

# Rahul & Ors vs The State Of Govt Of Nct Of Delhi & Anr on 4 January, 2021

**Author: Anu Malhotra**

**Bench: Anu Malhotra**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P. (CRL) 2/2021

RAHUL & ORS.

..... P

Through: Petitioners in person with Mr.A  
Singh, Advocate.

Versus

THE STATE OF GOVT OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr.R.S.Kundu, ASC for State wit  
Parasram.

HON'BLE MS. JUSTICE ANU MALHOTRA  
ORDER

% 04.01.2021 (hearing through Video Conferencing) The petitioners, vide the present petition seek the quashing of the FIR No.240/2018, PS Vijay Vihar under Sections 498A/406 of the Indian Penal Code, 1860 submitting to the effect that a settlement has since been arrived at between the parties vide a settlement deed dated 28.01.2020 pursuant to which the marriage between the petitioner no.1 and the respondent no.2 has since been dissolved vide a decree of divorce through mutual consent and all claims between the parties stand settled and no useful purpose would be served by the continuation of the proceedings in relation to the present FIR.

The Investigating Officer of the case is present and has identified Signature Not Verified the petitioner nos. 1 to 5 i.e. the petitioner no.1 Rahul, petitioner no.2 Digitally Signed Signing Date:05.01.2021 17:34:27 This file is digitally signed by PS to HMJ ANU MALHOTRA.

Vijender Singh Hatwal, petitioner no.3 Poonam, petitioner no.4 Reshma and petitioner no.5 Archana as being the five accused arrayed in FIR No.240/2018, PS Vijay Vihar under Sections 498A/406 of the Indian Penal Code, 1860 and he has also identified the respondent no.2 Ms. Meenu Monga as being the complainant of the said FIR.

The respondent no.2 in her deposition on oath by the Court in replies to specific Court queries has

affirmed the factum of the settlement arrived at between her and the petitioner no.1 on 28.01.2020 and submits that pursuant thereto, the marriage between her and the petitioner no.1 has been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the HMA, 1955 in HMA Petition No.448/2020 of the Court of the learned Principal Judge, Family Courts, North West, Rohini, Delhi. She has further testified to the effect that in view of the settlement arrived at between her and the petitioner no.1, she does not oppose the prayer made by the petitioner nos. 1 to 5 seeking the quashing of the FIR No.240/2018, PS Vijay Vihar under Sections 498A/406 of the Indian Penal Code, 1860 nor does she want the petitioners to be punished in relation thereto and has further stated that there is child namely Miyansh born of the wedlock between her and the petitioner no.1 is in her custody. She has further stated that in terms of the settlement arrived at between her and the petitioner no.1, she has received the total settled sum of Rs.7 Lakhs, in as much as, the sum of Rs.5 Lakhs had been received by her previously and the balance sum of Rs.2 Lakhs has since been received by her vide demand draft bearing no.852063 dated 07.10.2020 drawn on the Union Bank in her favour and has further stated that there are now no claims of hers left against the petitioners.

The respondent no.2 in reply to specific Court query has further Not Verified Digitally Signed By:SUMIT GHAI Signing Date:05.01.2021 17:34:27 This file is digitally signed by PS to HMJ ANU MALHOTRA.

stated that she is a graduate and has understood the implications of the statement made by her and has further stated that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter.

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

On a consideration of the deposition of the respondent no.2 and there being no reason to disbelieve her statement that she has arrived at a settlement with the petitioners voluntarily of her own accord without any duress, coercion or pressure from any quarter, in as much as, the FIR has apparently emanated from a matrimonial discord which has since been resolved by the dissolution of the marriage between the petitioner no.1 and the respondent no.2, for maintenance of peace and harmony between the parties and for the well being of the minor child, it is considered appropriate to put a quietus to the litigation between the parties in terms of the verdict of the Hon'ble Supreme Court in Narender Singh & Ors. V. State of Punjab; (2014) 6 SCC 466 wherein it has been observed vide paragraph 31(IV) to the effect:-

"31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

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(III) .....

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

....."

and in view of the observations 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 Signature Digitally Signed By:SUMIT GHAI Signing Date:05.01.2021 17:34:27 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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 exercising Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:05.01.2021 17:34:27 This file is digitally signed by PS to HMJ ANU MALHOTRA.

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, FIR No.240/2018, PS Vijay Vihar under Sections 498A/406 of the Indian Penal Code, 1860 and all consequential proceedings emanating therefrom against the petitioner nos. 1 to 5 i.e. the petitioner no.1 Rahul, petitioner no.2 Vijender Singh Hatwal, petitioner no.3 Poonam, petitioner no.4 Reshma and petitioner no.5 Archana are thus quashed.

However, on a perusal of the Memorandum of Understanding dated 28.01.2020, it is indicated that vide Clause 7 of the said agreement it has been agreed between the petitioner no.1 and the respondent no.2 to the effect:-

"7. It has been agreed between the parties that First Party will not claim any maintenance for herself as well as for the minor child in the present as well as in the future.", whereby, thus the respondent no.2 has given up the rights of the minor child

born of the wedlock between her and the petitioner no.1 qua maintenance for present as well as in future, which she cannot give up in terms of the law laid down by the Hon'ble Supreme Court in Civil Appeal 4031-4032/2019 arising out of SLP (C) Nos.32868-32869/2018 titled as Ganesh Vs. Sudhirkumar Shrivastava & Ors. vide the verdict Not Verified Digitally Signed By:SUMIT GHAI Signing Date:05.01.2021 17:34:27 This file is digitally signed by PS to HMJ ANU MALHOTRA.

dated 22.04.2019 as adhered to and followed by this Court in Rakesh Jain & Ors. vs. State & Anr. in CRL.M.C. 2935/2019 dated 06.09.2019.

In view thereof, it is made expressly clear that the quashing of the FIR No.240/2018, PS Vijay Vihar under Sections 498A/406 of the Indian Penal Code, 1860 shall not amount to any embargo on the minor child namely Miyansh born of the wedlock between the petitioner no.1 and the respondent no.2 seeking his claims against the petitioners qua maintenance or otherwise in accordance with law.

The petition is disposed of accordingly.

ANU MALHOTRA, J JANUARY 04, 2021 'neha chopra' Signature Not Verified Digitally Signed By:SUMIT GHAI Signing Date:05.01.2021 17:34:27 This file is digitally signed by PS to HMJ ANU MALHOTRA.

IN THE HIGH COURT OF DELHI: NEW DELHI W.P.(CRL) 2/2021 RAHUL & ORS.  
Versus THE STATE OF GOVT OF NCT OF DELHI & ANR.

04.01.2021 CW-1 ASI Parasram, PS Vijay Vihar.

ON S.A. I identify the petitioner nos. 1 to 5 i.e. the petitioner no.1 Rahul, petitioner no.2 Vijender Singh Hatwal, petitioner no.3 Poonam, petitioner no.4 Reshma and petitioner no.5 Archana as being the five accused arrayed in FIR No.240/2018, PS Vijay Vihar under Sections 498A/406 of the Indian Penal Code, 1860 and I also identify the respondent no.2 Ms. Meenu Monga as being the complainant of the said FIR.

RO & AC  
04.01.2021

ANU MALHOTRA,

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IN THE HIGH COURT OF DELHI: NEW DELHI W.P.(CRL) 2/2021 RAHUL & ORS.  
Versus THE STATE OF GOVT OF NCT OF DELHI & ANR.

04.01.2021 CW-2 Ms.Meenu Monga, D/o Sh.Surender Kumar Monga, aged 25 years,  
r/o C-5/1, Sector-5, Rohini, Near DDA Market, Delhi-110085.

ON S.A. In view of the settlement arrived at between me and the petitioner no.1 on 28.01.2020 pursuant to which the marriage between me and the petitioner no.1 has been dissolved vide a decree of divorce through mutual consent under Section 13B(2) of the HMA, 1955 in HMA Petition No.448/2020 of the Court of the learned Principal Judge, Family Courts, North West, Rohini, Delhi, I do not oppose the prayer made by the petitioner nos. 1 to 5 seeking the quashing of the FIR No.240/2018, PS Vijay Vihar under Sections 498A/406 of the Indian Penal Code, 1860 nor do I want the petitioners to be punished in relation thereto. There is a child namely Miyansh born of the wedlock between me and the petitioner no.1 who is in my custody.

In terms of the settlement arrived at between me and the petitioner no.1, I have received the total settled sum of Rs.7 Lakhs, in as much as, the sum of Rs.5 Lakhs had been received by me previously and the balance sum of Rs.2 Lakhs has since been received by me vide demand draft bearing no.852063 dated 07.10.2020 drawn on the Union Bank in my favour. There are now no claims of mine left against the petitioners.

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I have made my statement after understanding its implications voluntarily of my own accord without any duress, coercion or pressure from any quarter and I do not need to think again.

RO & AC  
04.01.2021

ANU MALHOTRA, J

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