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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P. 648/2014

HDFC BANK LTD

..... Petitioner

Through: Mr. Rajat Katyal with Mr. Harsh
Sinha, Advs.

versus

AMARJEET SINGH SIYAL

..... Respondent

Through: Mr. K.C. Gandhi, Adv.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **28.07.2017**

The petitioner/Bank had filed a complaint case under Section 138 of Negotiable Instruments Act, 1881 against the respondent, in which complaint, the respondent was acquitted by the judgment and order dated 28.06.2013. Simultaneously, the Trial Court issued show cause notice to the petitioner under Section 250 Cr.P.C. as to why compensation be not awarded to the accused. This notice was ostensibly issued by the Trial Court on the ground that the cheque which was said to have been signed by the respondent did not mention the amount which had to be paid to the complainant and that the present prosecution was lodged by the petitioner/Bank when the loan account of the respondent had been closed earlier in point of time.

Pursuant to the aforesaid notice, the petitioner appeared and replied to the show cause. The reply was not found to be satisfactory and the

petitioner/complainant was directed to pay compensation of Rs.8,000/- under Section 250(2) Cr.P.C. to the respondent.

As against the aforesaid order granting compensation to the respondent under Section 250(2) Cr.P.C., the petitioner preferred an appeal under Section 250(6) of the Cr.P.C. before the Addl. District & Sessions Judge/Spl. Judge/NDPS vide Crl. Appeal No.19/2013.

The Appellate Court also, without referring to the provisions of the Code and only taking into account that the invocation of Section 250 of the Cr.P.C. to be mandatory, upheld the order of the learned trial Court and dismissed the appeal. The Appellate Court was of the view that there was no infirmity or perversity in the order awarding compensation to the respondent.

The present revision petition assails both the orders.

No compensation in the present case could have been awarded by the Trial Court as the case lodged by the petitioner was tried as a complaint case/summons case which is dealt with/tried in terms of Chapter XXII of Cr.P.C. Compensation under Section 250 Cr.P.C. for having made accusation without reasonable cause is with respect to trial of warrant cases which are instituted on a police report. No compensation could have been awarded to the respondent under Section 250 (2) of the Cr.P.C. If at all the accusation of the petitioner as against the respondent was found to be reckless or without any cause, a different procedure should have been awarded for punishing the petitioner for lodging of a false/mischievous/unwarranted complaint. For the aforesaid, the respondent has to proceed in accordance with law by filing a complaint for mischievous prosecution. The Trial Court ought not to have exercised such provisions of the law which are

not available in the trial of summons cases.

Taking this into account, the order passed by the Trial Court as well as Appellate Court are held to be unsustainable in the eyes of the law and are, therefore, set aside.

The Revision petition is allowed and disposed of accordingly.

ASHUTOSH KUMAR, J

JULY 28, 2017

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