

MHPU190007962020 	Received On	:	14.02.2020
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	Decided On	:	13.06.2022
	Duration	:	02 YY. 03 MM. 29DD

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

S.C.C. NO. 743/2020

EXH. NO.22

Government of India
(Railway Protection Force,
Loni Chowki, Baramati)

.... Complainant

VERSUS

Satendra Jagdish Rana
Age : 27, Occ. : Private work
R/o, Khandaj, Baramati, Dist-Pune

.... Accused

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

Shri. Shaikh Rabbani, Ld. P. P. for Railway.
Shri. S.B. Sorte, Ld. Advocate for Accused.

// J U D G M E N T //
(Delivered on : 13.06.2022)

Accused, Satendra Jagdish Rana, is complained by Railway Protection Force, Loni for the offence punishable under section 174(c) of the Railways Act, 1989.

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

On 03.02.2020 at about 18.05 hours, between shirsai-Katfal Railway Station K.M.No.288/2-3, L- Side. At that time accused cut cable wire. Accordingly, C.R.No.140/2020 for the offence punishable under section 174(c) of the Railways Act, 1989 has been registered against accused.

03. The inquiry officer, Shri.D.D.Ghode, conducted the inquiry. He received complaint of complainant (Sr.Section Engineer, Loni). During inquiry he prepared spot panchnama and vehicle seizure panchnama, 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) of the Railways Act was issued against accused. Then the complainant adduced the evidence. As there was sufficient material to proceed against accused, the plea of the accused was recorded at Exh.10. 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.	Samir Deepak Rajapure	Complainant	13

06. The complainant has relied upon following documentary evidence :

- i. (Exh. 14) : Joint Note
- ii. (Exh.17) : Location Plan
- iii. (Exh. 18) : Spot panchanama
- iv. (Exh. 19) : Poklen Seizure panchanama
- v. (Exh. 20) : Supratnama Panchanama

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.21. 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 Shri.S.B.Sorter, 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 03.02.2020 at about 18.05 hours near Shirsai-Katfal Railways Station, the accused at K. m. No.288/2-3 with Poklen damaged the cable of Railway and thereby committed an offence punishable u/s.174 (c) of the Railways Act, 1989 ?	Yes
02.	What order ?	Accused is convicted

REASONS

AS TO POINT NO. 01 :

10. On perusal of evidence of CW 01, Samir Rajapure, who is the complainant (Sr. Section Engineer, Loni) it appears that upon getting intimation when he moved to the spot of incident he found that the cable of K.m.no.288/2-3 signal was damaged. Due to which, the railway Board has suffered loss of Rs.1,50,000/-. He with the help of staff he repaired the same. During his cross-examination he admitted that in the location plan of the spot Exh.17 no cable were shown. But during his re-examination he has

stated that, he is unaware as to who has prepared the location plan Exh.17 and as to whether the same was sanctioned or not. Except this, 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.18), Poklen seizure panchanama (Exh.19).

11. Though the accused denied the incident in his statement recorded under section 313(1)(b) of Cr.P.C.(Exh.21) 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.14), according to which due to the act of the accused the railway board has suffered losses of Rs.1,50,000/-. So also, one goods train and four passengers trains were detained.

12. The defence has failed to bring on record any material to prove the innocence of accused. Hence, considering the testimony of CW.1 Samir and documents filed on record, I answer point no. 01 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 : 13.06.2022

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.1,50,000/- to the railway but accused is

too poor to pay whole damages. Therefore, the minimum damages be invoked. Therefore, he 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 on perusal of joint inquiry report (Exh.14) it appears that Rs.1,50,000/- (Rupees One Lakh Fifty 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.33,000/- (Rupees Thirty Three thousand only) to the railway.

AS TO POINT NO. 02 :

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

ORDER

01. Accused, Satendra Jagdish Rana, 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 shall surrender his bail bonds.

03. Accused shall pay Rs.33,000/-(Rupees Thirty Three thousand only) due to damage to the railway as a compensation. In default to suffer simple imprisonment for one month.
04. The fine amount of Rs.2,000/-(Rupees Two Thousand only), if recovered, be paid to the State and the amount of Rs.33,000/-(Rupees Thirty Three Thousand only), if recovered, be paid to the railway as a compensation under section 357 of Cr.P.C., after appeal period is over.
05. The interim custody of vehicle bearing Model No. R-210-7 Serial No.N601DO5353 is confirmed with the Vaibhav Hanumant Jarande as per order passed in MA No.13/2020.
06. Copy of Judgment be supplied to the accused person free of cost, immediately.
(Dictated and pronounced in open Court).

(N. A. Mor)

Place : Daund.
Date : 13.06.2022

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	:	13.06.2022

Signed on	:	13.06.2022
Uploaded on	:	14.06.2022