

Promode Ranjan Roy Vs. the State

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Court : Guwahati

Decided On : Jun-21-1956

Reported in : 1956CriLJ1393

Judge : Sarjoo Prosad, C.J.

Appellant : Promode Ranjan Roy

Respondent : The State

Judgement :

ORDER

Sarjoo Prosad, C.J.

1. The petitioner in this case has been convicted under Section 112, Indian Railways Act and sentenced to suffer simple imprisonment for 15 days, His conviction and sentence has been upheld on appeal by the learned sessions Judge. He was tried on the above charge mainly on a complaint filed against him by a Travelling Ticket Inspector of the Railway. The complaint shows that he was found travelling in a first class compartment from Mariani to Simaluguri without any proper authority and he was so detected at Simaluguri and produced before the Mobile Court Magistrate.

The petitioner is a Guard of the North Eastern Railway and it is said that at the relevant time he was going to join his duty and had an authority to travel in the second class. In the petition he says that he boarded a first class compartment as

he had been fasting, the day being 'Ekadashi', and being in full uniform because of excessive heat of the day he felt uneasy with vomiting tendency. He alleges that he had taken permission of the Guard in charge of the train to travel in the said compartment. Before the Magistrate, however, he did not make any such statement. There he admitted that he had no first class ticket or authority to travel in the first class and that he had committed an offence.

2. It is contended on behalf of the petitioner that there was no other allegation against him except the allegations contained in the complaint filed by the Travelling Ticket Inspector on which a charge of an offence under Section 112, Indian Railways Act had been framed against him.

The allegations contained therein did not make out a definite case of an offence under Section 112, Railways Act which required that the accused should enter the compartment with intent to defraud the Railway administration. The allegations simply were that he was detected travelling in first class compartment without any ticket or any authority. The allegations did not per se constitute an offence obtained a pass or purchased a ticket, or travels in to make good the charges and the compensation, if any, as provided by Section 113(2), Railways Act.

Section 113(2) says that if a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorised by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, excess charge hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made. The excess charge contemplated by this section is equivalent to the amount otherwise payable under those sub-sections, or eight annas whichever is greater.

It is contended on behalf of the petitioner that he simply pleaded guilty to that extent and his liability, if any, was under Section 113, Railways Act. He could not, therefore, have been validly convicted for any offence under Section 112 as no such offence of defrauding the Railway was either made out in the complaint or admitted by the petitioner.

There is undoubtedly force in this contention and howsoever much one may take exception to the conduct of the petitioner in trying to escape from custody or in absenting himself when the judgment was about to be pronounced by the Magistrate, or in raising certain inconsistent pleas in his application, the fact remains that the conviction under Section 112, Railways Act could not be sustained. The conviction and sentence must therefore be set aside and the rule made absolute. It would be, however, open to the Railway authorities to deduct the relevant charges payable under Section 113, Indian Railways Act from the salary of the petitioner.

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