

## CRIMINAL MISCELLANEOUS

*Before H. R. Khanna, J.*ASSA SINGH,—*Petitioner.**versus*THE STATE OF PUNJAB,—*Respondent.*

Criminal Miscellaneous No. 338 of 1964.

1965  
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 February, 1st

*Punjab Gram Panchayat Act, 1952 (IV of 1953)— S. 38 and  
 Schedule 1-A—Gram Panchayat—Whether competent to try and  
 punish a person for an offence under Ss. 323 and 504 I.P.C.—Con-  
 viction under S. 323—Whether can be maintained.*

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- (1) A.I.R., 1947, Bom. 36.  
 (2) A.I.R., 1940, Sind, 134.

under section 250 of the Code of Criminal Procedure to show cause as to why they should not be ordered to pay compensation to Pokhar Dass. A.S.I. Bhim Singh, did not appear. S.I. Phula Singh, stated in reply that the case under the Public Gambling Act had been registered against the accused as a result of detection by A.S.I. Bhim Singh, who had arrested the accused and investigated the case, and that S.I. Phula Singh, had merely submitted his report on the basis of that investigation as contemplated by section 173 of the Code of Criminal Procedure. The Sub-Inspector added that he had no enmity with any of the accused and did not even know them before the alleged occurrence. Plea was also taken that the matter did not fall within the purview of section 250 of the Code of Criminal Procedure.

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The above explanation did not find favour with the learned Magistrate, who directed S.I. Phula Singh, to pay compensation of Rs. 25 to Pokhar Dass, under section 250 of the Code of Criminal Procedure. In default of payment of compensation the Sub-Inspector was ordered to suffer simple imprisonment for ten days.

On revision by S.I. Phula Singh, the learned Additional Sessions Judge observed that the petitioner had simply submitted the challan on the basis of the detection of the case by A.S.I. Bhim Singh. The records of the case were, accordingly, submitted to this Court with the prayer that the order of the Magistrate be quashed.

After hearing Mr. Aggarwal on behalf of the petitioner and Mr. Dewan on behalf of the State, who have both supported the recommendation of the learned Additional Sessions Judge, I am of the view that the order of the Magistrate directing the petitioner to pay Rs. 25 as compensation to Pokhar Dass, should be quashed. In the first instance, as observed by the learned Additional Sessions Judge, the petitioner merely submitted the challan of the accused in the case under the Punjab Gambling Act on the basis of the detection and investigation of the case by A.S.I. Bhim Singh. As the above act of the petitioner was of a formal nature in the discharge of his duties and was in conformity with the legal requirements, no order should have been made under section 250 of the Code of Criminal Procedure against the petitioner directing him to pay compensation. Before an order for payment of compensation can be made under section 250 of the Code against any

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person, it is essential to show that the aforesaid person had made accusations against the accused which accusations, in the opinion of the Magistrate, were false and either frivolous or vexatious. Looking to the part played by the petitioner, it can hardly be said that the petitioner made accusations which were to his knowledge false and either frivolous or vexatious. Apart from that I am of the view that the provisions of section 250 of the Code of Criminal Procedure cannot be invoked against a police officer when he makes a report in writing about a case as contemplated by clause (b) of sub-section (1) of section 190 of the Code. Reference in this connection may be made to a Division Bench case *Mohomed Meera v. Dattatraya Babaji* (1), wherein it was observed that section 250 read in conjunction with section 190 applies to information given by a police officer if that information can come as a complaint under section 190(1) (a) but not if it amounts to a report under section 190 (1)(b) of the Code of Criminal Procedure. It was, accordingly, observed that section 250 did not apply to cases instituted on police reports regarding cognizable offences. Similar view was expressed in Full Bench case *Muhammad Hashim v. Emperor* (2). It is not disputed that the case under section 13 of the Public Gambling Act, was a cognizable case and as such the dictum laid down in the above two cases fully applies to the present case.

I would, accordingly, accept the recommendation of learned Additional Sessions Judge and set aside the order of the Magistrate whereby he directed the petitioner to pay Rs. 25 as compensation to Pokhar Dass.

B.R.T.