

MHPU190003592022 	Received On	:	17.03.2022
	Registered On	:	17.03.2022
	Decided On	:	29.06.2022
	Duration	:	00 YY. 03 MM. 12DD

**IN THE COURT OF JUDICIAL MAGISTRATE F.C., RAILWAY COURT,
(Presided over by : N. A. MOR) AT DAUND**

S.C.C. NO. 315/2022

EXH. NO.31

Government of India
(Railway Protection Force,
Pandharpur Chowki, Kurduwadi)

.... Complainant

VERSUS

Pramod Nagnath Pisal
Age : 35, Occ. : Private work
R/oPandharpur,Tq-Pandharpur
Dist-Solapur

.... Accused

**OFFENCE PUNISHABLE UNDER SECTION 174(c),147 OF THE RAILWAYS
ACT, 1989**

Shri. Shaikh Rabbani, Ld. P. P. for Railway.
Smt. K.A. Gursal, Ld. Advocate for Accused.

// J U D G M E N T //
(Delivered on : 29.06.2022)

Accused, Pramod Nagnath Pisal, is complained by Railway Protection Force, Kurduwadi for the offence punishable under section 174(c),147 of the Railways Act, 1989.

02. In brief, the case of the complainant is as under :

On 11.03.2022 at about 12.05 hours, between Pandharpur-Modalimb section K.M.No.425/1-2. At that time accused has damaged the OFC cable of the Telecom Department of the Railway. Accordingly, C.R.No.65/2022 for the offence punishable under section 174(c),147 of the Railways Act, 1989 has been registered against accused.

03. The inquiry officer, Shri.M.B.Khिलारे, conducted the inquiry. He received complaint of complainant (Sr.Section Engineer, Pandharpur). During inquiry he prepared spot panchnama, vehicle seizure panchnama, and he prepared joint note. During the inquiry he recorded the statement of panch as well as other witnesses. After completion of inquiry, as accused was found at flaw, inquiry report came to be filed against accused.

04. On the basis of inquiry report process for an offence punishable under section 174(c),147 of the Railways Act was issued against accused. As there was sufficient material to proceed against accused, the plea of the accused was recorded at Exh.09 by my ld. predecessor . Accused pleaded not guilty and claimed to be tried.

05. The complainant has unfolded its case by examining following witnesses :

CW No.	Name of witness	Relevance	Exh. No.
01.	Vikram Kumar	Complainant	21

06. The complainant has relied upon following documentary evidence :

- i. (Exh. 22) : Complaint
- ii. (Exh.23) : Memo
- iii. (Exh. 24) : Joint Note

Thereafter certain Documents were admitted by the Defence side

i.e.:-

- iv. (Exh. 25) : Spot panchanama
- v. (Exh. 26) : Statement of the witness Namely Sagar kamble
- vi. (Exh. 27) : Statement of the witness Namely Bajrang Kasture
- vii. (Exh. 28) : Vehical Seizure Panchnama along with Photographs.

07. Thereafter, by passing order below Exh.1, evidence of prosecution was closed.

08. The statement of accused under section 313(1)(b) of the Code of Criminal Procedure, 1973 (for short "The Cr. P. C.") has been recorded at Exh.29. The defence of accused is of total denial and false implications. Accused has not examined himself on oath or any other defence witness in his defence.

09. On the submissions made by Shri. Shaikh Rabbani, Ld. P. P. for the Railway and Smt.k.A.Gursal, Ld Advocate for accused as well as considering the evidence on record following points arise for my determination and my findings are against each point for the reasons given below :

Sr. No.	POINTS	FINDINGS
01	Does the complainant prove that On 11.03.2022 at about 12.05 hours, between Pandharpur-Modalimb section K.M.No.425/1-2 the accused with JCB damaged the OFC cable of the Telecom Dipartment of the Railway and thereby committed an offence punishable u/s.174 (c) of the Railways Act, 1989 ?	Yes
02	On aforesaid date time and place the accused enters upon or into any part of railway without lawful	

	authority or having lawfully enter upon or into such part misuses such property or refuse to leave and thereby committed an offence punishable under section 147 of the Railway Act ?	Yes
03.	What order ?	Accused is convicted

REASONS

AS TO POINT NO. 01 & 2:

10. On perusal of evidence of CW 01, Vikram Kumar, who is the complainant (Sr. Section Engineer, Pandharpur) it appears that upon getting intimation when he moved to the spot of incident and he found that the OFC cable of Telecom Department of the Railway was damaged between Pandharpur-Modalimb section K.M.No.425/1-2. Due to which, the railway Board has suffered loss of Rs.1,25,000/-. He with the help of staff repaired the same. He has identified his signatures over Complaint Exh-22, Memo Exh- 23 and Joint Note Exh- 24 . During his cross-examination he has denied all the adverse suggestions given to him by the side of the accused. During his cross examination the defence has failed to brought anything on record, to prove the innocence of accused. On perusal of record it appears that the defence admitted spot panchanama (Exh.25), vehicle seizure panchanama (Exh.28).

11. Though the accused denied the incident in his statement recorded under section 313(1)(b) of Cr.P.C.(Exh.29) but he failed to give any satisfactory explanation for the questions. Surprisingly in last question also accused failed to give any satisfactory explanation for the incident. Accused failed to bring on record any material facts which proves his innocence. To the contrary the prosecution has filed on record joint note (Exh.24), according to which due to the act of the accused the railway board has

suffered losses of Rs.1,25,000/-.

12. The defence has failed to bring on record any material to prove the innocence of accused. Hence, considering the testimony of CW.1 Vikram kumar and documents filed on record, I answer point no. 01 and 02 in the affirmative. As the complainant succeeded to establish case against accused, I held guilty to the accused in the present crime and stop here to hear on quantum of sentence.

Sd/-

(N. A. Mor)

Place : Daund.

Date : 29.06.2022

Judicial Magistrate First Class

Railway Court, Daund

13. Ld. Advocate for accused submitted that accused is sole earning member of his family. His financial conditions are very poor. Though the joint inquiry report shows damage of Rs.1,25,000/- to the railway but accused is too poor to pay whole damages. Therefore, the minimum damages be invoked. Therefore, she prayed leniency may kindly be shown. Shri. Shaikh Rabbani, Ld. P.P. submitted that the maximum punishment awarded to the accused and the damage amount be paid to the railway as a compensation.

14. Taking into consideration the nature of the offence and the circumstances, I am of the opinion that accused do not deserved for the benefit of Probation of Offenders Act. Hence, for the offence punishable under section 174 (C) the fine of Rs.2,000/- (Rupees Two Thousand only) and for the offence punishable under section 147 the fine of Rs. 500/- (Rupees Five Hundred only) will be justifiable. In addition to this, on perusal of joint inspection note (Exh.24) it appears that Rs.1,25,000/- (Rupees One Lakh twenty five Thousand only) damages suffered by railway. But the

complainant has not filed anything on record to show the details as to how the damages were occurred. So also, considering the admissions made by CW.1 in his examination in chief that he along with staff members has repaired the cable and also considering the submissions made by Ld.Advocate for the accused regarding financial condition of the accused the damage amount shall be reduce. Hence accused is liable to pay damage amount of Rs.18,500/- (Rupees Eighteen thousand five hundred only) to the railway.

AS TO POINT NO. 03 :

15. As the complainant succeeded to prove the charges against accused person, I proceed to pass following order :

O R D E R

01. Accused, Pramod Nagnath Pisal, is convicted under section 255(2) of Cr. P. C. for the offence punishable under section 174 (c) of the Railways Act, 1989 and sentenced to pay fine of Rs.2,000/-(Rs. Two Thousand Only). In default to suffer S.I. for 20 days.
02. Accused, Pramod Nagnath Pisal, is convicted under section 255(2) of Cr. P. C. for the offence punishable under section 147 of the Railways Act, 1989 and sentenced to pay fine of Rs. 500/- (Rupees Five Hundred only) . In default to suffer S.I. for 05 days
03. Accused shall surrender his bail bonds.
04. Accused shall pay Rs.18,500/- (Rupees Eighteen thousand five hundred only) due to damage to the railway as a compensation. In default to suffer simple imprisonment for one month.
05. The fine amount of Rs.2,500/-(Rupees Two Thousand five hundred only), if recovered, be paid to the State and the amount of Rs.18,500/- (Rupees Eighteen thousand five hundred only),if

recovered, be paid to the railway as a compensation under section 357 of Cr.P.C., after appeal period is over.

06. The interim custody of vehicle JCB bearing registration no. MH-13 AX 5291 is confirmed with the Bhausaheb Sadashiv Gadade as per order passed below Exh-10.

07. Copy of Judgment be supplied to the accused free of cost, immediately.

(Dictated and pronounced in open Court).

(N. A. Mor)

Place : Daund.

Date : 29.06.2022

Judicial Magistrate First Class,
Railway Court, Daund.

:: C E R T I F I C A T E ::

I affirm that the contents of this P. D. F. file of order are word to word, as per its original.

Name of Stenographer	:	Sanjay S. Bhalerao
Name of Court	:	N. A. Mor, J.M.F.C., Railway Court, Daund.
Decided on	:	29.06.2022
Signed on	:	29.06.2022
Uploaded on	:	30.06.2022

