

**IN THE COURT OF MR. MALIK PEER MUHAMMAD,  
DISTRICT & SESSIONS JUDGE /PRESIDING OFFICER, DISTRICT  
CONSUMER COURT, SIALKOT/NAROWAL.**

*Case No. 77 /2008*

Date of Institution: 26-08-2008.

Date of Decision: 14-01-2010.

*Mian M.Azeem S/O Abdulghani R/O Nawa Paind, Tehsil  
& District Sialkot.*

*(Consumer/subscriber/Complainant)*

**Versus**

- 1. Franchise Manager Mobilink Telecom  
Communication Khadam Ali Road Sialkot,*
- 2. Sales Executive Franchise Mobilink Tele  
Communication,*
- 3. Zonal Retail Manager Mobilink Telecom  
Communication Sialkot Cantt,*
- 4. Proprietor Rachana Mobile Dealer Mobilnk Telecom  
Communication Kolowal Road Ghoad Pur Sialkot.*

*(Service Provider/Respondent)*

**ORDER.**

According to the facts embarked into the instant complaint, complainant purchased a prepaid number connection from respondent No.4 on 10-05-2005. This prepaid number connection was purchased through ID sale number 7097 for consideration Rs.700/-. Complainant/respondent after fulfilling the required requisites got allotted phone No.0300-6178932. After acquiring this prepaid number connection his number was (Contd....2)

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activated and thereafter he utilized it under his exclusive use without any interruption. It is further averred in the complaint that during the use of this connection, SIM became inactive. Complainant darted

to the office of the respondent No.1 and he replied that complainant SIM is still not registered on his name, hence it could not be activated nor a new SIM can be issued. Respondent No.1 instructed to the complainant for to resort the respondent No.4 for to re-dress his grievance. There after respondent No.2 verified sale ID and activated the said SIM and later on 11-08-2008, complainant in presence of his friends made SMS on authorized inquiry No.111 and got the information that the disputed SIM is registered on the name of some one "Khurram". After this message at 111 he received mental torture. Respondent is a re-ennounced institution which has defective service including carelessness etc. He received threats from the respondent side for dire consequence. By the act of the respondent complainant received mental torture and financial loss to his reputation. On 15-08-2008 he issued legal notice to the respondent for to sustain mental torture and financial loss. He entitled for the payment of Rs.500,000/- therefore, **(Contd....3)**

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a decree for the tune of Rs.500,000/- and compensation for imbursement of the complaint in the shape of Rs.20,000/- for the fee of advocates be awarded in his favour against the respondent.

Notices were issued to the respondent, Riaz Yazdani put up his appearance on behalf of respondent No.3 and Tahir on behalf of respondent No.4 Mr. Rizwan Aslam submitted his power of attorney on behalf of respondent Nos.1, 2 and 3. After completion of attendance of respondents, respondents submitted their joint written

reply. A number of preliminary objection are introduced in this reply, including complainant has not got cause of action, complainant concealed facts and did not enter into the court with clean hands. Complaint is bad for misjoinder and non joinder of the parties, complaint is baseless etc. On the factual side it is objected that complainant bought a duplicate Sim from the franchise Mobilink on 10-05-2005 and the same was enter into the Mobilink system on petitioner name on 09-06-2005. The SIM purchased by the complainant always existed on the name of the complainant since from the date of its purchase. Complaint is false and required to be dismissed. (Contd....4)

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After filing the written reply both the parties were called to produce their respective evidence. Complainant produced Muhammad Azeem as AW1, he tendered affidavits Ex-AW1/A on the documentary side he produced the SIM purchased Form as Ex-AW1/B. This court summoned Tahir Sohail as CW1. He submitted his affidavits as Ex-CW1/A. Riaz Yazdani Regional Postpaid Manager, as CW2 and closed his oral and documentary evidence. On the other hand Umer Yasin, Franchised Manager appeared as RW1 and tendered his affidavits as Ex-RW1/A and closed his oral and documentary evidence. Both the parties produced a single witness in their favour. No other AWs or RWs is produced as for to corroborate statement of sole witness.

Arguments heard.

Record perused.

The first question before the court is that if the complainant is a consumer and falls under the definition as contemplated Punjab Consumer Protection Act, 2005. Through the voice of purchased receipt, it is intimated to the court that complainant purchased the disputed SIM from the Mobilink Franchised Center Goad pur. All the respondents including respondent No.4 did not objected on this core issue that complainant is (Contd....5)

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not a consumer. In the above said circumstance it can be held that complainant was a regular consumer under respondent hence, this issue is decided in favour of complainant.

The next important question before the court is that if the disputed SIM after it's purchased, remained under exclusive use of the complainant and the second question that if it was registered on the name of some one "Khurram", to reply this question I resorted to the statement of the parties which existed on the file. Complainant Muhammad Azeem while entering into the witness box and facing the touch stone of the cross-examination, deposed in his statement that he purchased the disputed SIM from Rachna Mobile Center, Gohad-Pur, Sialkot. On the same day he completed all the documents as required by the company. In his cross examination, he further deposed when he purchased the said SIM, it was wrapped into the jacket, and according to the said Rachna dealer it was not under the use of any other person. This is one of the admission of the complainant which he embarked in his cross examination. He again admitted in his cross examination that previously his SIM was never

blocked due to the non ownership. He further admitted, when he approached to

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the respondent after misplacing his purchased SIM, Mobilink Company never objected that new SIM may not be issued upon his name as he alleged that SIM is registered on the name of other person. He further admitted, that during the use of this SIM, he never received any difficulty regarding blockage for the reason that SIM is registered on the name of other person. At the last bit of his cross examination he frankly admitted that new SIM was again allotted on his name and thereafter he never received any interruption or problem by the hand of the Mobilink Company or during his use. There are the own admissions of the complainant, which he admitted through the suggestions of the learned counsel for the respondent. So far the argument that he received the message from the company that disputed SIM was allotted on other person. In this regard no documentary evidence is produced before the court as for to ascertain if after the issuance of the SIM or prior to the issuance of the SIM the Mobilink number allotted to the complainant was ever on the name of the "Khurram" . Law always intends and relies upon the document any evidence rather to the oral statement. The next arguments before

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the court, that if statement of CW2 Riaz Yazdani Regional Manager of Mobilink Company favours to the stance of the complainant. In his examination chief he deposed that when on the first date of hearing he entered in the court premises he find that complainant and respondent were debating on some one burning issue. Through this debate he learnt that disputed SIM is not on the name of the complainant. He deposed that he immediately got the information from head office upon which he acknowledged from the company since from the 2005 the said SIM is on the name of the complainant. Apart from the statement of CW1 Umair Yasin Manager Franchised Mobilink appeared as RW1 deposed in his statement that disputed SIM was continues active on the name of complainant and during his use there was no interruption on the side of the company. He strongly and strictly negated the statement of the complainant. In the light of above said discussion and after evaluation of the statements of the both parties, this court comes at the conclusion that service of the respondent never remained defective. During the use of the SIM, complainant never received any obstruction nor felt any difficulty during his use. It is the own case of the complainant his SIM was lost and he applied for

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the new SIM, he succeeds immediately to get new without any objection. The service of the respondent never remained defective, consumer and complainant never felt any difficulty during his use of the SIM. No compensation can be awarded, hence this complaint be dismissed. There is no order as to cost. File be consigned to the record room after its compilation.

Announced:  
14-01-2010.

*Presiding Officer,*  
District Consumer Court  
Sialkot/Narowal.