

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 1926 of 2015

ORDER:

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The petitioner, who is the wife of the second respondent preferred the present Revision under Section 397 and 401 Cr.P.C., questioning the order dated 27.04.2015 passed in CrI.M.P.No.206 of 2015 wherein the quantum of maintenance awarded by the Lok Adalat pursuant to compromise arrived at was reduced.

The facts in issue are as under :

The petitioner herein filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act seeking various reliefs. Pending the said proceedings the matter was referred to Lok Adalat, which was held under Section 20 of the Legal Services Authorities Act, 1987. The parties have entered into a compromise which lead to filing of terms of compromise dated 27.01.2011. The said terms of compromise was signed by both the parties. As per the terms of the compromise, the respondent/husband shall pay maintenance @ Rs.15,000/- per month to the petitioner and her three children. The petitioner was directed to open a Savings Bank Account in Syndicate Bank, where the respondent has salary account and the respondent shall deposit the maintenance amount to her account on or before 5th of every month. It has been stated that if the respondent fails to credit the agreed amount, the petitioner can take steps according to law for which the respondent has no objection. The respondent further undertook not to alienate, transfer or mortgage the properties referred to in Clause IV of the terms of compromise in favour of any third party. The respondent further agreed to pay maintenance arrears of Rs.75,000/- to the petitioner and her children within six months. He also agreed to refund a sum

of Rs.1,00,000/-, which the petitioner took as a loan from her relatives, within six months. The respondent was also agreed to bear all the expenditure pertaining to the studies and marriages of the children. It was further agreed that the petitioner and respondent shall not file any cases against each other but in case of violation of the terms of the compromise by the respondent, the petitioner is at liberty to file all the cases including filing of a case under Domestic Violence Act. The terms of compromise was acted upon and the Lok Adalat was pleased to record the compromise on 27.01.2011, which was signed not only by both the parties but also by the learned counsel for the petitioner before the Lok Adalat. After the compromise both the petitioner and the respondent stayed together for some time but as the petitioner did not change his attitude, the petitioner and her children started staying separately. Since the respondent failed to comply with the terms of compromise arrived at before the Lok Adalat, more particularly with regard to payment of Rs.15,000/- per month into the bank account of the petitioner, an application came to be filed for enforcement of the order by deducting the said amount from the salary of the petitioner.

A counter came to be filed opposing the same stating that the allegations made in the said petition are all false and only with a view to harass him the present application is filed. It is his case that Rs.15,000/- per month was paid to the petitioner by way of cash and he also paid a sum of Rs.45 lakhs towards her half share in the property sold by him apart from payment of Rs.10 lakhs to the petitioner. In any event he submits that since the children of the petitioner are majors they are not entitled for any maintenance as per the provisions of the Protection of Women from Domestic Violence Act.

After hearing both the parties, the learned Magistrate allowed the petition partly directing the employer of the respondent to deduct

only Rs.3,750/- from the salary of the respondent and credit the same to the account of the petitioner herein on or before 5th of every succeeding month. The reason for reducing the quantum of maintenance awarded before the Lok Adalat, was that the children of the petitioner and respondent are aged above 18 years as on the date of filing of the petition and hence they are not entitled for maintenance in view of the meaning of the word “child” as defined in Section 2(b) of the Protection of Women from Domestic Violence Act. Challenging the same, the present Revision is filed.

The two questions which crop up for consideration in the present Revision are that 1)Whether a Revision under Section 397 Cr.P.C., would lie against an order passed by the Court pursuant to an application made for enforcement of the award passed by the Lok Adalat? And 2)Whether the Court of XX Metropolitan Magistrate at Malkajgiri was right in reducing the quantum of maintenance since the children of the petitioner are morethan 18 years as on the date of filing of the petition?

In order to appreciate the same, it would be useful to refer to Section 19(5)(i) of the Legal Services Authority Act. Section 19(5)(i) of the Legal Services Authorities Act provides that 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 any pending case. The Apex Court in **State of Punjab and another v.**

Jalour Singh and others^[1] held as under :

“7.A reference to relevant provisions will be of some assistance, before examination of the issues involved. Section 19 of the Legal Services Authorities Act, 1987 ('LSA Act' for short) provides for organisation of Lok Adalats. Section 19(5)(i) of LSA Act provides that 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 any case pending before any court for which the Lok Adalat is organised. Section 20 relates to cognizance of cases by Lok Adalats. Sub-section (1) refers to Lok Adalats taking cognizance of cases referred to by courts and sub-section

(2) refers to Lok Adalats taking cognizance of matters at prelitigation stage. The relevant portions of other sub-sections of Section 20, relating to cases referred by courts, are extracted below :

"(3) Where any case is referred to a Lok Adalat under sub-section (1) the Lok Adalat shall proceed to dispose of the case and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.

(7) Where the record of the case is returned under sub-section (5) to the court, such court shall proceed to deal with such case from the stage which was reached before such reference under sub-section (1)]"

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From the above said provision, it is evident that the Lok Adalat has no adjudicatory or judicial function. Their intention is purely to conciliate between the parties. In their conciliatory role Lok Adalats are guided by the principles of justice, equity and fair play. While dealing with this aspect, the Apex Court in **Jalour Singh's case (1st supra)** also held as under :

"When the LSA Act refers to 'determination' by the Lok Adalat and 'award' by the Lok Adalat, the said Act does not contemplate nor require an adjudicatory judicial determination, but a non-adjudicatory determination based on a compromise or settlement, arrived at by the parties, with guidance and assistance from the Lok Adalat. The 'award' of the Lok Adalat does not mean any independent verdict or opinion arrived at by any decision making process. The making of the award is merely an administrative act of incorporating the terms of settlement or compromise agreed by parties in the presence of the Lok Adalat, in the form of an executable order under the signature and seal of the Lok Adalat."

The Apex Court further held as follows :

"It is true that where an award is made by Lok Adalat in terms of a

settlement arrived at between the parties, (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil court, and no appeal lies against it to any court. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under Article 226 and/or Article 227 of the Constitution, that too on very limited grounds.”

From the judgment referred to above, it is clear that if any party is aggrieved by the order passed by the Lok Adalat, it can challenge the same by way of filing petition under Articles 226 and 227 of the Constitution of India. Admittedly, in the present case the respondent did not challenge the Award passed by the Lok Adalat till date. On the other hand, the petitioner herein who was awarded maintenance of Rs.15,000/- per month for maintaining herself and her children, made an application before an appropriate Court, for implementation of the Award passed in D.V.C. No.42 of 2010 before the Lok Adalat on 27.01.2011. It is true that the application for enforcement of the order came to be filed under Section 20(6) read with Section 25 of the D.V.C. Act. But the contents of the order clearly indicate that the petitioner herein was forced to file an application for enforcement of the Award since the respondent herein did not comply with the Award passed by the Lok Adalat. Therefore, it cannot be said that Crl.M.P. No.1871 of 2014 filed by the wife, i.e., the petitioner herein, has nothing to do with the Award passed and that it is an independent application filed under the provisions of the Domestic Violence Act. The argument of the learned counsel for the petitioner that only an appeal would lie against the impugned order, cannot also be accepted for the reason that though an M.P., was filed in D.V.C.No.42 of 2010, but the proceedings in D.V.C. already got culminated pursuant to an award passed by the Lok Adalat. An appeal under Section 24 of the D.V.C. Act would lie only when an order is passed in D.V.C. Apart from that the present application was for enforcement of the order

passed in Lok Adalat and not against any order passed in D.V.C. Hence, the contention that only an appeal would lie before the Sessions Court, cannot be accepted. Therefore, a Revision against an order passed taking an erroneous view would definitely lie before the High Court and not an appeal before the Sessions Court as urged by the respondent.

The next question would be whether the lower court was right in reducing the quantum of maintenance awarded by the Lok Adalat? It is to be noted that where an award is made by the Lok Adalat in terms of settlement arrived at between the parties, it becomes final and binding on the parties to settlement and becomes executable as if it is a decree of a civil court. Such being the position the question of lower court altering the quantum of maintenance on the ground that the children have attained ages of more than 18 years as on the date of filing of the CrI.M.P., is illegal and improper. The court cannot either alter or change the order except when the award is challenged either under Articles 226 or 227 of the Constitution of India.

Further, as observed earlier, the application which has been filed by the petitioner herein was for enforcement of the order made before the Lok Adalat. Hence, the question of reducing the quantum of maintenance in an application filed by the wife for enforcement of the Award would not arise, as the Award remained unchallenged.

For the aforesaid reasons, the Criminal Revision Case is allowed and the respondent herein shall abide by the terms of the Award dated 27.01.2011 passed before the Lok Adalat in D.V.C. No.42 of 2010. As a sequel to it, miscellaneous petitions pending if any, in this Revision shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Date: 11.04.2016

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[\[1\]](#) AIR 2008 SC 1209