

(1926) 02 BOM CK 0041**Bombay High Court****Case No:** None

Emperor

APPELLANT

Vs

Kaikobad Sorabji

RESPONDENT

Date of Decision: Feb. 3, 1926**Acts Referred:**

- Railways Act, 1890 - Section 108

Citation: AIR 1926 Bom 288**Hon'ble Judges:** Marten, J; Madgavkar, J**Bench:** Full Bench**Judgement**

Marten, J.

This is an appeal by Government against the acquittal of the accused on a charge u/s 108 of the Railways Act of having without reasonable and sufficient cause pulled the "communication cord in a particular train. The question turns on whether there was sufficient evidence before the Magistrate to justify him in finding that there was reasonable and sufficient cause. It is admitted that the accused pulled the emergency chain, and that he did so, because he had left his coat behind on the platform. He further alleges that the coat contained valuables. For the purposes of this case we may assume that that was so.

2. Primarily, Section 108 is intended for the protection of the personal safety of passengers who are travelling by train. But this communication cord might result in endangering the safety of passengers either in the train in question or in some other train, if it became at all a habit for passengers to pull the emergency chain and thus bring a particular train to a standstill automatically, unless there was some serious reason for so doing. In other words the practical working of the railway might be endangered, or at any rate made difficult, if such a habit as this prevailed.

3. In our view, the mere fact that the accused left his coat on the platform was not a reasonable and sufficient cause within the meaning of Section 108, and accordingly

there was no evidence which in law enabled the Magistrate to hold that the accused came within the exception to that section. In our judgment, therefore, the accused should have been convicted. We accordingly allow the appeal and convict the accused under the section.

4. But, as regards the sentence, we recognize that it is human to err, and that it was not an unnatural act for a man to do on the spur of the moment. Further, there are no surrounding circumstances which necessitate the maximum fine. Accordingly we think justice will be met in this particular case by inflicting a fine of Re. 1 having regard to all the circumstances and bearing in mind that the case is in the nature of a test case, and that the accused has had to employ counsel in the Bombay High Court to defend him. That accordingly will be our order.

Madgavkar, J.

5. I agree.