

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice Gudiseva Shyam Prasad

Writ Petition No.734 of 2018

Date: 20.07.2018

Between:

Rajeshwari Raman

... Petitioner

and

The State of Telangana
Rep. by its Prl.Secretary (Law),
Secretariat, Hyderabad and 4 others

...Respondents

Counsel for the Petitioner: Mr.Naumene Suraparaj Karlapalem
for Ms.S.Vani

Counsel for respondent Nos.1, 3 & 4: AGP for Home (TS)

Counsel for respondent No.2: Mr.J.Anil Kumar,
SC for Legal Services Authority

Counsel for respondent No.5: Mr.R.Ranganatham

The Court made the following:

Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Petition is filed for issue of a Certiorari to set aside award, dated 06-09-2017, in CC.No.214 of 2017, passed by respondent No.2- Metropolitan Legal Services Authority Lok Adalat, Hyderabad.

We have heard Mr.Naumene Suraparaj Karlapalem, learned Counsel representing Ms.S.Vani, learned Counsel for the petitioner, and Mr.R.Ranganathan, learned Counsel for respondent No.5.

The petitioner is the estranged wife of respondent No.5. After two children were born from their wedlock, the couple fell out. The petitioner alleged that though she was working in Indusind Bank, she had to quit her job due to the harassment of respondent No.5 in the year 2011; that similarly, she had to quit her job as Head of Vodafone, Hyderabad, on 14-10-2016 for the same reason; that on 02.02.2017, respondent No.5 informed the petitioner that he intends to separate from her and wanted to obtain divorce; that respondent No.5 also demanded her to vacate the house, which she declined; that respondent No.5 had taken away their children with him on 07-02-2017; that unable to bear the threats of respondent No.5, the petitioner approached

respondent No.4 on 23-02-2017 and lodged a report, based on which Crime No.100 of 2017 was registered against respondent No.5 for the offence under Section 498A IPC on 27-02-2017; and that after investigation, the Police have filed chargesheet, which was taken on file and registered as CC.No.214 of 2017 by respondent No.3.

The petitioner further pleaded that due to the pendency of Criminal Case, respondent No.5 handed over their two children to her and also agreed to give their exclusive custody to her; that as the petitioner has got the custody of the children, she did not want to continue the Criminal Case; that therefore, at the instance of herself and respondent No.5, CC.No.214 of 2017 was referred to respondent No.2 for settlement; that on 06-09-2017, the petitioner attended the proceedings and signed on all the necessary forms while respondent No.5 and his Counsel had neither attended those proceedings nor signed on the forms; and that nevertheless, respondent No.2 has passed the award acquitting respondent No.5 of the charge under Section 498-A IPC.

The petitioner further pleaded that taking advantage of his acquittal, respondent No.5, who took temporary custody of the children, did not hand them over to the petitioner and started

attributing illicit intimacy between her and one Suraj Iyer; that thereafter, she received a phone call from the Sub-Inspector of Gachibowli Police Station on the complaint of respondent No.5; and that she was shocked to know that respondent No.5 lodged a complaint against herself and the said Suraj Iyer alleging adultery, which was registered for the offences punishable under Sections 418 and 497 IPC. The petitioner denied any such adulterous relationship and pleaded that respondent No.5 has acted according to a perfect plan making her believe that he will give permanent custody of the children to her as he intends to settle the matter amicably; and that it is only after the Criminal Case was closed that she came to know that she was taken for a ride by respondent No.5 by suppressing the fact of his giving complaint against her a few days prior to the award of the Lok Adalat.

Respondent No.5 filed a counter-affidavit wherein he stated that the Criminal Case registered against him by the petitioner and pending before respondent No.3 was referred to respondent No.2; that he has not made any offer for amicable settlement with the petitioner; that as the children were very young, he did not want to deny the company of their mother; that the petitioner approaching respondent No.2 with a request to permit her to withdraw the complaint is true but the same is not on account of any promise or

pressure from him; that as regards the allegation of adultery, respondent No.5 averred that on 30-08-2017 itself, he has filed the Criminal Case; and that he never pressurized the petitioner to withdraw the Criminal Case filed against him.

A perusal of the impugned Lok Adalat Award shows that neither respondent No.5 nor his Counsel have signed the same. We, however, agree with the learned Counsel for respondent No.5 that in a case of this nature where the petitioner wanted to unilaterally withdraw the Criminal Case, the fact of respondent No.5 and his Counsel not signing the award would not affect the legality of the same. But, here is a case where the petitioner pleaded that the fact of respondent No.5 giving a complaint making allegation of her having illicit intimacy with the said Suraj Iyer of Chennai on 30-08-2017 came to her knowledge a few days after the Lok Adalat has passed the impugned award. The petitioner, therefore, feels deceived by respondent No.5. Ordinarily, the Lok Adalat award is not liable to be set aside unless it is proved that the same is a result of fraud or deception. The Lok Adalat Award is generally based on mutual consent. Respondent No.5 has candidly admitted that no such settlement was arrived at between himself and the petitioner. It is also his pleaded case that the dispute was not referred to Lok Adalat, and

much less, at his instance. Thus, the Lok Adalat award is not preceded by any settlement between the parties. While we do not intend to render any conclusive finding on the plea of the petitioner that respondent No.5 has given the complaint of adultery taking advantage of withdrawal of the Criminal Case by her, we find some merit in the plea of the petitioner that registration of complaint against the said Suraj Iyer making allegations of illicit intimacy between them made her realize that she was cheated by respondent No.5. When no settlement was reached between respondent No.5 and the petitioner and the award was not passed at the instance of respondent No.5, in our opinion, he is not entitled to oppose the request of the petitioner for registration of the Criminal Case.

In the light of the allegations made by the petitioner that respondent No.5 has been taking advantage of withdrawal of the Criminal Case by her by not only pursuing the Criminal Case registered against her for adultery but also holding the custody of the children, we feel that there would be grave failure of justice, if her request for setting aside the Lok Adalat Award is not allowed. While making it clear that we are not rendering any findings on the allegations of either party, we feel that it would be in the interests of justice that the Lok Adalat award passed only at the

instance of the petitioner is set aside so that the parties can be left free to prosecute/defend the litigation against each other.

In the result, the Writ Petition is allowed.

As a sequel, IA.No.1 of 2018, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad, J)

Dt: 20th July, 2018
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