

Inspector, Railway Protection Force, Kottayam Vs Mathew K Cherian & Anr

Court: Supreme Court Of India

Date of Decision: Jan. 9, 2025

Acts Referred: Code of Criminal Procedure, 1973 " Section 482
Railways Act, 1989 " Section 143, 143(1), 143(1)(a)

Hon'ble Judges: Dipankar Datta, J; Prashant Kumar Mishra, J

Bench: Division Bench

Advocate: Namit Saxena, Amrish Kumar, Raghunath, Amrish Kumar, Alim Anvar, Nishe Rajen Shonker, Anu K Joy, Santhosh K

Final Decision: Allowed

Judgement

Dipankar Datta. J

INTRODUCTION

1. Common question of law touching interpretation of Section 143 of the Railways Act, 1989 " the Act is involved in these appeals by special

leave; hence, we propose to decide the same by this common judgment.

2. In the first of the two sets of appeals, the lead appeal, the judgment and order in Criminal Miscellaneous Case No. 1991/2016 dt.

22.09.2016 of the High Court of Kerala at Ernakulum Kerala High Court is assailed whereby criminal proceedings under Section 143 of

the Act launched against the first respondent " Mathew K. Cherian " Mathew " was quashed.

3. In the connected appeals, the appellant - J. Ramesh Ramesh, the appellant, has assailed the judgment and order in CRL. O.P. No.18701/2020

18703/2020 and Crl. MP. Nos.7328/2020 and 7329/2020 of the High Court of Judicature at Madras Madras High Court refusing to quash

the criminal proceedings launched against Ramesh under Section 143 of the Act.

FACTUAL MATRIX

4. The factual scenario of the two sets of appeals are not too complicated. The facts which are germane are noted as a precursor to our discussion.

5. The prosecution case in the lead appeal is that on 11.03.2016, on reliable information being disclosed to the Inspector, Railway Protection Force

that unauthorised business of procuring and supplying railway e-tickets was being carried out in the office of Mathew, Crime Case No.

524/2016 under Section 143 of the Act was registered and a search conducted thereat. During the search and seizure operation, one employee named

Joby Jose of Kosamattam Finance, a non-banking finance company (of which Mathew happened to be the managing director) was arrested and 17

pieces of evidence were seized. In his confessional statement, Joby Jose stated he was working under the supervision of Mathew. On the basis of this

statement, Mathew was made co-accused in Crime Case No. 524/2016. He was accused of creating fraudulent user IDs with the Indian Railway

Catering and Tourism Corporation (IRCTC) web portal to procure and peddle railway tickets for profit, without being an agent authorised to

procure and supply railway tickets and, therefore, operating an unauthorised business for procurement and supply of railway tickets. Aggrieved,

Mathew moved the Kerala High Court under Section 482, Code of Criminal Procedure, 1973 Cr. PC seeking quashing of the proceedings.

The Kerala High Court, vide the impugned order, quashed the criminal proceedings emanating from Crime Case No. 524/2016. Dissatisfied thereby,

the Inspector, RPF is in appeal.

6. The connected appeals arise out of Case Crime No. 3116/2019 and Case Crime No. 600/2020. The case of the prosecution is that Ramesh and his

son are the owners of "Big Top Travels" which is an authorised agent for railway e-tickets. On 05.12.2019, Case Crime No. 3116/2019 came to

be registered against Ramesh under Section 143 of the Act on the basis of a search and seizure operation conducted by a special team of the RPF in

the shop premises of Ramesh. The offence alleged against him is that he has been supplying e-tickets to various customers, and that these e-tickets

had been booked through multiple user IDs. Case Crime No. 600/2020 was registered against Ramesh, also under Section 143(1)(a) of the Act for his

involvement in fraudulent activities such as supply of Tatkal e-tickets by creating multiple personal-user IDs and issuing unauthorised e-tickets procured

through IRCTC website, contrary to IRCTC Rules. Ramesh, feeling aggrieved by initiation of criminal action by the respondent authorities, approached

the Madras High Court under Section 482, Cr. PC with a prayer to quash the criminal proceedings. The Madras High Court, however, refused to

quash the criminal proceedings. Dissatisfied with the impugned order of the Madras High Court, Ramesh has questioned the same in the connected

appeals.

SUBMISSIONS

7. For the sake of brevity, the submissions advanced by the parties in both sets of the appeals are noted together. Arguments of the prosecution can

be summarised as follows:

I. Section 143 of the Act does not permit authorised agents to carry out unauthorised actions under the façade of authorisation. When an authorised

agent carries out unauthorised transactions using the personal IDs of other individuals, the cloak of authorisation cannot be used as a ruse. Therefore,

to be exempt from the application of Section 143, both the status of the person and the nature of the action must be considered.

II. Section 143 is part of the overall scheme to promote the efficacy of the railway system and its operations. Therefore, the Court must interpret the

provision in line with the object of the statute.

III. Mathew, as the Managing Director of a finance company, created hundreds of user IDs to sell railway tickets at a premium which constitutes an

offence under Section 143.

IV. Section 143 makes no distinction between physical tickets and e-tickets and only contemplates penal action against unauthorised carrying on of the

business of procuring and supplying railway tickets.

V. Offence under Section 143 is a social crime. The mischief is sought to be addressed by limiting the number of tickets that an individual can

purchase using his personal ID and, thereby, touting of railway tickets is prevented.

VI. The Kerala High Court has erred in quashing the criminal proceedings at this stage as a bare perusal of the complaint reveals that all the

ingredients under Section 143 are prima facie attracted.

VII. The Madras High Court has correctly refrained from following the erroneous decision of the Kerala High Court.

VIII. While upholding the decision of the Madras High Court, the decision of the Kerala High Court ought to be reversed and the prosecution allowed

to lead its evidence before the relevant trial courts for the proceedings to be taken to its logical conclusion.

8. The submissions on behalf of the accused "Mathew and Ramesh" in favour of quashing of the proceedings, as advanced before us, are these:

I. The plain and unambiguous words of Section 143 of the Act make it clear that the creation of multiple user IDs is not an offence under Section 143,

and Section 143 must be construed strictly as it is a penal provision.

II. The materialisation of e-ticketing scheme could not have been conceptualised by the legislature at the time of passing the Act, as the scheme as

well as the internet did not exist at that time. III. Section 143(1)(a) was intended to penalise the sale of tickets by persons other than railway servants

and authorized agents.

IV. Ramesh is an authorised agent and, thus, could not have been proceeded against under Section 143(1), on its own terms; and, if at all, there has

been a breach or violation of the terms and conditions of the contract by Ramesh, the remedy of the railways/RPF is to approach the civil court.

V. The decision of the Madras High Court ought to be reversed and the decision of the Kerala High Court upheld, thereby bringing down the curtain

on both the criminal proceedings.

IMPUGNED ORDERS

9. Now, let us have a look at the orders impugned before us. A thorough examination thereof would enable us to arrive at an appropriate conclusion.

10. In the lead appeal, the Kerala High Court has quashed the criminal proceedings against the first respondent. The reasons assigned therefor are

reproduced below:

“5. The Act was enacted much before the advent of e-ticket system. The object of Section 143 is to prevent procurement of ticket for travelling on railway or in a

reserved compartment or journey in a train by any person with the ticket not being issued by railway servant or by an authorised agent. It appears that Railway wants

to ensure the authenticity of the tickets issued to the travellers on a travel in a railway. It appears that many travellers were travelling on railway in a ticket not being

issued to them and issued in the name of third parties. The Railways Act wants to ensure that the ticket is issued by railway servant or agent authorised on this

behalf as the case may be to a genuine travellers (sic, “traveller”).

6. The use of internet medium registered in the name of a person, to issue tickets to a third party is not one contemplated under Section 143 for the purpose of

considering it as an offence. There is no sale of ticket by the petitioner as even admitted in the counter, the sale is being conducted by IRCTC. The use of

computer or use of printer for printing ticket purchased by a traveller cannot be deemed as sale effected by the owner of the computer or printer. Procuring tickets has

to be understood as providing or giving tickets to the travellers. Admittedly tickets are procured by the genuine travellers. When legislature considered an actionable

wrong in a particular manner in a brick and mortar business, it cannot be applied to an online business unless all elements constituting the offence are present in the

online business. The offence is not attracted even if one has to assume that action of the accused would amount to revision clearly mandates that tickets have to be

procured by the offender.”

11. The view taken by the Kerala High Court appears to be that Section 143 is somewhat outdated in the age of purchasing tickets using the internet.

It has, in essence, read down Section 143 to state that one can conduct a business of procuring and supplying tickets without the authorisation of the

railways as long as it is done through the internet. The order also observes that as the tickets were procured in the name of genuine passengers, it

cannot be said that Mathew had contravened Section 143.

12. In the connected appeals, the Madras High Court refused to quash the criminal appeal and ratiocinated its view in the following words:

“This Court is of the considered view that the decision held by the High Court of Kerala holding that the said provision was enacted much prior to the

creation of e-tickets and the petitioner therein was not carrying a business of procuring and supplying of tickets for travel on the Railway reserved tickets through

internet and therefore online was not prohibited, whereas in the case on hand, the offence committed by the petitioner is completely different from the aforesaid case.

The petitioner himself created more than 200 user IDs, procured tickets and supplied to the passengers. Further, in the said business of procuring and purchasing

tickets on Railways were for the benefit of Rs.150/- for sleeper and Rs.250/- for A/C per head in addition to ticket fare as service charge from his customers, prohibited

by the provisions under Section 143 of the Act. In fact, recommendation of the e-tickets scheme no way alters the position of purchase of tickets, as agent or the

customer can book e-tickets by creating ID in their name. But the authorized agent cannot create other user IDs for the purpose of procuring tickets for illegal gain.

Therefore, judgement cited by the learned counsel for the petitioner is not applicable to the case on hand. That apart, the crime is under investigation and only after

investigation, the respondent can unearth the truth.”

13. The Madras High Court acknowledged that Ramesh was an authorised agent under Section 143; however, it refused to quash the criminal

proceedings on the ground that such authorisation did not empower the appellant to create multiple user IDs for the purpose of procuring tickets for

illegal gain. On the ground that Ramesh was only authorised to sell tickets through his own account and was not specifically authorised to create

multiple user IDs, the Madras High Court dismissed Ramesh’s petition seeking quashing of the criminal proceedings.

ANALYSIS

14. The appeals before us, although have different factual matrices, involve a common question of law. Having bestowed serious consideration and

thought, we find ourselves in a curious position where our interference seems to be warranted in both sets of appeals.

15. In order to settle the controversy in the present lis, the ambit and scope of Section 143 of the Act has to be noticed and comprehended. The

question before us is whether the act of creating fake/multiple user IDs by an individual, who may or may not be an authorized railway agent, with the

intention to procure and supply online tickets through IRCTC portal would constitute an offence under Section 143 of the Act? In addition to the scope

of Section 143, we need to analyse whether the two criminal proceedings in question did merit quashing by the respective High Court.

16. At this stage, it would be beneficial to read Section 143 of the Act. It reads:

143. Penalty for unauthorised carrying on of business of procuring and supplying of railway ticket-

(1) if any person, not being a railway servant or an agent authorised in this behalf,-

Ã, (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.

(emphasis supplied)

17. The purport and objective of Section 143 of the Act is to restrict entities which are not under the disciplinary control of or are not authorised by the

railways to conduct the business of procurement and supply of railway tickets. Railway servants and authorised agents stand apart since, on its own

terms, Section 143 has no application to them.

18. The whole scheme of e-ticketing was introduced for the convenience and betterment of the passengerÃ¢â€â„¢s experience of travelling on a train,

due to which the procurement and supply of these e-tickets, rightfully so, is highly regulated. In the additional affidavit of the appellants in the lead

appeal, Rules and Regulations for Reserved Rail e-Ticketing Service Providers (PSPs/RSPs) have been annexed which reflect the idea of protecting

the consumer and strictly prohibit using personal/fraudulent IDs to book tickets for commercial purposes. These rules, further, bar sharing of the

credentials by these authorised agents. Also, the perils of hoarding of resources by a select few are widely known and has to be kept in mind while

adjudicating the present lis.

19. IRCTC has limited the number of tickets which can be reserved on one personal user ID at 12 per month (24 per month with a user ID which is

Aadhaar verified). Mathew, it is alleged, had created hundreds of fake user IDs to sell tickets without any authorisation from the railways. Although

the internet and e-tickets were unknown in India when the Act was brought into force, this conduct of Mathew (who is neither a railway servant nor

an authorised agent) nevertheless attracts criminality under Section 143(1)(a) of the Act.

20. The Kerala High Court allowed the quashing petition filed by Mathew on the ground that the Act was enacted before the advent of internet and

e-tickets and the lawmakers could not have envisioned sale of tickets, online. We find this line of reasoning of the High Court to be plainly erroneous.

21. Statutory interpretation has to follow certain principles which have been formulated through legal precedents. No court can refuse to enforce a

provision on the sole basis of the provision predating any subsequent development regarding the ticketing process. If it can be demonstrated that a

statutory provision is broad enough to envelop the subsequent developments, even if the developments were not envisioned by the legislature, the

provision would stay operational. This principle was expounded by this Court in *Senior Electric Inspector v. Laxminarayan Chopra* AIR 1962 SC

159 in the following words:

“This Court in construing the words ‘sale of goods’ in Entry 48, List II of the Seventh Schedule to the Government of India Act, 1935, accepted the

aforesaid principle in *State of Madras v. Gannon Dunkerley & Co., (Madras) Ltd.* [(1959) SCR 379] and restated it at p. 416 thus:

“The principle of these decisions is that when, after the enactment of a legislation, new facts and situations arise which could not have been in its contemplation,

the statutory provisions could properly be applied to them if the words thereof are in a broad sense capable of containing them.”

The legal position may be summarized thus: The maxim *contemporanea expositio* as laid down by Coke was applied to construing ancient statutes, but not to

interpreting Acts which are comparatively modern. There is a good reason for this change in the mode of interpretation. The fundamental rule of construction is the

same whether the Court is asked to construe a provision of an ancient statute or that of a modern one, namely, what is the expressed intention of the Legislature. It is

perhaps difficult to attribute to a legislative body functioning in a static society that its intention was couched in terms of considerable breadth so as to take within

its sweep the future developments comprehended by the phraseology used. It is more reasonable to confine its intention only to the circumstances obtaining at the

time the law was made. But in a modern progressive society it would be unreasonable to confine the intention of a Legislature to the meaning attributable to the word

used at the time the law was made, for a modern Legislature making laws to govern a society which is fast moving must be presumed to be aware of an enlarged

meaning the same concept might attract with the march of time and with the revolutionary changes brought about in social, economic, political and scientific and

other fields of human activity. Indeed, unless a contrary intention appears, an interpretation should be given to the words used to take in new facts and situations, if

the words are capable of comprehending them. We cannot, therefore, agree with the learned Judges of the High Court that the maxim *contemporanea expositio* could

be invoked in construing the word "telegraph line" in the Act.

(emphasis supplied)

22. The aforementioned decision has been followed in a relatively recent decision of this Court in *Dharani Sugars and Chemicals Ltd. v. Union of India*

(2019) 5 SCC 480. This Court, further, noticed an English decision in *Comdel Commodities Ltd. v. Siporex Trade S.A.* (No. 2) (1990) 2 All E R 552

(HL) distilling the principle as follows:

"When a change in social conditions produces a novel situation, which was not in contemplation at the time when a statute was first enacted, there can be no a

priori assumption that the enactment does not apply to the new circumstances. If the language of the enactment is wide enough to extend to those circumstances,

there is no reason why it should not apply."

23. Bearing in mind the above principles, we may now proceed to consider a couple of decisions of this Court on the rule of literal interpretation.

24. In *Jugalkishore Saraf v. Raw Cotton Co. Ltd.* AIR 1955 SC 376, Hon'ble S.R. Das J. (as His Lordship then was), speaking for the

Court, held as follows:

"The cardinal rule of construction of statutes is to read the statutes literally, that is, by giving to the words their ordinary, natural and grammatical meaning.

If, however, such a reading leads to absurdity and the words are susceptible of another meaning, the Court may adopt the same. But if no such alternative

construction is possible, the Court must adopt the ordinary rule of literal interpretation. In the present case, the literal construction leads to no apparent absurdity

and therefore, there can be no compelling reason for departing from that golden rule of construction."

25. A reference can also be made to the decision of not too distant an origin. In *Ansal Properties & Industries Ltd. V. State of Haryana* 2009 (3)

SCC 553, the rule of literal construction has been reiterated in the following words:

"39. If the legislature had intended that the licensee is required to transfer the land and also to construct the buildings on it or to make payment for such

construction, the legislature would have made specific provisions laying down such conditions explicitly and in clear words in which event the provisions would

have been worded in altogether different words and terms. It is a well-settled principle in law that the court cannot read anything into a statutory provision which is

plain and unambiguous. The language employed in a statute is determinative factor of legislative intent. If the language of the enactment is clear and unambiguous, it

would not be proper for the courts to add any words thereto and evolve some legislative intent, not found in the statute. (emphasis supplied)

26. From the above decisions, it is quite clear that if the language of the particular statute under consideration is clear and unambiguous, it is not for the

courts to add to or delete any words from the statute in the guise of ascertaining what could have been the legislative intent.

27. Section 143, on its plain language, prohibits any person, other than a railway servant or an authorised agent, to conduct the business of

procurement and supply of railway tickets. The provision does not specify the modalities of the procurement and supply. Hence, if we read the section

and give its contents the natural and ordinary meaning, keeping in mind the objective and purpose of the legislation, as discussed above, it admits of no

doubt that this provision criminalises unauthorised procurement and supply, irrespective of the mode of procurement and supply.

28. We are further of the considered opinion that the mere fact of the system of e-reservation and e-tickets being introduced after the enactment of

the Act does not render the provision in Section 143 toothless to combat the illegal sale of e-tickets. Section 143, importantly, makes no distinction

between physical and online sale of tickets. The mischief that the provision seeks to remedy is that there should not be illegal and unauthorised

procurement and sale of tickets, whatever be the mode – physical or online. The Kerala High Court seems to have missed this aspect.

29. There has been a major technological development in the last three decades by reason whereof a significant number of services provided by the

Governments are available online. Electronic and internet services have not only become indispensable but offer significant advantages to the public.

Having regard to the comprehensive phraseology employed in Section 143, the net of its coverage is wide enough to encompass regulation of the

conduct of ticketing agents and to protect the public from unscrupulous elements trying to defraud them by sale of valueless tickets.

30. The Kerala High Court made the distinction between “procure” and “purchase”. It held that the tickets were “purchased” by genuine

passengers. The tickets were not sold by Mathew, rather, the tickets were sold by IRCTC in the names of the passengers. Hence, it cannot be said

that Mathew was procuring the tickets. This reasoning, in our view, is flawed and unsustainable. Travel agents, by and large, do not purchase tickets

in their own name and then sell it to the passengers. Tickets are procured in the name of the passengers by these agents in lieu of a commission on the

price thereof. Taking active steps, however faithfully, in order to acquire and provide tickets to third parties but without being a railway servant or an

authorised agent would attract the expression “procure and supply”, as in Section 143.

31. We agree with the prosecution that Section 143, a penal provision, has been enacted to tackle a social crime. The Indian Railways is a keystone of

our country's infrastructure. It carries around 673 crore passengers annually and has a tremendous impact on the economy of this country. Any

effort to disrupt the integrity and stability of the ticketing system has to be stopped on its tracks.

32. The second issue before us is whether these criminal proceedings in the two appeals should be quashed. This Court has dealt with the issue of

quashing numerous times. Reference in this connection may be made to the decisions in R.P. Kapur v. State of Punjab 1960 SCC OnLine SC 21 ,

State of W.B. v. Swapan Kumar Guha (1982) 1 SCC 561 , State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335. , Pepsi Foods Ltd. v.

Special Judicial Magistrate (1998) 5 SCC 749 , and Amit Kapoor v. Ramesh Chander (2012) 9 SCC 460 .

33. The principles which can be extrapolated from these precedents are that quashing of a criminal proceeding can take place, inter alia, if the first

information report does not reveal a crime or if the fact situation be such that continuance of the criminal proceedings would result in abuse of the

process causing injustice to the accused. This power of quashing, however, is not unfettered or unlimited and as the old adage goes - "Judicial

discretion has to be exercised judiciously".

34. In the lead appeal, the facts of the case prima facie reveal the commission of an offence under Section 143 of the Act. Mathew, without the

authorisation of the railways, was carrying on a business of procurement and supply of railway tickets. The allegations against Mathew taken at face

value fulfil the elements required under Section 143(1)(a) of the Act; hence, the threshold for quashing has not been met in this case.

35. In the connected appeals, Ramesh was an authorised agent of the railways carrying on the business of procurement and supply of railway tickets.

Section 143 only deals with the actions of unauthorised persons and does not mandate a procedure to be followed by the authorised agents for

procuring or supplying tickets to its customers. The nature of allegations against Ramesh in the connected appeal, though serious, Section 143 would

not be attracted insofar as he is concerned.

36. That apart, Section 143 does not criminalise creating multiple user IDs. Penal provisions have to be read strictly and narrowly as a general rule.

Section 143, by being completely silent on creation of multiple user IDs, penalises the actions of only the unauthorised agents and not unauthorised

actions of the authorised agents. Thus, even if the facts disclosed in the first information report are taken at face value, commission of an offence

cannot be attributed to Ramesh. Any breach has to be remedied by civil action and not criminal action.

37. To sum up, Mathew not being an authorised agent has to face the proceedings against him while Ramesh, being an authorised agent, cannot be

proceeded against under Section 143 of the Act for alleged breach of any of the terms and conditions of the contract. If, at all, he would be liable to

face civil action.

38. In our view, for the foregoing reasons, the lead appeal deserves to be allowed and consequently, the criminal proceedings against Mathew need to

be restored. It is ordered accordingly.

39. The proceedings against Mathew shall be taken to its logical conclusion, in accordance with law. Observations made by us hereinabove are for the

purpose of a decision on the lead appeal and may not be construed as an expression of opinion on the merits of the prosecution's case.

40. The connected appeals are allowed as well, but the criminal proceedings against Ramesh are hereby quashed.