

State Of Karnataka Vs. Shekhar

State Of Karnataka Vs. Shekhar

SooperKanoon Citation : sooperkanoon.com/1233407

Court : Karnataka

Decided On : Jun-11-2021

Judge : K.S.Mudagal

Appeal No. : WP 46821/2016

Appellant : State Of Karnataka

Respondent : Shekhar

Judgement :

W.P.No.46821/2016 1 IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE11H DAY OF JUNE 2021 BEFORE R THE HONBLE MRS. JUSTICE K.S.MUDAGAL WRIT PETITION No.46821/2016(GM-RES) BETWEEN: STATE OF KARNATAKA BY AKKUR POLICE STATION CHANNAPATNA TALUK RAMANAGARA DISTRICT REPRESENTED BY S.P.P. HIGH COURT BUILDING BENGALURU - 571 201 PETITIONER (BY SMT.NAMITHA MAHESH B.G., HCGP) AND: SHEKHAR S/O LATE MADALIAH AGED ABOUT40YEARS R/O BAACHALLIDODDI VILLAGE VIRUPAKSHIPURA HOBLI CHANNAPATNA TALUK RAMANAGARA DISTRICT - 571 201 RESPONDENT (BY SRI.PRASHANTH P.N. AMICUS CURIAE) THIS PETITION IS FILED UNDER ARTICLES226AND227OF CONSTITUTION OF INDIA READ WITH SECTION482OF CR.P.C PRAYING TO QUASH THE

ORDER

DATED 07.04.2014 (ANNEXURE-C) PASSED BY THE SENIOR CIVIL JUDGE AND JMFC, CHANNAPATNA IN C.C.NO.201/2013 ARISING OUT OF CRIME NO.40/2012 OF AKKUR POLICE STATION, CHANNAPATNA TALUK, RAMANAGARA DISTRICT REGISTERED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 32 AND 34 OF KARNATAKA EXCISE ACT, 1965. W.P.No.46821/2016 2 THIS PETITION COMING ON FOR PRELIMINARY HEARING IN B GROUP THIS DAY, THE COURT THROUGH VIDEO CONFERENCE MADE THE FOLLOWING:

ORDER

Whether the Court can refer a case relating to non-compoundable offence to Lok Adalat and Lok Adalat has jurisdiction to determine such case?. are the questions involved in this case.

2. The respondent was being prosecuted before the trial Court in C.C.No.201/2013 on the basis of the charge sheet filed by Akkur Police for the offences punishable under Sections 32 and 34 of the Karnataka Excise Act, 1965 (the Excise Act for short).

3. For the purpose of convenience, the respondent will be referred to as accused henceforth. The allegations against the accused was that he was found in illegal possession of liquor worth Rs.1,965/-, for sale.

4. On 07.04.2014, the trial Court by the impugned order referred the case to Lok Adalat. The Lok Adalat by the impugned award dated 07.04.2014 determined the said case holding that the accused has W.P.No.46821/2016 3 admitted the guilt. Further the Lok Adalat by the impugned award convicted the accused for the offences punishable under Sections 32 and 34 of the Excise Act and sentenced him to pay fine of Rs.500/- and imprisonment till rising of the Court.

5. Aggrieved by the said order, the State preferred CrI.A.No.20/2014 before the Principal District and Sessions Judge, Ramanagar contending that the order of reference of the trial Court and the impugned order of the Lok Adalat were contrary to Sections 20 and 19 of the Legal Services Authorities Act, 1987 (the Act

for short).

6. The learned Sessions Judge though held that the order of reference and the impugned award are unsustainable dismissed the appeal on the ground that Section 21(2) of the Act bars such appeal. Aggrieved by the said judgment, the State has preferred this petition.

7. Reiterating the grounds of the petition, Smt.Namitha Mahesh B.G, learned HCGP submits that the impugned order and award are violative of Sections 19 W.P.No.46821/2016 4 and 20 of the Act. In support of her contentions, she relies upon the following judgments: (i) United India Insurance Co. Ltd. v. Ajay Sinha¹ (ii) Urmila Masomat v. State of Bihar² 8. Learned Amicus Curiae submits that even though Lok Adalat has no jurisdiction to determine non-compoundable offence, the alleged admission of guilt before Lok Adalat shall not prejudice the defence of the accused in trial. He further submits that the trial Court shall not be biased by the alleged admission.

9. Which matter can be referred to Lok Adalat and the Lok Adalat has jurisdiction over which matters is enumerated in Sections 19 and 20 of the Act. For the purpose of this petition, Sections 19(1) and 19(5) of the Act are relevant. 19. Organization of Lok Adalats.(1) Every State Authority or District Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committee or, as the case may be, Taluk Legal Services Committee may organise Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit. 1 (2008) 7 SCC4542 2016 SCC Online Pat 4706 W.P.No.46821/2016 5 (2) .. (3) .. (4) ... (5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of (i) Any case pending before; or (ii) Any matter which is falling within the jurisdiction of, and is not brought before, any court for which the Lok Adalat is organized: Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.

10. Reading of the above provisions makes it clear that Lok Adalat has no jurisdiction in respect of the case relating to non compoundable offence.

11. Section 20 of the Act speaks to cognizance of the cases by Lok Adalats and cases which are fit for reference. For the purpose of this case, Section 20(1)(ii) of the Act is relevant which read as follows: 20. Cognizance of Cases by Lok Adalats.(1) Where in any case referred to in clause (i) of sub-section (5) of Section 19 (i) (a) (b) (ii) The court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat, the court shall refer the case to the Lok Adalat: W.P.No.46821/2016 6 Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

12. Reading of Section 20(1)(ii) of the Act and the proviso to the said section makes it clear that Court can refer a case to Lok Adalat only if the same is appropriate. Again what is appropriate case depends on the fact whether Lok Adalat can take cognizance of such offences and has jurisdiction to decide the same. Proviso to Section 19(5) of the Act bars the jurisdiction of Lok Adalat over a case relating to a non compoundable offence. Therefore the logic of the law is that Court cannot refer a case involving non compoundable offence to the Lok Adalat.

13. The Hon'ble Supreme Court in para 40 of the judgment in United India Insurance Co. Ltd.s case referred to supra held that the offence which is non-compoundable in nature falls outside the jurisdiction of permanent Lok Adalat.

14. In Urmila Masomats case referred to supra the Patna High Court held that the Lok Adalat constituted W.P.No.46821/2016 7 under Sections 20 and 22 of the Act has no jurisdiction in respect of any matter relating to the offence which is non-compoundable under any law. Therefore the Court cannot refer such cases to Lok Adalat.

15. In this case, admittedly, the offences under Sections 32 and 34 of the Act were non compoundable one. Therefore, the order of reference and determination of the same by the Lok Adalat were contrary to Sections 19 and 20 of the Act.

16. The minimum prescribed punishment for the offence under Section 32 of the Excise Act is rigorous imprisonment not less than one year and fine not less than Rs.10,000/- which is extendable upto five years and Rs.50,000/-.

17. The minimum prescribed punishment for the offence under Section 34 of the Excise Act is imprisonment not less than one year and fine not less than Rs.10,000/- which is extendable upto four years and Rs.50,000/-. The Lok Adalat sentenced the accused to imprisonment till rising of the Court and fine of Rs.500/-. W.P.No.46821/2016 8 That shows how lightly the Lok Adalat dealt with the matter.

18. Neither the trial Court nor the Lok Adalat has recorded the admission of the plea of the guilt of the accused as required under the Criminal Procedure Code. Since Lok Adalat has no jurisdiction to take cognizance, the alleged plea of guilt before the Lok Adalat has no sanctity in the eye of law. For the aforesaid reasons, the petition is allowed. The impugned order of reference dated 07.04.2014 in C.C.No.201/2013 passed by the trial Court and the award of the Lok Adalat as per Annexure-C are hereby quashed. C.C.No.201/2013 is restored to the file of the trial Court. The trial Court shall secure the presence of the accused and adjudicate the matter in accordance with law. The trial Court shall not be biased by the alleged admission of guilt or plea of guilt of the accused. Sd/- JUDGE akc

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com