



2025:AHC:176359

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 2300 of 2020

Rajeev Jain

.....Applicant(s)

Versus

State Of U.P. And Anr

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Niklank Kumar Jain
Counsel for Opposite Party(s)	:	G.A., Shashi Kumar Mishra

Court No. - 92

(SL No.31)

A.F.R.

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Niklank Kumar Jain, learned counsel for the applicant and Sri Aditya Veer Singh Rana, learned A.G.A. for the State.
2. This application under Section 482 Cr.P.C. has been filed seeking quashing of the order dated 09.12.2017 in Complaint Case No. 49 of 2016 (Rajeev Jain vs. Brahm Kumar) under Section 138 of the Negotiable Instruments Act, 1881 (in short, 'N.I. Act, 1881'), P.S.- Kotwali Nagar, District- Etah as well as to quash the order dated 23.10.2019 in Criminal Revision No. 27 of 2018 (Rajeev Jain vs. State of U.P. and Another).
3. Learned counsel for the applicant submits that the applicant herein had filed a complaint case under Section 138 of the NI Act against the opposite party no.2. On 09.12.2017, the matter was taken up in the Lok Adalat and on the said date since none appeared on behalf of the complainant, the complaint was dismissed under Section 203 Cr.P.C. Learned counsel for the applicant submits that once the matter is taken up in Lok Adalat it can be disposed of on the basis of the settlement, if any, arrived at between the parties and if none appears the matter is required to be sent back to the main court for disposal in accordance with law. However, in Lok Adalat the matters cannot be dismissed for want of prosecution, even on non

appearance of the complainant.

4. Learned counsel for the applicant further submits that no consent was ever given by the complainant for taking up the matter in Lok Adalat, which was the precondition for referring the matter to the Lok Adalat, in this regard he has relied upon Section 20 of the Legal Services Authority Act 1987. Thus, the impugned order dated 09.12.2017 is illegal and cannot be sustained, therefore, he seeks quashing of the said order.

5. Learned A.G.A. also submits that any case pending in court can be referred to Lok Adalat only with the consent of the parties, however, if there is no consent the case cannot be referred to the Lok Adalat. Even if the matter is referred to the Lok Adalat, either the matter can be disposed of in view of the compromise/settlement arrived at between the parties or if there is no settlement then the matter is required to be remitted back to the main court for disposal of the case in accordance with law. However, while taking up the matter in Lok Adalat the same cannot be decided or dismissed on merit. Therefore, he also submits that the order dated 09.12.2017 is not sustainable in the eyes of law.

6. Having heard the submissions so made by learned counsel for the parties, this Court has carefully gone through the record of the case. From the record of the case it is apparent that the applicant herein has filed a complaint case under Section 138 of the NI Act, after complying with the provisions of Sections 138 and 142 of the NI Act. The said complaint case was listed on 10.11.2017 for arguments on summoning. Since the complainant was not present the matter was adjourned to 24.11.2017. On 24.11.2017, again the complainant was absent and the Presiding Officer was also on leave, therefore, the matter was directed to be listed on 13.12.2017. Subsequent thereto, without the consent of the applicant herein and without any intimation to him the matter was taken up on 09.12.2017 in Lok Adalat and the following order was passed:

"पत्रावली लोक अदालत में पेश हुई। बार-बार कार पुकार पर परिवादी की ओर से कोई उपस्थित नहीं है। विगत तिथियों से कोई उपस्थित नहीं है।

पत्रावली का अवलोकन किया गया। पत्रावली के अवलोकन से विदित होता है कि प्रस्तुत प्रकरण में परिवादी का बयान अन्तर्गत धारा 200 दं० प्र० स० हो चुका है। पत्रावली धारा 202 दं० प्र०सं० की साक्ष्य में विचाराधीन है लेकिन परिवादी की ओर से कोई उपस्थित हो रहा है और ना ही धारा 202 दं० प्र०सं० के अन्तर्गत कोई साक्ष्य पेश किया जा रहा है। इस स्तर पर पत्रावली का अवलोकन किया गया। पत्रावली के अवलोकन से विपक्षीगण के विरुद्ध प्रथम दृष्ट्या कोई अपराध वनता प्रतीत नहीं होता है। अतः परिवाद खारिज होने योग्य है।

आदेश

परिवादी का परिवाद धारा 203 दं० प्र०सं० खारिज किया जाता है। पत्रावली नियमानुसार दाखिल दफ्तर हो।"

7. Before proceeding further it would be relevant to take note of provisions of Section 19(5) and Section 20 of the Legal Services Authorities Act, 1987, which are reproduced herein under:

19. Organisation of Lok Adalats-

(5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of—

(i) any case pending before; or

(ii) any matter which is falling within the jurisdiction of, and is not brought before, any Court for which the Lok Adalat is organised:

Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.

20. Cognizance of cases by Lok Adalats.—*(1) Where in any case referred to in clause (i) of sub-section (5) of section 19,*

(i) (a) the parties thereof agree; or

(b) one of the parties thereof makes an application to the Court, for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement; or

(ii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat, the Court shall refer the case to the Lok Adalat:

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

(2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organising the Lok Adalat under sub-section (1) of section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination:

Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.

(3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.

(6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub-section (2), that Lok Adalat shall advise the parties to seek remedy in a court.

(7) Where the record of the case is returned under sub-section (5) to the court, such court shall proceed to deal with such case from the stage which was reached before such reference under sub-section (1).] "

8. From the aforesaid specific provisions of sub-section (5) of Section 19 of the Legal Services Authorities Act, 1987, Lok Adalat shall have jurisdiction

to determine and to arrive at a compromise or settlement of disputes between the parties in any case pending before any court.

(i) case pending before any court, or

(ii) any matter which is falling within the jurisdiction and is not brought before it.

However, the Lok Adalat shall not have any jurisdiction in a case which is not compoundable.

9. Sub-section (1) of Section 20 provides that the matters as referred in Section 19(5)(i) shall be referred to the Lok Adalat only with the consent of both the parties or on an application given by one of the parties. After recording its satisfaction that there are chances of settlement of dispute through Lok Adalat or where the court itself is satisfied that matter is appropriate one to be taken up cognizance by Lok Adalat, the court shall refer the case to Lok Adalat. It is further provided that no case shall be referred to Lok Adalat under Clause (b) of Clause (i) or Clause (ii) except without giving reasonable opportunity of being heard to the parties.

10. Sub-section (2) of Section 20 provides that the matters referred in Clause (ii) of sub-section 5 of Section 19 can be referred on an application made by one of the parties after giving an opportunity to the other party of being heard. Where any case has been referred under sub-section (1) and (2) of Section 20, sub-section (3) provides that Lok Adalat shall proceed to dispose of the case or the matter on the basis of a compromise and settlement arrived at between the parties.

11. Sub-section (4) provides that every Lok Adalat shall, while determining any case referred to it, shall be guided by the principles of justice, equity, and fair play and other legal principles with utmost expedition to arrive at a compromise and settlement between the parties.

12. Sub-section (5) provides that when no compromise or settlement could be arrived at between the parties, the Lok Adalat shall be duty bound to return the case back to the court from which the reference has been received or disposal in accordance with law.

13. Sub-section (7) provides that when the matter is referred back to the court concerned, the court concerned shall proceed in the matter from the stage which was reached before the reference to Lok Adalat.

14. Thus, from the specific categorical provisions of Section 19 and 20 of

the Legal Services Authority Act 1987, the matter which is pending before any court and the same is compoundable can be referred to Lok Adalat only (i) either with the consent of the parties or (ii) on application of any of the parties, after giving an opportunity of hearing to the other parties. Unless the parties agree and arrive at settlement and compromise, no award can be made by Lok Adalat. When no award is made as there is no compromise and settlement, Lok Adalat is duty bound to return back the matter to the court concerned from which the matter was referred to the Lok Adalat.

15. In the instant case, the applicant herein had filed a complaint case under Section 138 of the NI Act, after complying with the provisions of Section 138 and 142 of the NI Act, the statement of complainant was already recorded. The matter was fixed for arguments on summoning of the accused. At this stage, on one occasion, the complainant could not present himself to the court concerned and subsequently thereto, the Presiding Officer was on leave, and, the complainant was also not present and the matter was fixed for hearing before the court concerned on 13.12.2017 for arguments on summoning of the accused.

16. Since the accused, the opposite party no.2 herein, was not summoned yet, there was no occasion for him for making any application for reference of the dispute to the Lok Adalat, nor any such application has been moved by him. Likewise, the complainant, applicant herein, had also not moved any application nor has given any consent for reference of the matter to the Lok Adalat. The court on its own motion, without obtaining the consent of the applicant herein and without any intimation to the complainant, taken up the complaint case filed by the applicant herein in the Lok Adalat on 19.12.2017 and dismissed the case for want of prosecution, without following any of the procedure prescribed under sub-section (5) of Section 19 and Section 20 of the Legal Services Authority Act, 1987. Even if the matter was taken up in Lok Adalat when the parties were not present, it is not permissible for Lok Adalat to dismiss the case for non-presence of the complainant. Rather, if the parties are not present, it is the duty of the Lok Adalat to refer back the matter to court concerned for deciding the case on merits as has been provided under sub-section (7) of Section 20 of the Legal Services Authority Act.

17. Thus, in the considered opinion of this Court, it is apparent that the order dated 09.12.2017 passed by the Lok Adalat in the instant case is not sustainable under any canons of law. Accordingly, the instant application is **allowed** and the order dated 09.12.2017 is hereby **quashed**. The matter is remitted back to the Chief Judicial Magistrate, Etah, to decide the case in

accordance with law from the stage it was referred and dismissed in Lok Adalat.

18. Before parting with in the instant case, it is often seen that the judicial officers are prompted to dispose of the cases in the Lok Adalat without following any of the provisions as noted herein above. The instant case, is the gravest example of such irresponsible and unauthorized action on the part of the judicial officer concerned while taking up the matter in Lok Adalat. Thus, let a warning be issued to the concerned Judicial Officer in this regard so that he may not to repeat such occurrence in future.

(Anish Kumar Gupta,J.)

October 6, 2025
Shubham Arya