

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4182 OF 2017

Nitin Ramdas Pawar, Age 39 years,
Occ.Business, R/o.404, Sheela Vihar Colony,
Behind Olivia Hotel, Karve Road,
Kothrud, Pune-38.

Petitioner

versus

1. Sujata Nitin Pawar, Age 39 years,
2. Suhana Nitin Pawar, Age 12 years,
3. Sajiri Nitin Pawar, Age 7 years,
All r/o.404, Sheela Vihar Colony,
Behind Olivia Hotel, Karve Road,
Kothrud, Pune-38.
4. The State of Maharashtra.

Respondents

Mr.Kalpesh U. Patil with Prashant Raut for petitioner.
Mr.Vivek V. Salunkhe for respondent no.1.
Mrs.N.S.Jain, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 9th August 2018

PC :

1. The petitioner has invoked article 227 of the Constitution of India to challenge the impugned award dated 8th April 2017 passed by Lok-Adalat in Criminal Application No.5668 of 2016. The maintainability of petition is not disputed by advocate for respondents.

2. The petitioner and respondent no.1 are husband and wife. Their marriage was solemnized on 29th April 2002. Out of the

wedlock they have begotten two daughters. Respondent no.1 initiated proceedings under the Protection of Women from Domestic Violence Act, 2005 ('D.V.Act') against the petitioner before the Court of Judicial Magistrate, First Class, Pune bearing Criminal Application No.5668 of 2016 on 25th November 2016. The respondent no.1 contended that the petitioner and his family had subjected her to physical and mental cruelty. Several instances of harassment and cruelty meted out to respondent no.1 were mentioned in the application u/s 12 of D.V.Act. It was also contended that the respondent no.1 was not provided with enough money to maintain herself. Pursuant to issuance of summons, the petitioner appeared before the Trial Court. With the consent of both the parties, the matter was referred to Lok-Adalat on 8th April 2017.

3. After hearing both the parties, the Lok-Adalat proceeded to pass order on 8th April 2017. The Court also took into consideration the consent terms executed by the parties. As per the award passed by the Lok-Adalat, the petitioner was directed to pay maintenance of Rs.35,000/- per month. Several other directions were stipulated in the said order.

4. Learned counsel for petitioner submitted that pursuant to award passed by Lok-Adalat, respondent no.1 has threatened the petitioner from dispossessing him from the shared household. She filed an application seeking compliance of the award before JMFC, Pune on 29th July 2017. It is further submitted that respondent no.1 had filed proceedings under D.V.Act with an intention to extract money from the petitioner. Respondent no.1 has also filed proceedings before Family Court, Pune being Petition No.153 of

2016 under the provisions of Section 125 of Code of Criminal Procedure, 1973. The said proceedings were subsequently withdrawn pursuant to the award dated 8th April 2017 in Lok-Adalat. It is submitted that the award passed by the Lok-Adalat is contrary to law. The petitioner and respondent no.1 are residing together. It is also averred in this petition that the settlement arrived at between the parties in Lok-Adalat was misconceived and the petitioner was kept in dark about the clauses and the intention behind them. The respondent no.1 is trying to oust the petitioner from the shared household by depriving the petitioner from affection towards his daughters. It is submitted that the grievance of petitioner is in respect to clause relating to restraint on entering premises at Flat No.4, Shila Vihar Colony and payment of loan installment and various taxes in relation to shared household. It is, therefore, submitted that the impugned award of Lok-Adalat may be set aside.

5. Learned counsel for respondent nos.1 to 3 submitted that the award was passed on 8th April 2017 whereas this petition was filed in October 2017. The contention raised in this petition that the petitioner was kept in dark about the clauses of consent terms, is after thought. The matter was referred to Lok-Adalat with the consent of both the parties. Before proceeding to pass the award, the Lok-Adalat had ascertained the factual aspects from both the parties and with the consent of parties the said award was passed. It is submitted that the contention of the petitioner that directions passed in the award are contrary to law, is misconceived. The sole intention of the petitioner is to avoid implementation of the award. It is submitted that although the petitioner has contended that pursuant to the impugned award the respondent no.1 has initiated

proceedings to extract money, in the petition it is alleged that the petitioner was kept in dark about the terms of settlement.

6. After going through the documents and after hearing both the parties, I find that the submissions advanced by learned advocate for petitioner are devoid of merits. The petition was filed after about eight months from the date of award contending that the petitioner was kept in dark about the terms. From the averments made in the petition it can be seen that the petitioner has contended that the advocate representing respondent no.1 drafted the consent terms without consultation of the petitioner and the petitioner was kept in dark about other terms of settlement, except amount of maintenance. In paragraph 6 it is stated that the petitioner and respondent no.1 appeared before the Lok-Adalat and signed the consent terms prepared and drafted by advocate for respondent no.1. Petitioner signed the consent terms on the faith and confidence in respondent no.1. In furtherance of the consent terms the Lok-Adalat passed the award dated 8th April 2017. The contention of the petitioner is apparently after thought and deserves to be rejected. From the impugned award it is clear that terms of settlement were stipulated therein. The purshis was filed before the Court. Both the parties were present before the Court. The Court while passing the award has confronted both the parties and after ascertaining the genuineness of the award and recording the fact that parties are present before the Court and having taken on record the purshis, the award was passed. It is also pertinent to note that the Court had recorded that the parties were personally confronted and they have stated that they are voluntarily settling the matter as per terms and conditions of the compromise purshis. In view of the compromise

purshis filed below Exhibit-8, the award was passed by the panel below Exhibit-9. Taking into consideration the aforesaid factual aspects, I do not find any reason to set aside the impugned award. The petition is devoid of merits and the same deserves to be dismissed. Accordingly, Criminal Writ Petition No.4182 of 2017 stands dismissed.

(PRAKASH D. NAIK, J.)

MST