

(1910) 05 AHC CK 0035
In the Allahabad High Court

Ram Sukh Rai

APPELLANT

Vs

Mahadeo Rai and Others

RESPONDENT

Date of Decision : 27-05-1910

Acts Referred:

Citation : 7 Ind. Cas. 290

Hon'ble Judges : Banerji, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

1. Ram Sukh Rai made an application to a Magistrate of the first class, asking him to order Mahadeo Rai and nine others to furnish security to keep the peace. The Magistrate held an inquiry and being of opinion that the allegations of the applicant were untrue, ordered the discharge of Mahadeo Rai and others. He then directed Ram Sukh Rai to pay Rs. 50, as compensation to Mahadeo Rai and others. The order was apparently made u/s 250 of the Code of Criminal Procedure. The learned Sessions Judge has referred the case to this Court with the recommendation that the order be set aside as illegal. I am of opinion that the order is clearly illegal. By Section 250 an order for compensation can be made only in cases instituted by a complaint as defined in the Code or upon information given by a Police Officer to a Magistrate, where a person is accused of an offence triable by a Magistrate. A complaint according to the definition of the term 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 this case Mahadeo Rai and others were not accused of having committed any offence. The only complaint against them was that they were likely to commit a breach of the peace so that 250 has no application to a case of this kind. This was held by the Bombay High Court in *In re Govind Hanmant In Queen Empress v. Lakhpat* this Court held that the award of compensation made in a case in which an application had been made to a Magistrate with a view to his taking proceedings

under 110 of the Code of Criminal Procedure, is illegal. The order of the Magistrate in this case was, therefore, clearly illegal. I accordingly set it aside and direct that the amount of compensation, if paid, be refunded.