

Criminal Case

No.42312/2021

Order below exhibit-01

1. Parties and their advocates are present before the Court. Compromise pursis has been taken into consideration. Hon'ble Supreme Court in case of **K.K.Govindam Kutty Menon Vs. C.D.Shaji reported as AIR 2012 SC 719** has held that award passed in Negotiable cases by Criminal Court are to be treated as decree. Hon'ble Supreme Court also held that such award are deemed decree and are executable also. Para.17 runs thus.

"17)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."

2. Perusal of above para makes it clear that, even awards passed by Criminal Court in Lok-Adalats are to be treated as decree and it's also executable.
3. It is also required to be noted that, Hon'ble Supreme Court in case of ***Krishnarao Vs. Shankargauda reported as 2018 SCC Online(SC) 651*** has laid down that primary object of the provisions is compensatory, and punitive element being mainly with the object of enforcing the compensatory element.
4. It is also required to be noted that complainant has entered into compromise with accused. Terms and conditions of the same is produced on record as with compromise pursis at exhibit-24. It appears that accused has accepted his liability and in pursuance of the same he has issued cheques. Thus, it transpires that accused has willingly accepted his liability and thus matter is settled between parties. Accused is supposed to honour terms and conditions of the agreement. In failure of the same complainant, is not supposed to again run from pillars to pillars to get his amount. It's accused who has to honour the terms and conditions of agreement. In failure of the same, complainant can initiated necessary proceedings. What is necessary proceedings is explained by Hon'ble different High Courts. And as per settled principles, it's execution of the award or recovery by filing application under section-431 of Criminal Procedure Code. (***see. Somashekara Vs. Smt. G.S.Geetha reported as 2020(3)***)

Cri.C.C.370.)

5. If above ratio is read in consonance with facts of the present case, then it can be said that, if accused fails to honour terms and conditions of the agreement/undertaking then, complainant is at liberty to approach court for execution of award passed today, by resorting to above mentioned procedure. Complainant again need not to start new prosecution against accused. As it will place complainant in the situation as he was when present case came to be filed.
6. It is also germane herein to note that, after disposal of the present case, complainant will be entitled to have interest on the amount which is mentioned in the agreement/undertaking (***see. R.Vijayan Vs. Baby reported as AIR 2012 SC 528***). Hence, it also required to be noted that if accused fails to honour the terms and settlement of the agreement/undertaking, complainant will be entitled to have interest per annum at rate of 9% from date of dishonour of cheques mentioned in the agreement/undertaking till payment or realisation of the same.
7. In pursuance of above discussion following order is passed.

Order

1. The dispute between the parties having been referred for determination to the Lok-Adalat and the parties having compromised/settled the matter as per compromise attached with exhibit-24 which is duly acknowledged.
2. Hence, in view of the above referred pursis/compromise/undertaking award is passed accordingly.
3. If, accused fails to honour terms and conditions of the settlement, ***complainant will be free to either to go for***

***execution by way of civil way or to file application u.s.431
of Criminal Procedure Code.***

Award passed today in National Lok-adalat.

Judicial officer

Member

Date.12.03.2022

Place: Surat.