
(2012) 03 J&K CK 0010
In the Jammu And Kashmir High Court
Case No : Cr Rev No. 87 of 2005

Labhu Ram

APPELLANT

Vs

State and Another

RESPONDENT

Date of Decision : 06-03-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 250
Ranbir Penal Code, 1989 — Section 409

Citation : (2012) 03 J&K CK 0010

Hon'ble Judges : Mansoor Ahmad Mir, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mansoor Ahmad Mir, Judge

1. Petitioner has called in question order dated 10.08.2005, whereby proceedings drawn against respondent no. 2 herein for showing cause why

he may not be ordered to pay compensation in terms of judgment dated 12.03.2005 passed in criminal case titled as State vs. Labhu Ram, FIR

No. 46/2000, u/s 409 RPC, Police Station Billawar, was dropped, on the grounds taken in the memo of revision. FIR No. 46 of 2000 was

lodged against the petitioner herein in Police Station Billawar for the commission of offence u/s 409 RPC. Petitioner was acquitted vide judgment

and order dated 12.03.2005 and the informant-respondent no. 2 herein was given notice to appear in the court. It is apt to reproduce last para of

the judgment herein.

Prosecution against the accused has been launched at the instance of Manohar Lal President Jagriti Manch, now MLA in order to wreck

vengeance upon accused who had appeared as a witness against said Manohar

Lal in a complaint filed by one Duni Chand which is pending disposal before this Court. The accusation against the accused seems to be flimsy and concocted and on account of these false and vexatious proceedings accused has been made to go from pillar to post for no fault of his and has been facing trial w.e.f. 2000 and has undergone such a mental agony which cannot be compensated in any manner whatsoever. Therefore in the interests of justice and fair play I feel it expedient to put said Manohar Lal MLA to notice to appear before this Court and show cause as to why he may not pay compensation to accused upto one half of the fine which this court is empowered to impose and shall further show cause that in default of payment of fine why he may not be sentenced to simple imprisonment for a period of thirty days. Office shall issue notice to said Manohar Lal MLA to appear before this Court on 4-4-2005, and show cause as aforesaid. Let the notice be served on Manohar Lal MLA through speaker Legislative Assembly.

2. Accordingly, notice was issued and respondent no. 2 appeared. Trial court after hearing him dropped the proceedings. It is apt to reproduce the operative part of the order herein.

However, keeping in view the fact that respondent is an M.L.A. of the area and enjoys good reputation and also that he is an honest, a lenient view is required to be taken against him. He may have come to know as to what is that while prosecuting these proceedings which shall be a note of caution for him.

3. Trial court after examining the show cause notice has held that the reasons put forth by respondent no. 2 herein are not convincing, but in an arbitrary and perfunctory manner dropped the proceedings against him, which on the face of it is abuse of process of law. The trial court has virtually passed an illegal order, which on the face of it is against the basic principle of law and is a case of travesty of justice. It is apt to reproduce section 250(ii) of the Code of Criminal Procedure herein.

250. False, frivolous or vexatious accusations

(1)..

(2) 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-half of the

fine he is empowered to impose, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

4. Trial court had to pass the order while keeping in view the mandate of Section 250 Cr.P.C. which has not been done.

5. In the given circumstances, I deem it proper to set aside the order and remand the case back to the trial court with a direction to pass fresh

orders after hearing the petitioner-accused and respondent no. 2-informant within two months and report compliance.

6. Parties through their counsel are directed to cause their appearance before the trial court on 29th March 2012. Send down the record along

with a copy of order.