

---

**(1900) 08 CAL CK 0014**  
**In the Calcutta High Court**

Parsi Hajra

APPELLANT

Vs

Bandhi Dhanuk and Others

RESPONDENT

---

**Date of Decision :** 17-08-1900

**Acts Referred:**

Criminal Procedure Code, 1898 (CrPC) — Section 250  
Penal Code, 1860 (IPC) — Section 211

**Citation :** (1901) ILR (Cal) 251

**Hon'ble Judges :** Prinsep, J; Handley, J

**Bench :** Division Bench

---

## Judgement

Prinsep, J.

1.The complainant was that the accused had in an unlawful assembly looted crops from the kamar of the complainant's master. The Magistrate has acquitted the accused and ordered the complainant to pay compensation in the sum of Rs. 125 to the accused, or in default to undergo simple imprisonment for 30 days. The law in Section 250, provision (2), is so clear that it is only if the compensation ordered to be paid cannot be recovered that imprisonment can be awarded, and this has been so often pointed out in reported cases, that we are surprised that the Magistrate should have summarily passed the order of imprisonment before any attempt was made towards recovery of the sum ordered to be paid as compensation. The order of imprisonment is therefore clearly bad. But we think that this was not a case in which an order for compensation could be properly passed. The law provides that compensation may be ordered, if the Magistrate is satisfied that the accusation was frivolous and vexatious. From the nature of the offence charged the accusation certainly cannot be regarded as frivolous. The Magistrate finds that "the case is false and must have been vexatious to the accused in the extreme."

2.That may be said of every false case. But Section 250 of the Code of Criminal Procedure does not contemplate that compensation shall be awarded because the case is found to be false. If it had been so intended by the Legislature, the

law would have been so expressed. Section 211 of the Penal Code on the other hand expressly makes the instituting of a false case with the intent to injure an accused and with knowledge that there is no just or lawful ground for the accusation an offence, and the finding of the Magistrate is that such offence has been committed. The Magistrate has consequently in a summary proceeding convicted the complainant of that offence without a proper trial, which obviously is altogether improper and open to serious objection. The words "frivolous" and "vexatious" in Section 250 indicate an accusation merely for the purposes of annoyance, not an accusation of an offence which is absolutely false. The order for compensation must therefore be set aside, and the money, if paid, must be refunded. It is open to the Magistrate either to institute proceedings as regards an offence u/s 211 of the Penal Code, or to sanction u/s 195 of the Code of Criminal Procedure an application by one of the accused persons to make a complaint of that offence.