



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2022

CORAM:

THE HONOURABLE **DR. JUSTICE G. JAYACHANDRAN**

W.P. (MD)No.24018 of 2019

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R.Chinna Poosari

... Petitioner

Vs.

1.The District Legal Services Authority,
Madurai
Rep by its Chairman

2.The Principal District Judge,
Madurai.

3.Duraiaraj
Sub Inspector of Police,
Koodakovil Police Station,
Madurai District
(now working in Thirumangalam Police Station,
Madurai District.)

4.P.Vairan

5.V.Chinna Vairan

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records pertaining to the award passed in No:LA.1789/13, dated 23.11.2013 in C.C.No.472/2013 dated 23.11.2013 on the file of the learned Judicial Magistrate, Thirumangalam through Lok Adalat Services and to direct the learned Judicial Magistrate, Thirumangalam to proceed further against the respondents 2 and 3.

For Petitioner : Mr.T.K.Gopalan
For R1 & R2 : Mr.K.Samidurai

ORDER

This writ petition is filed seeking Writ of Certiorari, to quash the award passed by the Lok Adalat dated 23.11.2013, regarding the settlement in a criminal case pending on the file of the Judicial Magistrate, Thirumangalam in C.C.No.472 of 2013 for alleged offences under Section 417, 420, 464, 468, 471 and 506(i) of Indian Penal Code.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The petitioner herein is the defacto complainant. According to the petitioner, the Lok Adalat award was passed without his knowledge and notice and thereby a grave offence of falsification of record, document forgery and cheating, have been covered by payment of cost of Rs.1,500/- and as a consequence, the petitioner, has been deprived of his property.

3. This Court ordered notice to the respondents and from the records we find that notice to the private respondents 4 and 5 has been served they have not engaged any counsel.

4. When the matter taken up for consideration today (25.01.2022), the learned counsel for the petitioner would submit that the fourth respondent died recently. From the records and proof of service filed by the petitioner herein, the respondents 4 and 5 have been duly served with notice as early as 20.11.2019 and proof of service with postal acknowledgment filed in the registry.

5. Regarding, the second respondent who is the Principal District Judge, Madurai, counter has been filed wherein it is admitted that C.C.No.472 of 2013 was listed before the Lok Adalat on 23.11.2013 and based on the statement memo, the same was closed which ended up acquittal of the accused, on payment of cost of Rs.1,500/-. The copy of the settlement memo also enclosed along with the receipt issued for the deposit of Rs.1,500/-.

5. The petitioner herein who came to know about the closure of the case registered based on his complaint, has approached the District Legal Service Authority on 14.05.2018 to set aside the award and restore the case on file. However, the same was rejected on the ground that the petitioner has to approach the appropriate Forum and accordingly, the petitioner has moved this present writ petition.

6. From the records, it is clear that the legal service authority, who referred the matter for Lok Adalat settlement, had not put the defacto complainant, who is the writ petitioner herein, notice about the reference with Lok Adalat. In the Lok Adalat, the defacto complainant is not a signatory to the settlement memo. The members of the Lok Adalat had not verified the fact that whether the defacto complainant had consented for the settlement. Now it is brought to the notice of the Court by way of an affidavit in the writ petition that the compromise recorded before the Lok Adalat was not with the consent of the defacto complainant. Therefore, the illegality has to be set aside and the criminal case initiated pursuant to the complaint of the writ petitioner, has to be tried and reach the logical end.

7. Hence, this Court allow the writ petition. The order of Lok Adalat dated 23.11.2013, is quashed. The Judicial Magistrate, Madurai is directed to restore the case on file.



Tirumangalam, is directed to take C.C.No.472 of 2013 on the file, cause summons to the accused and proceed with the trial in accordance with law. The trial shall be completed preferably within a period of nine months from the date of restoration of the complaint on file.

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8. Accordingly, this Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar (As)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Chairman,
District Legal Services Authority,
Madurai

2.The Principal District Judge,
Madurai.

3.The Judicial Magistrate,
Thirumangalam.

+1 CC to M/s.T.K.GOPALAN, Advocate (SR-2608[F] dated 27/01/2022)

W.P. (MD)No.24018 of 2019

25.01.2022

MGJ(09.02.2022) 3P 5C