

## REVISIONAL CRIMINAL.

Before *Jwala Prasad, J.*

ISWAR DAS VARSHNI

v.

KING-EMPEROR \*

1921  
Dec., 14.

*Railways Act (IX of 1890), sections 63, 93, 108 and 102—over-crowding in railway compartment—negligence of company—passenger entitled to pull communication chain.*

No hard and fast rule can be laid down as to what constitutes sufficient cause within the meaning of section 108 of the Railways Act, 1890, to justify a passenger in causing a stoppage of a train by pulling the chain communicating with the railway officials.

The effect of sections 63, 93, and 109 of the Act is to confer a right upon the occupants of a compartment in a train to resist the entry of passengers in excess of the number for which the compartment is intended, and, in order to enforce the right, a passenger is entitled to invoke the aid of the railway officers at any station or of the officer in charge of the train when it is in motion or in a station.

Therefore, where a passenger in an intermediate class compartment intended for 27 passengers, pulled the communication chain and complained that the compartment was overcrowded on account of 70 passengers having entered it, held, that he was not liable to be fined under section 108.

In allowing passengers to enter a compartment in excess of the number for which it is intended the railway company is guilty of negligence.

[See *Metropolitan Railway Co. v. Jackson* (1) Ed.]

The facts of the case material to this report are stated in the judgment of the Court.

*M. Yunus* (with him *S. C. Mazumdar*), for the petitioner.

**JWALA PRASAD, J.**—The petitioner has been convicted under section 108 of the Railway Act (Act IX of 1890) for having pulled the chain of his compartment which caused the train to stop.

\* Criminal Revision No. 553 of 1921.

(1) (1877) 3 Ap. Cas. 193.

The chain was intended to be used as an alarm signal. The reason for pulling the chain is said by the accused to be that the compartment had become overcrowded on account of 70 passengers having entered into it, whereas the compartment was marked for 27 passengers only. He states that the compartment in question was an Inter Class Compartment, whereas most of the passengers had only 3rd class tickets. He further states that at Dhanbad when his compartment became overcrowded he complained to the railway employees but received no attention, and then when the train started he felt a suffocating sensation and consequently he pulled the chain in order to stop the train. These facts are not disputed; but it is said that they do not exonerate the accused. The Magistrate evidently thought that there should have been a more serious case in order to entitle the accused to pull down the chain, such as that stated by the guard, namely, murder or fire. Section 108 of Railway Act runs as follows:—

“If a passenger without reasonable and sufficient cause makes use of or interferes with any means provided by a railway administration for communication between passengers and railway servants in charge of a train, he shall be punished with a fine which may extend to Rs. 50.”

It is evident that no hard and fast rule can be laid down as to what must constitute reasonable and sufficient cause and that it must depend upon the circumstances of each case whether there was such a cause as to justify a passenger interfering with the pulling of the chain. No doubt the case of murder and fire stated by the guard is an extreme case. In order to prevent any danger to the health and life of passengers the Act provides in section 63 that the limit of passengers to occupy a compartment must be fixed and must be exhibited in some conspicuous place inside or outside the compartment, and the Railway Company is enjoined to comply with the provisions of section 63 on pain of a fine of Rs. 20 per day under section 93 of the Act. A corresponding obligation has been cast, under section 109 of the Act, upon passengers to obviate entering a compartment which already contains the maximum number

1921  
 Ishwar Das  
 Varshni  
 vs.  
 King-  
 Emperor.  
 Jwala  
 Prasad, J.

1921  
Ishwar Das  
Varshni  
vs.  
King-  
Emperor.  
Jwala  
Prasad, J.

of passengers exhibited therein or thereon. These provisions of the Act therefore confer a right upon the occupants of a compartment to resist the entry of passengers, and in the present case the compartment had already contained the maximum number allowed under the aforesaid rules. In order to enforce this right every passenger is entitled to invoke the aid of the railway officers in any station, or of the officer in charge of the train when it is in motion or is not in any station. In the present case the petitioner's requests to the persons in charge of the Dhanbad station proved abortive and therefore he had no alternative but to draw the attention of the guard when the train moved and when he found that he was packed to suffocation. He was therefore justified in pulling the chain and in stopping the train for enforcing his right to have the compartment vacated so as to bring down the number of passengers therein within the maximum limit prescribed. Therefore in the circumstances of the present case the petitioner did not act without reasonable and sufficient cause. Section 108 consequently does not apply.

The conviction of the petitioner is illegal and is set aside. The fine if already realized should be refunded.

The railway people were guilty of negligence in not carrying out the provisions of the Act which are meant entirely for the safety and comfort of passengers, and instead of thanking the petitioner for having drawn their attention to it they prosecuted him and thus transferred their own liability to the shoulders of the petitioner.

*Conviction set aside.*