

(1924) 11 BOM CK 0022

Bombay High Court

Case No: None

Augustin Manwel Pereira

APPELLANT

Vs

Duming Pascol Demello

RESPONDENT

Date of Decision: Nov. 8, 1924**Acts Referred:**

- Criminal Procedure Code, 1898 (CrPC) - Section 250

Citation: (1925) ILR (Bom) 440**Hon'ble Judges:** Norman Macleod, J; Crump, J**Bench:** Division Bench

Judgement

Norman Macleod, Kt., C.J.

In this case the complainant was called upon to show cause why he should not pay compensation to the accused u/s 250, Criminal Procedure Code. An order was thereafter made that, as the complainant was unable to show cause, he should pay Rs. 20 to each of the accused Nos. 1, 2, 3, and 4, Rs. 40 to No. 6 and Rs. 100 to No. 5. An appeal was filed under Sub-section (3) of Section 250. The learned Sessions Judge appears to have been of opinion, that the appeal was only competent as regards the Rs. 100 awarded as compensation to accused No. 5, and that he could not deal with the amounts awarded to the other accused because they were under Rs. 50. Accordingly he referred the case to this Court, asking this Court to pass a similar order with regard to the compensation awarded to the other accused as was passed by him in the case of accused No. 5. We think that the Sessions Judge has placed a wrong construction on Section 250, Sub-section (3) as in our opinion that sub-section means that whenever a complainant or informant has been ordered under Sub-section (2) to pay compensation exceeding fifty rupees, the right of appeal is given, whether the compensation has been awarded only to one accused or has to be distributed amongst a number of accused in sums not exceeding Rs. 50. To put the construction suggested by counsel for the accused on this sub-section would inevitably cause the difficulty which has resulted from the present decision of

the Sessions Judge.

2. We think, therefore, that in a case where the total compensation awarded is over Rs. 50, the complainant is entitled to appeal. The papers can be returned to the Sessions Judge with this expression of our opinion that he has jurisdiction to deal with the whole of the order awarding compensation.