

**IN THE COURT OF THE SPECIAL JUDICIAL RAILWAY
MAGISTRATE, TINSUKIA**

PRESENT: M. HAZARIKA, AJS

Special Railway(Judicial) Magistrate, Tinsukia

SR/CR Case No. 837/19

(U/S 144 of Railway Act,1989)

Union of India

VS

Biki Dutta

Appearance

For State: Mr. Y. K.Misra

For Defence: Md Azizullah

Date of Evidence: 15.07.19

Date of Examination of Accused person: 15.07.19

Date of Argument: 15.07.19

Date of Judgment: 15.07.19

J U D G M E N T

1. The prosecution case is that on 08.07.19 complainant arrested the accused person namely Biki Dutta who was illegally hawking at train No. 55901 UP at MXN Railway Station. Complainant interrogated the accused person to which the latter confessed his guilt and former took the latter into his custody and brought him to RPF/POST/MXN.

INVESTIGATION

2. On receipt of the complainant petition, IPF of RPF/POST/MXN registered a case vide case no MXN POST Case No. 282/19 under section 144(1) of Railway Act. The E/O of the instant case visited the place of occurrence, recorded the statement of witnesses as well as statement of the accused person. The E/O of the instant case seized the goods from the possession of the accused person and allowed the latter to go on police bail. And on conclusion of the investigation, E/O had submitted the prosecution report against the aforesaid accused person under section 144 of Railway Act, 1989.
3. On receipt of the prosecution report, this Court took cognizance of the case for disposal. The accused person was served with summon and on his appearance before the Court he was allowed to go on bail. The accused person was served with copies as per statutory provision and the charge punishable under section 144 of Railway Act, 1989 read over and explained to the accused person to which he pleaded not guilty and claimed to stand the trial.

TRAIL

4. In order to establish its case, Prosecution examined one witness as PW1 and also exhibited the Arrest cum Seizure List as Ext 1, Complaint petition as Ext 2, and prosecution report as Ext 3. As the witness produced by the prosecution side implicated the accused person as a result accused person was examined under section 313 CrPC. Accused admitted the allegation meted out against him in the evidence produced by the prosecution side and also declined to adduce defence evidence. Defence case is nothing but bare denial of the prosecution case.
5. I have heard the Learned Counsel for the parties on length and upon hearing and perusal of records. I have framed the following points for determination in order to form a definite finding regards the discussion.

POINTS FOR DETERMINATION

6. Whether the accused person on 08.07.19 was illegally hawking in train No. 55901 UP at MXN Railway Station and thereby committed an offence punishable under section 144 of Railway Act,1989.

DECISION AND REASON therefore

7. I have gone through the entire evidence on record and also heard Ld. Counsel for both side. In backdrop of these fact let me appreciate the evidence produce by the prosecution.
8. Pw1 namely Puran Tanti in his evidence stated that 08.07.19 the accused person was illegally hawking in train No. 55901 UP at MXN Railway Station and later on accused person was caught red handed

by the complainant of the instant case. Pw1 stated that the complainant had lodged the case against the accused person at RPF/POST/MXN.

Defence did not cross examined the said pw to rebut his claim. Hence a strong inference can be drawn towards the guilt of the accused person.

9. From the above evidence produced by the prosecution side, it can be said that prosecution side has succeeded to bring home the charge punishable under section 144 of Railway Act,1989 against the accused person. Therefore, this point is decided in positive against the prosecution.
10. Hence accused person namely Biki Dutta is convicted u/s 144 of Railway Act,1989 and is sentenced to pay a fine of Rs 200/- in default he shall undergo simple imprisonment for 7 days only.

O R D E R

In view of the above discussion, I hold the accused person is convicted u/s 144 of Railway Act, 1989 and is sentenced to pay fine of Rs 200/- in default he shall undergo simple imprisonment for 7 days from the said charges.

Given under the hand and seal of this court on this 15th day of July, 2019

Dated: 15.07.19

Mrs Merileen Hazarika

Special Railway Magistrate, Tinsukia

