

Baini Parshad Vs. the State

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Court : Punjab and Haryana

Decided On : Oct-13-1952

Reported in : AIR1953P& H212

Judge : Soni, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 250

Appeal No. : Criminal Revn. No. 575 of 1952

Appellant : Baini Parshad

Respondent : The State

Judgement :

ORDER

Soni, J.

1. The facts of this case as given by the Sessions Judge are that one Suraj Bhan was prosecuted on the complaint of one Baini Parshad. After protracted trial, Suraj Bhan was acquitted by Mr. Vohra, Magistrate, 1st Class, by his order dated 31-5-1951 who held that the accusations against Suraj Bhan were false and vexatious. While acquitting Suraj Bhan, the Magistrate further ordered that Baini Parshad should be summoned to appear before him on 2-6-1951 to show cause why he should not pay compensation to Suraj Bhan under Section 250, Criminal P. C. In

the meantime, this Magistrate was transferred and he was succeeded by Mr. Multani who on the basis of the notice issued by his predecessor ordered Baini Parshad to pay a sum of Rs. 50/- by way of compensation to 'Suraj Bhan by his order dated 21-9-1951. The Sessions Judge has recommended that this order be set aside, as it was passed by a Magistrate having no jurisdiction in the matter.

2. Section 250, Criminal P. C., enacts that when the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of the opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or, if such person is not present direct the issue of a summons to him to appear and show cause as aforesaid. The section goes on to say that the Magistrate shall record and consider any cause which such complainant or informant may show, and if he is satisfied that the accusation was false and either frivolous or vexatious may, for reasons to be recorded, direct that compensation to such amount not exceeding one hundred rupees * * * as he may determine, be paid by such complainant or informant to the accused or to each or any of them. In my opinion, the - Magistrate who is to order the payment of compensation must be, according to the plain meaning of the section, the Magistrate who having heard the case discharges or acquits all or any of the accused. In the present case, the Magistrate who acquitted Suraj Bhan was Mr. Vohra, and it was Mr. Vohra alone who was competent under Section 250, Criminal P. C., to order the payment of compensation to him. The Sessions Judge in his order of reference has referred to two authorities, -- 'Rajaram Majhi v. Panchanan Ghosh', AIR 1929 Cat 762 (A), and -- 'Emperor v. Mahomed Alan', AIR 1939 Sind 321 (B) as supporting this view. In addition to these authorities, there are a number of other authorities to the same effect which are mentioned by the commentators under Section 250, Criminal P. C. There is no authority to the contrary. I therefore accept the reference and direct that the sum of Rs,50/-, if paid by Baini Parshad, will be refunded to him.

