



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 02.08.2021

Pronounced on : 16.09.2021

CORAM:

THE HONOURABLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD) No.10412 of 2021

and Crl.M.P(MD)No.5331 of 2021

WEB COPY

S.Subramaniya Bharathi

... Petitioner/Sole

Accused

Vs.

1.The State,

Rep. by the Sub Inspector of Police,

Railway Protection Force, Madurai

(In Crime No.74 of 2021)

... 1st Respondent /

Complainant

2. Anu Elizabeth Jose

... 2nd Respondent/Defacto

Complainant

PRAYER: Criminal Original Peititon is filed under Section 482 of Cr.P.C to call for the records in pursuant to the FIR in Crime No.74 of 2021 dated 16.07.2021 on the file of the first respondent and quash the same.

For Petitioner : Mr.S.Karuppasamsy Pandian

For R1 : Mr.S.Manohar

Additional Public Prosecutor

O R D E R

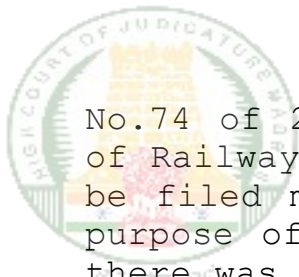
This petition is filed seeking quashment of the First Information Report in 74 of 2021 dated 16.07.2021 on the file of the first respondent.

2. The case of the prosecution in brief is as follows:

The petitioner is the authorised licensee of Indian Railway Catering and Tourism Corporation Ltd since 30.11.2009. He is running an internet center in the name of Chart Corner, Travels and Internet Browsing E-Ticket Booking and Passport Online''. The petitioner being an authorized agent in IRCTC, created 3 user IDs for carrying on the business of procuring and selling railway E-tickets. He earned monetary benefit of Rs.100/- per head. In spite of using the authorized ID, he has created the above said 3 user IDs and thereby involved in crime.

3. On the basis of the complaint given by the defacto complainant, the second respondent has registered a case in Crime

<https://hcservices.ecourts.gov.in/hcservices/>



No.74 of 2021 for the offence punishable under Section 143(1)(a) of Railway Act, 1989. Pending investigation, this petition came to be filed mainly on the ground that creation of more IDs for the purpose of procuring the railway E-tickets is not an offence and there was no unlawful gain to him and lawful loss to the railways. He would also rely upon the judgment of Kerala High Court in Crl.M.C.No.1991 of 2016.

4. It is not in dispute that the petitioner is an authorized agent of IRCTC and his authorized number is WTTZIL09285. Apart from using the authorized ID, he has also created 3 user IDs and booked tickets and thereby earned monetary benefit of Rs.100/- per head. According to the prosecution, it is an offence under Section 143(e) of the Railways Act.

5. Section 143 of the Railways Act reads as under:

Section 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 from 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 tickets which he do 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.

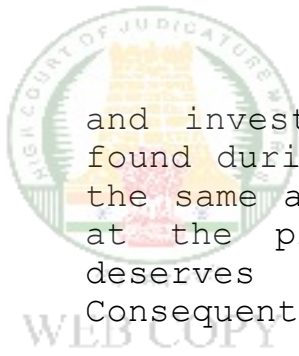
6. Therefore, according to the learned counsel for the petitioner Section 143(1)(e) of the Railways Act will be attracted only against a person, who is not being railway servant or the authorized agent. Here, the petitioner is an authorized agent and therefore, Section 141(1)(e) of the Act is not attracted. According to the petitioner, creation of other 3 user IDs for the purpose of procuring E-tickets is not offence under Section 143(1)(e) of the Act. Section 143(1)(e) of the Act is squarely attracted



to the facts and circumstances of the case since so far as the ID that has been created by him is not under the capacity of of authorized agent. We can treat him as an authorized agent only with regard to the authorized ID number mentioned earlier. Therefore, the other 3 IDs are concerned, he cannot and did not come under the capacity of authorized agent and this is absolutely unauthorized one.

7. But a specific question was put why such unauthorized 3 IDs have been created when the petitioner was issued with an authorized ID, the learned counsel for the petitioner has submitted that at times, there is heavy traffic and he is not in a position to use the authorized ID for procuring the ticket. At that time, he used the abovesaid 3 IDs. But I am unable to accept this line of argument. Section 143 of the Act clearly prohibits the act of business of procuring the ticket unauthorizedly. So unauthorized creation of the abovesaid 3 IDs is an offence. The question of unlawful gain and unlawful loss cannot be a criteria to decide this nature of offence. So argument that there was no unlawful loss to the Railway Department and unlawful gain to him cannot be accepted at all.

8. The next ground which is raised by the learned counsel for the petitioner that in the judgment of Kerala High Court in Crl.M.C.No.1991 of 2016, the company created IDs for the purpose of procuring and supplying E-tickets to its employees. That was objected by the Railway Department on the ground that this is an offence under Section 143 of the Railways Act. The High Court has opined that Section 143 of the Act was enacted much prior to the creation of E-tickets. The petitioner is not carrying on business of procuring and supplying of ticket for travel on a railway reserved tickets through internet. Therefore, online is not prohibited. I am unable to agree with the petitioner for the simple reason that the matter on hand is entirely different from the above said factual decision. The company itself created user IDs for the purpose of procuring tickets to supply to its employees. So the company is not involved in the business of procuring or supplying the tickets to the consumers or travellers as the case may be. Here, the petitioner was involved in the business of procuring and purchasing the tickets of railway for the benefit of Rs.100 for each head to be supplied to the public. Therefore, it is squarely come under the category of business purpose which is even prohibited under Section 143 of the Railways Act. Introduction of the E-tickets scheme no way alters the position. Customer or traveller can book e-tickets by creating a ID in his own name. But, authorized agent cannot create other user IDs for the purpose of procuring tickets for monetary benefit. Such business is prohibited under Section 143 of the Railways Act. So I am unable to accept the arguments advanced by the petitioner



and investigation is in the preliminary stage. If anything is found during the course of investigation he can take advantage of the same and except that no remedy is available to the petitioner at the preliminary stage of investigation. So this petition deserves dismissal. Accordingly, the same is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

To,

1.The Sub Inspector of Police,
Railway Protection Force,
Madurai

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.MANO HAR, Advocate (SR-29406[F] dated 17/09/2021)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-29514[F] dated 17/09/2021)

**Crl.O.P. (MD) No.10412 of 2021
and Crl.M.P (MD) No.5331 of 2021
16.09.2021**

NSN (CO)

SB(28.09.2021) 4P 5C