

MHAU140016852022



Received on : 10.10.2022

Registered on : 10.10.2022

Decided on : 04.12.2023

Duration : 01Y.01M.24Ds.

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS (RAILWAYS)
AURANGABAD.

(Presided over by Smt. A. A. Motale.)

RCC No. 234/2022**Exh. No.22/B**

Complainant	Shri. Ramashish Sureshprasad Kumar, Age:-39 Years, Occ.:-Asst.Sub Inspector/RPF, Dharmabad. R/o Dharmabad.
Represented by	Ld. Advocate Shri. G. D. Mishra.
Accused	Shaikh Ramzan Shaikh Samsuddin, Age :- 22, Occ. :- Business, R/o. Churipara, Chandanpur, Tq. Hoogly, Dist. West Bengal. At Present- Old Ganj, Itwara Bazar, Nanded.
Represented by	Ld. Advocate D. D. Dahifale.

Date of Offence	16.08.2022
Date of complaint	10.10.2022
Date of Charge	09.11.2023
Date of commencement of evidence	26.10.2023
Date on which judgment is reserved	09.11.2023
Date of the Judgment	04.12.2023
Date of the sentencing order, if any	Sentence till rising of Court and fine of Rs. 5000/- only.

ACCUSED DETAILS

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or	Sentence imposed	Period of detention
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					convicted		undergone during trial.
A1.	Shaikh Ramzan Shaikh Samsuddin	-	-	Section 143 of Railways Act	Convicted	Sentence till rising of Court and fine of Rs. 5000/- only .	Nil

LIST OF COMPLAINANT WITNESSES

Rank	Name	Nature of evidence
CW-1	Shri. Ramashish Sureshprasad Kumar	Complainant

LIST OF DEFENCE WITNESSES

Rank	Name	Nature of evidence
	Nil	Nil

LIST OF COURT WITNESSES

Rank	Name	Nature of evidence
	Nil	Nil

LIST OF COMPLAINANT EXHIBITS

Sr.No.	Exhibit Number	Nature of evidence
1	Exh.05/CW-1	Panchanama
2	Exh. 06/CW-1	Seized ticket
3	Exh. 07/CW-1	Receipt
4	Exh. 8/CW-1	Confessional statement of accused
5	Exh. 9/CW-1	Statement of Ejaj Ansari
6	Exh. 10/CW-1	Letter of Chief Commercial Clerk Dharmabad.
7	Exh. 11/CW-1	Requisition Form
8	Exh. 12/CW-1	Letter of Dy. CCM/PM/SC dated

		01.09.2022
9	Exh. 13/CW-1	Letter of Asst. Sub Inspector
10	Exh. 14 and 15/CW-1	Statement of Two panch witnesses
11	Exh. 16/CW-1	EBC close Pursis

DOCUMENTS ADMITTED BY DEFENSE

Sr.No.	Exhibit Number	Nature of evidence
1	Exh. 8/CW-1	Confessional statement of accused

LIST OF DEFENSE EXHIBITS

Sr.No.	Exhibit Number	Nature of evidence
1	Exh.21	No Evidence Pursis

LIST OF COURT EXHIBITS

Sr.No.	Exhibit Number	Nature of evidence
1	Nil	Nil

MATERIAL OBJECTS

Sr.No.	Material Object No.	Description
1	Nil	Nil

J U D G M E N T

1. Accused has been prosecuted by the complainant for commission of the offence punishable U/s. 143 of the Indian Railways Act, 1989.

2. The facts giving rise to the complainant's case in nutshell are that, on 16.08.2022, Shri. Ramashish Sureshprasad Kumar, Asst. Sub Inspector, RPF out post Dharmabad was on confidential watch along with his staff at reservation counter of Railway Station Dharmabad. During his confidential watch, at about 11.00 a.m. they observed that, one person who was returning from ticket line appeared to be suspicious. Thus, complainant and his staff stopped the said person and made inquiry about the ticket in presence of two Panch witnesses. Upon inquiry, the said person disclosed his name as Shaikh Ramjan. The accused was carrying

one window ticket of date 17.08.2022 of sleeper class from Secunderabad to Satranchachi. The accused further confessed before the panch witnesses that, he purchasded the said ticket for his neighbour by taking more commission of Rs. 500/- from him and he is doing said business of procuring railway ticket by taking commission and running the said business since long. The complainant asked the accused about authority to purchase the said ticket to which he denied. Thereafter, complainant asked where is the passenger then accused replied that, he is standing outside. Upon inquiry with the said passenger, he disclosed his name as Ejaj Ansari. The Complainant then seized the said ticket and an amount of Rs.500/- from the custody of accused vide seizure panchnama. The complainant then recorded confessional statement of accused. Thereafter, Complainant arrested the accused and brought him at RPF out post Dharmabad and registered Crime No. 203/2022 against the accused for the offence punishable under section 143 of The Railways Act.

3. During further inquiry, The complainant recorded the statement of Passenger Ejaj Ansari. The complainant issued letter to Chief Reservation Supervisor, Nizamabad for blocking said seized counter-ticket. Thereafter, he made communication with Chief Reservation Commercial Clerk, Dharmabad and obtained original requisition form regarding said seized railway ticket. Thereafter, the complainant made communication with Deputy CCM, PM for obtaining information about the said seized ticket. The Deputy CCM, PM send all the required information to complainant. The complainant also recorded the statements of two Panch witnesses namely Sanjay Kisan Ghayal and Chandra Waghmare. As the accused found carrying illegal business of selling railway counter tickets on commission basis, the complaint is being filed against the accused.

4. In support of its case complainant Shri. Ramashish Sureshprasad Kumar, Asst. Sub-Inspector RPF out post Dharmabad, examined himself as (CW-1) below Exh.04. After examining said

witnesses, prosecution closed evidence before charge by filing pursis at Exh.16. Arguments were heard. Charge below Exh.17 was framed against the accused. It was explained to the accused in vernacular to which they pleaded not guilty and claimed to be tried at Exh.18. After framing charge complainant closed further evidence by filing pursis Exh.19. Statement of the accused under section 313 of Code of Criminal Procedure, 1973 was recorded below Exh.20. From the statement of the accused the defence of the accused appears to be of false implication. Accused filed pursis at Exh.21 stating that he does not want to lead any defence evidence.

5. On hearing and on perusal of oral as well as documentary evidence available on record following points arose for my determination and I have recorded my findings thereon for the reasons stated below :-

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Does complainant prove that, on 16.08.2022 at reservation counter of Dharmabad Railway station, accused found carrying the business of procuring and selling the Railway Reservation counter-ticket by gaining more amount without any valid authority and thereby committed an offence punishable under Section 143 of the Railways Act 1989 ?	Proved.
2.	What order ?	Accused is convicted as per final order.

REASONS

As to point Nos.1 and 2 :-

6. In order to prove the offence against the accused, from the side of Complainant, Shri. Ramashish Sureshprasad kumar (CW1), Asst. Sub inspector, RPF out post Dharmabad testified himself at Exh.04 that, on 16.08.2022, he was on confidential watch along with his staff at reservation counter of Railway Station Dharmabad. The complainant

further deposed that, during his confidential watch, at about 11.00 a.m. they observed that, one person who was returning from ticket line appeared to be suspicious. Thus, he and his staff stopped the said person and made inquiry about the ticket in presence of two Panch witnesses. Upon inquiry, the said person disclosed his name as Shaikh Ramjan. The complainant further deposed that, the accused was carrying one window ticket of date 17.08.2022 of sleeper class from Secunderabad to Satranganthi. The accused further confessed before the panch witnesses that, he purchased the said ticket for his neighbour by taking more commission of Rs. 500/- from him and he is doing said business of procuring railway ticket by taking commission and running the said business since long. He asked the accused about authority to purchase the said ticket to which he denied. The complainant further deposed that, he then asked where is the passenger then accused replied that, he is standing outside. Upon inquiry with the said passenger, he disclosed his name as Ejaj Ansari. He then seized the said ticket and an amount of Rs.500/- from the custody of accused vide seizure panchnama. He then recorded confessional statement of accused. The complainant further deposed that, he then arrested the accused and brought him at RPF out post Dharmabad and registered Crime No. 203/2022 against the accused for the offence punishable under section 143 of The Railways Act.

7. The complainant further deposed that, during further inquiry, he recorded the statement of Passenger Ejaj Ansari. He then issued letter to Chief Reservation Supervisor, Nizamabad for blocking said seized counter-ticket. Thereafter, he made communication with Chief Reservation Commercial Clerk, Dharmabad and obtained original requisition form regarding said seized railway ticket. The complainant further deposed that, he then made communication with Deputy CCM, PM for obtaining information about the said seized ticket. The Deputy CCM, PM send all the required information to him. He then also recorded the statements of two

Panch witnesses namely Sanjay Kisan Ghayal and Chandra Waghmare. As the accused found carrying illegal business of selling railway counter tickets on commission basis, the complaint is being filed against the accused.

8. From above discussed evidence of the witness Shri. Ramashish Sureshprasad Kumar, Ass. Sub Inspector RPF Post Dharmabad (CW1), it is clear that, the witness has identified the accused in the court and testified that accused found carrying illegal business of selling of railway counter-ticket to customers on commission basis. On perusal it appears that, the witness deposed as per complaint and remained stickup thought out his version and denied all adverse suggestions put to him during cross-examination. Also, the evidence in respect of seizure panchanama Exh. 05 and confessional statement Exh.08 of the accused remained unshaken as nothing contrary is brought on record. The accused has admitted confessional statement Exh.08. Ongoing through documents on record it appears that, accused was found in the possession of counter-tickets which was not in the name of accused or his relative and is found in the name of the other person. Further it appears that, the accused was not having any authority for purchasing the said railway counter-ticket for commission of Rs.500/- per passenger for the said ticket. However, he is carrying on business regarding supply of railway counter-ticket to customer without authority by taking more commission for same. In the confessional statement Exh.08 of accused he has confessed about the commission of the offence and carrying-out business of supplying railway counter-ticket to customer on commission of Rs.500 per passenger. It is pertinent to note here that, as per settled position of law, RPF is not police machinery and hence any confessional statement made in presence of it is admissible and can be used against the accused. Also accused has himself admitted his confessional statement. As per section 58 of the Indian Evidence Act the facts admitted need not be proved. There is no justifiable or any reasonable cause forwarded by the accused for his procuring and

supplying of railway counter-ticket to customers on commission basis without any valid authority from Indian Railway Administration. Also, all the documentary evidence produced by the complainant is corroborative with his ocular evidence. Thus, after considering evidence on record it is demonstrative that, the accused without any lawful authority was carrying-out business of supplying railway counter-ticket to customer on commission basis. Section 143 of the Railways Act makes it very much clear that unauthorized carrying on business of procuring and supplying of railway tickets for travel on a railway or for reserved accommodation for journey in a train is punishable. Considering, all the facts and circumstances of the case and evidence on record, I have no doubt in my mind while holding that, the complainant has proved the offence against the accused beyond reasonable doubt. Hence, I answer point No.1 in the affirmative.

9. As the guilt of accused established for offence punishable under section 143 of The Railways Act, 1989, he is liable to be convicted for the same. But it is necessary to hear the accused and his respective Ld. Advocate and Ld. PP for railway on the point of sentence. Hence, I stop here to hear prosecution and accused on the point of sentence.

Sd/-

Place :- Aurangabad.
Date :-04.12.2023.

(A. A. Motale)
Judicial Magistrate (F.C.)
(Railways), Aurangabad.

10. Heard accused, his respective Ld. advocate and Ld. PP for railway on the point of sentence. Ld. advocate for the accused submitted that accused is only bread winner of his family and entire family depends upon him. He further submitted that this being first proved offence, lenient view be taken. Whereas, Ld. PP for railway submitted that, maximum punishment be awarded. Looking to the nature of the proved

offence, I am not inclined to grant the benefit of the Probation of Offenders Act to the accused. However, looking to the age of the accused and also looking to the fact that he is the only earning persons of his family, I am of the view that some lenient view may be taken in the present case. At the same time, it is as well taken into consideration that, the allegation against accused is that he has taken commission of Rs.500/- per passenger in procuring illegal business of railway tickets. Hence, considering the facts and circumstances of the case, the nature of the offence committed I found it as fit case to show leniency and to award the lesser punishment. Thus, awarding punishment of imprisonment till rising of the Court and the amount fine of Rs.5,000/- (Rs. Five thousand Only) to accused will meet the ends of justice. Hence, in answer to point No. 2, I proceed to pass the following order :-

ORDER

1.	The accused Shaikh Ramzan Shaikh Samsuddin , is hereby convicted under section 248(2) of Code of Criminal Procedure for commission of the offence punishable under Section 143 of Indian Railway Act, 1989 and is sentenced to suffer simple imprisonment till rising of the court and to pay fine of Rs.5,000/- (Rs. Five Thousands Only) in default to undergo S.I. for 05 days.
2.	Bail bonds of the accused stands surrendered.
3.	Copy of judgment be given to the accused free of costs.
4.	Pronounced in open Court.

Sd/-

Place :- Aurangabad.
Date :-04.12.2023.

(**A.A. Motale**)
Judicial Magistrate (F.C.)
(Railways), Aurangabad.

CERTIFICATE

I affirm that the contents of this **P.D.F** file Judgment are same word to word, as per the original Judgment.

Name of the Stenographer : B. S. Jadhav

Court Name : J.M.F.C. (Railways), Aurangabad.

Date : 04.12.2023.

Judgment signed by the

Presiding Officer On : 04.12.2023.

Judgement uploaded on : 06.12.2023.