

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-59089-2022

Date of decision : 21.08.2023

IQBAL SINGH

....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Arnav Sood, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Parvinder Singh, Advocate
for respondent No.2.

Mr. Ibadat Singh, Advocate
for respondents No.3, 7, 8 and 9.

PANKAJ JAIN, J. (ORAL)

By way of present petition under Section 482 Cr.P.C. the petitioner has impugned order dated 11th of September, 2021 passed by National Lok Adalat, Garhshankar whereby criminal complaint bearing No. COMI/12/2017 dated 18th of April, 2017 has been ordered to be withdrawn and the respondents have been ordered to be discharged.

2. The order dated 11th of September, 2021 reads as under :

“XXXX

File taken up today before the National Lok Adalat. Compromise has been effected between the parties. Complainant vide his separate statement stated that he do not want to proceed with the present complaint and same may be dismissed as

withdrawn. Accordingly, present complaint stands dismissed as withdrawn in National Lok Adalat today. All the accused stands discharged. Their bail bonds and surety bonds are also discharged. File be consigned to record room, Garhshankar after due completion. xxxx”

3. Counsels for the respondents do not dispute that the order dated 11th of September, 2021 *per se* is without jurisdiction. However, an objection has been raised by Mr. Parvinder Singh, Advocate counsel representing respondent No.2 by submitting that the order passed by National Lok Adalat exercising jurisdiction under Section 19 and thus it will be deemed decree under Section 21 of the Legal Services Authority Act, 1987. The only remedy available to the petitioner *qua* that is to invoke writ jurisdiction under Article 226 of the Constitution of India. Reliance has been placed upon law laid down by Apex Court in **State of Punjab and another vs. Jalour Singh and others, (2008) 2 SCC 660.**

4. I have heard counsel for the parties and have gone through records of the case.

5. Jurisdiction under Section 482 Cr.P.C. vested in this Court is to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. The law w.r.t. exercise thereof is well discussed by Apex Court in '**Janta Dal vs. H.S. Chowdhary and others, (1992) 4 SCC 305 :**

“125. Section 482 which corresponds to Section 561 A of the old Code and to Section 151 of the Civil Procedure Code proceeds on the same principle and deals with the inherent powers of the High Court. The rule of inherent powers has its source in the maxim "Quaeritur aliquid aliqui concedit, concedere videtur id sine quo ipsa, esse non potest" which means that when the law gives anything to anyone, it gives also all those things without which the thing itself could not exist.

126. The Criminal Courts are clothed with inherent power to make such orders as may be necessary for the ends of justice. Such power though unrestricted and undefined should not be capriciously or arbitrarily exercised, but should be exercised in appropriate cases, ex debito justitiae to do real and substantial justice for the administration of which alone the Courts exist. The powers possessed by the High Court under section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Courts must be careful to see that its decision in exercise of this power is based on sound principles.

127. The Judicial Committee in (1) *Emperor v. Nazir Ahmed*, AIR 1945 Privy Council 18, 22 and (2) *Lala Jai Ram Das v. Emperor*, (1945) 47 Bom LR 634 has taken the view that Section 561 A of the old Code gave no new powers but only provided that those which the Court already inherently possessed should be preserved. This view holds the field till date.

128. This Court in *Dr. Raghubir Sharan v. State of Bihar*, (1964) 2 SCR 336 had an occasion to examine the extent of inherent power of the High Court and its jurisdiction when to be exercised. Mudholkar, J. speaking for himself and Raghubar Dayal, J. after referring a series of decisions of the Privy Council and of the various High Courts held thus:

".....every High Court as the highest Court exercising criminal jurisdiction in a State has inherent power to make any order for the purpose of securing the ends of

Justice.....Being an extraordinary power it will, however, not be pressed in aid except for remedying a flagrant abuse by a subordinate Court of its powers"

129. See *Talab Hazi Hussain v. Madhukar Purshottam Mondkar*, 1958 SCR 1226 and *Pampapathy v. State of Mysore*, 1966 (Supp) SCR 477.

130. Thus, the inherent power under this Section can be exercised by the High Court (1) to give effect to any order passed under the Code; or (2) to prevent abuse of the process of any Court; or (3) otherwise to secure the ends of justice. In relation to exercise of inherent powers of the High Court, it has been observed in *Madhu Limaye v. State of Maharashtra*, AIR 1978 Supreme Court 47 = (1978) 1 SCR 749, that the power is not to be resorted to if there is a specific provision in the Code for the redress of the grievance of the aggrieved party and that it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice and that it should not be exercised as against the express bar of law engrafted in any other provision of the Code. Vide (1) *Talab Hazi Hussain v. Madhukar Purshottam*, AIR 1958 Supreme Court 376 = 1958 SCR 1226; (2) *Khushi Ram v. Hashim*, AIR 1959 Supreme Court 542; and (3) *State of Orissa v. Ram Chander Agarwala*, AIR 1979 Supreme Court 87 = (1979) 1 SCR 1114.

6. In view of above, after having found that the order passed by National Lok Adalat is *per se* illegal and cannot have any effect on the trial, this Court deems it appropriate to direct the Trial Court to proceed with the trial irrespective of the order passed by the National Lok Adalat which is inconsequential and can have no bearing on trial instead of upholding the preliminary objections raised by respondent and asking the petitioner to

avail remedy under Article 226 of the Constitution of India as there can be no second opinion *vis-a-vis* the impugned order being unsustainable.

7. The petitioner stands disposed off in above terms.

August 21, 2023		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No