

APPELLATE CRIMINAL.

Before Mr. Justice Devadoss.

PARTHASARATHI NAICKER (COMPLAINANT), PETITIONER,

1927,
October 7.

v.

T. KRISHNASWAMI AYYAR (ACCUSED), RESPONDENT.*

Criminal Procedure Code (V of 1898), sec. 250—Only some of the prosecution witnesses examined—Accused discharged and compensation awarded—Legality of.

Where a Magistrate after hearing only five of the prosecution witnesses and without examining the rest of the evidence, as he thought that the remaining witnesses would not materially help the case, discharged the accused and awarded compensation to him, *held* that it was only after the examination of all the evidence that the complainant wanted to adduce, that the Magistrate could come to the conclusion that the case was false and vexatious and award compensation under section 250 of the Criminal Procedure Code.

PETITION under sections 435 and 439 of the Code of Criminal Procedure, 1898, praying the High Court to revise the order of the Court of the Deputy First-class Magistrate of Saidapet in Calendar Case No. 56 of 1926.

V. L. Ethiraj for petitioner.*P. Visvanatha Ayyar* for respondent.*Public Prosecutor* for the Crown.

JUDGMENT.

This is an application to revise the order of the Subdivisional Magistrate of Saidapet awarding compensation to the accused in a case brought by the petitioner. The learned Magistrate disposed of the case after hearing only five of the prosecution witnesses and he did not care to examine the rest of the evidence as he thought that the remaining witnesses would not materially help the case. In these circumstances he

* Criminal Revision Case No. 371 of 1927.

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was not justified in awarding compensation to the accused. It is only after the examination of all the evidence the complainant wanted to adduce, that he could come to the conclusion that the case was false and vexatious. No doubt he was entitled at any stage to discharge the accused, but that would not be a ground for awarding compensation to the accused. I therefore set aside the order of compensation and direct the amount, if recovered, to be refunded to the petitioner.

B.C.S.

APPELLATE CRIMINAL.

Before Mr. Justice Wallace.

BODIPATTI LALAMMA AND TWO OTHERS (ACCUSED),
PETITIONERS.*

1927,
February 3.

*Bench of Magistrates—Trial before—President in minority—
Judgment to be written by a member of the majority.*

Where, in a case tried by a Bench of Magistrates, the President of the Bench is in a minority as to conviction or acquittal, the judgment should be written by a member of the majority.

PETITION under sections 435 and 439 of the Code of Criminal Procedure, 1898, praying the High Court to revise the judgment of the Court of the Bench of Magistrates of Narasaraopet in B.C. No. 224 of 1926.

Ch. Raghava Rao for petitioners.

Public Prosecutor for the Crown.

JUDGMENT.

In a case where the President of the Bench is in a minority as to conviction or acquittal, the judgment should be written by some member of the majority. Otherwise, as in the present case, we have a conviction

* Criminal Revision Case No. 849 of 1926.