



<p>In the Court of Judicial Magistrate, 1st Court Raghunathpur, Purulia Present: BASHAR NAWAZ, [J.O Code: WB01449] [On this 7th day of March, 2026] [G.R. Case No. 1378 of 2018] [CIS Registration No. 01 of 2019] CNR No.WBPU060000812019 (Arising out of Adra GRPF P.S. Case No. 1342 of 2016 dated 27.05.2016 under section 143 of the Railway Act, 1989)</p>	
Complainant	STATE OF WEST BENGAL THROUGH O/C RAGHUNATHUR POLICE STATION
REPRESENTED BY	LD. APP
ACCUSED	Biswanath Kundu
REPRESENTED BY	Ravi Sharma

Form B

[directed by the Hon'ble Supreme Court in SUO MOTO WRIT (CRL) NO. (S) 1/2017; IN RE: TO ISSUE CERTAIN GUIDELINES REGARDING INADEQUACIES AND DEFICIENCIES IN CRIMINAL TRIALS V. THE STATE OF ANDHRA PRADESH & ORS.]

Date of Offence	27.05.2016
Date of FIR	27.05.2016
Date of report	04.07.2016
Plea	21.01.2020
Date of commencement of evidence	29.07.2019
Date on which judgment is reserved	07.03.2026
Date of the Judgment	07.03.2026
Date of the Sentencing Order, if any	ACCUSED PERSON HAS BEEN ACQUITTED

Accused details:

Sl.	Name of Accused	Date of Arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention on Undergone during trial for purpose of Section 428 Cr.P.C.
1.	Biswanath Kundu	27.05.2016 (surrendered)	04.07.2016	143 of the Railway Act, 1989	Acquitted.	NA	NA

Form C

List of Prosecution/ Defence/ Court Witnesses

A. Prosecution:



RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
PW1	Sanjay Singh	RPF personnel and member of the raiding team
PW2	Bholanath Kundu	Local witness and brother of the accused
PW3	Suryakanta Sahoo	RPF personnel and seizure witness

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
DW	NIL	NIL

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
CW	NIL	NIL

List of Prosecution/ Defence/ Court Exhibits

• **Prosecution:**

Sr. No.	Exhibit Number	Description	Date
1.	Exhibit 1	Seizure list	29.07.2019
2.	Exhibit 1/1	Signature of witness on seizure list	29.07.2019
3.	Exhibit 1/2	Signature of witness on seizure list	07.01.2025

• **Defence:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

• **Court Exhibits:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

• **Material Objects:**

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

JUDGMENT

The prosecution case, in brief, is that on 27.05.2016 at about 11.15 AM, SI Arun Kumar of RPF/CIB Adra along with other RPF personnel conducted a raid at the shop of Bharat Travel and Communication situated at Beniasole under P.S. Adra, District Purulia on the basis of credible information regarding illegal



booking and sale of railway tickets. At the time of the raid the accused Biswanath Kundu was found present in the said shop.

During the raid, SI Arun Kumar demanded a Tatkal railway ticket from Purulia to New Delhi, whereupon the accused booked the said ticket bearing PNR No. 6755599468. Thereafter the raiding team searched the shop and allegedly recovered 12 Tatkal railway tickets, several normal tickets, cancelled tickets, blank requisition forms, registers containing details of ticket booking, computer equipment and cash of Rs. 950.

The accused allegedly failed to produce any valid licence or authority issued by the Railway or IRCTC permitting him to procure and supply railway e-tickets. It was alleged that the accused was illegally procuring and supplying railway tickets for personal gain in violation of the provisions of law.

Accordingly, the accused was apprehended and the seized articles were taken into custody under a seizure list in presence of witnesses. The shop was handed over to the brother of the accused on zimmanama. Thereafter the accused along with the seized articles was brought to RPF Post Adra, where RPF Case No. C/30-1342/16 dated 27.05.2016 under Section 143 of the Railway Act, 1989 was registered against him. Subsequently the accused was produced before the court and the case proceeded to trial.

Evidence adduced

Only three witnesses in this case have been examined and cross examined as PW01 and 03 No other witness has been examined on behalf of the prosecution. Subsequently the ld APP has prayed for closure of further prosecution evidence on the ground that no incriminating material is forth coming against the accused person and leading of further evidence will not serve any purpose. After considering every possible facet and the quality of the evidences on record, the prayer of the accused person was allowed because production of further witnesses and dragging this case any further in violation to the provisions of section 309 of the Criminal Procedure Code 1973; appeared to be absolutely unnecessary. It is also axiomatic from the case record that even after taking gusto efforts appearance of all the witnesses could not be secured. It is worthwhile to mention here that this case is pending since the year 2018 and as per the mandate of Constitution speedy disposal is the fundamental right of the accused person. Moreover the case come under Track 03 as per the Case Flow Management Rules, High Court Rules 2006. Thus it is the indelible duty of this court to hoist the right of the accused person and to act in accordance with section 309 of the Criminal Procedure Code 1973 read with the Case Flow Management Rules, High Court Rules 2006 as well as the direction of the Hon'ble Supreme Court given in *Hussain and another versus Union of India, 2017[2] AICLR 362 (SC)*. Hence being pioneered by the decision of the Hon'ble Supreme Court the prosecution evidence was closed and the case was fixed for examination of the accused person under section 313 of the Code of Criminal Procedure, 1973. However In short the sum and substance of the defence is plea of innocence.

After exhausting the above procedures the case was posted for hearing of arguments. On completion of arguments as per requirement of Section 354 of the Cr.P.C it is the incumbent duty of this court formulate the points for determination and assign reasons for harbouring to any conclusion on those points. After



considering every possible facet in this case and considering the materials available, the points for determination as formulated are arrayed as under:

Points for determination

- 1) Whether the charges framed against the accused person have been proved or not?
- 2) Whether the accused person is liable to be convicted under section 143 of the Railway Act, 1989?

Decision with reason

Point number 01 and 02:

As because both the above mentioned points for determination are inter related with each other, for the sake of convenience and brevity both the points will be discussed jointly in this judgment. Ld lawyer for the accused person during the course of argument submitted that the prosecution has miserably failed to prove the charges framed against the accused person and for that reason the accused person must be acquitted. He further submitted that the witnesses examined in this case have failed to say any thing from which the charges made against the accused person can be said to have been proved and hence the accused person are liable to be acquitted. Ld A.P.P raised cavil against the prayer of the accused person. To the contrary she submitted that there are not sufficient materials from which it can be said that the case has been proved beyond reasonable doubt.

In order to usher in an apt and sagacious adjudication, the first point that needs discussion is, on whom the burden of proof lies and to what extent that needs to be discharged. In criminal jurisprudence the accused always has a presumption of innocence in his favour and the rule of evidence which has received judicial sanction is; the prosecution must prove the guilt of the accused, i.e., it must establish all the ingredients of the offence with which he is charged. The anvil for testing and interpreting what constitutes 'prove of guilt' in a criminal trial has been formulated by the Honourable Apex Court. While in civil cases facts may be proved by a mere preponderance of evidence, whereas in criminal cases the prosecution must prove the charge beyond reasonable doubt. In AIR 1966 SC 01 it was observed by the Honourable Apex Court on page 3, that:-

"If upon the evidence adduced in the case whether by the prosecution or by the accused a reasonable doubt is created in the mind of the Court as regards one or more of the ingredients of the offence including mens rea of the accused he would be entitled to be acquitted."

Thus from the above discussion and based on the canons of criminal trial that has been formulated by catena of decisions of the Honourable Courts, there is no quandary over the legal proposition that the general burden of proof is always upon the prosecution; and if, on the basis of the evidence adduced by the prosecution or by the accused, there is a reasonable doubt whether the accused committed the offence he is entitled to the benefit of doubt and is liable to be acquitted from the charges. Thus being guided by the above proposition of law; this court must set out a voyage in the evidences available on record to see whether the prosecution has been able to prove the act/ occurrences which constitute the offences and whether it has managed to connect the accused person with such offences. Therefore it is now necessary to conduct a detailed probe into



the evidences available on record.

As already pronounced in this judgment before the felony can be established; the prosecution is vested with the indelible duty to prove beyond reasonable doubt that the accused person had committed the offence with the requisite mens rea; and the burden of proving that always rests on the prosecution from the beginning to the end of the trial.

PW1 Sanjay Singh during his examination-in-chief stated that on 27.05.2016 he was posted as a Constable in RPF and was attached with the CIB Unit of RPF at Adra. On that day SI Arun Kumar along with other RPF personnel including him conducted a raid at Bharat Travel and Communication situated at Beniasole under P.S. Adra on the basis of information regarding illegal railway ticket booking. During the raid the accused Biswanath Kundu was found present in the said shop. SI Arun Kumar demanded a Tatkal railway ticket from Purulia to New Delhi and the accused prepared the said ticket. Thereafter the shop and computer were searched and several Tatkal tickets, normal tickets, cancelled tickets, blank requisition forms, registers containing details of ticket booking, computer equipment and cash were recovered from the shop. The accused failed to produce any valid authority or licence for booking railway tickets. The seized articles were seized by SI Arun Kumar under a seizure list in presence of witnesses and he put his signature on the seizure list.

During his cross-examination, he stated that the raid was conducted at the shop of the accused and the articles were seized from there. He denied the suggestion that the seizure was not conducted in his presence or that he signed the seizure list falsely.

PW2 Bholanath Kundu during his examination-in-chief stated that he is the brother of the accused Biswanath Kundu. On the relevant day RPF officials came to the travel agency shop of the accused and conducted a search. During the search several railway tickets and other articles were recovered from the shop. The RPF officials prepared a seizure list and he signed the same as a witness. Thereafter the shop was handed over to him by the RPF officials on zimmanama.

During his cross-examination, he stated that he signed the seizure list as requested by the RPF officials. He denied the suggestion that he signed the document without knowledge of its contents.

PW3 Suryakanta Sahoo during his examination-in-chief stated that he was posted as Head Constable at RPF Post Balasore and on 27.05.2016 he was posted as Constable at CIB Unit RPF Adra. On that day, on receiving credible information, he along with SI Arun Kumar, Constable Sanjay Singh and another constable went to Bharat Travel and Communication office under P.S. Adra at about 11.15 AM. SI Arun Kumar demanded a Tatkal ticket from Purulia to New Delhi and the accused Biswanath Kundu booked the same. Thereafter the office and computer were searched and 12 Tatkal tickets, 6 cancelled tickets, 17 blank requisition forms, voter card of Biswanath Kundu, PAN card in the name of Bharat Travel and Communication, one Samsung monitor, one Asus CPU, two registers containing details of tickets and cash of Rs. 950 were recovered. SI Arun Kumar seized the said articles at about 11.45 hours in his presence and prepared a seizure list and he signed the seizure list as a witness. Thereafter the accused was apprehended and brought to RPF office Adra along with the seized articles. He



further stated that he would have identified the accused if he had been present before the court.

During his cross-examination, he stated that the seizure list does not contain any case reference. He could not remember the topography of the place of occurrence. He stated that SI Arun Kumar did not offer anyone to search his body before conducting search and seizure. He further stated that the accused was detained and not arrested at the shop. He could not say the ticket numbers of the seized tickets and also stated that he could not see the seized tickets in the court. He denied the suggestion that he signed the seizure list as per the direction of his superior without witnessing the seizure.

At the outset, it is necessary to examine the essential ingredients of the offence alleged against the accused. The accused has been prosecuted under Section 143 of the Railway Act, 1989, which penalizes unauthorized carrying on of the business of procuring and supplying railway tickets. In order to bring home the guilt of the accused under this provision, the prosecution must establish beyond reasonable doubt that the accused was carrying on the business of procuring or supplying railway tickets without lawful authority and for commercial gain. Mere possession of railway tickets or booking of tickets by itself does not constitute the offence unless it is proved that the accused was engaged in such activity as a business and without authorization from the competent railway authority.

In the present case, the prosecution has examined three witnesses namely PW1 Sanjay Singh, PW2 Bholanath Kundu and PW3 Suryakanta Sahoo. Out of them PW1 and PW3 are RPF personnel who were members of the raiding team, while PW2 is a local witness and the brother of the accused.

From the evidence of PW1 and PW3 it appears that on 27.05.2016 at about 11.15 AM a raid was conducted at the travel agency shop of the accused situated at Beniasole under P.S. Adra. It is the case of the prosecution that upon demand by the RPF officials the accused booked a Tatkal ticket from Purulia to New Delhi and thereafter the shop was searched and certain railway tickets, requisition forms, registers, computer equipment and cash of Rs. 950 were allegedly recovered.

However, upon careful scrutiny of the evidence on record, several serious infirmities and inconsistencies appear which create doubt regarding the prosecution case.

Firstly, the prosecution has failed to prove through reliable evidence that the accused was carrying on the business of procuring and supplying railway tickets for commercial purposes without authority. No documentary evidence has been produced by the prosecution to establish that the accused was not an authorized agent of IRCTC or that he had no lawful authority to book railway tickets. In criminal jurisprudence the burden lies entirely upon the prosecution to prove the guilt of the accused and such burden never shifts upon the accused.

The Hon'ble Supreme Court in *Kali Ram v. State of Himachal Pradesh*, (1973) 2 SCC 808 laid down the fundamental principle of criminal law that if two views are possible from the evidence on record, the view favourable to the accused must be adopted. The Apex Court observed that "*if the court entertains reasonable doubt regarding the guilt of the accused, the accused must be given the benefit of that doubt.*"



Secondly, the seizure process itself suffers from serious defects. The evidence of PW3 clearly reveals that the seizure list does not contain any case reference, which raises doubt about the genuineness and reliability of the alleged seizure. Further, PW3 admitted during cross-examination that the officer conducting the search did not offer himself for personal search before conducting the raid. Such procedural safeguards are intended to ensure fairness and transparency during search and seizure, and failure to follow such safeguards weakens the credibility of the prosecution case.

Moreover, PW3 admitted that he could not state the ticket numbers of the alleged seized tickets and that the seized tickets were not shown before the court. When the alleged seized articles themselves are not properly produced and proved before the court, the evidentiary value of the seizure becomes doubtful.

The Hon'ble Supreme Court in *Vijayee Singh v. State of Uttar Pradesh*, (1990) 3 SCC 190 held that "*where the prosecution evidence suffers from material contradictions and infirmities, and the circumstances create reasonable doubt regarding the prosecution version, the accused is entitled to the benefit of doubt.*"

Thirdly, the prosecution has failed to examine any independent witness from the locality to corroborate the alleged raid and seizure. Although PW2 Bholanath Kundu has been examined as a witness, he is the brother of the accused and therefore cannot be treated as an independent witness to the alleged search and seizure. No independent shopkeeper or local resident has been examined by the prosecution to support the prosecution case, which creates doubt regarding the fairness and authenticity of the alleged raid.

The Hon'ble Supreme Court in *Rohtash Kumar v. State of Haryana*, (2013) 14 SCC 434 observed that "*non-examination of independent witnesses, particularly when they are available, casts doubt on the prosecution version and the court must scrutinize the evidence with greater caution.*"

Fourthly, the prosecution has also failed to prove that the accused was actually conducting the business of procuring and supplying railway tickets. The evidence on record only shows that certain tickets were allegedly recovered from the shop. However, possession of tickets or booking of a ticket at the request of a customer does not automatically establish the offence under Section 143 of the Railway Act unless it is proved that the accused was habitually engaged in such activity as a business.

In criminal trials the standard of proof required is proof beyond reasonable doubt. Suspicion, however strong, cannot take the place of proof. The Hon'ble Supreme Court in *Sharad Birdhichand Sarda v. State of Maharashtra*, (1984) 4 SCC 116 reiterated this settled principle by observing that "*suspicion, however strong, cannot take the place of legal proof.*"

In the present case, the prosecution evidence leaves several unanswered questions. The prosecution has not been able to prove beyond reasonable doubt that the accused had no lawful authority to book railway tickets, that he was engaged in the business of procuring and supplying tickets for commercial gain, and that the alleged seized articles were properly recovered and proved in accordance with law.

The cumulative effect of the above discussed deficiencies creates serious doubt regarding the prosecution case. In criminal law, when such reasonable doubt



exists, the accused is entitled to the benefit of doubt.

The Hon'ble Supreme Court in Narender Singh v. State of Madhya Pradesh, (2004) 10 SCC 699 held that "*where the prosecution fails to prove its case beyond reasonable doubt and the evidence is not of sterling quality, the accused is entitled to acquittal.*"

Therefore, considering the inconsistencies in the prosecution evidence, the doubtful nature of the seizure, the absence of reliable independent corroboration and the failure of the prosecution to prove the essential ingredients of the offence under Section 143 of the Railway Act, this Accordingly, the accused is entitled to the benefit of doubt, and the prosecution case fails.

Hence, the accused Biswanath Kundu deserves to be acquitted from the charge under Section 143 of the Railway Act, 1989. court is of the considered opinion that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt.

Accordingly, the accused is entitled to the benefit of doubt, and the prosecution case fails. Hence, the accused Biswanath Kundu deserves to be acquitted from the charge under Section 143 of the Railway Act, 1989.

Hence; it is

ORDERED

that the accused person, namely Biswanath Kundu is found to be not guilty of committing the offence under section 143 of the Railway Act, 1989 and they are hereby acquitted of the charges framed against him as per section 255 sub-section (1) of the Criminal Procedure Code 1973. They are also discharged from the liability of his respective bail-bond and set at liberty. The surety is also discharged. Let the seized documents pertaining to this case if already not returned, be returned from whom seized after the lapse of the period prescribed for appeal. Seized article if any; which is not claimed by the parties shall be destroyed after expiration of the period of appeal.

Be it also mentioned here that the victim of this case has a right to prefer an appeal against this order before a competent Court u/s 372 CrPC and can also seek legal assistance for such appeal from District Legal Services Authority.

Copy of this judgment of acquittal be forwarded to Secretary, DLSA, Purulia and District Magistrate, Purulia for necessary information.

Dated: 07.03.2026

Judicial Magistrate 1st Court
Raghunathpur, Purulia
WB01449

Typed and corrected by me;

Judicial Magistrate 1st Court
Raghunathpur, Purulia
WB01449