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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(117)

CRM-M-27480-2023
DATE OF DECISION: - 04.08.2023

LAKHAN

...PETITIONER

VERSUS

RAJESH KUMAR SIKRI

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Parvez Chugh, Advocate
for the petitioner.

SUVIR SEHGAL, J. (Oral)

1. By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioner is seeking setting aside of order dated 06.05.2023, Annexure P-6, passed by learned Judicial Magistrate, Ferozepur in complaint bearing CIS No. NACT-16-2021 titled as "*Rajesh Kumar Sikri Versus Lakhan*" by which application dated 03.01.2023, Annexure P-4, preferred by the petitioner, to dispose of the complaint as having been settled, was dismissed.
2. Factual matrix leading to the filing of the petition is that the respondent instituted a complaint under Section 138 and 142 of the Negotiable Instruments Act, 1881 against the petitioner on account of dishonor of a cheque. Upon being summoned, petitioner appeared before the Trial Court and as there was a probability of settlement between the parties, they were referred to the Lok Adalat. In the Pre Lok Adalat held on 26.08.2022, Annexure P-2, petitioner suffered a statement that he has

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effected a compromise with the complainant for Rs.3.50 lacs in full and final settlement and he will make part payment of Rs. 12,500/- on 15.09.2022 and the balance amount will be paid in 45 equal monthly installments of Rs. 7,500/- each. Both the parties gave a statement that an award be passed in terms of the settlement. On 15.09.2022, petitioner did not make the payment of the agreed amount. Both the parties failed to appear before the Lok Adalat and on 12.11.2022, Annexure P-3, complaint was adjourned for cross-examination of the complainant witness. Petitioner filed an application dated 03.01.2023, Annexure P-4, before the Trial Court for disposal of the complaint in terms of the compromise which, upon contest, has been dismissed by the Trial Court vide order impugned herein.

3. Two fold arguments have been raised by the counsel for the petitioner. Firstly, he has argued that a settlement was arrived at between the parties as is apparent from the proceedings of the Pre Lok Adalat held on 26.08.2022, Annexure P-2, and an award should have been passed on its basis. Secondly, he has urged that the Trial Court is likely to be influenced with the proceedings of the Lok Adalat and will not be able to decide the complaint in an unbiased manner.

4. Both the submissions made by counsel for the petitioner deserve to be noticed and rejected.

5. Although, both the parties arrived at a settlement and had requested that an award be passed in terms thereof, but during the subsequent proceedings, on failure of the petitioner to make part payment, the complainant did not accede to the passing of the award, rather he insisted that the entire cheque amount should be paid.

Consequently, the Lok Adalat could not pass an award. Till the time, an award is not passed in terms of Section 20 of the Legal Services Authorities Act, 1987 the settlement arrived at between the parties cannot be enforced. Consequently, no fault can be found with the order passed by the Trial Court rejecting the application of the petitioner.

6. Second submission made by counsel has no legs to stand on. Hon'ble Supreme Court *in B.P. Moideen Sevamandir and another Versus A.M. Kutty Hassan (2009) 2 SCC 198* has held as under:-

“17. When a case is to be heard and decided on merits by a court, the conduct of the party before the Lok Adalat or other ADR fora, howsoever stubborn or unreasonable, is totally irrelevant. A court should not permit any prejudice to creep into its judicial mind, on account of what it perceives as unreasonable conduct of a litigant before the Lok Adalat. Nor can its judgment be 'affected' by the cantankerous conduct of a litigant. It cannot carry 'ill-will' against a litigant, because he did not settle his case. It is needless to remind the oath of office, which a Judge takes when assuming office. He is required to perform his duties without fear or favour, affection or ill-will. Any settlement before the Lok Adalat should be voluntary. No party can be punished for failing to reach the settlement before the Lok Adalat. Section 20(5) of the Act statutorily recognizes the right of a party whose case is not settled before the Lok Adalat to have his case continued before the court and have a decision on merits. Any

admission made, any tentative agreement reached, or any concession made during the negotiation process before the Lok Adalat cannot be used either in favour of a party or against a party when the matter comes back to the court on failure of the settlement process. To deny hearing to a party on the ground that his behaviour before the Lok Adalat was cantankerous or unreasonable would amount to denial of justice. When deciding a matter on merits of a case, if a court carries any prejudice against a party on account of his conduct before an ADR forum, it will violate the inviolable guarantee against prejudice or bias in decision making process. Such conduct can neither be permitted nor be tolerated and requires to be strongly deprecated. Every Judge should constantly guard against prejudice, bias and prejudging, in whatever form. Judges should not only be unbiased, but seem to be unbiased. Judiciary can serve the nation only on the trust, faith and confidence of the public in its impartiality and integrity.”

7. It is, therefore, apparent from the above observations of the Hon’ble Supreme Court that when a settlement could not fructify into the passing of an award, it should not and would not have any effect on the proceedings before the Court. The proceedings before the Lok Adalat, any concession or admission made, the failure of the party to reach an agreement or their attitude before the Lok Adalat should not prejudice the mind of the Court determining the lis on merits. The nature of the

proceedings before the Lok Adalat are conciliatory. The intention behind is to bring an end to the litigation and no party can be forced upon to enter into a compromise or a settlement. The apprehension, therefore, expressed by the counsel for the petitioner, is unfounded.

8. In view of the above discussion, there is no merit in the petition, which is hereby dismissed with no order as to costs.

04.08.2023
Kamal

(SUVIR SEHGAL)
JUDGE

Whether speaking/ reasoned	Yes/ No
Whether Reportable	Yes/ No