

Amendment in Section 250 of the Code of Criminal Procedure, 1898

Report No. 92

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Amendment in Section 250 of the Code of Criminal Procedure, 1898.

Compensation on false, frivolous or vexatious accusation provided under section 250 (2) of Cr.P.C was enhanced from five hundred rupees to twenty five thousand rupees and in case of offence triable by Magistrate of the third class the compensation amount was enhanced from fifty rupees to two thousand and five hundred rupees by the Code of Criminal Procedure (Amendment) Ordinance 1980 (VI of 1980).

Section 250. Cr. P.C reads as follows:-

250. False frivolous or vexatious accusations. (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 acquits all or any of the accused and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may by his order of 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 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 the accusation was false and either frivolous or vexatious, may, for reasons to be recorded, direct that compensation to such amount not exceeding twenty five thousand rupees or if the Magistrate is a Magistrate of the third class not exceeding two thousand and five hundred rupees, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(2A) The compensation payable under sub-section shall be recoverable as an arrear of land revenue.

(2B) When any person is imprisoned under sub-section (2A), the provisions of section 68 and 69 of the Pakistan Penal Code shall, so far as may be, apply.

(2C) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him:

Provided that any amount paid to an accused person under this section shall be taken into account, in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(3) A complainant or informant who has been ordered under subsection (2) by a Magistrate of the second or third class to pay compensation or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(4) When an order for payment of compensation to an accused person is made, in case which is subject to appeal under sub-section (3), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided and, where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order.

Section 250, Cr.P.C. empowers the Magistrate by whom the case is heard to grant compensation for false, frivolous or vexatious accusation. The ingredients of section 250, Cr.P.C. are:

- (i) the case should be instituted upon complaint or upon information given to a police officer or to a Magistrate,
- (ii) against one or more persons,
- (iii) making the alleged persons accused before Magistrate of any offence triable by a Magistrate,
- (iv) the Magistrate who hears the case discharges or acquit the accused,
- (v) the Magistrate while discharging or acquitting the accused is of the opinion that the accusation was false and either frivolous or vexatious,
- (vi) and if the complainant is present and the accused calls upon him forthwith to show cause why he should not pay compensation.

The main object of S.250 is to award, in a summary way compensation to the person against whom a frivolous or vexatious accusation is brought without curtailing their right to seek redress from Civil Court. Its further object is to deter persons from making false accusation. The provisions of S.250, Cr.P.C. provide sufficient safeguard to an accused against a false and frivolous accusation by the complainant.

Due to increasing of inflation rate the amount of compensation is inadequate and needs to be suitably enhanced with a view to discourage the tendency of false frivolous or vexatious accusation on filing of private complaints.

It is proposed to enhance the compensation amount provided under section 250(2) of Cr.P.C. from twenty five thousand rupees to forty thousand rupees and in case of offence triable by Magistrate of the third class, the amount of compensation from two thousand and five hundred to three thousand rupees.

In sub-section (3) order for payment of compensation for the purpose of appeal may also be enhanced from fifty rupees to five hundred rupees.

COMPARATIVE CHART

Existing Provision	Proposed Provision
<p>Section 250. False frivolous or vexatious accusations.</p> <p>(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 acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may, by his order of 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 appear and show cause as aforesaid.</p> <p>(2) The Magistrate shall record and consider any cause which such complainant or informant may show and if he is satisfied that the accusation was false and either frivolous or vexatious, may, for reasons to be recorded, direct that compensation to such amount not exceeding twenty five thousand rupees or, if the Magistrate is a Magistrate of the third class not exceeding two thousand and five hundred rupees, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.</p>	<p>No Change.</p> <p>(2) The Magistrate shall record and consider any cause which such complainant or informant may show and if he is satisfied that the accusation was false and either frivolous or vexatious, may, for reasons to be recorded, direct that compensation to such amount not exceeding forty thousand rupees or, if the Magistrate is a Magistrate of the third class not exceeding three thousand, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.</p>

<p>(2A) The compensation payable under sub-section (2) shall be recoverable as an arrear of land revenue.</p>	<p>No change</p>
<p>(2B) When any person is imprisoned under sub-section (2A), the provisions of section 68 and 69 of the Pakistan Penal Code shall, so far as may be, apply.</p>	<p>No Change</p>
<p>(2C) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him: Provided that any amount paid to an accused person under this section shall be taken into account, in awarding compensation to such person in any subsequent civil suit relating to the same matter.</p>	<p>No Change</p>
<p>(3) A complainant or informant who has been ordered under subsection (2) by a Magistrate of the second or third class to pay compensation or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees may appeal from the order, insofar as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.</p>	<p>(3) A complainant or informant who has been ordered under subsection (2) by a Magistrate of the second or third class to pay compensation or has been so ordered by any other Magistrate to pay compensation exceeding five hundred rupees may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.</p>
<p>(4) When an order for payment of compensation to an accused person is made, in case which is subject to appeal under sub-section (3), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided and, where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order.</p>	<p>No Change.</p>

Commission's deliberations

The working paper was considered by the Commission in its meeting held on 27.7.2007 and the following are the deliberations:-

The Commission considered the proposal to amend the provisions of Section 250 of the Code of Criminal Procedure 1898, prescribing certain amount for compensation to be paid by a complainant or informant to the accused, if a Magistrate is satisfied that the complaint or the information for proceeding against the accused was found false or frivolous or vexatious. The Chairman observed that the present amount of compensation earlier enhanced in the year 1980, has lost its value because of increase in rate of inflation. The Chief Justice, Federal Shariat Court observed that there is a tendency towards false, frivolous and vexatious litigation in the society. The Commission therefore, recommended the enhancement of compensatory costs provided in Subsection (2) of Section 250 Cr.PC to be awarded by the Magistrate from Rs. 25000/- to Rs. 40000/- or if the Magistrate is a Magistrate of the Third Class it be enhanced from Rs. 2500/- to Rs. 3000/- and for the purpose of appeal under Subsection (3) of Section 250 the amount is enhanced from Rs. 50/- to Rs. 500/-.

Mr. Justice ® Amirul Mulk Mengal stated that alongwith private complainant or informant the state/prosecution agencies may also be brought into the check. The Chairman observed that the prosecution agencies like police, FIA, Immigration, or Anti Narcotics agencies also file complaints which are later-on found false or vexatious, and the accused person suffers the agony of prosecution/detention in prison by defending himself against the complaint against him. Therefore, the responsibility should also be fixed on the state agencies who resort to such nefarious practices. The Commission further added that courts awarding compensatory costs generally overlook false and frivolous complaints despite having been proved false, therefore, it should be made mandatory for the Court to award compensatory costs, if the complaint is proved false or frivolous.

The Chief Justice, High Court of Sindh expressed the view that the recovery of compensation through Collector as arrears of land revenue is also a problem as the Executive Officers are generally non-cooperative in the recovery process of compensation, therefore, the courts overlook the issue of awarding compensation, even though the complaint is found false. So, the Magistrate may be given a power to recover the compensatory amount from the complainant, which power may vest in the Magistrate. The Chairman observed that the amendment as proposed may be carried and suggestion made by the Mr. Justice ® Mengal and the Chief Justice, High Court of Sindh may be examined by the Secretariat.