

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.10427 of 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners/accused, to quash the proceedings in C.C.No.18 of 2018 on the file of VII Special Magistrate, Hyderabad, registered for the offences punishable under Sections 406 & 420 of IPC and Section 138 of the Negotiable Instruments Act, 1881.

2. Heard Sri Apurva M. Gokhale, learned counsel for the petitioners/accused, Sri Pawan Kumar Agarwal, learned counsel for the second respondent/de-facto complainant and perused the record.

3. It has been contended on behalf of the learned counsel for the petitioners/accused that the disputed cheques were issued in terms of memorandum of understanding, dated 10.12.2015, and the same were reflected in the Award, dated 12.12.2015, passed by the Lok Adalat under Section 21 of the Legal Services Authorities Act, 1987. The subject dispute relates to the encashment of six cheques. Those cheques would not have been dishonoured, had the bank not closed the account of the petitioners/accused in terms of the regulations governing therein. The Award passed by the Lok Adalat is deemed to be a decree of the civil Court and is executable as per Section 21 of the Legal Services Authorities Act, 1987. In view of these

circumstances, continuation of the proceedings in C.C.No.18 of 2018 on the file of VII Special Magistrate, Hyderabad, against the petitioners/accused would amount to abuse of process of Court and ultimately prayed to quash the same. In support of his contention that the Award passed by the Lok Adalat is deemed to be a decree of the civil Court and is executable as per Section 21 of the Legal Services Authorities Act, 1987, the learned counsel for the petitioners/accused had relied on the decision of the Apex Court in K.N.Govindan Kutty Menon Vs. C.D.Shaji¹ and the decision of the Madras High Court in Valarmathi Oil Industries and others Vs. Saradhi Ginning Factory².

4. There cannot be any dispute with regard to the law laid down by the Apex Court in K.N.Govindan Kutty Menon's case (supra 1) that 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. In the instant case, as per the records, the issue of the subject cheques was reflected in the Award, dated 12.12.2015, passed by the Lok Adalat. There is also record to establish that the subject cheques were dishonoured. It is too early to say that these petitioners/accused are not instrumental in closure of the account by the bank. There is no record to substantiate that there was sufficient money in the bank account of the petitioners/accused to honour the subject cheques. Viewed from any angle, it cannot be said that continuation of proceedings in C.C.No.18 of 2018 on the file of VII Special Magistrate,

¹ AIR 2012 SC 719

² AIR 2009 Mad 180

Hyderabad, against the petitioners/accused would amount to abuse of process of Court. The Criminal Petition is devoid of merit and is liable to be dismissed.

5. Hence, the Criminal Petition is dismissed.

Pending miscellaneous petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

28th March, 2019
Bvv

