

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-I,
U.T. CHANDIGARH**

Consumer Complaint No.	:	CC/966/2022
Date of Institution	:	09/12/2022
Date of Decision	:	14/11/2023

Dr.Surya Prakash aged 58 years, S/o Late Sh.Amarnath Garg, R/o #2208, Sector 21-C, Chandigarh-160022.

... Complainant

V E R S U S

1. Flipkart Pvt. Ltd., Office @ Nahar Industrial enterprises, Focal Point, Plot No.B-3, B-8 & A-4, Ludhiana, Punjab-141010, through its authoritative representative or concerned Branch Manager.
2. Flipkart Internet Pvt. Ltd., Office @ Vaishnavi Summit, No.6/B 7th Main, 80 Feet Road, 3rd Block, Koramangala, Bangalore-560034, through its authoritative representative or concerned Branch Manager.
3. Damson Technologies Pvt. Ltd., Office @ 301/302, Solitare building, 11-12 Sunrise Park, Near Himalaya Mall Vastrapur, Link Road, Bodakdev, Ahemdabad, Gujarat-380054, through its authoritative representative or concerned Branch Manager.
4. Sony India Pvt. Ltd., Office @ A-18, Mohan Co-operative Industrial Estate, Mathura Road, New Delhi-44, through its authoritative representative or concerned Branch Manager.

... Opposite Parties

CORAM :	PAWANJIT SINGH	PRESIDENT
	SURJEET KAUR	MEMBER
	SURESH KUMAR SARDANA	MEMBER

ARGUED BY : Sh.Vikram Amarnath Garg, Advocate for Complainant.
: Sh.Deepak Jaglan, Advocate for OP No.1 & 2.
: Sh.Rohit Kumar, Advocate for OP No.3 (OP No.3 already ex-parte).
: OP No.4 ex-parte.

Per Surjeet kaur, Member

1. Averments are that the complainant had ordered “Sony Cyber-Shot DSC RX100M7” camera from the online services of OP No.1 & 2 through their application by paying an advance payment of Rs.96,990/- (Annexure C-1 & C-2). The product was sold by the OP No.3 and manufactured by OP No.4. Thereafter, on 19.04.2022, the complainant received a parcel/box of the product which he had bought and when the complainant opened the box, he was shocked as there was no camera in the box, instead there was an old, filthy and broken piece of charger, a pack of 2 batteries, a wire and camera cover inside the package instead of the actual product (Annexure C-3). The complainant, immediately

made complaint via phone calls and emails but to no effect as the OP refused to even register the complainant's complaint (Annexure C-4). It is also stated that the complainant also made many complaints to the DGP, Chandigarh and Cyber Crime Cell, Chandigarh via emails for the same purpose, but it was all in vain (Annexure C-6 to C-8). The complainant felt cheated by the OPs and hence, is the present consumer complaint.

2. OP No.1 & 2 contested the consumer complaint, filed their written reply and stated that the grievance of the complainant should have been only against the seller of the product i.e., OP No.3. The product delivery and replacement/ refund is only provided by the seller as the product was sold by an independent third-party seller i.e., OP No.3 and not the answering OP. The answering OP does not directly or indirectly sell any products on the Flipkart platform. It is further stated that the complainant has also admitted in contents of Para No.4 that the actual seller is OP No.3, who sold the product to the complainant. On these lines, the case is sought to be defended by OP No.1 & 2.
3. Notice of the complaint was sent to the OP No.3 & 4 seeking their version of the case. However, nobody appeared on behalf of OP No.3 & 4 despite following proper procedure, therefore they were proceeded ex-parte on 20.02.2023.
4. No rejoinder filed by the complainant.
5. Parties led evidence by way of affidavits and documents.
6. We have heard the learned counsel for the parties and gone through the record of the case.
7. The sole grouse of the complainant through present complaint is that he did not receive the camera which he ordered through Flipkart (OP No.1 & 2). The allegation in the complaint is that OPs cheated him and committed a fraud by sending an empty box having garbage in it instead of the expensive camera with cost of Rs.96,990/-.
8. The stand taken by OP No.1 & 2 is that the product was sold by OP No.3 & hence, for any wrong act of OP No.3, they (OP No.1 & 2) cannot not be held liable.
9. After going through the documents on record evidently, the allegation of the complaint revolves around the most important document Annexure C-4, which as per complainant is the web-page of OP No.1 & 2 Flipkart. The contents of the web page dated 20th April, 22nd April and 24th April are as under:-

20th April

- I. "I have an issue with my product's installation/demo".
- II. "I want to return this product".
- III. "I need details for the delivery person".

22nd April

- I. "I want to return this product".

24th April

- I. "I want to return this product".

10. Patiently throughout the complaint the issue of non-receiving the product has been declared as cheating by the complainant.

11. The law is well settled that when there are allegations of fraud, forgery etc., the Consumer Commission has got no jurisdiction to try & adjudicate it and the matter is to be decided by the Civil Court. Reliance has been placed on **Bright Transport Company Vs. Sangli Sahakari Bank Ltd., II(2012) CPJ 151 (NC), wherein it has been held that :-**

"Complaints which are based on allegations of fraud, forgery, etc. and trial of which would required voluminous evidence and consideration are not to be entertained by this Commission – This complaint is an attempt to misuse jurisdiction of this Commission only with a view to save on Court fee payable in a suit before Civil Court – Complaint not maintainable".

12. In view of the foregoings, we are of the considered opinion that this Commission has no jurisdiction to try & adjudicate the complaint. Therefore, complaint stands dismissed, with no order as to costs. However, the complainant is at liberty to approach any appropriate court of competent jurisdiction for redressal of his grievance.
13. Pending miscellaneous application, if any, also stands disposed of.
14. Certified copies of this order be sent to the parties free of charge. The file be consigned.

14/11/2023

Ls

**Sd/-
[Pawanjit Singh]
President**

**Sd/-
[Surjeet Kaur]
Member**

**Sd/-
[Suresh Kumar Sardana]
Member**