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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Reserved on : 12.04.2023***
Pronounced on : 29.05.2023

\+ **CRL.M.C. 6010/2019 & CRL.M.A. 41136/2019**

M/S. KHANUJA EXPORTS & FINANCE PVT. LTD. ..... Petitioner

Through: Col. R. Balasubramaniam, Sr. Advocate with Mr. Desh Raj, Mr. Sachin Sharma and Mr. Gurkirat Singh, Advocates.

versus

MR. NALLAPANENI NAGESHWARA RAO .....Respondent

Through: Mr. Anil Kumar Singh and Mr. Ganesh Kumar, Advocates

\+ **CRL.M.C. 6028/2019 & CRL.M.A. 41197/2019**

M/S. KHANUJA EXPORTS & FINANCE PVT. LTD. ..... Petitioner

Through: Col. R. Balasubramaniam, Sr. Advocate with Mr. Desh Raj, Mr. Sachin Sharma and Mr. Gurkirat Singh, Advocates

versus

MR. N.SYAM PRASAD ..... Respondent

Through: Mr. Anil Kumar Singh and Mr. Kumar, Advocates.

+ **CRL.M.C. 6602/2019 & CRL.M.A. 43176/2019**

M/S KHANUJA EXPORTS & FINANCE PVT. LTD. ..... Petitioner

Through: Col. R. Balasubramaniam, Sr. Advocate with Mr. Desh Raj, Mr. Sachin Sharma and Mr. Gurkirat Singh, Advocates

versus

MR. NALLAPANENI NAGESHWARA RAO ..... Respondent

Through: Mr. Anil Kumar Singh and Mr. Ganesh Kumar, Advocates.

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. By way of above-captioned petitions filed under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.'), the petitioner seeks the following reliefs:

i. Setting aside of order dated 27.09.2019 passed by learned Metropolitan Magistrate (NI Act), Central, Tis Hazari Courts, Delhi in Complaint Case No. 6779/2017, and dismiss the application under Section 145(2) of Negotiable Instruments Act, in *CRL.M.C. 6010/2019*;

ii. Setting aside of order dated 27.09.2019 passed by learned Metropolitan Magistrate (NI Act), Central, Tis Hazari

Courts, Delhi in Complaint Case No. 6780/2017, and dismiss the application under Section 145(2) of Negotiable Instruments Act, in *CRL.M.C. 6028/2019*;

iii. Setting aside of orders dated 30.04.2019 and 03.12.2019 passed by learned Metropolitan Magistrate (NI Act), Central, Tis Hazari Courts, Delhi in Complaint Case No. 541812/2016, and dismiss the application under Section 145(2) of Negotiable Instruments Act, in *CRL.M.C. 6602/2019*.

2. Brief facts of the case, leading to the filing of present petitions, are that petitioner i.e. M/s. Khanuja Exports & Finance Pvt. Ltd. is a Private Limited Company, who was approached by the respondent in capacity of proprietor of M/s. South India Freight Carriers in July, 2012 for availing a loan of Rs.1,00,00,000/-, which was granted by the petitioner on certain terms and conditions. Subsequently, disputes had arisen between the parties in relation to terms of payment and several Memorandum of Understanding / Settlement Agreements were executed. Later on, in the year 2016 and 2017, when the several cheques issued by the respondent/accused had got dishonored, the petitioner/complainant had filed complaints under Section 138 of Negotiable Instruments Act, 1881 accordingly.

3. It is the case of petitioner that when the respondent was summoned before the learned Trial Court, he had shown his willingness to settle the disputes and the matter was referred to National Lok Adalat which was to be held on 09.09.2017. However,

before that, the parties had entered into an Understanding/ Settlement Agreement dated 08.09.2017. Thereafter, when the matter was listed before National Lok Adalat, the factum of settlement dated 08.09.2017 was disclosed by the parties before the learned Judge and accordingly, the settlement between the parties was reduced in their respective statements on oath and the memorandum of settlement was exhibited being part of their statement which were duly signed and accepted by both the parties. It is further stated that the matter was then posted before learned Trial Court on 08.11.2017 by National Lok Adalat for payment of installments as agreed between the parties and the respondent had started making payment in parts in compliance with the settlement. It is the case of petitioner that after making some payments as per the settlement entered into before National Lok Adalat, the became dishonest and stopped making payments, and rather filed an application under Section 145(2) of Negotiable Instruments Act seeking permission to lead evidence and cross-examine the complainant witness, after lapse of more than two years.

4. In CRL.M.C.6010/2019 and 6028/2019, the common order dated 27.09.2019 passed by learned Metropolitan Magistrate (NI Act), Central, Tis Hazari Courts, Delhi in Complaint Case No. 6779/2017 and 6780/2017 respectively, impugned before this Court reads as under:

> "...On last date of hearing, notice was framed against the accused and the matter was listed today for orders on the application filed by the accused u/s 145(2) of Nl Act. Written submissions have already been filed.

Arguments heard. Record perused.

The accused has flatly denied the averments of the complainant and has infact stated that he has already made payment to the complainant for an amount more than what is so being demanded of him. He has also filed on record several documents in support thereof. Considering all of this, the contentions elaborately stated in the application filed by the accused u/s 145(2) of Nl Act and the defence raised by the him on 16.09.2019 at the time of framing of notice, this court is of opinion that both the versions, i.e. of the complainant as well as the accused, need to be contested in due course through a proper trial and hence an opportunity should be afforded to the accused to cross examine the complainant.

In view of the above, the application u/s 145(2) Nl Act is allowed subject to the condition that only two opportunities shall be given to the accused to cross examine the complainant's witnesses.

None has appeared on behalf of the accused. However, no adverse order is being passed today in respect of the same. Be that as it may, no further adjournment shall be granted to the accused on any ground whatsoever if he fails to avail the two opportunities that are being granted today for the cross examination of the complainant.

Put up for cross examination of the complainant on 04.11.2019 & 18.11.2019..."

5. In CRL.M.C.6602/2019, the orders dated 30.04.2019 and 03.12.2019 passed by learned Metropolitan Magistrate (NI Act), Central, Tis Hazari Courts, Delhi in Complaint Case No. 54181/2016, impugned before this Court read as under:

"CC No. 541812/16

30.04.2019

File received by way of transfer. It be checked and registered.

Present: AR of the complainant Ld. Counsel

Accused with Ld. Counsel

1. Vide this order this court shall dispose of application u/s 145(2) NI Act filed by accused side and reply to the same is filed by complainant side.

2. In gist, it is submitted vide application in question us 145(2) NI Act, the accused has submitted that he had obtained loan from the complainant which has been repaid by him. The complainant has misused the cheque in question and he has no liability towards the complainant. It is prayed that the accused be allwed to cross examine the complainant evidence.

3. The application has been contested by the complainant. Submissions of both sides considered.

4. In the opinion of this court, the defence side has raised probable defence vide application in question which can be decided only by way of cross examination of complainant evidence, no evidence is complete till, it passes the test of cross examination and moreover, since application u/s 145(2) NI Act has to be necessarily allowed once moved as per judgment of Hon'ble Supreme Court of India in matter of Mandi Cooperative Bank Ltd. Vs. Nimesh B.Thakar 2010(3) SCC 83, therefore, application of the accused side for allowing cross examination of complainant evidence stands allowed.

5. The above said application is disposed off in above said terms.

6. List the matter for CE on 17.07.2019. Two opportunities is granted to the accused to lead cross examination of complainant..."

* * * *

"CC No. 541812/16
03.12.2019

Today I am working as Link MM

Present: Counsel for complainant

Accused with counsel

> Copy of the complaint and copy of all the documents have been supplied to the the accused.
>
> Notice u/s 251 Cr.P.C: framed against the accused. Notice has been readover and explained to the accused to which he pleaded not guilty and claimed trial. Plea of defence of accused has been recorded.
>
> Statement of the accused recorded us 294. CrPC, the accused has admitted the dishonour of the cheque and legal notice. Accordingly, there is no need to examine the witnesses at no. 2 and 3 in the list of witnesses and they are dropped from the list.
>
> Application u/s 145(2) of NI Act has already been filed on behalf of the accused on the LDOH and same was allowed on the same day.
>
> List the matter for CE on 23.04.2020. Two opportunities are granted to the accused to lead cross examination of complainant..."

6. Learned counsel for the petitioner submits that respondent is governed by the provisions of estoppel and he was not entitled to move an application under Section 145(2) of Negotiable Instruments Act seeking trial of the case as he had already entered into a settlement agreement before National Lok Adalat and had even partly honored the conditions thereof, before defaulting. It is stated that as per Section 21 of Legal Services Authorities Act, 1987, the award of Lok Adalat is deemed to be a decree of civil court and is final and binding on the parties and no appeal against the same is maintainable. It is argued that upon settlement even in case of Section 138 Negotiable Instruments Act, award of Lok Adalat has to be treated as a decree capable of execution by civil court and as such the Court holding the matter cannot proceed with the trial.

7. Learned counsel for the respondent, on the other hand, argues that the settlement before National Lok Adalat had happened in a fraudulent manner as the Memorandum of Understanding dated 08.09.2017 had already been prepared by the petitioner and the signature of respondent was obtained on the same by playing fraud and misrepresentation. It is stated that aggrieved by the same, the respondent had preferred an application under Section 145(2) Negotiable Instruments Act on 01.02.2019 for cross-examination of the complainant witness, which is required in the interest of justice. It is further stated that under Section 21 of the Legal Services Authority Act, 1987, every Lok Adalat award is deemed to be a 'civil decree' and thus, it cannot be enforced in respect of Section 138 NI Act which is a criminal provision.

8. This Court has heard arguments on behalf of both sides and has gone through the material on record.

9. In a nutshell, the case of the petitioner is that when the matter had already been settled between the parties before the National Lok Adalat in terms of a Memorandum of Understanding/Settlement Agreement entered into between the parties, the learned Trial Court could not have proceeded with the trial by allowing the applications filed by the respondents.

10. At the outset, this Court takes note of the fact that by virtue of Section 21 of the Legal Service Authorities Act, 1987, every award of Lok Adalat is deemed to be a decree of a civil court and the same is final and binding on all parties to the dispute. The said provision reads as under:

> "21. Award of Lok Adalat.—
>
> (1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section(1) of section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court-fees Act, 1870 (7 of 1870).
>
> (2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award..."

11. In this regard, it will also be profitable to refer to the observations of Hon'ble Supreme Court in case of ***P. T Thomas v. Thomas Job*** *(2005) 6 SCC 344* whereby it has been held as under:

> *"...**Award of Lok Adalat***
>
> 20. The Lok Adalat shall proceed and dispose the cases and arrive at a compromise or settlement by following the legal principles, equity and natural justice. Ultimately the Lok Adalat passes an award, and every such award shall be deemed to be a decree of Civil Court or as the case may be which is final.
>
> ***Award of Lok Adalat shall be final***
>
> 21. The Lok Adalat will passes the award with the consent of the parties, therefore there is no need either to reconsider or review the matter again and again, as the award passed by the Lok Adalat shall be final. Even as under Section 96(3) of C.P.C. that "no appeal shall lie from a decree passed by the Court with the consent of the parties". The award of the Lok Adalat is an order by the Lok Adalat under the consent of the parties, and it shall be deemed to be a decree of the Civil Court, therefore an appeal shall not lie from the award of the Lok Adalat as under Section 96(3) C.P.C.
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> ***
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> 23. The High Court of Andhra Pradesh held that, in*Board of Trustees of the Port of Vishakhapatnam v. Presiding Officer, Permanent, Lok Adalat-cum-Secy, District Legal*

> *Services Authority*, the award is enforceable as a decree and it is final. In all fours, the endeavour is only to see that the disputes are narrowed down and make the final settlement so that the parties are not again driven to further litigation or any dispute. Though the award of a Lok Adalat is not a result of a contest on merits just as a regular suit by a Court on a regular suit by a Court on a regular trial, however, it is as equal and on par with a decree on compromise and will have the same binding effect and conclusive just as the decree passed on the compromises cannot be challenged in a regular appeal, the award of the Lok Adalat being akin to the same, cannot be challenged by any regular remedies available under law including invoking Article 226 of the Constitution of India challenging the correctness of the award on any ground. Judicial review cannot be invoked in such awards especially on the grounds as raised in this writ petition.
>
> 24. The award of Lok Adalat is final and permanent which is equivalent to a decree executable, and the same is an ending to the litigation among parties..."

12. As far as challenge to an award passed by Lok Adalat is concerned, the Hon'ble Apex Court in ***Bhargavi Constructions v. Kothakapu Muthyam Reddy*** *(2018) 13 SCC 480*, while following the decision rendered by its Three-judge Bench in State of Punjab v. Jalour Singh (2008) 2 SCC 660, held that an award of Lok Adalat can only be challenged by a party to it by filing a writ petition and that too, on very limited grounds. The relevant observations read as under:

> "22. The question arose before this Court (Three Judge Bench) in the case of State of Punjab (supra) as to what is the remedy available to the person aggrieved of the award passed by the Lok Adalat under Section 20 of the Act. In that case, the award was passed by the Lok

Adalat which had resulted in disposal of the appeal pending before the High Court relating to a claim case arising out of Motor Vehicle Act. One party to the appeal felt aggrieved of the Award and, therefore, questioned its legality and correctness by filing a writ petition under Article 226/227 of the Constitution of India. The High Court dismissed the writ petition holding it to be not maintainable. The aggrieved party, therefore, filed an appeal by way of special leave before this Court. This Court, after examining the scheme of the Act allowed the appeal and set aside the order of the High Court. This Court held that the High Court was not right in dismissing the writ petition as not maintainable. It was held that the only remedy available with the aggrieved person was to challenge the award of the Lok Adalat by filing a writ petition under Article 226 or/and 227 of the Constitution of India in the High Court and that too on very limited grounds. The case was accordingly remanded to the High Court for deciding the writ petition filed by the aggrieved person on its merits in accordance with law.

23. This is what Their Lordships held in Para 12:

> "12. It is true that where an award is made by the Lok Adalat in terms of a settlement arrived at between the parties (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil court, and no appeal lies against it to any court. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under Article 226 and/or Article 227 of the Constitution, that too on very limited grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition under Article 227 does not arise. As

> already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits."
>
> 24. In our considered view, the aforesaid law laid down by this Court is binding on all the Courts in the country by virtue of mandate of Article 141 of the Constitution. This Court, in no uncertain terms, has laid down that challenge to the award of Lok Adalat can be done only by filing a writ petition under Article 226 and/or Article 227 of the Constitution of India in the High Court and that too on very limited grounds. In the light of clear pronouncement of the law by this Court, we are of the opinion that the only remedy available to the aggrieved person(respondents herein/plaintiffs) was to file a writ petition under Article 226 and/or 227 of the Constitution of India in the High Court for challenging the award dated 22.08.2007 passed by the Lok Adalat. It was then for the writ Court to decide as to whether any ground was made out by the writ petitioners for quashing the award and, if so, whether those grounds are sufficient for its quashing..."

13. As far as contentions of learned counsels with respect to applicability of Section 21 of Legal Services Authority Act to an award passed in respect of Section 138 of Negotiable Instruments Act is concerned, the Hon'ble Apex Court in ***K.N. Govindan Kutty Menon v. C.D. Shaji*** *(2012) 2 SCC 51* has categorically held that an award of Lok Adalat in respect of Section 138 of Negotiable Instruments Act is to be treated as a decree under Section 21 of Legal Services Authority Act. The relevant observations of the Court are as under:

> **"**26. From the above discussion, the following propositions emerge:
>
> 1. In view of the unambiguous language of Section 21 of the Act, every award of the Lok Adalat shall be deemed

> to be a decree of a civil court and as such it is executable by that Court.
>
> 2. The Act does not make out any such distinction between the reference made by a civil court and criminal court.
>
> 3. There is no restriction on the power of the Lok Adalat to pass an award based on the compromise arrived at between the parties in respect of cases referred to by various Courts (both civil and criminal), Tribunals, Family court, Rent Control Court, Consumer Redressal Forum, Motor Accidents Claims Tribunal and other Forums of similar nature.
>
> 4. **Even if a matter is referred by a criminal court under Section 138 of the Negotiable Instruments Act, 1881 and by virtue of the deeming provisions, the award passed by the Lok Adalat based on a compromise has to be treated as a decree capable of execution by a civil court"**
>
> (Emphasis supplied)

14. In ***Dayawati v. Yogesh Kumar Gosain*** *243 (2017) DLT 117 DB*, the Hon'ble Division bench of this Court had analysed the impact of settlement of disputes under the Legal Services Authorities Act in case arising out of Section 138 NI Act. The relevant portion of the judgment is reproduced as under:

> "*XII. Impact of settlement of disputes in a complaint under Section 138 Negotiable Instruments Act by virtue of Lok Adalat under the Legal Services Authorities Act, 1987*
>
> 78. Given the reference under examination, it is therefore, necessary to examine what would be the impact of a settlement of disputes in a complaint under Section 138 of the NI Act before the Lok Adalat constituted under the Legal Services Authorities Act, 1987? This issue was the subject matter of consideration before the Supreme Court in the judgment reported at (2012) 2 SCC 51, K. Govindam Kutty Menon v. C.D.

Shaji. The Kerala High Court had taken a view that when a criminal case is settled at a Lok Adalat, the award passed by it has to be treated only as an order of the criminal court and that it cannot be executed as a decree of the civil court. This finding was overturned by the Supreme Court. We extract hereunder the observations of the Supreme Court in paras 12, 13 and 26 :

> "12. Unfortunately, the said argument was not acceptable to the High Court. On the other hand, the High Court has concluded that when a criminal case is referred to the Lok Adalat and it is settled at the Lok Adalat, the award passed has to be treated only as an order of that criminal court and it cannot be executed as a decree of the civil court. After saying so, the High Court finally concluded that "an award passed by the Lok Adalat on reference of a criminal case by the criminal court as already concluded can only be construed as an order by the criminal court and it is not a decree passed by a civil court" and confirmed the order of the Principal Munsif who declined the request of the petitioner therein to execute the award passed by the Lok Adalat on reference of a complaint by the criminal court.
>
> 13. On going through the Statement of Objects and Reasons, definition of "court", "legal service" as well as Section 21 of the Act, in addition to the reasons given hereunder, we are of the view that the interpretation adopted by the Kerala High Court in the impugned order is erroneous.
>
> xxx xxx xxx
>
> 26. From the above discussion, the following propositions emerge:
>
> (1) In view of the unambiguous language of Section 21 of the Act, every award of the Lok Adalat shall be deemed to be a decree of a civil court and as such it is executable by that court.
>
> (2) The Act does not make out any such distinction between the reference made by a civil court and a criminal court.
>
> (3) There is no restriction on the power of the Lok Adalat to pass an award based on the compromise

arrived at between the parties in respect of cases referred to by various courts (both civil and criminal), tribunals, Family Court, Rent Control Court, Consumer Redressal Forum, Motor Accidents Claims Tribunal and other forums of similar nature.

(4) Even if a matter is referred by a criminal court under Section 138 of the Negotiable Instruments Act, 1881 and by virtue of the deeming provisions, the award passed by the Lok Adalat based on a compromise has to be treated as a decree capable of execution by a civil court."

79. The judgment of the Supreme Court reported at (2014) 10 SCC 690 Madhya Pradesh State Legal Services Authority v. Prateek Jain in Civil Appeal No. 8614/2014 decided on 10 th September, 2014, also brings forth that even when cases under Section 138 of the NI Act were settled before the Lok Adalat, the guidelines in Damodar S. Prabhu are to be followed, with modifications, if any, qua reduction of costs if necessary. In para 23 of the judgment, the court stated the legal position thus:

"23. Having regard thereto, we are of the opinion that even when a case is decided in the Lok Adalat, the requirement of following the Guidelines contained in Damodar S. Prabhu [Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663 : (2010) 2 SCC (Civ) 520 : (2010) 2 SCC (Cri) 1328] should normally not be dispensed with. However, if there is a special/specific reason to deviate therefrom, the court is not remediless as Damodar S. Prabhu [Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663 : (2010) 2 SCC (Civ) 520 : (2010) 2 SCC (Cri) 1328] itself has given discretion to the court concerned to reduce the costs with regard to specific facts and circumstances of the case, while recording reasons in writing about such variance. Therefore, in those matters where the case has to be decided/settled in the Lok Adalat, if the court finds that it is a result of positive attitude of the parties, in such appropriate cases, the court can always reduce the

> costs by imposing minimal costs or even waive the same. For that, it would be for the parties, particularly the accused person, to make out a plausible case for the waiver/reduction of costs and to convince the court concerned about the same. This course of action, according to us, would strike a balance between the two competing but equally important interests, namely, achieving the objectives delineated in Damodar S. Prabhu [Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663 : (2010) 2 SCC (Civ) 520 : (2010) 2 SCC (Cri) 1328] on the one hand and the public interest which is sought to be achieved by encouraging settlements/resolution of case through the Lok Adalats on the other hand."
>
> 80. The Supreme Court has thus declared the legal position that the Legal Services Authorities Act did not make out any distinction between the reference made by a civil court and a criminal court. Upon settlement before the Lok Adalat even in a criminal case, the award of the Lok Adalat has to be treated as a decree capable of execution by a civil court. The guidelines contained in Damodar S. Prabhu are required to be followed even upon such settlement subject to the discretion to the court concerned to reduce/wave the costs with regard to the specific facts and circumstances of the case.

15. In the present case, it is noteworthy that vide order dated 29.08.2017 in CC No.541812/2016, the learned Trial Court had referred the matter to National Lok Adalat which was to be held on 09.09.2017 for settlement proceedings. The said order is reproduced herein-under:

> " ...Offence being bailable, accused is admitted to bail on furnishing personal bond in the sum of Rs. 80,000/- alongwith one surety in the like amount. Bail bond furnished and accepted.

Let the matter be referred to Lok Adalat to be held on 09.09.2017 for settlement proceedings.

Be put up for report of settlement on 08.11.2017..."

16. Prior to appearing before the National Lok Adalat on 09.09.2017, presumably to save their time, the parties had entered into a Memorandum of Understanding/Settlement Agreement a day prior i.e. on 08.09.2017. Thereafter, the matter was listed before the National Lok Adalat on 09.09.2017 and the settlement agreement dated 08.09.2017 was placed before the learned Presiding Judge, National Lok Adalat (Central), Delhi. It is not disputed that the learned Judge who was preceding over the National Lok Adalat had recorded the statements of both the parties on oath on 09.09.2017 and accordingly, in view of their own unequivocal statements on oath before the National Lok Adalat that they had entered into Memorandum of Understanding out of their own free will, the Memorandum of Settlement was exhibited. It is also to be noted that the Memorandum of Settlement was also duly signed by both the parties and both the parties had accepted that they had put their signature on the Memorandum of Settlement according to their own free will and without any coercion, pressure or threat. It is also to be noted that the statements were made on behalf of the persons competent to make such statements before the National Lok Adalat i.e. by the Director of the complainant company Sh. Kuljeet Singh on SA and also by the accused himself who had appeared in person, and both the parties had signed their statements recorded on oath

before the learned Judge. Not only that, it is also not the case of the accused that he was not assisted by his counsel/advocate as the counsel himself had also signed the statement made by the accused before National Lok Adalat which clarifies that even the advocate of the accused had been present and must have made everything clear to the accused.

17. Since the matter had been settled in terms of Memorandum of Understanding and statements having been made by both the parties before National Lok Adalat, the matter was posted before the learned Trial Court for 08.11.2017 by the National Lok Adalat for payment of installments as agreed between the parties. On 08.11.2017, it was the complainant/petitioner who had informed the learned Trial Court that the accused was making regular payments as per Memorandum of Understanding and Lok Adalat settlement. Further, order dated 07.06.2018 records that accused had sought some more time for making payment. The said order reads as under:

> " ...AR for the complainant in person.
>
> Accused in person along with Ld. Counsel Sh. Lenin Reddy.
>
> Accused seeks some more time for making payment. Put up for payment on 21.07.2018..."

18. The order dated 16.10.2018 in CC No.6780/2017 also records the statement of accused that he shall make regular payments as per settlement reached between the parties.

> " ...Accused in person along with Ld. Counsel Mr. Anil KumarSingh.

> Considering that offences alleged against the accused are bailable in nature, accused is admitted to bail on furnishing personal bond in the sum of Rs.1,00,000/- alongwith one surety in the like amount.
>
> Personal bond furnished. Considered. Accepted till the next date of hearing subject to furnishing of surety bonds.
>
> It is stated by the accused that he has received all the documents, therefore, scrutiny of document is completed.
>
> It is stated by the accused that he shall make regular payment as per the settlement reached between the parties..."

19. This Court also, in the order dated 26.11.2019, had recorded the submission made on behalf of petitioner herein that the accused, after entering into the settlement, was regular in making payments and had paid about Rs. 40 lakhs in a period of one and a half years, before defaulting in make the payments. The relevant portion of the said order reads as under:

> "...It is submitted by the counsel for the petitioner that all the disputes were settled between the parties before the National Lok Adalat vide an Award dated 9.9.2017.It is further submitted by the counsel that the respondent has started making payments under the said Award and has paid a sum of Rs.40 lacs over a period of 1 1/2 years..."

20. It is, thus, clear that the parties had not only entered into an agreement, but had also acted upon it since some payment, as per settlement arrived at before the National Lok Adalat, was also made. This will lead to only one conclusion that the learned Judge, National Lok Adalat had no reason to record incorrect statements of

the parties who appeared before him, made their statements on oath, signed their statements and thereafter also acted upon it. Had the settlement been involuntary or on the basis of fraud, there was no occasion of acting upon such settlement by making payments according to the Memorandum of Understanding signed by both the parties. Had that been so, the concerned parties would have made submission before the learned Trial Court either before the date of hearing fixed before the learned Trial Court that their signature have been obtained by fraud, or on the date fixed before the learned Trial Court. Rather they have shown their willingness to abide by the Memorandum of Understanding and have acted upon it by making some payments. It is also noted that the Memorandum of Understanding in question was entered into between the parties on 08.09.2017 and their statements were recorded before National Lok Adalat on 09.09.2017, however, the application under Section 145(2) of Negotiable Instruments Act was moved by the respondents only on 01.02.2019, i.e. after lapse of about 1 year and 05 months.

21. In such circumstances, this Court is of the opinion that as per Section 21 of Legal Services Authority Act, the award of Lok Adalat which is deemed to be a decree of civil court and is binding on the parties and no appeal against the same is maintainable, as well as the judicial precedents which lay down that a settlement in case of Section 138 Negotiable Instruments Act and the award of Lok Adalat in connection with the same has to be treated as a decree capable of execution by Civil Court, the parties were bound by such

decree. The contention of learned counsel for the respondents that the award of Lok Adalat is deemed to be a civil decree and cannot be enforced in respect of Negotiable Instruments Act is no more *res integra* and has been settled in the judgment of ***K.N. Govindan Kutty Menon*** *(supra)* by the Hon'ble Apex Court. As also discussed in preceding paras, an award of Lok Adalat can only be challenged by way of writ petition under Article 226/227 of Constitution of India on the grounds of fraud or misrepresentation as per decision of Hon'ble Apex Court in ***Bhargavi Constructions*** *(supra) and* ***Jalour Singh*** *(supra)*, a course which also has not been adopted by the respondents.

22. In view of the same, this Court is of the opinion that the learned Trial Court erred in allowing the applications filed by the respondents, after the matters had been settled between the parties before National Lok Adalat and the same had also been acted upon by the parties.

23. Thus, for the reasons stated in foregoing discussion, the present petitions are allowed and the impugned orders are set aside.

24. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 29, 2023/zp