

**In the Court of Mr. Muhammad Aslam
District & Sessions Judge/ Presiding Officer
District Consumer Court Bahawalnagar**

Complaint No	04/19
Date of institution	09-01-19
Date of decision.	24-04-19

**Muhammad Subhan S/o Ali Sher Caste Bhatthi Labana Donga Bonga,
Tehsil and District Bahawalnagar.**

V/S

**Naveed Ghouri proprietor Naveed Ghouri Super Store High Way Road
Tehsil and District Bahawalnagar. .**

**Complaint u/s 25 of PCPA 2005 for
loss and damages.**

Order.

The complainant has filed the present complaint against the defendant with brief contentions that on 14-10-2018 at 3:15 pm in the presence of Muhammad Pervaiz and Zaheer Ahmad, he made transaction of Rs. 3000/- in the account of Syed Makhdoom Kaleem Ullah Hashmi Advocate Bahawalpur through Easy Pasia for which defendant gave him secrete code to convey Makhdoom Kaleem Ullah Hashmi Advocate but when he reached to collect the amount, it transpired that amount has been withdrawn by some one else at the another shop of defendant at Khata District Bahawalnagar. It is stated that complainant protested before the defendant that having been the knowledge of the secrete code, amount is withdrawn by him, where he acknowledged his mistake and promised to return the amount but there after making lame excuse, ultimately flatly refused to return the amount of Rs. 3000/- in the presence of the witnesses. Being aggrieved after serving the legal notice he filed the present complaint.

2 Perusal of record reveals that this court issued notice upon the defendant through postal service, receipt of the same is available on the record but service of the defendant could not be procured and ultimately proclamation for service of defendant was given in Daily Nawa-e-Waqat but no one did appear on behalf of the defendant and ultimately defendant was proceeded against ex-parte on 14-02-19.

3 The Complainant in his ex-parte evidence got exhibited his affidavit Ex-P/1, affidavit to the extent that messages regarding easy paisa transaction is not available now due to loss of mobile set

-2-

Ex-P/2, copy of legal notice Mark P/A its postal receipt Ex-P/3 and also produced PW-2 who tendered his affidavit Ex-P/4.

4 Arguments heard: record perused.

5 Complainant submitted affidavit Ex-P/1 to corroborate the contents of this complaint and also produced PW-2 in support of his claim. Cause of action arose to the complainant on 20-12-2018 after refusal of the defendant and he filed the instant complaint on 09.01-19 within the period of one month. Record further reveals despite service of notices and even proclamation given in Newspaper defendant did not bother to appear before this Court. The conduct demonstrated by the defendant shows that as a matter of fact he conceded the claim of the claimant. Thus evidence led by the complainant against defendant went un-rebutted. So by virtue of ex-parte evidence, the complainant succeeded to prove his version against defendant. Therefore, the complaint is accepted ex-parte against defendant and defendant is directed to pay Rs. 3,000/- (ransaction amount) to the complainant and complainant is also declared entitled to receive Rs. 10,000/- from the defendant on account of compensation, damages, litigation expenses etc u/s 31 (e.g) of the PCPA 2005. Total complaint is partly decreed to the extent of Rs. 13,000/-

6 The remaining claim of the complainant is on higher side and is also not proved through any cogent and convincing evidence in break-up of the amounts and is hereby dismissed. The claim of the complainant is hereby partly accepted ex-parte in above terms. Costs would follow the event.

7 The Registrar of this Court is directed to send the attested copy of this order to the defendant and ensure the delivery of certified copy to judgment debtor/defendant informing him to pay the above decretal amount within 30-days to the complainant/decreed holder from the date of this order and in case of failing he may be punished with imprisonment for not less

than one month which may be extended up to three years or with fine which shall not be less than Rs. 5000/- or both.

After completion, file be consigned to record room

Announced
24-04-19

Muhammad Aslam
D&SJ/Presiding Officer
District Consumer Court Bahawalnagar

It is certified that this Order consists of two pages which have been dictated, corrected and signed by me.

Announced
24-04-19

Presiding Officer
D&SJ/P.O, DCC, Bahawalnagar