

Supreme Court of India

Nandkumar Krishnarao Navgire vs Jananath Laxman Kushalkar And ... on 23 July, 1997

Equivalent citations: 1999 CriLJ 5022, JT 1998 (4) SC 249, 1998 (2) MPLJ 111, (1998) 2 SCC 355

Bench: M Punchhi, K Venkataswami

ORDER

1. This appeal by special leave is against the judgment and order of a learned Single Judge of the High Court of Judicature at Bombay declining to upset an order of the Chief Judicial Magistrate, First Class, Pune, whereby notice issued against the complainant-respondent under Section 250 of the CrPC was discharged.

2. It is seen that the State at the instance of the complainant had prosecuted the appellant and another on charges of cheating, criminal breach of trust, etc. The appellant was acquitted of the charges by the Presiding Officer of the Court who issued simultaneously a notice to the complainant-respondent as to why he should not be ordered to pay compensation under Section 250 of the Criminal Procedure Code. By the time the respondent could give his response, the Presiding Officer got changed. The succeeding one took the view that he had no jurisdiction to proceed further in the matter under Section 250 of the CrPC. He opined that jurisdiction conferred on a Magistrate under Section 250 of the CrPC was personal to the incumbent and that a successor could not continue with the proceedings. That order has been upheld by the High Court in revision.

3. Section 250 insofar as relevant is extracted below:

"250. (1) If, in any case instituted upon complaint or upon information given to a police officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that there was no reasonable ground for making the accusation against them or any of them, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one; or, if such person is not present, direct the issue of a summons to him to appear and show cause as aforesaid.

(2) The Magistrate shall record and consider any cause which such complainant or informant may show, if he is satisfied that there was no reasonable ground for making the accusation, may, for reasons to be recorded, make an order that compensation to such amount, not exceeding the amount of 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.

(3)-(5) \* \* \* (6) A complainant or informant who has been ordered under Sub-section (2) by a Magistrate of the Second Class to pay compensation exceeding one hundred rupees, may appeal from the order, as if such complainant or informant had been convicted on a trial held by such Magistrate."

4. Literal meaning of the expression "the Magistrate" occurring in the opening of Sub-section (2) of Section 250, on first flush admits the interpretation that a succeeding Magistrate can continue with the proceedings initiated by his predecessor under Sub-section (1) of Section 250 CrPC. An attractive argument can also be advanced to suggest that had the intention of the legislature been that the same Magistrate, as initiating, should conclude proceedings under Section 250, then the expression aforementioned in quotes could have been "such Magistrate". The last words in Sub-section (6) "such Magistrate" can also be employed to support the afore-view, but the argument would not stand long because such Magistrate could also be read as the same Magistrate initiating and concluding (But here the Magistrate, 2nd Class).

5. The literal interpretation, as put forth, though attractive, violates, in our view, the purpose behind Section 250 which has a narrow scope. The pecuniary jurisdiction of the Magistrate, as is evident, is equivalent to his jurisdiction to impose fine on an accused. The Magistrate of the First Class can impose fine to the extent of Rs 2000 only and a Magistrate of lesser denomination can impose lesser fines as enjoined under the law. Now, here was a case of a Chief Judicial Magistrate who had acquitted the appellant. His jurisdiction to impose fine was only up to Rs 2000. Thus, the scope of enquiry under Section 250 CrPC is only an effort to award to the accused a bare sum of Rs 2000, if at all, after hearing the complainant. The enquiry in the nature being so small and narrow, the legislature perhaps thought that it should be in the nature of an addenda to the main enquiry or trial. Therefore, the view has emerged in all the High Courts in the country that the same Magistrate alone can initiate action and pass the final orders. To mention a few precedents in that regard, attention be invited to *Rajaram Majhi v. Panchanan Ghosh*, AIR 1929 Cal 762, *Emperor v. Mohd. Alan*, AIR 1935 Sind 321 (sic) and *Ram Nath v. Bashir-Ud-Din*, and many others which exist, as have been noticed in the last mentioned Punjab case. It would thus be worthwhile to preserve the interpretation of the provision which would not disturb the unanimous understanding of the High Courts on the subject. We hold accordingly.

6. For the foregoing reasons, this appeal is hereby dismissed.