FIR has Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.11.2020 20:26:50 This file is digitally signed by PS to HMJ ANU MALHOTRA.

apparently emanated from a matrimonial discord which has apparently been resolved with the petitioner No.1 and the respondent No.2 living together, it is considered appropriate for the maintenance of peace and harmony between them and for the wellbeing of their children of the petitioner No.1 and the respondent No.2 to put a quietus to the litigation between the parties 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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.11.2020 20:26:50 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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 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 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.11.2020 20:26:50 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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

(emphasis supplied), in view thereof the FIR No. 186/2013, Police Station Adarsh Nagar registered under Sections 406/498A/34 of the Indian Penal Code, 1860, and all consequential proceedings emanating therefrom against the petitioners are thus quashed.

The petition is disposed of.

ANU MALHOTRA, J NOVEMBER 27, 2020/SV Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.11.2020 20:26:50 This file is digitally signed by PS to HMJ ANU MALHOTRA.

IN THE HIGH COURT OF DELHI AT NEW DELHI AMIT JAIN & ORS V. STATE OF NCT OF DELHI AND ANR.

27.11.2020.

CW-1 SI MAHENDER PRATAP PS ADARSH NAGAR I identify the petitioners No.1 to 6 namely Amit Jain, Ram Gopal Jain, Trishla Jain, Rahul Jain, Poonam Jain and Suman Jain present in the Court today through Video Conferencing as being the six accused arrayed in the FIR No. 186/2013, Police Station Adarsh Nagar registered under Sections 406/498A/34 of the Indian Penal Code, 1860. I also identify the respondent No.2 Shweta Jain present in the Court today through Video Conferencing as being the complainant of the FIR in question.

ANU MALHOTRA, J RO & AC 27.11.2020 Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.11.2020 20:26:50 This file is digitally signed by PS to HMJ ANU MALHOTRA.

IN THE HIGH COURT OF DELHI AT NEW DELHI AMIT JAIN & ORS V. STATE OF NCT OF DELHI AND ANR.

27.11.2020.

CW-2 MS.SHWETA JAIN W/O AMIT JAIN AGED 38 YARS R/O K-31/38, MODEL TOWN, DELHI On S.A. In view of the settlement I am residing with the petitioner No.1 peacefully for the last 5 1/2 years. I have two children born of the wedlock between me and the petitioner No.1, a daughter aged 14 years and a son aged 20 months. I want to continue to live with the petitioner No.1 and as long as I am living peacefully and without any problems from petitioner Nos. 1 to 6 now I do not oppose the prayer made by the petitioners No. 1 to 6 seeking quashing of the FIR No. 186/2013, Police Station Adarsh Nagar registered under Sections 406/498A/34 of the Indian Penal Code and as such I state voluntarily of my own accord without any duress, pressure or coercion from any quarter nor do I want them to be punished in relation thereto. I so state voluntarily of my own accord without any duress, pressure or coercion from any quarter.

I have studied till standard XII and I have understood the implications of the statement made by me.

ANU MALHOTRA, J RO & AC 27.11.2020.

Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:27.11.2020 20:26:50 This file is digitally signed by PS to HMJ ANU MALHOTRA.