

CALENDAR AND JUDGMENT

IN THE COURT OF VII ADDITIONAL METROPOLITAN MAGISTRATE FOR RAILWAYS,
VIJAYAWADA.

C.C.No.4550/2022

Date of Offence	Filing	Apprehension of accused	Released on bail	Commencement of trial	Closure of trial	Result
12.12.2022	23.12.2022	---	---	---	---	23.12.2022

Between:

State:Women Sub-Inspector, Railway Protection Force, Gudivada Outpost.

...Complainant

and

Sk.Prasanth, S/o.Adam, aged about 27 years, R/o.Arava Peta, Gudivada,
Krishna District.

.... Accused

Nature of Offence : U/Sec.144(1) of Railways Act.

Finding of the court : Found Guilty on Plea Bargaining.

Sentence or Order:

IN THE RESULT, *the Accused is FOUND GUILTY* under Section 265 (E) of Criminal Procedure Code for the offence punishable under Section 144 (1) of Railways Act. Accused is sentenced to pay a fine of Rs.2,000/- (Rupees Two Thousand only) in default to undergo simple imprisonment for a period of One (1) month for the offence punishable under section 144 (1) of Railways Act.

Sd/- K.Suresh Babu,

**VII Addl. Metropolitan Magistrate
for Railways, Vijayawada.**

**IN THE COURT OF VII ADDITIONAL METROPOLITAN MAGISTRATE FOR
RAILWAYS:: VIJAYAWADA**

Present : **KALIVE SURESH BABU**,
VII Additional Metropolitan Magistrate for Railways, Vijayawada

Friday, this the 23rd day of December, 2022

Calendar Case No.4550/2022

Between:

State :Sub-Inspector, Railway Protection Force, Gudivada Outpost.

...Complainant

and

Sk.Prasanth, S/o.Adam, aged about 27 years, R/o.Arava Peta, Gudivada,
Krishna District.

.... Accused

This case is coming on 23.12.2022 for final disposal before me in the presence of Sri **T. Murali**, Learned Public Prosecutor for the complainant and Accused in person and the matter having been stood over for consideration till this day, this court delivered the following:-

// J U D G M E N T / /

The State represented by the Women Sub-Inspector, Railway Protection Force, Gudivada Outpost laid a Complaint against Accused for the offence punishable under Section 144 (1) of Railways Act concerned in Crime Number **1360 of 2022** of RPF, , Gudivada Outpost.

02. The gist of the Complaint is as follows: -

On 12.12.2022 at about 19.00 hours at Gudivada Railway Station in train No.17281 between NDM-GDV, accused found selling eatables to the passengers in Railway premises of Gudivada Railway Station without proper license or authority. Statement of accused was recorded and a case under section 144(1) of Railways Act has been registered in **Cr.No.1360/2022** and accused was served 41(A) of Cr.P.C notice and released on self bond. After completion of enquiries, Complaint was laid against accused.

03. The offence punishable under Section 144(1) of Railways Act is taken cognizance against accused as IO filed Complaint along with Accused today. On appearance of Accused, copies were furnished to accused as required U/Sec.207 Cr.P.C.

04. Accused had filed an application before this court U/Sec.265(A) to (D) of Cr.P.C for claiming plea bargaining.

05. This court has convinced the accused with regard to pros and cons of the pleading guilty and explained and convinced accused in detail the provisions of Sec. 265(A) to (D) of Cr.P.C. Even then the accused adhered to the said plea bargaining application. Thereafter, the complainant/Railway Protection Force, Vijayawada also replied favourable to the said application of the accused.

06. Thereafter, once again the accused was explained and convinced about the pros and cons of the said plea bargaining and relevant provisions of law, even then once again the accused adhered to **his** application for plea bargaining.

07. Thereafter, once again this court as per the order dated 23.12.2022 has ordered to the accused and the learned PP to prepare a mutual satisfactory disposition as required U/Sec.265(B) and (C) of the Cr.P.C. Accordingly, the accused represented in person, the learned PP representing the prosecution. Once again the pros and cons of the plea bargaining, relevant provision of law were discussed, explained and convinced to the accused.

08. Even then accused adhered to **his** pleading guilty and as such, in the presence of the accused have appeared in person and learned PP prepared the mutual satisfactory disposition under section 265 D of Cr.P.C and filed before this court.

09. Heard learned Public Prosecutor for Railway Protection Force, Vijayawada and Accused in person.

10. In view of the above facts and circumstances of the case, the points that would arise for consideration are:

1) Whether the Accused proves that the application under Sec.265A and B of Cr.P.C for claiming plea bargaining is maintainable in this case for the said offence alleged against **him**?

2) Whether the Accused is entitled for leniency in sentencing and levying fine for the offence punishable **under Section 144(1) of Railway Act ?**

3) What Order?

POINTS 1 to 3:

11. Accused had filed application u/s 265(A) to (B) of Cr.P.C., for pleading guilty Therefore, *accused pleads guilty and prayed to show lenience in awarding the sentence by allowing the application for plea bargaining.*

12. At the time of filing of the said application and even after the said application, this court has made sufficient efforts to explain and convince the accused with regard to the pros and cons and relevant provisions of law of the pleading guilty and sufficient opportunity was also given to the accused to think over once again and again as to whether **he** wants to plead guilty by way of plea bargaining even then the accused adhered to it. Accused also not changed **his** mind and decided to adhere to **his** application. By accepting the plea bargaining proposal of the accused, the RPF has argued for conviction of this case. Hence, by accepting the proposal of accused for plea bargaining U/Sec.265(A) to (B) of Cr.P.C.

13. In this regard, Accused filed the affidavit for giving reasons as to why the leniency has to be shown in favour of the accused stating that Accused is voluntarily filed the plea bargaining petition after understanding the nature and extent of punishment provided for the offence alleged against **him**. On the contrary, the learned PP submitted that the court may award any sentence in accordance with law by considering the plea of the accused and also the law laid down U/Sec.265A & B of Cr.P.C.

14. Further, admittedly the offence alleged against accused at present is for the offence U/Sec.144 (1) of Railways Act. Admittedly, the offence under section 144 (1) of Railways Act provides punishment with imprisonment of either description for a term which

may extend to Six (6) months or with fine or with both. Therefore, section infra do not say awarding sentence for more than 7 years. In other words, the said offence is not punishable with death or imprisonment for life. Admittedly the said offence is not at all committed against the women or child below the age of 14 years. Further, admittedly the said offence cannot be termed as offence affecting the socio economic condition of the country. Since the complainant/IO is STATE and the offence is selling of food items in Railway Premises without having license or authority, the claim of compensation does not arise.

15. Further, admittedly the offences alleged against the accused will not fall under any provisions of the Act as notified U/Sec.265(A) and (B) of Cr.P.C. Therefore, in view of the observation, this court is of the considered opinion that the application filed by the accused U/Sec.265(A) to (B) of Cr.P.C for plea bargaining is rightly maintainable in this case. Once, this court decides to accept the plea bargaining pleaded by the accused as per the memo of mutual satisfactory disposition filed by both the parties. Thereby, they have given discretion to this court to award sentence to the accused in accordance with law.

16. Therefore, in view of the discussion, this court is of the considered opinion that the accused is entitled for the leniency in awarding sentence. The application filed by the accused U/Sec.265(A) to (D) of Cr.P.C for plea bargaining for the offence punishable U/Sec.144(1) of Railways Act is hereby allowed. The accused is convicted under Section 265(E) of Cr.P.C. for the offence punishable. These points are answered accordingly.

17. In the result, ***the Accused is FOUND GUILTY*** under Section 265(E) of Criminal Procedure Code for the offence under Section 144(1) of Railways Act.

Typed to my dictation to the Typist, corrected, signed and pronounced by me in open court, on this the 23rd day of December, 2022.

Sd/- K.Suresh Babu,

**VII Additional Metropolitan Magistrate
for Railways, Vijayawada.**

Quantum of Sentence:

The Accused is present and questioned with regard to the quantum of sentence to be imposed for the offence punishable U/Sec.144(1) of Railways Act for which Accused is pleaded for mercy stating **that he is having aged parents and he is the sole bread winner of his family and pleaded for mercy.(If he is sentenced to imprisonment rather than imposing fine, his family would put to peril)**. Taking into consideration of gravity of offence and mercy pleaded by accused, this court is inclined to take lenient view.

Having regard to the facts and circumstances of the case and gravity of the offence, this Court is not inclined to apply the benevolent provisions of Probation of Offenders Act or under Section 360 of Criminal Procedure Code. After hearing the parties as contemplated under Section 265-E(c) of the Criminal Procedure Code, this court is of the view that Accused is entitled for lenient view on **his** plea bargaining application. The offence alleged against **him, he was found selling eatables to the passengers in Railway premises of Gudivada Railway Station without proper license or authority**. This court is inclined to impose ½ of the punishment prescribed or fine which would meet the ends of justice. Accused is sentenced to pay a fine of Rs.2,000/- (Rupees Two Thousand only) in default to undergo simple imprisonment for a period of One (1) month for the offence punishable under section 144 (1) of Railways Act.

The Accused is appraised that judgment delivered by this Court under section 265 (G) of Cr.P.C shall be final and no appeal shall lie in any court against such judgment. No property is seized in this case as such no specific order is passed with regard to case property. Furnish free copy of calendar and judgment to the accused.

Typed to my dictation by the Typist, corrected, signed and pronounced by in open Court, *on this the 23rd day of* December, 2022.

Sd/- K.Suresh Babu,

**VII Additional Metropolitan Magistrate
for Railways, Vijayawada.**

APPENDIX OF EVIDENCE

-NIL-

Sd/- K.Suresh Babu,

**VII Additional Metropolitan Magistrate
for Railways, Vijayawada.**

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Sk.Prasanth, S/o.Adam, aged about 27 years, R/o.Arava Peta,
Gudivada, Krishna District.

.... Accused

Mutual Satisfactory Disposition as contemplated under section 265 D Cr.P.C

1. The Sub Inspector, Railway Protection Force, Gudivada Outpost filed charge sheet against the accused alleging that **Accused was selling food items at Gudivada Railway Station in Railway premises without license.** Hence, Accused was taken into the police custody and released on Station bail by serving 41(A) of Cr.P.C notices.
2. This court took cognizance of the offence punishable under section 144(1) of Railway Act against Accused. Accused made **his** application under section 265(A) and (B) of Cr.P.C for plea bargaining and made **his** application voluntarily. I concluded the application of accused was made voluntarily. On taking the application and affidavit of accused and Learned Public prosecutor participated to work out the satisfactory disposition.
3. As per the agreement reached by Public Prosecutor, Accused they concluded that whatever punishment would impose by the Court in regard shall be followed since the complainant is the IO there is no point in awarding compensation. It is also been concluded that the offence leveled against Accused are not affecting socio economic conditions of the country.
4. In this process of mutual satisfactory disposition, the accused had voluntarily participated. The accused was informed that **he** may either be punished or that **he** may be released under PO Act or under section 360 of Cr.P.C if applicable. Accused was further informed that **he** may be sentenced to undergo imprisonment to half (½) or 1/4th of the punishment provided for the offence or impose fine.

Sd/- K.Suresh Babu,

**VII Additional Metropolitan Magistrate
for Railways, Vijayawada.**