

In Re: Kesava Panda

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Court : Chennai

Decided On : Apr-08-1909

Reported in : 2Ind.Cas.159

Judge : Abdur Rahim, J.

Appellant : In Re: Kesava Panda

Judgement :

ORDER

Abdur Rahim, J.

1. The charge laid by the complainant related to an offence under Section 497 of the Indian Penal Code, which is triable by a Magistrate, and, therefore, the Magistrate who held an enquiry and discharged the accused because no case was made out against him, had no power under Section 250, Criminal Procedure Code, to award compensation to the accused. The power is given to the Magistrate only in cases triable by him as is clear from the language of the section itself. The order under Section 250 is, therefore, set aside and the compensation, if paid, is to be refunded.

2. I ought to observe that the District Magistrate, in making the reference, merely forwards the records of the cases in which the order which the High Court is requested to quash was passed, with a note that in his explanation the Sub-Magistrate admitted that he made a mistake and requested that the order might be

quashed. Under Section 438, Criminal Procedure Code, the District Magistrate or the Sessions Judge making the reference is to state the results of his examination of the record, and, therefore, he ought to give a brief abstract of the case and the grounds upon which he recommends that the order or sentence which he considers to be incorrect should be set aside by the High Court in the exercise of its power under Section 439.

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