

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.1960 of 2016

ORDER:

1) The present Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C. challenging the portion of the judgment dated 06.05.2016 passed in C.C.No.53 of 2015 on the file of the III Additional Judicial Magistrate of First Class, Ongole, wherein the trial Court while acquitting the accused directed the petitioner to present before the said Court and explain why compensation should not be awarded to accused for lodging report without reasonable cause.

2) The facts in issue are as under:

A charge sheet came to be filed against the second respondent herein for the offences punishable under Sections 336, 353 and 189 IPC and Section 185 of the Motor Vehicles Act before the III Additional Judicial Magistrate of First Class, Ongole. The said charge sheet was taken on file as C.C.No.53 of 2015. On behalf of the prosecution PWs.1 to 6 were examined and got marked Exs.P1 to P5. The accused got himself examined as DW.1 and marked Exs.D1 and D2. After analyzing the oral and documentary evidence, the learned Magistrate acquitted the accused. While acquitting the accused, the learned Magistrate felt that it was a fit case to invoke Section 250 of Cr.P.C. Therefore PW.1, who is the then Sub-Inspector of Police, Traffic Police Station the petitioner herein was directed to be present before the

said Court and explain why compensation should not be awarded to accused for lodging report against him without reasonable cause. Aggrieved by the said finding, the petitioner preferred the present revision.

3) Learned counsel for the petitioner would submit that there is no material to summon the petitioner herein. He further submits that as on the date of incident, the second respondent drove his motor cycle in a rash and negligent manner in a drunken condition and refused to co-operate for breath analyzer test apart from abusing the police in filthy language. It is further urged that PW.5 was the person, who conducted investigation and filed the charge sheet and as such the petitioner has nothing to do with the case.

4) It is to be noted that Section 250 of Cr.P.C. contemplates payment of compensation for accusation made without reasonable cause. Sub-Section (3) of Section 250 of Cr.P.C. contemplates that the Magistrate may, by an order direct payment of the compensation under sub-section (2), in default of payment, the person ordered to pay such compensation shall undergo simple imprisonment for a period not exceeding thirty days.

5) Learned counsel for the second respondent submits that the present revision is filed only against a show-cause notice and it would be proper for the petitioner to appear and give his explanation. It is urged that if any adverse order is passed against the petitioner, the same can be challenged.

6) As seen from the order only a notice under Section 250 of Cr.P.C. is said to have been issued to the petitioner calling upon him to give explanation as to why he is not liable to pay compensation for lodging report against the second respondent/ accused without reasonable cause. In view of the above, it would be appropriate for the petitioner to submit his explanation to the notices issued. Hence, the Criminal Revision Case is disposed of, directing the petitioner to submit a suitable explanation to the notice issued by raising the grounds which are raised in this revision and on giving of such explanation, the learned Magistrate shall conduct enquiry as per the provisions of the Code of Criminal Procedure and pass appropriate orders. If the petitioner is aggrieved by the orders, if any, passed by the learned Magistrate, he is at liberty to avail the remedy available under law.

7) Consequently, the miscellaneous petitions, if any, pending shall stand closed.

23.09.2016
gkv

C. PRAVEEN KUMAR, J