

IN THE HIGH COURT FOR THE STATE OF TELANGANA, HYDERABAD

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W.P.No.18540 of 2020

Between:

Anu Pharma Private Limited and another  
Having regd. Office at Ramachandrapuram  
Rep. by its Authorised Person  
Jetty Radhakrishna Reddy  
s/o Sundara Ramireddy  
aged 66 years, Occ: Business,  
r/o Flat No.201, Sigma Central Apartment  
Near Pochamma Temple, Taranagar,  
Serilingampally, Hyderabad and another

...Petitioner

Vs.

The State of Telangana and 4 others  
Rep. by its Prl. Secretary  
Home Department, T.S.Secretariat,  
Hyderabad and others

...Respondents

JUDGMENT PRONOUNCED ON: 15.12.2021

THE HONOURABLE SRI JUSTICE UJJAL BHUYAN

And

The HONOURABLE SMT JUSTICE P.MADHAVI DEVI

1. Whether Reporters of Local newspapers  
may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be  
Marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to  
see the fair copy of the Judgment? : Yes

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UJJAL BHUYAN, J

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And  
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**Vs.**

**The State of Telangana and 4 others  
Rep. by its Prl. Secretary  
Home Department, T.S.Secretariat,  
Hyderabad and others**

**...Respondents**

**! Counsel for Petitioners**

**: Mr. N. Mukund Reddy**

**^ Counsel for the respondents :**

**Mr. T.Srikanth Reddy,  
GP for Home  
Mr. J.Anil Kumar,  
SC for Legal Services Authority  
Mr. Deepak Bhattacharjee,  
Senior Counsel for R.5**

**<GIST:**

**> HEAD NOTE:**

**? Cases referred**

**AIR 2017 SC 4428  
(2003)8 SCC 319  
(2009)1 SCC 768**

**HONOURABLE SRI JUSTICE UJJAL BHUYAN  
AND  
HONOURABLE SMT JUSTICE P. MADHAVI DEVI**

**W.P.No.18540 of 2020**

**Order:** *(Per Hon'ble Sri Justice Ujjal Bhuyan)*

By filing this petition under Article 226 of the Constitution of India, petitioners seek quashing of award dated 12.09.2015, passed by the Lok Adalat, Sangareddy, and further seek a direction to respondents No.2 and 3 to carry out investigation in Crime No.609 of 2014, registered before the Ramachandrapuram Police Station.

2. On 25.09.2014, one Sevaram Rajender Singh lodged a first information before the Ramachandrapuram Police Station in the District of Medak, alleging that respondent No.5 and others, in collusion and conspiracy with officials of the Karnataka Bank, Kukatpally branch, had forged and fabricated several cheques of petitioner No.1/Anu Pharmacy Private Limited (for short 'the Company'), of which, the informant was the Managing Director. It was alleged that all the cheques bore the signature of C.S.Reddy (petitioner No.2), which were forged by respondent No.5. The total amount covered by the forged cheques was Rs.1,98,19,836.00. On receipt of such first information, Crime No.609 of 2014 was registered by respondent No.3/Station House Officer, Ramachandrapuram Police Station, under Sections 419, 420, 406, 468 and 471 of the Indian Penal Code, 1860 (IPC). At the stage

of investigation, the Company wrote a letter to respondent No.3 on 14.02.2015, requesting to close the complaint. In the said letter, it was mentioned that there was a meeting of all the Directors of the Company including respondent No.5 whereafter, an understanding was reached that the allegations made in the complaint were due to miscommunication between the Directors. Since miscommunications were removed, the above letter was addressed to respondent No.3. It was further mentioned therein that the complainant- Sevaram Rajender Singh had expired on 16.12.2014 whereafter, all the Directors of the Company sat together and decided to issue the above letter.

3. It appears that in view of the above letter, the Assistant Public Prosecutor filed a petition on behalf of the prosecution before the Court of Additional Judicial Magistrate of First Class, Sangareddy (for short 'the court below'), under Section 216 Cr.P.C. It was mentioned therein that Crime No.609 of 2014 was registered by the Police under Sections 419, 420, 406, 468 and 471 of IPC, but the matter was compromised out of the Court. It was pointed out that the offences under Sections 419, 406 and 420 IPC were compoundable. Since both the parties were ready and willing to compromise the matter, prayer was made to delete the offences under Sections 468 and 471 IPC.

4. A docket order dated 12.09.2015 was passed by the learned Additional Judicial Magistrate of First Class, Sangareddy. In the said order, it was mentioned that the accused *i.e.*, respondent No.5 was

present, so also the defacto complainant. The memo filed by the Assistant Public Prosecutor to delete Sections 468 and 471 IPC and the authorization given by the Company to the defacto complainant *i.e.*, Sri C.S.Reddy to represent it, was allowed. Matter was referred to Lok Adalat.

5. Lok Adalat, Sangareddy, passed the award on 12.09.2015. It was mentioned that defacto-complainant/injured/victim had compromised with the accused. As per Section 320(8) of the Code of Criminal Procedure, 1973 (Cr.P.C.), the accused (respondent No.5) was discharged against the charges under Sections 419, 420 and 406 IPC. The award was signed by both the accused (respondent No.5) and the defacto complainant *i.e.*, petitioner No.2, who were identified by Police Constable No.82.

6. While the matter rested thus, on 12.10.2020, the Company and Chinnamilli Satyanarayana Reddy (C.S.Reddy) filed the present Writ Petition before this Court seeking the reliefs as indicated above. In paragraph 3 of the supporting affidavit, it is stated that the award was obtained by respondent No.5 fraudulently. Petitioner No.2 was not authorized by the Company for any settlement. He was not the defacto complainant. In paragraph 7, it is stated that in the year 2015, police, in the presence of respondent No.5, had taken the signatures of petitioner No.2 on some papers. Petitioner No.2 never appeared before the Lok Adalat. There was no compromise entered into between him and respondent No.5. In paragraph 9 of the supporting

affidavit, it is stated that there is no mention about Sections 468 and 471 IPC in the award passed by the Lok Adalat. Finally, in paragraph 11, petitioners stated that on 21.09.2020, a representation was submitted to respondents No.2 and 3 to reopen the case since the Lok Adalat award was obtained by playing fraud.

7. This Court by order dated 06.11.2020 had issued notice and passed an interim order suspending the award dated 12.09.2015, passed by the Lok Adalat.

8. Respondent No.5 has filed counter-affidavit as well as an interlocutory application for vacating the stay. In Interlocutory Application No.1 of 2001, this Court passed an order on 28.04.2021, directing that in the event respondent No.5 is required to appear before the police authorities, then provisions of Section 41-A Cr.P.C., should be complied with.

9. Order dated 26.08.2021 records that Lok Adalat record has been received.

10. Learned counsel for the petitioners vehemently argued that present is a clear case of fraud being played by respondent No.5 whereafter, the award was obtained from the Lok Adalat. In support of his contention, he has referred to and relied upon the averments made in paragraphs 3, 7, 9 and 11 of the supporting affidavit. In addition, he has also referred to various documents on record to contend that even the resolutions of the Board of Directors of the Company were forged. To support his contention that the award of

the Lok Adalat can be challenged under Articles 226/227 of the Constitution of India on the ground of fraud and misrepresentation, he has placed reliance on a decision of the Supreme Court in **Bharvagi Construction v. Kothakapu Muthyam Reddy**.<sup>1</sup>

11. Learned counsel further submits that since it is a case of fraud, entire proceedings of the Lok Adalat stand vitiated and question of limitation would not arise in such a case. In support of such contention, he has placed reliance on a decision of the Supreme Court in **Ram Chandra Singh v. Savitri Devi**<sup>2</sup>. Learned counsel for the petitioners also submits that Sections 468 and 471 IPC being non-compoundable offences, the Assistant Public Prosecutor could not have filed a memo for deletion of the same from Cr.No.609 of 2014.

12. Therefore, the impugned award should be quashed with consequential direction to the police authorities to carry out and complete the investigation in Crime No.609 of 2014 and take it to its logical conclusion.

13. Mr. T. Srikanth Reddy, learned Government Pleader for Home appearing for respondents No.1, 2 and 3, has supported the award passed by the Lok Adalat.

14. Mr. J. Anil Kumar, learned Standing Counsel for respondent No.4/Lok Adalat, submits from the record that the defacto complainant *i.e.*, petitioner No.2 was present on the date of Lok Adalat on 12.09.2015. He has taken us to the award dated 12.09.2015,

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<sup>1</sup> AIR 2017 SC 4428

<sup>2</sup> (2003) 8 SCC 319

passed by the Lok Adalat as well as to the resolution of the Board of Directors of the Company dated 14.02.2015, and submits therefrom that the signature of the defacto complainant i.e., petitioner No.2-C.S.Reddy is identical in both the documents.

15. Mr. Deepak Bhattacharjee, learned Senior Counsel appearing for respondent No.5, at the outset, submits that the allegation in the FIR was on account of miscommunication between the Directors of the Company. After the unfortunate death of the Managing Director, the other Directors sat together and decided to settle the matter. As a gesture of goodwill, the son of the deceased Managing Director was also made part of the meeting of the Board of Directors and the consequential resolution, which was adopted. The matter has been amicably settled. Five years thereafter, this Writ Petition has been filed. According to him, filing of this Writ Petition is not *bona fide* and is clearly guided by ulterior motives. While acknowledging that the award of the Lok Adalat can be challenged in a proceeding under Articles 226/227 of the Constitution of India on very limited grounds, such as fraud, he, however, submits that the challenge has to be made without any undue delay. In the instant case, there is a delay of five years in challenging the award passed by the Lok Adalat.

16. Referring to a decision of the Supreme Court in **Tridip Kumar Dindigal v. State of West Bengal**<sup>3</sup>, learned Senior Counsel submits that inordinate delay in making the motion for a writ will be a good

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<sup>3</sup> (2009)1 SCC 768



ground for refusing to exercise the discretionary jurisdiction of the High Court under Article 226 of the Constitution of India.

17. He, therefore, submits that the Writ Petition should be dismissed with cost.

18. Submissions made by learned counsel for the parties have received the due consideration of the Court. We have also carefully gone through the materials on record.

19. Subject matter of the Writ Petition is challenge to the legality and validity of the award passed by the Lok Adalat on 12.09.2015. The said challenge has been made on the ground that it was obtained by playing fraud as the defacto complainant *i.e.*, petitioner No.2 was not present before the Lok Adalat when the award was passed.

20. Before we advert to this aspect of the matter, we may briefly recapitulate the factual narrative as stated above.

21. We have noticed that first information was lodged against respondent No.5 by the then Managing Director of the Company on 25.09.2014, alleging forgery and cheating. On the basis of the said first information, Ramachandrapuram Police Station registered Crime No.609 of 2014 under Sections 419, 420, 406, 468 and 471 IPC.

22. While, at the stage of investigation, the Company filed an application before respondent No.3/Station House Officer of Ramachandrapuram Police Station on 14.02.2015, stating that they had settled the matter amicably and therefore, requested the Police authorities to close the case in Crime No.609 of 2014. The Assistant

Public Prosecutor filed a petition on 12.09.2015 before the court below under Section 216 Cr.P.C., with the request that Sections 468 and 471 IPC should be deleted from the first information since the parties had compromised the matter. It was pointed out that the other Sections *viz.*, Sections 419, 420 and 406 were compoundable. On such petition, the court below had passed order dated 12.09.2015. Since this order is relevant, same is extracted in its entirety:

“Accused present. Defacto complainant present.  
Learned APP filed memo to delete 468, 471 IPC and Company given authorization to the Defacto Complainant to represent Sri C.S.Reddy, allowed. Matter refer to Lok Adalath”.

23. A perusal of the aforesaid order would go to show that the court below had recorded the presence of the accused as well as of the defacto complainant. The court below also noted that the Assistant Public Prosecutor had filed memo for deletion of Sections 468 and 471 IPC as well as the authorization given by the Company to the defacto complainant. Both the memo as well as the authorization were allowed by the court below. Thereafter, the matter was referred to the Lok Adalat, which was being held on the same date *i.e.*, on 12.09.2015. In the Lok Adalat, award was passed on 12.09.2015. In the original copy of the award, which is in Telugu language, we find the names of the accused (respondent No.5) and that of the defacto complainant (petitioner No.2). There were signatures over both and it is stated that both were identified by Police Constable No.82.

24. In the course of hearing, learned Standing Counsel for the Legal Services Authority has drawn our attention to the similarity of the signature of the defacto complainant appearing in the Lok Adalat award as well as in the resolution of the Board of Directors of the Company dated 14.02.2015, whereby it was decided to compromise the matter. Though to the naked eye the signatures are identical, the same is not the only determining factor.

25. Section 216 Cr.P.C., empowers the Court to alter the charge. As per sub-section (1) thereof, any court may alter or add to any charge at any time before judgment is pronounced. A petition was filed under the aforesaid provision by the Assistant Public Prosecutor for deletion of Sections 468 and 471 of IPC from the FIR. By the docket order dated 12.09.2015, the court below had allowed the deletion of the aforesaid sections. As we have seen, the remaining sections are compoundable. Accordingly, the matter was referred to the Lok Adalat, where the matter was settled on compromise.

26. The award of the Lok Adalat is dated 12.09.2015. More than five years later, the present Writ Petition has been filed challenging the same alleging fraud. It is no doubt true, that the award passed by the Lok Adalat can be assailed in a proceeding under Articles 226/227 of the Constitution of India on very limited grounds, such as, fraud *etc.* It is also true that fraud vitiates all proceedings. If there is fraud, all orders and judgments of the Court would be rendered nullity. There is no dispute to the proposition of law laid down by the Supreme

Court in **Ram Chandra Singh** (2 supra) that fraud and justice never dwell together. However, as the Supreme Court has explained in **Hayas Rai Makhija v. Pushparani Jain**<sup>4</sup>, mere allegation of fraud is not adequate. Commission of fraud must not only be pleaded specifically, but also be established by the person making the allegation by leading evidence. It is only after evidence is led coupled with intent to deceive, that a conclusion of fraud could be arrived at. A mere bald allegation of fraud without proof and intent to deceive would not render a decree obtained by a party as fraudulent. Fraud has a definite meaning in law. It must be proved and not merely alleged and inferred. To constitute fraud, there must be an intent to deceive, evidence must be led and thereafter, fraud must be proved. No conclusion of fraud can be drawn on mere allegation and by way of inference.

27. Therefore, in a case of fraud, time is of the essence. When the petitioners have alleged fraud leading to closure of investigation, they ought to have raised this issue at the earliest point of time. However, we do not find any averment in the supporting affidavit explaining the inordinate delay of five years in filing the Writ Petition.

28. When we put a query to learned counsel for the petitioners as to whether there is any explanation for the delay, his submission is that provisions of the Limitation Act, 1963, are not applicable to writ

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<sup>4</sup> (2017) 2 SCC 797

proceedings. Additionally, he submits that when it is a case of fraud, question of limitation does not arise.

29. We are afraid we can accept such sweeping submissions made on behalf of the petitioners.

30. *Firstly*, allegation of fraud must be not only be pleaded specifically, but must also be proved with clear intent to deceive. *Secondly*, party alleging fraud must approach the competent forum at the earliest. Both from supporting affidavit as well as from the materials placed on record including the resolution of the Board of Directors authorizing the petitioners to file the present Writ Petition, we find that only on 07.09.2020, decision was taken to file the Writ Petition more than five years after the award was passed. Thereafter, representation was submitted before respondent No.2 on 19.09.2020. Thus, there is clear delay and laches on the part of the petitioners in approaching the writ court which, by itself would disentitle them from any discretionary relief. *Lastly*, by the docket order dated 12.09.2015, the court below had allowed the prayer of the Assistant Public Prosecutor for deletion of Sections 468 and 471 IPC from Cr.No.609 of 2014. This order has not been challenged by the petitioners. After this order was passed, the matter was referred to the Lok Adalat. All the three surviving sections were compoundable and as the parties had arrived at a compromise, Lok Adalat passed the consequential award. Both the learned Government Pleader for Home as well as learned Standing Counsel for the Legal Services Authority have supported the

award passed by the Lok Adalat including the factum of presence of the defacto complainant before the court below as well as before the Lok Adalat on 12.09.2015. In fact, the court below had recorded the presence of the defacto complainant on 12.09.2015. There is always a presumption about the genuineness, correctness and authenticity of a court proceeding. If the petitioners had any doubt about the court proceedings, it was always open to them to have approached the said court for necessary rectification, but they failed to do so.

31. Thus, in the facts and circumstances of the case, we are of the considered opinion that it would be wholly unjust and inequitable to interfere with the award passed by the Lok Adalat, that too, after a period of five years. There is a great deal of sanctity attached to a Lok Adalat award, which should not be interfered with lightly.

32. At this stage, we may also mention that petitioner No.2 had not sworn the supporting affidavit to the writ petition. The statements made in paragraph Nos.2, 3, 7, 9 and 11 of the supporting affidavit, regarding non-appearance of petitioner No.2 before the Lok Adalat on 12.09.2015 is sworn by Jetty Radha Krishna Reddy, who could not have vouched for the correctness of the above statements. The fact that learned court below had recorded the presence of the defacto complainant (petitioner No.2) on 12.09.2015, on which date the Lok Adalat award was also passed, is a clear pointer to the fact that the defacto complainant (petitioner No.2) was present before the Lok Adalat on 12.09.2015.

33. In view of above, we are not inclined to entertain the Writ Petition. The Writ Petition is, accordingly, dismissed. All interim orders passed earlier stand vacated. Related interim application stands disposed of.

34. Registry to return back the Lok Adalat record.

35. No costs.

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**UJJAL BHUYAN , J**

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**P.MADHAVI DEVI, J**

**Date: 15.12.2021**  
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