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

and

The Hon'ble Sri Justice Gudiseva Shyam Prasad

Writ Petition No.27207 of 2018

Date: 02.08.2018

Between:

Varshachalam Rajesh and another

… Petitioners

and

The Lok Adaat Bench at Sullurpet
Rep. by its Chairman, Sullurpeta,
SPSR Nellore District and 2 others

…Respondents

Counsel for the Petitioners: **Mr.V.Siva Prasad Reddy**

The Court made the following:

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

This Writ Petition is filed assailing the validity of Lok Adalat Award No.23 of 2017, dated 11-02-2017, passed by respondent No.1/Lok Adalat Bench at Sullurpet, in CC.No.355 of 2016 on the file of the Additional Judicial Magistrate of First Class, Sullurpet (for short 'the Court below').

This case bears peculiar facts. Respondent No.2, allegedly, received certain gold ornaments from the petitioners and also respondent No.3 in separate transactions on the alleged understanding that after sale of those ornaments, he will pay the value thereof to the respective parties. On 07-04-2016, respondent No.3 has filed a complaint against respondent No.2 before the Sub-Inspector of Police, Sullurpet Police Station, who registered the same as FIR No.187 of 2016, for the offences punishable under Sections 406 and 420 IPC. The Police have apprehended respondent No.2 on 17.10.2016, seized an amount of Rs.25,78,000/- from his possession and also recorded his confessional statement as per which, he has received 750 grams and 780 grams of gold ornaments from petitioner Nos.1 and 2 respectively, converted the same into gold bars, sold them and realized a sum of Rs.25,78,000/-. Based on the investigation, the Police have filed chargesheet, which was taken on file by the Court

below as CC.No.355 of 2016. Pending the said case, the petitioners have filed Crl.M.P.Nos.2211 and 2212 of 2017 under Sections 451 and 457 Cr.P.C., seeking release of their share amount of Rs.8,59,333/- and for interim custody of the said amount to them on their furnishing sufficient sureties. The said Petitions were returned on 28-10-2017 with an objection that the criminal case was already settled before the Lok Adalat, following which the CC was disposed of on 11-02-2017.

The petitioners further averred that their further enquiries revealed that respondent No.3 filed an application under Section 457 Cr.P.C., for return of the cash of Rs.25,78,000/-and respondent No.2 has also filed an application under Section 451 Cr.P.C., for return of the said amount, but subsequently, both respondent Nos.2 and 3 have filed a Joint Compromise Memo before respondent No.1, wherein respondent No.3 agreed (i) to receive a sum of Rs.15 lakhs out of the amount lying in the Fixed Deposit; (ii) for payment of the balance amount of Rs.10,78,000/- to respondent No.2; and (ii) for acquittal of respondent No.2 of the charges levelled against him. Respondent No.2 also gave an undertaking to the effect that he will return the amount to the petitioners. In pursuance of the said Joint Compromise Memo, the

CC was taken up by respondent No.1/Lok Adalat Bench on 11.02.2017 and a compromise was recorded to that effect.

The petitioners further averred that on coming to know about the aforementioned Order, dated 11-02-2017, they re-presented Crl.M.P.Nos.2211 and 2212 of 2017 before the Court below after complying with the objections and that those applications are pending. At this stage, the petitioners have filed this Writ Petition questioning award No.23 of 2017, dated 11-02-2017.

A perusal of the Lok Adalat Award, dated 11-02-2017, shows that respondent Nos.2 and 3 have agreed to apportion the cash of Rs.25,78,000/- in the ratio of Rs.10,78,000/- and Rs.15 lakhs respectively. Following the said award, a separate docket order was passed on 11-02-2017 in CC.No.355 of 2016 wherein the Court below has noted the particulars given out by respondent No.2, as per which he purchased the gold from respondent No.3 and also two other persons *i.e.,* the petitioners and promised before the Lok Adalat that he will distribute the money to the petitioners. Accordingly, the Court below observed that as both respondent Nos.2 and 3 agreed for compounding offences and no claimant came forward for recovery of cash, respondent No.2/accused will distribute the amount later. Accordingly, a direction was issued to

him to distribute the amount to all the persons as per the Mahazarnama.

The above facts would clearly reveal that the petitioners are entitled to receive their part of money realized by respondent No.2 by conversion of the gold ornaments given by them. The legitimate rights of the petitioners cannot, therefore, be defeated. However, as Crl.M.P.Nos.2211 and 2212 of 2017 filed by the petitioners are stated to have been re-presented and the same are pending, we do not find it appropriate to record our conclusive opinion on the merits of the case. For the present, it would suffice if the Court below disposes of those two applications on their own merits within one month from the date of receipt of this order. If the petitioners feel aggrieved by the orders that may be passed therein, they shall be free to avail appropriate legal remedies available to them. We make it clear that since the petitioners are not parties to the impugned Lok Adalat Award, the same does not bind them in any manner.

Subject to the above directions and observations, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, IA.Nos.1 and 2 of 2018, filed by the petitioners for interim relief, are disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad, J)

Dt: 2nd August, 2018
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