

**IN THE COURT OF IRFAN AHMAD SAEED
PRESIDING OFFICER DISTRICT CONSUMER
COURT, GUJRANWALA
Case No.228/16**

Date of institution : 19-10-16.

Date of Decision : 19-04-17.

Ayesha Ejaz D/O Ejaz Ahmad Shakar Caste Arian R/O Street No. 1 Mohallah Raam Basti Tehsil Road Gujranwala.

(complainant)

Vs.

Al-Madni Zari House, Arinaan Wali near Jamia Masjid Madni Market Gujranwala through Proprietor M. Akmal.

(respondent)

COMPLAINT UNDER SECTION 25 OF THE PUNJAB CONSUMER PROTECTION ACT, 2005.

ORDER:

1. This order shall decide the fate of instant complaint filed against the respondent by the complainant on 19.10.2016.

2. Precisely the facts emanating out of the case are that on 12.05.2016 complainant along with her mother went to the respondent's shop and placed an order to prepare maxi dress as per her given design. The price of the dress was settled at Rs. 22, 500/- and the same was to be returned to the complainant on 12.07.2016 by the respondent. Advance payment of Rs. 8, 000/- was made by the complainant to the respondent. On 12.07.2016 complainant went to the respondent's shop but she was told that said maxi dress was not yet prepared but will be ready after few days. On 27.08.2016 complainant along with her mother again went to the respondent's shop but they were surprised that the said maxi dress was not prepared as per their given design. The respondent was asked to do the needful as per agreed design but he refused to do so. He was asked to return the advance payment but he refused point blank to return the same rather he misbehaved with the ladies. A legal notice was served to the respondent on 29.09.2016 but of no avail. It is prayed in the complaint that advance payment of Rs. 8, 000/- may be returned, also prayed for payment of Rs. 1, 00, 000/- as damages for suffering physical and mental agony by the complainant at the hands of the respondent.

Attested

Ch. Muhammad Farooq
Registrar
District Consumer Court
Gujranwala

3. Pre-admission notice was issued to the respondent on the date of filing of instant complaint for 01.11.2016. Upon the non-appearance of the respondent despite service through his son Farooq, learned predecessor of this court initiated ex parte proceedings against the respondent on 01.11.2016. Ex-parte statement of complainant was recorded on 14.12.2016 whereas her mother appeared in the witness box on 02.01.2017 and placed their respective sworn affidavits.

4. Arguments heard. Record perused.

5. Perusal of record reveals that the respondent despite service through his son Farooq did not bother to appear before this court either himself or through any of his representative, this court was left with no option but to decide the matter on the basis of material available on record. Complainant PW1 and her mother PW2 supported the contents of the complaint. It was argued that requisite service was not provided by the respondent and he is liable to pay damages as prayed. Section 15 of Punjab Consumer Protection Act, 2005 directly relates to the subject and is applicable regarding the claim of the complainant. Interestingly complainant neither in complaint nor in her statement prayed for payment of any professional fee of her counsel. Both the complaint and the statement of witness are silent at this point.

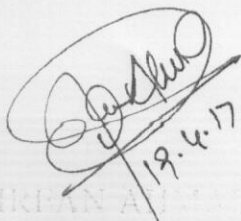
6. Since there is no rebuttal from the respondent side, the conduct of the respondent is evident from the order sheet of instant complaint that he did not care to appear before this court to face trial despite service through his son, it clearly reflects that he is not bothering about the instant proceedings being conducted by a court of law.

7. As a sequel above and keeping in view the oral as well as material available on file, the complaint in hand is, therefore, accepted as this court is satisfied at this juncture that the respondent M. Akmal Proprietor Al-Madni Zari House is at fault by providing defective service to the complainant, and not preparing maxi dress according to the agreed design, which is fully covered under section 31 of Punjab Consumer Protection Act, 2005.

8. Under the existing circumstances, this court is fully convinced to pass an order mandated under section 31 and 32 of Punjab Consumer Protection Act, 2005.

9. The respondent M. Akmal Proprietor Al-Madni Zari House is, therefore directed to return the advance amount Rs. 8, 000/- as required under section 31 (c) of Punjab Consumer Protection Act, 2005 to the complainant and to pay Rs. 8, 000/- as compensation under section 31 (e) of the Act ibid within one month from to date. In

Attested
Ch. Muhammad Farooq
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Gujranwala


19.4.17

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Gujranwala

case of failure in compliance of this order the said respondent M. Akmal Proprietor Al-Madni Zari House shall be punished, under section 32 of Punjab Consumer Protection Ac, 2005, with imprisonment for two months and shall also pay Rs. 5,000/- as fine and if fine is not paid, the same shall be recovered from arrears of land revenue.

10. At this juncture it is important to reproduce section 36 of Punjab Consumer Protection Act, 2005 to mobilize the government machinery as under: -

Section 36: Aid to the Consumer Court.-

All agencies of the Government shall act in aid of the Consumer Court in the performance of its functions under this Act.

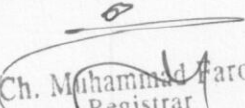
11. Copy of this order be sent to City Police Officer Gujranwala, SHO Police Station Kotwali Gujranwala, Superintendent District Jail Gujranwala and District Collector Revenue Gujranwala to proceed strictly in accordance with law in compliance of order of this court in its letter and spirit in putting the respondent M. Akmal Proprietor Al-madni Zari House behind the bars and recovery of fine accordingly, if not paid.

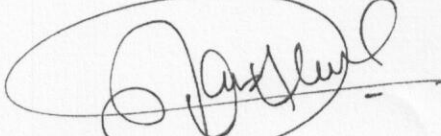
12. Copies of the order be supplied to the parties free of cost.

13. File be consigned to the record room after its due completion.

Announced:

19-04-17

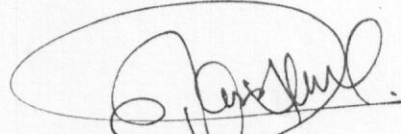
Attested

Ch. Muhammad Farooq
Registrar
District Consumer Court
Gujranwala


(IRFAN AHMAD SAEED)
District & Sessions Judge/
Presiding Officer
District Consumer Court,
Gujranwala.

Certified that this order is consisting of three pages, dictated, corrected and signed by me.

Announced:

19-04-17


(IRFAN AHMAD SAEED)
District & Sessions Judge/
Presiding Officer
District Consumer Court,
Gujranwala.