



W.P(MD)No.573 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.573 of 2024

S.Selvaraj

... Petitioner

Vs.

1.The District Legal Service Authority,
District Court,
Theni.

2.S.R.Bharani

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the National Lok Adalat award dated 11.09.2021 in Lok Adalat Case No.NLA.18/2021, Fast Track Mahila Court Case No.STC No. 78/2020 (on the file of the Judicial Magistrate (FTC), Theni and to set aside the same and consequently restore the STC No.78/2020 on the file of the Judicial Magistrate (FTC), Theni and expedite the trial.

For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.A.Kannan
Additional Government Pleader for R1



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ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for R1. Notice could not be served on the second respondent as he appears to be at large. Notices sent to the last known address of the second respondent have been returned with an endorsement “no such person in the address”.

2. The petitioner herein filed STC No.78 of 2020 on the file of the Judicial Magistrate (Fast Track Court), Theni under Sections 138 and 142 of the Negotiable Instrument Act. The case of the petitioner is that the cheque issued by the second respondent in favour of the petitioner for a sum of Rs.7,00,000/- was returned for want of funds. After complying with the statutory requirements, the petitioner instituted the aforesaid private complaint. The said case was referred for resolution to the lok adalat on 11.09.2021. The petitioner as well as the accused were present. A compromise was arrived at. It was agreed that the second respondent was to pay a sum of Rs.5,00,000/- towards full and final settlement on or before 20.10.2021. It was further directed that in case of default, the settlement amount was to be paid by the accused along with 6% interest. Since the issue was compromised, the accused was also acquitted



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of the offence punishable under Section 138 of the Negotiable Instrument Act.

The grievance of the complainant is that after the lok adalat award was passed, the second respondent vanished from the scene. His current whereabouts are not known. The petitioner thereafter complained to the first respondent that the second respondent is not honouring the compromise. Notice issued by the first respondent to the second respondent also could not be served. It is obvious that the intention of the second respondent was only to get the criminal case closed. The very purpose of filing the complaint under Section 138 of the Negotiable Instrument Act is to recover the cheque amount. In this case, the cheque amount was Rs.7,00,000/-. The petitioner agreed to give a quietus to the issue by accepting a sum of Rs.5,00,000/-. After undertaking to pay the amount, the second respondent had not only gone back on his undertaking but is also remaining at large. It is obvious that action of the second respondent was to cheat the petitioner herein. The petitioner now has to file an EP for enforcing the award.

3. I am more than satisfied that the second respondent had played fraud on the judicial process. A proper criminal proceedings was terminated by cheating the petitioner herein. The impugned lok adalat award is vitiated. On the ground, it is set aside. STC No.78 of 2020 on the file of the Judicial



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Magistrate (FTC), Theni shall stand restored. The learned trial court shall issue non-bailable warrant against the second respondent. Expeditions steps shall be taken for securing his presence and taking the matter to its logical conclusion. I would expect the members of the lok adalat to ensure that the compromise arrived at before them is honoured in letter and spirit. Closure and termination of criminal cases should be made only if the agreed amount is actually paid.

4. The Writ Petition is allowed. No costs.

27.02.2024

Index : Yes / No
Internet : Yes/ No
rmi

To

The District Legal Service Authority,
District Court,
Theni.



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G.R.SWAMINATHAN, J.

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