

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 748 of 2006**

- Sharad Gupta

---- Applicant**Versus**

- State of Chhattisgarh

---- Respondent

For Applicant

Shri Shivendu Pandya, Advocate

For Respondent-State

Shri A. S. Kachhawaha, Addl. AG

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****26/03/2018**

1. A short but interesting question would arise in this criminal revision as to when a person can be said to be involved in carrying on business of procuring and supplying of railway tickets so as to attract an offence under Section 143 of the Railways Act, 1989 (henceforth 'the Railways Act').
2. An FIR was lodged against the applicant alleging that on 13.10.2001, he was found involved in illegal sale of reserved railway tickets at Platform No.5-6 of Raipur Railway Station. From his possession, 9 valid reserved tickets and 20 canceled tickets together with small envelopes and slips containing the particulars of the person, train number, date of journey and the amount

charged and other slips carrying entries/record of train number and the amount charged were also recovered. In course of trial, both the courts below have found the seizure of above articles from the applicant to be proved despite the independent witnesses not supporting the prosecution. However, learned counsel for the applicant would not seriously dispute the seizure, as his main plank of argument is based on the gravamen of the charge, which attracts an offence only when a person is said to be involved in the business of procuring and supplying of railway tickets, which evidence, as argued by learned counsel for the applicant, is lacking in the present case.

3. Per contra, Shri A. S. Kachhawaha, learned Addl. AG, would submit that even if there is no oral evidence indicating that the applicant is involved in the business, the quantity of live and valid tickets, cancelled tickets and accounts of booking of reserved tickets maintained by the applicant, having been seized from him, would by itself prove that the applicant is involved in the business of procuring and supplying railway tickets.
4. To consider the issue involved, it would be necessary to refer to the provision contained in Section 143 of the Railways Act, which is reproduced herein below:-

143. Penalty for unauthorised carrying on of business of procuring and supplying of railway tickets.— (1) If any person, not being a railway servant or an agent authorised in this behalf,—

(a) carries on the business of procuring and supplying tickets for travel on a railway or for reserved accommodation for journey in a train; or

(b) purchases or sells or attempts to purchase or sell tickets with a view to carrying on any such business either by himself or by any other person,

he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten thousand rupees, or with both, and shall also forfeit the ticket which he so procures, supplies, purchases, sells or attempts to purchase or sell

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in judgment of the court, such punishment shall not be less than imprisonment for a term of one month or a fine of five thousand rupees.

(2) Whoever abets any offence punishable under this section shall, whether or not such offence is committed, be punishable with the same punishment as is provided for the offence."

5. A close reading of the provision would manifest that the gravamen of the charge under Section 143 of the Railways Act is carrying on the business of procuring and supplying of railway tickets. The meaning of the term 'business', in the context of Section 143 above, has been considered by the Supreme Court in the matter of **State of M.P. vs Mukesh and others**¹ observing that a person can be said to have committed an offence (under Section 143) if he has been carrying on a business. The expression 'business' implies continuity.
6. In view of the above judgment, I am now required to consider whether the evidence available in the case would prove continuity of business by the applicant. While the applicant's counsel has argued that there is no such evidence putforth by the prosecution, learned Addl. AG has argued to the contrary. The

¹ (2006) 13 SCC 197

prosecution has seized and produced the valid/live tickets (9 numbers) and cancelled tickets (20 numbers) from the applicant. The envelope seized from the applicant carries printed columns on one side in the following manner:-

On	
By	
Class	
Mr.	
	Ticket
	S. C.
	Total

7. The time table of Raipur Railway Station and accounts maintained by the applicant for his own understanding 'usually referred by the businessmen as '*Kachcha Purja*'" have also been recovered. The printed envelope, as mentioned above, clearly depicts the nature of activity carried on by the applicant. While booking tickets for his clients, he was also charging service charge, which is referred as 'S.C.' on the envelope. The tickets are not of any particular day so that it can be argued that the applicant was involved in obtaining tickets for group of villagers on a particular day in order to assist them as group leader. This may happen when group of persons who form part of *Barat*, party meeting, excursion or labourers travelling together, however, the tickets recovered from the applicant are for different destinations

with different dates of traveling. Thus, the documents recovered from the applicant clearly suggest that the activity of procuring and supplying tickets for different people, on different dates, was continuous and thus he was in the business of procuring and supplying tickets, as is mentioned in the gravamen of the charge under Section 143 of the Railways Act. It is not necessary for the prosecution to prove by oral evidence, all the time, by producing the clients that they had purchased tickets from a person so that he can be said to be in the business of procuring and supplying tickets. The nature of documents would itself demonstrate the continuity of transaction or business of procuring and supplying tickets.

8. Thus, this Court is of the considered view that the prosecution has proved the offence under Section 143 of the Railways Act against the applicant and the conviction deserves to be and is hereby affirmed. Insofar as the quantum of sentence is concerned, the offence is punishable with imprisonment for a term, which may extend to 3 years or with fine, which may extend to 10,000/- rupees, or with both with proviso that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than imprisonment for a term of one month or a fine of 5,000/- rupees. The law thus mandates imposition of less than minimum sentence of one month, if special and adequate reasons are mentioned in the judgment. In the present case, the applicant was caught involved in the business of procuring and supplying railway tickets on 13.10.2001 i.e. about 17 years back.

At that time, he was aged about 36 years, therefore, his present age would be around 53-54 years. He has already remained in jail for about 15 days and has been imposed fine of Rs.5,000/-. Considering the lapse of time after the incident and his present age, I am of the considered view that the substantive jail sentence should be reduced to the period already undergone.

9. Accordingly, the revision is allowed in part. While maintaining his conviction for offence under Section 143 of the Railways Act, the sentence is modified to the period already undergone.

Sd/-

Judge
Prashant Kumar Mishra

Nirala