

1. Adnan Raman was a successful story. An ambitious, but reserved, person at heart Adnan never left an opportunity to learn and to improve his skill sets. As his properly business expanded Adnan felt the need to have a person skilled at public relations and communications.
2. He roped in his long time friend Arnab Dhanoa, a small time businessman, as a partner to help him in his ventures. Seeking to consolidate his financial position and looking at Adnan's business acumen Arnab jumped at the chance to join Adnan. An affable person, fond of outdoor activities, especially shooting, Arnab was an extrovert who made friends easily and came handy to woo and sway the clients, as well as to liaise with the local authorities when needed.
3. As the business swelled, Arnab became more influential with each passing season. Building upon his partnership in RealTa Enterprises, Arnab used his affable nature to build numerous contacts and established himself in the local politics. He soon became independent of his income from RealTa Enterprises and started investing in the various other ventures in and around NCR. Arnab's lifestyle started to mirror that of Adnan's.
4. Egged on by his newly found confidantes Arnab soon started disassociating from RealTa Estates and concentrated on building his own businesses. As his businesses clashed with the interests of RealTa Enterprises the relationship between Adnan and Arnab soon became strained and eventually broke. In January 2014 Arnab left RealTa Enterprises and Adnan continued to operate RealTa Enterprises. However, despite their rival interests both Adnan and Arnab remained cordial and were seen as icons of the real estate businesses in NCR.

5. In July 2015 Adnan and his family of 5 – wife, three sons and one daughter were brutally murdered in their bungalow in the outskirts of New Delhi. The house had been ransacked and most valuables were looted. An analysis of the CCTV footage revealed that the same had been tampered with by the assailants. The house being bereft of servants, domestic helps, and the security guard on the date of the incident, no eyewitnesses could be located. The murders caused a sensation in NCR. Arnab personally led a campaign to obtain justice for Adnan and his family and was at the forefront of every protest and every debate.
  
6. The subsequent highly scrutinized investigation revealed zero leads. Neither was anyone identified as a possible suspect nor were the weapons recovered. The servants, domestic helps and the security guard were repeatedly interrogated but all had sound alibis. All that the investigation revealed was that all the victims were shot at multiple times from a close range from two sophisticated imported handguns. The wounds suggested that the assailants were professionals and were expert marksmen. As per the empty cartridges found at the spot the said weapons were highly sophisticated, imported, were of a calibre not commonly found in India.
  
7. In a nutshell, by September 2015 the local investigation authorities concluded that the murders were conducted by two armed professionals, using imported weapons, who gained a friendly entry into the house and shot at the family of six in a professional manner, multiple times, to ensure that no one survived. Thereafter, the house was looted and the assailants absconded. This led the local authorities to believe that Adnan Raman was targeted due to his riches and that it was a robbery gone wrong. The case being bereft of clues went cold, the media's scrutiny dissipated and the case was classified as blind murder case. Investigation stopped and the file was deemed to be closed for want of proof.

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8. Amit Chopra @ Mistry was a small time crook operating in the suburbs of the Navi Mumbai, Maharashtra. Amit started to trade in stolen items and eventually started to commit theft in high profile showrooms in and around Navi Mumbai.
9. During this time he developed a reputation for being a remorseless person, a cold individual who would go to any extent to see his theft successful. However, in 2015, just as Amit started to establish a foothold in Navi Mumbai he was arrested by the Mumbai Police for one of his several high profile robberies. During the trial Amit was detained in the notorious Hazari Bagh Jail of Maharashtra.
10. During his time in the Hazari Bagh Jail Amit came across several unsavoury characters-hardened and experienced criminals, cold blooded murderers to name a few. He developed a close friendship with one Raghav Rajee @ Master. Raghav was a professional hit-man well known, and dreaded, in the business circles of Mumbai and Pune. The consummate ease with which he planned and executed the murders of his targets led him to be called by his alias 'Master'. Although there were several cases of murder, attempt to commit murder, extortion and grievous hurt against him, Raghav was being detained committing extortion and was expecting to be released on bail.
11. Raghav greatly influenced Amit, and given Amit's remorseless nature, he was a natural fit for the role of Raghav's aide-de-camp in his future string of murders and hit jobs. Raghav taught Amit the various aspects of committing murders, extortion and schooled him to be even more ruthless and cold. The duo planned to operate together after getting released on bail - Master donning the role of a strategist and Mistry, his apprentice, executing the works with consummate skill and passion.

12. Once on bail Master and Mistry struck terror in the minds and hearts of businessmen *pan* India. The duo became infamous for targeting businessmen and their families for the smallest of sums in order to spread terror and fear in the business circles and took a distinct sadistic pleasure in torturing the young children of the businessmen. Known as 'M&M' they soon became sought after in certain industrial and social circles – engaged by companies, firms, individuals to eliminate, or otherwise intimidate, their rivals.
13. Master, being a cunning strategist, ensured that his schemes for murder and or other offences were flawless with nothing being traced back to either him or Mistry, whereas Mistry, now being a professional remorseless hitman, ensured that not only was the 'job' well done but also that no clue remained which could lead back to him or the Master. For this end, Mistry did not hesitate to kill any chance witnesses – be they young children or old people. The duo used to plan and scheme meticulously, often taking weeks to conduct reconnaissance, and used to discuss the actions multiple times in order to have flawless 'job' and a clean get-away.
14. There was but an intense pressure on the law enforcing agencies in India to apprehend the duo, and as the influence of 'M&M' increased so did the surveillance and the intensity of policing.
15. Even despite the said policing, the 'M&M' were wanted for 32 counts of murders and 65 counts of extortion and were suspected of 17 counts murders and 89 counts of extortion. It was horrific to note that out of 32 murders, 15 murders were of small children between the ages of 4 years to 11 years, whereas out of suspected 17 murders 9 were of small children between the ages of 4 years to 11 years.

16. Despite the intense policing, it was only during a random check of the motor vehicles on a busy Monday morning that the Delhi Police came across Mistry. Pulled over for over speeding, despite Mistry's instructions to remain calm and feign innocence the Mistry's driver Rashid, being fearful of being arrested with Mistry, panicked and proceeded to rush the car away whilst ramming the police barrier and grievously injuring a policeman.
17. The chase that followed saw several policemen and innocent bystanders being injured, and eventually, cornered, it was at the point of the gun that Mistry and Rashid surrendered. A search of Mistry' person, and his car, led the police to discover *inter alia* several weapons and a mobile phone. The said articles were seized and sent for forensic analysis at the Forensic Science Laboratory, Delhi. Mistry, being wanted for murders committed in complicity with Master, was promptly arrested and remanded to the Tihar Jail, Delhi pending trials for the said offences. Rashid was also arrested and detained pending investigation into his role with respect to the activities of the duo.
18. However, as the weeks rolled by the investigations in each and every murder case soon came to a grinding halt. Mistry proved to be a tough nut to crack even for the most experienced interrogators. He held a firm belief that all the 'jobs' were conducted flawlessly and that there was nothing that could be traced back to either him or Master: it was only a matter of time that he shall be released on bail and all that the Delhi Police had against him was illegal possession of weapons.
19. The forensic analysis of the weapons and the mobile phone also proved to be fruitless – none of them led back to the scenes of the various murders that 'M&M' were suspected of have committed. The investigators had a clear apprehension that 'M&M' may have the last laugh after all.

20. Faced with the non cooperation of Mistry, evasion by Master, the unhelpful forensic results, and the intense media criticism at the said setbacks the investigators focussed on the interrogation of Rashid. Believing him to be a weak link several efforts were made to glean every last bit of information that Rashid knew about 'M&M'. Although nothing substantial was retrieved from Rashid, the police did come across information about several places in and around NCR that Mistry used to frequent.
21. Of a particular interest amongst these places was a rather posh house owned by Mistry in an up-market locale of New Delhi. Subsequent raids conducted at the said house led the police to discover a hidden cache containing a sophisticated imported handgun of a calibre not commonly found in India along with several rounds of ammunition for the same. Desperate for a breakthrough the police duly seized the same and sent for the usual forensic analysis.
22. The case against 'M&M' weakened by the day and it was a commonly held belief that Mistry would soon be granted bail. However, it was the forensic test report of the sophisticated imported handgun that completely changed the course of the narrative.
23. The said report did not match the gun with any murders that the 'M&M' were suspected of. Instead it matched the empty cartridges found at the murder scene of Adnan Raman and his family. The fingerprints on the said gun matched with those of Mistry. Sensing an opportunity the investigating authorities focussed their attention in the pending, unsolved case of the murders of Adnan Raman and his family.

24. Fresh investigations into the said murders were conducted keeping in mind the distinct possibility that the same have been committed by either Mistry or by the 'M&M' jointly. The mobile phone seized from Mistry was again examined keeping in mind the aforesaid, and amongst the hundreds of numbers belonging to various businessmen the police found the personal number of Arnab Dhanoa. The police developed a narrative wherein Arnab Dhanoa, instead of being a victim of extortion by "M&M", was actually a client who procured the murders of Adnan Raman and his family from either Mistry or the 'M&M'. The police kept the narrative and the report a secret, and confronted Mistry with the same.

25. Mistry was astounded to learn that the police had recovered his prized handgun, the very same gun with which he had committed the first of his murders. However, what came a body blow was the fact that somehow, in the middle of rush of committing a murder for the first time, Mistry had apparently forgotten to pick all the empty cartridges from the scene despite been repeatedly told by Master to be careful and attentive. The same empty cartridges were now threatening to be a nail in the coffin for Mistry, with the final nail being his fingerprints on the gun. The fact that Master would walk free nonetheless rankled him even more: Master had been calm and cool all along the 'job'. Brooding over his predicament and the sudden change in fortunes Mistry considered his options, and the once formidable, aloof Mistry increasingly became easily irritated, rash and unsettled.

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26. The morning of 10<sup>th</sup> September 2017 saw India being outraged at the statements made at a televised police press conference held by the Delhi Police. The Delhi Police claimed to have solved 50 cases of murder *pan* India and 154 cases of extortion.

27. The police also claimed to have solved the 50<sup>th</sup> case *i.e.* the infamous case of the murders of Adnan Raman and his family. The perpetrators were none other than Master in collusion with, to the biggest shock of all, none other than Arnab Dhanoa. The police further claimed that Mistry had offered to turn an approver against Master and Arnab Dhanoa in the case of the murders of Adnan Raman and his family. Mistry had further offered to testify against Master in the remaining 49 cases of murder committed by Mistry and Master jointly and also the said 154 counts of extortion. For his invaluable assistance in solving the said cases Mistry was being pardoned as per the law. The police then read out excerpts from the testimony of Mistry as given to the authorities regarding the case of the murders of Adnan Raman and his family or the '50<sup>th</sup> Case' as the case subsequently came to be known.

28. The aforesaid conference created an instant sensation and outrage. On the basis of the said statement of Mistry the investigating authorities finally had a foothold to lawfully move against both Arnab Dhanoa and Master. Within hours non-bailable warrants were issued against the said persons. Raids were conducted at various properties and locations in an effort to trace and capture them. Mistry again proved to be of an invaluable help since he was instrumental in disclosing the secret hideouts and safe places of Master.

29. However, Master successfully evaded the police, and Arnab Dhanoa, using his contacts, was presumed to have gone underground. As the said non bailable warrants started to return unexecuted the investigating officer in the 50<sup>th</sup> Case filed an applications under Section 82 Cr.PC in the court against Master and Arnab Dhanoa seeking the said duo to be declared as 'absconder'.

30. It is the practice of the courts in New Delhi that the Courts have the ultimate discretion whilst declaring a person an 'absconder' without formally issuing a proclamation to the effect in the newspapers. Also, the said discretion was usually being exercised without the recording of any reasons: indeed the language of the said section supported this practice and was used as a shield while exercising such discretion.
31. The Ld. Trial Judge, on the putting up of such applications by the investigating officer in the 50<sup>th</sup> Case was pleased to declare Master as an 'absconder'. The Ld. Judge deferred declaring Arnab Dhanoa as an 'absconder' and decided to have a proclamation issued in the newspapers under Section 82 Cr.PC.
32. On the basis of these orders proceedings under Section 83 Cr.PC were initiated against Master whereas the proclamation w.r.t Arnab Dhanoa was published by the leading newspapers in India and gave him the stipulated time to appear before the court. Surprisingly, Arnab Dhanoa surrendered before the Court before the expiry of the said stipulation. Master, on the other hand, remained evasive and eluded capture.
33. In October 2017 Arnab Dhanoa moved a Special Leave Petition before the Hon'ble Supreme Court of India against the order of the Ld. Trial Judge granting pardon to Mistry and made the following submissions:
- i. That the right to live in a safe and lawfully protected society was inherent in the Article 21 of the Constitution of India;
  - ii. That the act of pardon was unconstitutional, being violative of Article 21 of the Constitution of India since it, in essence, released a cold blooded, remorseless killer back into the society for the sake of capturing his equally cold blooded killer partner, and one alleged conspirator, even

though the duo equally participated in all offences alleged against them;

- iii. That Mistry was not an accomplice in the offences jointly planned and committed by 'M&M'- Mistry was in fact a principal, just like Master- and, thus, the act of granting pardon did violence to the Section 306 Cr.PC wherein the pardon was to be granted to an 'accomplice' only;
- iv. That the language of Section 306 Cr.PC "*...to every other person concerned, whether as principal or abettor, in the commission thereof.*" was clear that there was distinct difference between the 'principal' and the 'abettor' i.e. an 'accomplice';
- v. That the word 'accomplice' was to be read as a person having a role lesser in magnitude than that of the 'principal';
- vi. That the Parliament could never have intended to have created a loophole for one 'principal' to escape at the expense of the other 'principal';
- vii. That such a situation was not envisaged by the Parliament, and, thus, the Hon'ble Court ought to interpret the language restrictively.

34. Amazingly, Master, claiming himself to be an innocent man who had been falsely implicated by Mistry to secure a pardon, also filed Special Leave Petition before the Hon'ble Supreme Court against the act of pardon to Mistry on grounds identical to those preferred by Arnab Dhanoa. However, in addition to the said grounds Master also made the following submissions:

- i. That the order declaring Master as an 'absconder' was unconstitutional, being violative of Article 14 of the Constitution of India;

- ii. That Master and Arnab Dhanoa were presumed to be innocent until proven guilty, and as such constituted one class for the purposes of Article 14;
- iii. That there was no intelligible differentia to discriminate between Master and Arnab Dhanoa w.r.t the provisions of Section 82;
- iv. That the language of Section 82(2)(iii)“...*the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper...*” could not be interpreted to mean that the Court was absolved from the responsibility to give reasons for *not* directing the publication of the proclamation in the newspapers;
- v. That the publication of proclamation for Arnab Dhanoa gave him an unfair protection of law whereas the same was denied to Master;
- vi. That the Hon’ble Court should interpret ‘may’ as ‘shall’ for such situations wherein there are more than one accused;
- vii. That the Hon’ble Court should interpret the Section 82(2)(iii) Cr.PC in a manner that the Court is bound to give reasons while exercising discretion, or refusing to so exercise, under the said Section;

35. The Hon’ble Court was pleased to admit the Special Leave Petitions filed by Arnab Dhanoa and Master and issued notice to the Government of National Capital Territory of Delhi (GNCTD) as well as to Mistry.

36. However, the said debate had split the society into differing camps – one camp supported the act of pardon for the sole purpose of ending the menace of ‘M&M’ for once and for all whereas the other partially opposed it: punishment was sought for all, with a reward for the person making the disclosure. This camp filed an Interlocutory Application through

an NGO called as Centre Civil Society (hereinafter 'CCS') in the Special Leave Petitions filed as foresaid and made the following submissions:

- i. That the act of pardon is unconstitutional, it being violative of Article 21 of the Constitution of India;
- ii. That Mistry was not an 'accomplice', rather he too was a 'principal';
- iii. That the Parliament could not have intended to free a 'principal' in order to catch a 'principal';
- iv. That there ought not to be an absolute pardon at all in situations such as these;
- v. That such a situation being not envisaged by the Parliament, the Hon'ble must interpret the Section 306 Cr.PC to adequately tackle the same;
- vi. That an interpretation which is harmonious with the need to have a safe society and the need to reward the person making the disclosure ought to be adopted;
- vii. That there must be a punishment for the Mistry in such a situation; that the reward could be that his disclosure shall be considered as protecting him from the death penalty;

37. The Hon'ble Supreme Court was pleased to issue notice on the said Interlocutory Application to Master, Arnab Dhanoa, GNCTD as well as Mistry. The GNCTD appeared in the said SLP's and, supported by Mistry *in toto*, made the following submissions:

- i. That the act of pardon is constitutional, lawful, and proper;
- ii. That the scheme of Section 306 Cr.PC was well settled by a catena of decisions;
- iii. That it was in collective interest of the society that the best evidence against the offenders be procured to allow for the conviction of the same, and that this was in tune with

- the right to a safe society under Article 21 of the Constitution of India;
- iv. That the language of Section 306 Cr.PC “...to every other person concerned, whether as principal or abettor, in the commission thereof.” was clear that the person making the disclosure could either be a ‘principal’ or ‘abettor’;
  - v. That the order of the Ld. Trial Judge declaring Master as an ‘absconder’ was legal, and proper;
  - vi. That the said order was in tune with the provisions of Section 82 Cr.PC; the Court was not obliged to have the Proclamation published in the newspapers; that as per the Section 82(2)(iii) there was no obligation to record the reasons while exercising, or refusing to exercise the discretion under Section 82(2)(iii);
  - vii. That there was no violation of any rights of Master by the said order; that no prejudice was caused to him as he could appear before the Trial Court and have the proceedings under Section 83 Cr.PC stopped;
  - viii. That Master had ample time to appear before the Hon’ble Court, and since he is evading the police, he cannot claim the benefit of Section 82(2)(iii) to escape the proceedings under Section 83 Cr.PC; that he has not approached the Hon’ble Court with clean hands;
  - ix. That there was no need for a publication now as Master has already appeared before the Hon’ble Court;
  - x. That CCS had no locus in the instant matter, the same being a criminal matter and, thus, being a matter between the State and the Accused only;
  - xi. That the Hon’ble Court could not re-write the Section 306 by means of interpretation and that the same could be done only an amendment to the law.

38. Master and Arnab Dhanoa also filed rejoinders rebutting CCS and stated, additionally, that CCS had no locus as it was a matter between the State and the Accused. They also claimed that the Hon'ble Court would be '*legislating*' if it re-wrote the Section 306 by means of an interpretation.

39. The Hon'ble Supreme Court of India, recognizing the unique situation at hand, and noting the divided opinion of the society, was pleased to club together the SLP's and listed the matter for final arguments. The Hon'ble Supreme Court made it clear that the Hon'ble Court shall consider all aspects of the applicable and relevant law, afresh but shall take note of the precedents nonetheless.

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40. The 50<sup>th</sup> Case, also titled, for the sake of convenience, as 'Raghav Raje & Arnab Dhanoa v. The GNCTD, Mistry & CCS' is listed for final arguments before the Hon'ble Supreme Court of India. The Participants are expected to restrain themselves to the submissions made. They are further expected to argue on all the submissions, and for all the Parties.