



2023/KER/50556

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 16TH DAY OF AUGUST 2023 / 25TH SRAVANA, 1945

CRL.REV.PET NO. 1356 OF 2005

AGAINST THE ORDER/JUDGMENT CRA 100/1997 OF II ADDITIONAL

DISTRICT COURT, THIRUVANANTHAPURAM

ST 25/1997 OF JUDICIAL MAGISTRATE OF FIRST CLASS , VARKALA

REVISION PETITIONER/APPELLANT/PW1:

S.SUKUMARAN CHETTIYAR
SU INSPECTOR OF POLICE,
KADAKKAVOOR POLICE STATION.
BY ADV R.BINDU SASTHAMANGALAM

RESPONDENT/RESPONDENT/STATE :

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,, ERNAKULAM.
BY ADV PUBLIC PROSECUTOR PRABHAKARAN C.N.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 16.08.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



BECHU KURIAN THOMAS, J

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CrI.Rev.Pet.No.1356 of 2005

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Dated this the 16th day of August, 2023

ORDER

The question raised for consideration is whether, in exercise of the powers under Section 250 Cr.P.C., the Sub Inspector of Police, who registered a crime, can be imposed with compensation after acquittal of the accused in the said crime.

2. Proceedings were initiated against an Advocate, under Section 51(A) of the Kerala Police Act, 1960; alleging that he was found behaving in a disorderly manner by uttering obscene words causing nuisance to the pedestrians and the neighbours on 31.12.1996 in a public road in front of the Kadakkavur Police Station. The accused was removed from the place and he was subjected to medical examination. After trial, the learned Magistrate found that the initial medical certificate did not mention about any smell of alcohol and came to the conclusion that accused had not consumed alcohol. But the



said certificate was destroyed and a false certificate was concocted and produced before the court.

3. The learned Magistrate noticed that a personal rivalry existed between the Sub Inspector of Police, who registered the crime and the accused. Therefore, a show cause notice was issued to the revision petitioner/complainant under Section 250 Cr.P.C., asking to explain why compensation of Rs.5,000/- should not be ordered to be paid to the accused.
4. A reply was filed by the revision petitioner stating that the steps initiated by him were sustainable under law and that the proceedings initiated against him under Section 250 Cr.P.C. ought to be dropped. By order dated 31.03.1997, the learned Magistrate directed Rs.5,000/- to be paid by the revision petitioner as compensation to the accused in S.T.No.25/1997 on the files of the Judicial First Class Magistrate Court, Varkala. Aggrieved by the order to pay compensation revision petitioner preferred Crl.Appeal No.100/1997 before the II Additional Sessions Court, Thiruvananthapuram. By judgment dated 05.03.2005, the



learned Sessions Judge dismissed the appeal confirming the order directing to pay compensation. Hence this revision petition.

5. Sri.R.Bindu Sasthamangalam, the learned counsel for the revision petitioner, submitted that the order directing payment of compensation by the revision petitioner under Section 250 Cr.P.C. is inherently without jurisdiction and is liable to be set aside. The learned counsel relied upon the decisions of this Court, in Bal Krishnan Nambiar v. State of Kerala 1988 (2) KLT 518, Krishnan Moopan M.B. v. The State of Kerala and Another 2005 (2) KLT 700 and Pankajakshan P.R. v.K.Muraleedharan and Another 2012 (4) KLT 524, and canvassed for the proposition that the proceedings initiated against the accused in S.T.No.25/1997 on the files of the Judicial First Class Magistrate Court, Varkala; could not have been the subject matter of a proceeding for imposition of compensation under Section 250 Cr.P.C.
6. The learned Public Prosecutor opposed the submissions and stated that the learned Magistrate initiated the proceedings



because it was crystal clear that the accused, who was a practicing lawyer, had appeared against the complainant/revision petitioner in three criminal cases, and it was due to the said enmity that the false case was registered. The learned Public Prosecutor also submitted that if the police officers initiate false complaints due to their personal enmity, the court is empowered to impose compensation if it is satisfied that the case is registered without any basis.

7. I have considered the rival contentions.

8. Section 250 of Cr.P.C., reads thus:

250. Compensation for accusation without reasonable cause.

(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, and 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*

9. The said provision contemplates specific instances when such compensation can be ordered. The provision commences with the words “instituted upon complaint or upon information given to a police officer or to a Magistrate”. The intention of the legislature is very clear from the words used, since the code has defined the terms ‘complaint’ in Section 2(d) Cr.P.C., as excluding a police report.
10. In the instant case, the crime has been registered *suo motu* and not upon a complaint as contemplated under Section 250 Cr.P.C. In *Krishnan Moopan’s case* (supra) a similar situation was considered by this Court and it was held that the provision does not contemplate an action against a police officer on whose report the cognizance was taken as distinguished from a case instituted upon a complaint or upon information given to a police officer.



11. The decision in *Pankajakshan P.R.'s case* (supra) also lays down with the preposition argued by the learned counsel for the revision petitioner.
12. It is apposite to point out at this juncture that a person alleging malicious prosecution can proceed against the person who initiated such a false prosecution, under the general civil law. The compensation contemplated under Section 250 Cr.P.C. is a special provision enacted to meet the specific contingencies mentioned therein.
13. When the literal interpretation of the said provision does not lead to any absurdity, it is not proper on the part of the court to substitute the said provision with additional words. Viewed in the light of above principles of interpretation as well as the judgment in *Krishnan Moopan's case* (supra), I am of the view that the imposition of compensation on the revision petitioner in the instant case irregular and liable to be set aside.
14. Hence, the imposition of compensation upon the revision petitioner in S.T.No.25/1997 on the files of the Judicial First



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Class Magistrate Court, Varkala as confirmed in Crl.Appeal
No.100/1997 by the II Additional Sessions Court,
Thiruvananthapuram; are set aside.

The criminal revision petition is allowed.

sd/-

BECHU KURIAN THOMAS
JUDGE

AMV/19/08/2023