

Calendar and Judgment in C.C.No. 420/2022 on the file of VI Metropolitan Magistrate for Railways-Cum- VI Addl. Junior Civil Judge, Visakhapatnam.

1. Date of Offence : 22.08.2022
2. Date of report : 22.08.2022
3. Date of arrest of accused : --
4. Date of release on bail : --
5. Date of commencement of trial : --
6. Date of close of trial : 09.11.2022
7. Date of judgment : 09.11.2022
8. Complainant : State: Sub-Inspector, RPF Post, Vizianagaram
9. Accused : Bijay Gorai, S/o Sukdev Gorai, aged about 41 years, R/o Bagtikalimati, Bagmundi Puruliya P.S., West Bengal.
10. Offence : Under Section 144(1) of The Railway Act
11. Plea of accused : Pleaded guilty
12. Finding of court : Found guilty

13. Sentence or order : The Accused is found guilty of the offence Under Section 144(1) of The Railway Act and he is convicted Under Section 265 E (a) r/w. 252 of Criminal Procedure Code.

Accordingly, the accused is sentenced to pay fine of Rs. 500/- (Rupees Five Hundred only) for the offence punishable Under Section 144(1) of The Railway Act in default of payment of fine, he shall suffer Simple Imprisonment for a period of one month. Since no property produced no order to case property.

14. Explanation for delay : This case was taken on cognizance for the offence Under Section 144(1) of The Railways Act against the accused on 22.10.2022. On 09.11.2022 accused was present, copies of all documents were furnished to him Under Section 207 of Criminal Procedure Code and the Accused has filed application for plea bargaining and the same is accepted and on the same day Judgment pronounced vide separate judgment. Hence the delay.

Sd/- Ch. Srinivasa Babu
VI Metropolitan Magistrate for Railways,
-Cum- VI Addl. Junior Civil Judge, Visakhapatnam.

Copy Submitted to :
The Honourable Chief Metropolitan Magistrate, Visakhapatnam.

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VI Metropolitan Magistrate for Railways,
Cum – VI Addl. Junior Civil Judge, Visakhapatnam

IN THE COURT OF VI METROPOLITAN MAGISTRATE FOR RAILWAYS – CUM-
VI ADDL. JUNIOR CIVIL JUDGE :: VISAKHAPATNAM

PRESENT : SRI Dr.CH.SRINIVASA BABU

VI METROPOLITAN MAGISTRATE FOR RAILWAYS – CUM- VI ADDL. JUNIOR CIVIL
JUDGE, VISAKHAPATNAM

Wednesday, this the 9th day of November, 2022

Calendar Case No. 420/2022

Between:-

Sub Inspector of Railway Protection Force, ... **Complainant.**
Vizianagaram.

AND

Bijay Gorai, S/o Sukdev Gorai, aged about 41 years, R/o ... **Accused.**
Bagtikalimati, Bagmundi Puruliya P.S., West Bengal.

This case is coming on this day for hearing before me in the presence of Learned Public Prosecutor for the Complainant and the Accused appeared himself 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

1. The Sub Inspector of Railway Protection Force, Vizianagaram filed complaint against the accused with the following averments:

2. That on 22.08.2022 at about 14.30 hours, the accused is found in train number 15906 selling eatables and failed to produce any legal authority of railway administration for his presence of hawking in railways, during the enquiry the accused was caught by the enquiry officer while selling eatables without having valid authority issued by railways and had made confession. On questioning, the accused has admitted his guilt and he was brought to RPF Post, Vizianagaram and registered a case in Crime No. C3C/400/2022 Under Section 144 of The Railway Act, and after completion of enquiry filed complaint against the accused.

3. The Sub Inspector of Railway Protection Force, Vizianagaram Post prepared occurrence report regarding the offence. On the basis of occurrence report, a case in Crime No. C3C/400/2022 for the offence Under Section 144 of The Railway Act was registered . After conclusion of enquiry complaint has been

laid down against the accused for the offence Under Section 144 of The Railway Act.

4. This Court took the cognizance of the offence punishable Under Section 144 of The Railway Act.

5. Summons has been issued to the accused. Copies as contemplated Under Section 207 of Criminal Procedure Code were furnished to the accused.

6. The accused has filed an application Under Section 265B of Criminal Procedure Code along with his affidavit with a prayer to permit him to avail the Provisions of plea bargaining. After taking application, this Court has examined the accused to ascertain whether the application for plea bargaining by him was voluntarily or not. After the examination, this Court is of the view that the application was made voluntarily by the accused that there was no coercion or undue influence over the accused from anyone.

7. After receipt of application from the accused for the availment of plea bargaining, notice has been issued to the complainant/ Enquiry Officer and Learned Public Prosecutor. The stake holders i.e., the complainant/ Enquiry Officer, Learned Public Prosecutor and the accused participated to reach a Mutual Satisfactory Disposition. A copy of Mutual Satisfactory Disposition has been filed into the Court. The Mutual Satisfactory Disposition meeting has been conducted under the careful observation of this Court. The accused was appraised of the of the imprisonment/fine that may be imposed by the Court. Still, the accused voluntarily participated in the Mutual Satisfactory Disposition meeting and he did not withdraw from the Mutual Satisfactory Disposition meeting despite cautioning about the proposed punishment, if any, that may be imposed by the Court. After the conclusion of meeting for Mutual Satisfactory Disposition, the result/minutes of Mutual Satisfactory Disposition filed before the Court as contemplated Under Section 265D of Criminal Procedure Code. On further examination, the accused voluntarily submitted that he filed the application to avail plea bargaining that he voluntarily participated in the Mutual Satisfactory Disposition meeting that he

agreed for the proposed punishment of imprisonment or fine if any as contemplated Under Section 265 (C) (D) of Criminal Procedure Code

8. This Court has gone through the complaint, plea bargaining application, affidavit of the accused and the Mutual Satisfactory Disposition reached by the complaint/Enquiry Officer, Learned Public Prosecutor and the accused. The offence against the accused do not affect socio economic fabric of the society. Since the complainant/ Enquiry Officer is state the claim of compensation does not arise.

9. Thus, the accused as per his plea bargaining application and Mutual Satisfactory Disposition, found committed the offence punishable Under Section 141 of the Railway Act and he was rendered himself liable for punishment Under Section 265 E (a) r/w. 252 of Criminal Procedure Code.

10. In the result, the Accused is found guilty of the offence Under Section 141 of The Railway Act and he is convicted Under Section 265 E (a) r/w. 252 of Criminal Procedure Code.

Typed to my dictation by the Stenographer Grade-II, corrected and pronounced by me this the 9th day of November, 2022.

Sd/- Ch. Srinivasa Babu
VI Metropolitan Magistrate for Railways
Cum VI Addl. Junior Civil Judge, Visakhapatnam.

When the accused is questioned with regard to quantum of sentence he pleaded mercy of the court and has stated that he has to look after his family and that he is the sole bread winner of the family and that this is the first mistake and prayed the court to take a lenient view while sentencing him.

Upon considering the plea of accused and considering the totality and circumstances of the case it is not desirable to apply the provision of Probation of Offenders Act and this case is not a fit case to invoke the provision of Probation of Offenders Act.

Upon considering the plea of accused, after hearing the parties, as contemplated Under Section 265 E (c) (d) of Criminal Procedure Code, in view

of the submissions made by the accused as the offence under Section 144(1) of Railway Act is punishable with imprisonment or with fine or with both, taking consideration of the age of the accused, this court is of considered opinion to take lenient view to impose fine amount which would meet the ends of justice.

Accordingly, the accused is sentenced to pay fine of Rs. 500/- (Rupees Five Hundred only) for the offence punishable Under Section 144(1) of The Railway Act in default of payment of fine, he shall suffer Simple Imprisonment for a period of one month. Since no property produced no order to case property.

This Case is disposed off by following the procedure contemplated Under Sections 265E and 265F of the Criminal Procedure Code.

Typed to my dictation by the Stenographer Grade-II, corrected and pronounced by me this the 9th day of November, 2022.

Sd/- Ch. Srinivasa Babu
VI Metropolitan Magistrate for Railways
Cum VI Addl. Junior Civil Judge, Visakhapatnam

APPENDIX OF EVIDENCE:
WITNESSES EXAMINED :

PROSECUTION:

-None-

ACCUSED/DEFENCE:

-None-

DOCUMENTS MARKED:

PROSECUTION:

-Nil-

ACCUSED/DEFENCE:

-Nil-

MATERIAL OBJECTS MARKED:
-Nil-

Sd/- Ch. Srinivasa Babu
VI Metropolitan Magistrate for Railways
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