
(1953) 01 MP CK 0003
In the Madhya Pradesh High Court

Bhagirath Singh

APPELLANT

Vs

Parmani and Others

RESPONDENT

Date of Decision : 08-01-1953

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 107, 250

Citation : AIR 1953 MP 256 : (1953) CriLJ 1725

Hon'ble Judges : Chaturvedi, J

Bench : Single Bench

Judgement

Chaturvedi, J.—This is a reference by the learned Sessions Judge of Bhind recommending the cancellation of an order passed u/s 250, Cr.P.C. by a Second Class Magistrate of Lahar. The order was passed in proceedings u/s 107, Cr.P.C. The complainant had made an application to the Magistrate asking him to order Parmai and three others to furnish security to keep peace. A date was fixed for taking evidence, but on that date the complainant adduced no evidence, and, the Magistrate dismissed the application & ordered the complainant to pay costs to the four persons regarding them as accused. The wording of Section 250 is clear that an order for compensation can be made only in cases instituted by a "complaint" as defined in the Code or upon information by a Police Officer to a Magistrate, where a person is accused of an offence triable by a Magistrate. A "complaint" means an. allegation made to a Magistrate with a view to his taking action that some person has committed an offence, and an "offence" means any act or omission punishable by any law for the time being in force. In view of the definition of the word "offence" in the Code., it is clear that a person in respect of whom information has been laid before a Magistrate to the effect that he is likely to commit a breach of the peace or is otherwise liable to the provisions of Section 107 of the Code is not a person accused of any offence. Therefore an order for payment of compensation cannot be made against a man, who has petitioned a Magistrate to take action u/s 107 of the Code. Section 250 therefore cannot be applied to the proceedings u/s 107 of the Code. I am fortified in this view by many rulings reported in - Ram Sukh Rai v. Maha-deo Rai" 7 All LJ 743 ;

- Queen Empress v. Lakhat 15 All 365 ; - In re Goyind Hanmant 25 Bom 48 (C) , - Jasua and Others Vs. Emperor through Jaldhari, ; - Ghariba and Others Vs. Emperor, - Baij Nath Vs. Kali Charan and Others, and - Rohel v. Kaura AIR 1935 Lah 29 . I therefore accept the reference on this point and set aside the order of compensation. The amount if paid will be Refunded.