

Valli Vs. Muniasamy

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Court : Chennai

Decided On : Mar-02-2015

Judge : M.Sathyannarayanan

Appellant : Valli

Respondent : Muniasamy

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED :

02. 03.2015 CORAM THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN Criminal Revision Case (MD)No.509 of 2014 Valli ...
Petitioner/ Petitioner/ Petitioner Vs. Muniasamy ... Respondent/Respondent/
Respondent Prayer : Revision filed under Section 397 read with Section 401 of the
Code of Criminal Procedure, to set aside the order dated 20.05.2014, passed in
Cr.M.P.No.1214 of 2014 in M.C.No.12 of 2012, by the learned District Munsif cum
Judicial Magistrate, Kamuthi and consequently, direct the respondent to pay a sum
of Rs.2,700/- as maintenance to the petitioner as per the award passed under
Section 21 of the Legal Services Authorities Act. For Petitioner : Mr.S.K.Patturaja
For Respondent : No appearance :

ORDER

The revision petitioner/wife has filed M.C.No.12 of 2012 against the
respondent/husband under Section 125 Cr.P.C., on the file of the Court of District

Munsif cum Judicial Magistrate, Kamuthi, claiming maintenance at the rate of Rs.5,000/- p.m., payable from the date of petition.

2. It is the case of the revision petitioner that she and the respondent loved each other and decided to marry as against the wishes of their parents and therefore, she ran away from her parental home and at the time of leaving her home, she also took 15 sovereigns of gold jewels and a sum of Rs.38,000/- in cash, which would have been given at the time of her marriage.

3. The revision petitioner would further state that the marriage was solemnised on 04.05.2011 and the respondent by practising deception by inception, pledged the jewels and also treated her with cruelty. It is further contended that he has also made false representation with regard to his qualification and employment.

4. The said Maintenance Case was referred to the Lok Adalat and in the Mega Lok Adalat held on 31.08.2013, the matter in issue got compromised before the Ramanathapuram District Legal Services Authority and it passed an award by consent, by taking into consideration the representation on behalf of the respondent that he is ready and willing to pay a sum of Rs.2,700/- p.m. towards maintenance.

5. Since the respondent has failed to adhere to the terms of the above award passed on 31.08.2013, by Ramanathapuram District Legal Services Authorities, the revision petitioner has filed Cr.M.P.No.1214 of 2014 under Section 125(3) Cr.P.C.

6. The said petition was resisted by the respondent by contending that as per Section 21 of the Legal Services Authorities Act, it could be executed as a civil Court decree and therefore, the petition is not maintainable.

7. The trial Court after taking into consideration the rival submissions and upon perusal of the decision rendered by the Honourable Supreme Court as well as this Court, has dismissed the petition, vide impugned order dated 20.05.2014 and challenging the same, the present revision is filed.

8. The learned Counsel for the revision petitioner has drawn the attention of this Court to Section 21 of the Legal Services Authorities Act and would submit that as per sub-section (1) of Section 21 of the Legal Services Authorities Act, 'every award of Lok Adalat shall be deemed to be a decree of a civil Court or, as the case may be, an order of any other Court' and in the light of the said provision, the revision petitioner is having an option, either to execute the award before a civil Court or to invoke Section 125 Cr.P.C, to enforce the order of maintenance and the revision petitioner has adopted the latter course and the trial Court without looking into the provisions, has erroneously dismissed the petition and prays for interference.

9. Though the respondent has been served and his name appears in the cause list, there is no representation on his behalf.

10. In K.N.Govindan Kutty Menon v. C.D.Shaji reported in (2012) 2 Supreme Court Cases 51, the prosecution under Section 138 of the Negotiable Instruments Act came to be settled and by invoking the provisions of the Legal Services Authorities Act, the appellant therein filed an execution petition before the Court of Principal Munsif, Ernakulam and it was dismissed, holding that the award passed by the Lok Adalat on reference from the Magistrate Court, cannot be construed as the decree to be capable of execution by the civil Court.

11. The appellant therein aggrieved by the said order, filed a writ petition before the High Court of Kerala, which was also dismissed and hence, it was taken up before the Honourable Supreme Court by way of a Special Leave Petition. The Honourable Supreme Court having considered the scope of Section 21 of the Legal Services Authorities Act and the decisions rendered by it as well as other High Courts, has observed as follows:

"3. A statutory support as evidenced in the Statement of Objects and Reasons of the Act would not only reduce the burden of arrears of work in regular courts, but would also take justice to the door steps of the poor and the needy and make justice quicker and less expensive. In the case on hand, the Courts below erred in holding that only if the matter was one which was referred by a civil court it could be a decree and if the matter was referred by a criminal court it will only be an

order of the criminal court and not a decree under Section 21 of the Act. The Act does not make out any such distinction between the reference made by a civil court and criminal court. There is no restriction on the power of Lok Adalat to pass an award based on the compromise arrived at between the parties in a case referred by a criminal court under Section 138 of the N.I. Act, and by virtue of the deeming provision it has to be treated as a decree capable of execution by a civil court. In this regard, the view taken in Subhash Narasappa Mangrule [(2009) 3 Mah LJ857 and M/s Valarmathi Oil Industries [AIR2009 Mad 180]. supports this contention and we fully accept the same. " Ultimately, the Honourable Supreme Court, in paragraph 26 has laid down the following propositions:

"6. From the above discussion, the following propositions emerge: (1) In view of the unambiguous language of Section 21 of the Act, every award of the Lok Adalat shall be deemed to be a decree of a civil court and as such it is executable by that Court. (2) The Act does not make out any such distinction between the reference made by a civil court and criminal court. (3) There is no restriction on the power of the Lok Adalat to pass an award based on the compromise arrived at between the parties in respect of cases referred to by various Courts (both civil and criminal), Tribunals, Family court, Rent Control Court, Consumer Redressal Forum, Motor Accidents Claims Tribunal and other Forums of similar nature. (4) Even if a matter is referred by a criminal court under Section 138 of the Negotiable Instruments Act, 1881 and by virtue of the deeming provisions, the award passed by the Lok Adalat based on a compromise has to be treated as a decree capable of execution by a civil court."

12. In the light of the above cited decision, award passed under Section 21 of the Legal Services Authorities Act, in a Lok Adalat, contemplates a deeming provision and hence, it is a decree of a civil Court.

13. The facts referred to in the decision in K.N.Govindan Kutty Menon v. C.D.Shaji (cited supra), read that in respect of the prosecution under Section 138 of the Negotiable Instruments Act, case came to be compromised, which resulted in an award passed by the Lok Adalat. The Honourable Supreme Court by applying the legal fiction held that the award of the Lok Adalat is a decree of a civil Court,

though it came to be passed in a criminal proceedings initiated under Section 138 of the Negotiable Instruments Act, still it can be construed as a decree capable of execution before a civil Court and accordingly, set aside the impugned judgment of the High Court of Kerala and allowed the appeal.

14. In the considered opinion of this Court, there cannot be any difficulty in accepting the proposition laid down by the Honourable Supreme Court in the above cited decision.

15. It is very pertinent to point out at this juncture that Section 147 of the Negotiable Instruments Act also says that the offence is compoundable.

16. Once the complaint filed by the complainant under Section 138 of the Negotiable Instruments Act came to be compromised, the trial Court or the appellate Court which dealt with the matter, has become functus officio and in the event of non-compliance of the order, the complainant is not having any other mode to proceed with the prosecution except to initiate appropriate proceedings to recover the amount due and payable under the award of the Lok Adalat and in the light of the said legal position, it has been held that the award of the Lok Adalat passed in a complaint initiated under Section 138 of the Negotiable Instruments Act, is a decree of a civil Court, which is capable of execution before a civil Court. However, the legal position in respect of this case is different for the reason that though the award of the Lok Adalat came to be passed in a proceedings under Section 125 Cr.P.C., in the event of the concerned party who undertook to pay the maintenance, in terms of the said award, has not paid it, there is also an effective remedy available under Section 125(3) Cr.P.C, to enforce the order of maintenance and the said right is independent of the right/option, open to the revision petitioner herein to enforce the same by levying execution before a competent civil forum.

17. Section 125 Cr.P.C. is in the nature of benevolent legislation and interpretation is to be given in such a way, it shall enure to the benefit of the aggrieved person.

18. The award passed by the Lok Adalat is merely an administrative act of incorporating the terms of settlement or compromise agreed by parties, in the form

of an executable order under the signature and seal of the Lok Adalat. {See. State of Punjab v. Jalour Singh reported in (2008) 1 Supreme Court Cases (Cri) 524.}

19. This Court, on a careful analysis of Section 21 of the Legal Services Authorities Act and Section 125 Cr.P.C. is of the considered view that de hors the right of the revision petitioner herein to execute the award of Lok Adalat before a competent civil forum, she is also having a right to invoke Section 125(3) Cr.P.C. to enforce the said award, granting maintenance and such interpretation would satisfy the benevolent provisions of both the Acts.

20. In the result, this Criminal Revision Case is allowed and the impugned order dated 20.05.2014, passed in Cr.M.P.No.1214 of 2014 in M.C.No.12 of 2012, by the learned District Munsif cum Judicial Magistrate, Kamuthi, is set aside and the matter is once again remanded to the trial Court for fresh adjudication. The trial Court is directed to give utmost preference for the early disposal of the case. Index :Yes 02.03.2015 Internet :Yes rsb To The Court of District Munsif cum Judicial Magistrate, Kamuthi. M.SATHYANARAYANAN,J.

rsb Criminal Revision Case (MD)No.509 of 2014 02.03.2015

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