

IN THE COURT OF DISTRICT & SESSIONS JUDGE/PRESIDING
OFFICER, DISTRICT CONSUMER COURT, SIALKOT /
NAROWAL.

Case No. 38 /2008

Date of Institution: 22-04-2008.

Date of Decision: 02-06-2008.

*Muhammad Shahbaz S/o Sultan Ahmad Gujjar by caste R/O
Bharoke P/O Gunna Kallan, The & Distt. Sialkot.*

(Consumer-Complainant)

Versus.

*M/S Jonny Electronics, Shop No. 104, Imperial Market,
Rawalpindi through proprietors M. Javid and Junaid Javid.*

(Respondents)

ORDER:

The briefly stated facts of the case, as emerged out of the complaint, launched at the instance of consumer-complainant - Muhammad Shahbaz are, that on 03-03-2008, he visited Imperial Market, Rawalpindi, situated opposite to Raja Bazar (Barra Market) and purchased an I-Pod, 1.GB (Ex- A.1) for sum of Rs. 2200/- (Rupees Twenty Two Hundreds only) for his amusement from respondent, M/S Jonny Electronics, through cash-memo (Ex-A.1/A). The disputed device (Ex-A.1) proved inoperative after its use for about 2-3 hours, whereafter the consumer-complainant contacted different local electronic shops at his residential area, Sialkot for its reparation, wherefrom consumer-complainant came to know that it was a defective, low quality and sub standardized device which could not be repaired at any cost. (Contt.....2)

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As per pleadings, the consumer-complainant telephonically complained to the respondent who promised either to replace the device or to return its actual price thereof. The consumer-complainant again visited respondents shop on 02-04-2008 for either replacement of the device or return its price but respondent

by that time refused to abide by his telephonic commitment while explaining that the device was China made, having no warranty at all, as a result of which consumer was shocked. He further maintained that neither the cash memo (Ex-A.1/A) contained such information so as to reach a customer to the decision either to purchase or to refuse nor any such terms and conditions was ever displayed in the shop. He also alleged that he was deprived of huge amount and was mentally tortured by the conduct displayed by the respondent and was entitled to recover compensation in sum of Rs. 10,000/- besides actual price of the disputed device, in sum of Rs. 22,00/- and journey expenses in sum of Rs. 2,000/- alongwith legal expenses 4,500/- incurred by him, hence, this complaint.

It is also alleged that as per prevailing law the consumer-complainant had also served a legal notice (Ex-A1/B) through postal service vide postal receipts (Ex-A1/C).

2. The respondent-M/S Jonny Electronics did not opt to appear in the Court despite their personal service through learned Senior Civil Judge and DPO, Rawalpindi as reflected from the face of the record, even, they were personally served as per report of the Registrar of this Court, who repeatedly informed them about the proceedings with the date. All this shows that respondent was least interested in the prosecution of the defence, resultantly, ex-parte

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proceedings were initiated against respondent.

3. The ex-parte evidence comprising of the statement of consumer-complainant was recorded, who fully supported his claim. In support of his claim the consumer also placed original cash-memo(Ex-A.1/A),original legal undelivered notice alongwith envelop (Ex-A.1/B) and postal receipt (Ex-A.1/C).

4. Arguments heard.

5. Having heard the consumer-complainant side and examined the record, it is transparent from the face of the record that admittedly consumer-complainant had purchased I-Pod (Ex-A.1) from the respondent through cash memo (Ex- A.1/A) for sum of Rs. 22,00/- which proved ineffective after its use within shortest period as mentioned above but despite personal service of the

respondent, the version of the consumer-complainant was neither resisted nor rebutted which, thus, stands proved and established against the respondent, in the absence of any rebuttal, in favour of the consumer.

6. As per claim of the consumer-complainant as well as cash memo (Ex-A.1/A) the actual price of the device (Ex-A.1) is Rs. 22,00/- which is returnable by the respondent to the consumer and, thus, respondent is directed to reimburse the same after the delivery of device (Ex-A.1) to him or to replace the same with warranted and upto the mark qualitative device. Needless to say that consumer had visited respondent shop twice and had suffered physical, mental and journey torture who according to the norms of justice is entitled to recover compensation in sum of Rs. 12,000/-, as claimed by the consumer, which in any case is

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proved and established in the absence of any rebuttal from the other side. The legal expenses incurred by the consumer is also fixed as Rs. 4,500/- and thus respondent is directed to pay total sum of Rs.18,700/-(Rupees Eighteen Thousand and Seven Hundreds) to the consumer-complainant within One Month positively.

7. Although, apparently the claim of consumer appears to be time barred but it is clearly pleaded and deposed by consumer-complainant that after knowing, that device had proved ineffective and inoperative, the consumer had contacted the respondent through telephone who promised either to replace the disputed device (Ex-A.1) or to return the actual price thereof but on 2nd day of April 2008, the respondent had refused to abide by the commitment while explaining that disputed device was China made and without warranty. Of course there is nothing in rebuttal from respondent side which inspired the Court to draw the legal inference that version of consumer-complainant in this respect is absolute correct and justified and, thus, complaint is held to be within time.

8. As transparent from the face of the record that no objection is submitted by the respondent side but this Court being Court of law is bound to look into the legality and genuineness of the claim

viz-a-viz rising of cause of action or jurisdiction of this Court. No doubt the disputed device is purchased from the area of Rawalpindi but as revealed from the averments of complaint and deposition of consumer-complainant (Aw1), the disputed device became ineffective within the area of Sialkot and thus, cause of action in favour of consumer- complainant arose (Cont.....5)

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within the jurisdiction of this Court, hence, this Court is competent to exercise its jurisdiction in this matter.

9. Further scrutiny of the record as well as deposition of the consumer-complainant, reflect that cash memo (Ex- A.1/A) does not show the mention or disclosure of the device (Ex-A.1) being without warranty and other terms of return of its value/ price or replacement thereof by the respondent, which, of course, is clear cut contravention and violation of the provisions of Sec. 11&16 of PCP Act, 2005. It is further worth to mention here that as per unrebutted deposition of the consumer-complainant, the respondents had never displayed the terms and conditions of the purchase of electronic materials like device (Ex-A.1) etc any where in the shop in order to decide the consumer to enter into the transaction of purchase. The nutshell of the whole discussion of this aspect hints gross violation and contravention of the provisions of law and thus, this Court has no other option but to impose fine in sum of Rs. 10,000/- (Rupees Ten Thousands) against the respondent, who are directed to deposit the same in the State Exchequer, Within Twenty Days Positively.

10. Before parting with the order, this Court is constrained to express that after the promulgation of public welfare Act in the name of Consumer Protection Act, 2005 every trader, businessman, manufacturer, shopkeeper and service provider is bound to disclose every fault, defect or low quality, low grade, composition, style as well as model of the product/service, purchased/hired by the consumer for its use, at the time of transaction. (Cont.....6)

11. The wisdom behind the legislation and promulgation of “The Punjab Consumer Protection Act, 2005” as well as provisions of this Act embed in the mind of this Court is that no body is permitted to sell any low standard, low graded, defective, faulty and without warranty products to the consumers nor is allowed to hide or conceal above mentioned standards to mislead the consumer but it is not unusual that all businessman, traders, manufacturers and service providers, with some exceptions, are busy to deprive the consumers from huge money with the aim to amass money, while selling substandard and low quality articles in the market.

12. Undoubtedly, the consumers rights are grossly violated and infringed by businessmen etc but no functionary is taking keen interest and strong as well as drastic steps are initiated with the object to protect the rights of the consumers, accordingly, while viewing gross violation and contravention, at the end of businessmen, traders etc and the prevailing circumstances of this claim, this Court has no other option but to direct the Authority (DCO), Rawalpindi to remove all such low standard, low quality and below graded products from the respondent’s-shop M/S Jonny Electronics as well as trade market of Rawalpindi, particularly Imperial Market, under intimation to this Court, **within one Month** from the receipt of this order, in order to save the consumers rights, with the further direction to destroy the defective products after their removal and confiscation. He is further directed to remove all other unwarranted electronic articles from entire market, as per dictates of PCP, Act 2005, while
(Cont.....7)

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using heavy hand. A copy of this order be sent to the Authority (DCO), Rawalpindi, forthwith for positive compliance. File be consigned to the record room after its due compilation.

Announced:
02-06-2008.

Presiding Officer,

District Consumer Court
Sialkot/Narowal.

CERTIFICATE

Certified that this order contains seven pages and each of pages is dictated, corrected and signed by me.

Announced:
02-06-2008.

Presiding Officer,
District Consumer Court
Sialkot/Narowal.