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CrI.M.C.No.3290 of 2020

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE S.MANU

THURSDAY, THE 27TH DAY OF FEBRUARY 2025 / 8TH PHALGUNA, 1946

CRL.MC NO. 3290 OF 2020

Crime No.967/2019 of Railway Protection Force, Aluva on the files of the Chief Judicial Magistrate Court, Ernakulam

PETITIONER/ACCUSED:

AFEEFA KADIR
AGED 32 YEARS
W/O.MUHAMMED V. RAFI, RESIDING AT NAJTTUKALA
HOUSE, ASAMANOOR P. O., KUNATTHUNADU,
ERNAKULAM, PIN - 683 549.

BY ADVS.
SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SMT.G.SAVITHA
SRI.M.M.SHAJAHAN
SMT.BHOOMIKA SAJAN

RESPONDENTS/STATE & DE FACTO COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM DISTRICT,
PIN - 682 031.
- 2 ASSISTANT SUB INSPECTOR OF POLICE
RAILWAY PROTECTION FORCE, ALUVA,
ERNAKULAM DISTRICT, PIN - 683 101.

R2 BY ADV Mr.C.DINESH, CGC

OTHER PRESENT:

R1 BY SMT.MAYA M.N., PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
20.02.2025, THE COURT ON 27.02.2025 PASSED THE FOLLOWING:



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[CR]

S.MANU, J.

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Dated this the 27th day of February, 2025

ORDER

This Crl.M.C. is filed, seeking to quash proceedings in Crime No.967/2019 of Railway Protection Force (RPF) Post, Aluva. A significant question brought up in this case is regarding the applicability of the provisions of S.143 of the Railways Act in sale of e-tickets through online platforms.

2. On 24.09.2019, the Assistant Sub Inspector, RPF Crime Intelligence Branch, Thiruvananthapuram, obtained a search warrant and conducted search on 25.09.2019 at 'Fly Image Tours and Travels' Asamanoor.P.O., Odakali, Ernakulam. Petitioner, the owner of the establishment, was available at the shop. Search was conducted in the presence of two independent witnesses between 12.30 and 14.00 hours. During the search, a laptop of the petitioner was inspected and 5 numbers of valid reservation e-tickets having a total value of ₹5382.85 and 11



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numbers of date of journey expired reservation e-tickets of a total value of ₹13478.47 were recovered from it. Two numbers of copies of IRCTC personnel user profile ids, a laptop, a mobile phone and 3 numbers of visiting cards of the shop were recovered. As the petitioner had no authorisation from the Railway administration and IRCTC for selling tickets, seizure was effected and search list was properly prepared and attested by witnesses. The petitioner was interrogated and she allegedly admitted that e-tickets were booked and sold for monetary benefits. She was arrested and was brought to the RPF Post, Aluva at 17.00 hours. The arrested accused, seized articles and documents were handed over to the RPF Post. Petitioner was produced before the Chief Judicial Magistrate, Ernakulam and was released on bail.

3. On 21.7.2020 when the Crl.M.C. came up for admission, by order passed in Crl.M.A.No.1/2020, further proceedings were stayed for a period of two months. Interim order was extended from time to time and it remained in force



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till June, 2024. However, there was no proper notice to the 2nd respondent as evident from the proceedings. The learned Senior Central Government Counsel appearing for the 2nd respondent pointed out that notice was not served on the counsel representing the Railway and the 2nd respondent came to know about the pendency of the Crl.M.C. only when an intimation was received from the office of the Advocate General. Before receipt of the said intimation, investigation was completed and complaint was filed.

4. The petitioner applied for amending the Crl.M.C. to incorporate challenge against the complaint filed by the RPF. The application was allowed and the learned counsel for the petitioner and the learned Senior Central Government Counsel addressed arguments with reference to the complaint produced as Annexure-A3 also.

5. The learned counsel for the petitioner Sri.Shaji Chirayath submitted that the registration of the case and all further proceedings as against the petitioner are liable to be



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quashed since no offence under Section 143(1)(a) of the Railways Act will be attracted even if the entire factual averments in the complaint are accepted as correct. He submitted that the Railway has authorised the Indian Railway Catering and Tourism Corporation Ltd. (IRCTC) to provide facility of booking tickets through online mode. Any person registering as a user with the IRCTC is eligible to obtain e-tickets and to make reservations. It is not necessary that the user shall book tickets only for himself. Tickets can be booked for others also. He submitted that in case of violation of conditions of use by any user, the IRCTC can de-register the user. It was also submitted that use of a computer or use of a printer for printing tickets purchased by a traveler cannot be deemed as a sale effected by the owner of the computer or printer. He further contended that the provisions of Section 143 of the Railways Act would not apply to procurement of e-tickets through IRCTC. According to the learned counsel, booking e-tickets was not in contemplation when the provision was



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brought to force. He submitted that the provisions will apply only in case of purchase of tickets other than through IRCTC or other online facilities. He placed heavy reliance on the order of a learned Single Judge of this Court dated 22.9.2016 in Crl.M.C.No.1991/2016. In the said order the learned Single Judge accepted the plea for quashing prosecution proceedings for the offence under Section 143, accepting identical contentions. He further contended that in any case the offence under S.143 (1) (a) alleged against the petitioner will not be made out from the factual allegations.

6. The learned Senior Central Government Counsel Sri.C.Dinesh referred to the provisions of Section 143 of the Railways Act, 1989 and contended that if any person other than a railway servant or authorised agent procures or purchases tickets and supplies or sells the same as a business the offence under Section 143 of the Act would be attracted. The learned SCGC invited attention of the Court to the contents of Annexure-A3 complaint. He pointed out that details of the e-



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tickets recovered from the laptop seized from the petitioner are stated in the complaint. The same are extracted hereunder: -

05 Nos. of valid Railway reserved e-tickets valued Rs.5382.85/-

PNR	Train No.	Date of Journey	Class	From	To	Fare
643-3246262	18189	04.10.19	SL	Rourekala	Aluva	735.49
460-9135881	13352	11.10.19	SL	Aluva	Rourekala	735.49
446-2614574	12977	17.11.19	SL	Aluva	Ajmer	885.49
240-0109738	12978	22.11.19	SL	Ajmer	Aluva	885.49
446-3142293	22641	30.11.19	3A	Aluva	Shalimar	2140.89

11 Nos. of Railway reserved date expired e-tickets valued Rs.13478.47

PNR	Train No.	Date of Journey	Class	From	To	Fare
450-9352458	22608	23.9.19	3A	Banaswadi	Ernakulam	3695.84
436-3660745	12217	23.9.19	SL	Ernakulam	Basai Road	650.00
481-7064624	12258	20.9.19	3A	Ernakulam	Yaswanthpur	2591.20
450-9952010	16315	18.9.19	SL	Krishnaraja puram	Aluva	408.68
446-1457124	12512	17.9.19	SL	Aluva	Gorakhpur	1830.98
481-6865688	82637	10.9.19	SL	Katpadi	Aluva	1661.96
416-3174589	16188	23.9.19	SL	Aluva	Trichy	255.00
450-9151013	22641	05.9.19	SL	Aluva	Katpadi	1381.96
471-6990747	12617	05.9.19	SL	Aluva	Kunthapura	573.68
450-9301306	12617	05.9.19	SL	Aluva	Kunthapura	238.19
471-6455279	16305	25.8.19	2S	Aluva	Badagara	190.98



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The learned SCGC pointed out that the tickets were booked using two profiles registered with the IRCTC and the dates of journey, train numbers, stations of origin and destination, etc. clearly show that the tickets were booked for various persons. He also pointed out that on some dates tickets in different trains to different destinations were also booked. He also referred to the statements of independent witnesses who spoke about booking tickets from the petitioner's establishment and payment of charges to the petitioner over and above the ticket fare. He referred to the terms and conditions published by the IRCTC on its website. The learned SCGC referred to clause 8 of the terms and conditions which deals with the general conditions. Clause 8.2 provides that a person registering himself on the IRCTC site is deemed to have agreed to the terms and conditions. Clause 8.6 specifies that the website is for personal use and not for commercial use. Under clause 9 which deals with ticket booking it is clearly mentioned that all rules and regulations applicable for reservation of seats/berths and charging of fare for rail



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reservation on Indian Railways PRS will also apply to reservation through the internet. Clause 16 deals with the obligations of registered users. Under the general obligations it is reiterated that the website is for non-commercial use. Under the heading use of online reservation service and mobile reservation service, it is clearly mentioned that the user may not use this service to book tickets for the purpose of commercial resale and profit. The learned SCGC also pointed out that in the electronic tickets also it is clearly stated that ticket is booked on a personal user id and its sale/purchase is an offence under Section 143 of the Railways Act. He hence argued that the petitioner who by misusing two different user profiles booked tickets and provided it by charging amounts in addition to ticket fare as revealed by witnesses indulged in the business of unauthorised sale of railway tickets and thus committed the offence under Section 143 of the Railways Act. He hence contended that the petitioner is liable to be prosecuted and the complaint is not liable to be quashed. Section 143 of the Railways Act reads thus:-



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"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 for 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 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 the 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."

7. Admittedly, the petitioner is neither a railway servant nor an agent authorised to procure and supply railway tickets. The materials on record show that the petitioner booked several



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railway tickets using two user profiles registered with the IRCTC. Witnesses have given statements to the Railway police that they had obtained tickets from the petitioner by paying amounts to her in addition to the ticket fare. Therefore, prima facie it appears that the petitioner used to book tickets using the profiles registered with the IRCTC and sell it to others for amounts higher than the actual ticket fare. It shows that she earned profit by indulging in sale/supply of tickets to others.

8. Heavy reliance was placed by the learned counsel for the petitioner on the order passed by a learned Single Judge on Crl.M.C.No.1991/2016. However, it is noticed that the said order was set aside by the Hon'ble Supreme Court recently, by judgment in Crl.Appeal No.4169/2024. In **Inspector, Railway Protection Force, Kottayam v. Mathew.K.Chериан and another** [(2025) SCC OnLine SC 51] the provisions of Section 143 of the Railways Act were analysed by the Hon'ble Supreme Court and the above said order of this court was reversed. The Apex Court has held that sale of e-tickets through IRCTC would



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also be covered by the provisions of Section 143. It is apposite to refer to the following observations of the Hon'ble Supreme Court in this regard:-

"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.



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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."



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9. In the light of the judgment of the Hon'ble Supreme Court in **Inspector, RPF, Kottayam v. Mathew.K.Chериан and another** the submission of the learned counsel for the petitioner that the sale of tickets through IRCTC will not fall within the scope of Section 143(1)(a) of the Railways Act is only to be rejected. Scope of the penal provision has been explained by the Hon'ble Apex Court as referred above and in the light of the same none of the contentions raised in this Crl MC can be accepted. Section 143 of the Railways Act would cover sale/purchase of ticket through online modes also.

10. Impact of the terms and conditions of online ticket sale by IRCTC are also to be noted. According to clause 8.2, a person is presumed to have accepted the terms and conditions when they register on the IRCTC website. The website is intended for personal use only and is not for commercial purpose, as stated in clause 8.6. It is explicitly stated in section 9, which deals with ticket booking, that all rules and regulations that apply to the reservation of seats or berths and the charging



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of fares for rail reservations on Indian Railways PRS shall also apply to reservations made online. Clause 16 addresses registered users' responsibilities. It is reaffirmed that the website is intended for non-commercial usage under the general requirements. It is explicitly stated that the user is not permitted to utilize the online and mobile reservation services under the usage headings. The petitioner is alleged to have reserved tickets using profiles registered with the IRCTC and supplied it to various persons after receiving commission/service charges. Commercial use of online services provided through the website of IRCTC is clearly in violation of the terms and conditions published by the IRCTC. The petitioner, alleged to have booked tickets through the website and supplied the tickets to others for profit, has prima facie acted in violation of the specific terms and conditions of the IRCTC. Misuse of the online ticketing platform for profits is detrimental to the interests of genuine users relying on it for booking tickets. Such unscrupulous acts requires to be curbed. Hon'ble Apex Court



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has highlighted the necessity to protect the integrity and stability of ticketing system of Railways in **Inspector, RPF, Kottayam v. Mathew.K.Chериан and another.**

11. Materials produced by the RPF along with the complaint makes out a prima facie case for proceeding against the petitioner. Hence the inherent powers of this Court cannot be exercised to terminate the prosecution. The petitioner shall face the trial.

Crl.M.C. is hence dismissed. However, it is made clear that the observations in this order are only for the purpose of deciding this case and shall not be treated as reflections on the merits of the case which are to be independently analysed by the trial court on the basis of evidence.

Sd/-
S.MANU
JUDGE

skj



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APPENDIX OF CRL.MC 3290/2020

PETITIONER'S ANNEXURES

ANNEXURE A1	CERTIFIED COPY OF THE OCCURRENCE REPORT IN CRIME NO.967 OF 2019 ON THE FILES OF CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.
ANNEXURE A2	COPY OF THE ORDER IN CRIMINAL MISCELLANEOUS CASE NO.1991 OF 2016 ON THE FILES OF THIS COURT.
Annexure A3	CERTIFIED COPY OF THE COMPLAINT DATED 14TH SEPTEMBER 2020 REGISTERED AS CALENDAR CASE NO.131 OF 2024 ON THE FILES CHIEF JUDICIAL MAGISTRATE