

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1414 OF 2017

Shahrukh Hoshang Shroff	.. Petitioner
Versus	
The Union of India and anr	.. Respondents

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Mr. Jayant Bardeskar for the petitioner.
Mr.T.J. Pandian for respondent no.1.
Mr.Ajay Patil, APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 9th October 2019

P.C:-

1 The petitioner, a Director of M/s.Adventure Education Tours (Mumbai Pvt.Ltd, has approached this Court being aggrieved by the initiation of proceedings vide C.C.No. 464/SW/2015 in the 35th Court of Metropolitan Magistrate, pursuant to an FIR registered at Kurla RPF Police Station.

2 A complaint came to be lodged that on 25th September 2014 on the basis of secret information received to the effect that the accused persons are carrying illegal bookings and sale of railway tickets at Shop No.8, Maitri Mohan Building, Swami Narayan Madir, Virar (E). The premises were

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raided and one Mr.Kalpesh Shah was found to have developed a software with the assistance of another accused Kulveer Singh and it is alleged that through this software, the e-tickets of the Railway came to be booked. It was also disclosed that the said software was run on a high speed internet and was able to generate e-tickets in huge numbers. The key accused Kalpesh Shah came to be arrested and during course of inquiry, it is revealed that there are certain other persons who were also involved. As far as the present applicant is concerned, the imputation against him is to the effect that he had also blocked the tickets for students tour and this fact is not disputed by the petitioner since it is his case that he was engaged into the very business of arranging education tours for the students and he has booked the tickets on an assumption that the agent Kalpesh Shah was an authorized IRCTC agent.

3 With the assistance of learned counsel, I have perused the FIR as well as the remand reports which are placed on record. It is clear that the name of Kalpesh Shah was appearing on the website of the IRCTC as an authorized agent and the information which is sought under the Right to Information Act from the petitioner confirms the same. The Railway claims that the petitioner was in the business of arranging study tours for a long period of time and therefore, he ought to have possessed the knowledge about the facility of group booking available with the Railways and he ought to

have been aware of the procedure for procuring e-tickets through individual User Ids and inspite of this, he has booked the bulk tickets through the accused and this is what is only attributed to the present petitioner. The petitioner has thus been alleged to be knowingly abetting the offence and he is also attributed of taking the print out of e-tickets from his own computer.

4 Perusal of the FIR as well as the material placed on record rather depicts that the petitioner himself is a victim of the fraudulent transaction encouraged by the accused no.1 Kalpesh Shah for booking the tickets. The petitioner had no reason to doubt the genuineness of the website of the accused no.1 since there was a list of agents on the website of IRCTC and the name of Kalpesh Shah was to be found at Sr.No.8 along with his pin-code. Going by the official website of Railway and assuming that Shri Kalpesh Shah is an authorized IRCTC agent, the petitioner also indulged with him and booked the tickets for a group tour of students. The bonafides of the petitioner cannot be doubted and since the Railway authorities are only alleging him to be abetting the offence on a pre-supposition that since he was in the business for a considerable long period of time, he ought to have been conscious of the said fact. It is no where denied that the group bookings was a facility extended by the Railways and there was no embargo to avail the said facility through an authorized agent of the railways. In

such circumstances, the petitioner cannot be allowed to be prosecuted for the offence punishable under Section 143 of the Railways Act. Being alleged to be an abettor, there is no intention or knowledge to commit an offence on part of the petitioner.

In the backdrop of the said position emerging after hearing both the counsel for the parties, the initiation and continuation of proceedings against the present petitioner cannot be sustained and the order passed by the Magistrate on 8th June 2015 taking cognizance of the offence against the petitioner deserves to be quashed and set aside.

5 Criminal Application is allowed in terms of prayer clause (a).

No order as to costs.

SMT. BHARATI DANGRE, J