

**ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT
AT HYDERABAD**

M.A No.12 of 2020

*Awais Aziz v. Learned Presiding Officer, Consumer Protection Court,
Hyderabad and another.*

1. For order on CMA No.82/2021.
2. For hearing of main case.

01.02.2021

Appellant present in person.

ARSHAD HUSSAIN KHAN, J:- Through instant miscellaneous appeal, the appellant has impugned the order dated 29.02.2020, passed by learned Consumer Protection Court/Civil Judge & Judicial Magistrate, Hyderabad whereby he dismissed the complaint filed by appellant under section 19 read with section 34 of Sindh Consumer Protection Act, 2014.

2. Brief facts leading to the filing of this Miscellaneous Appeal are that on 19.10.2019 appellant purchased 1 kilogram sweets amounting to Rs.640.00 from the respondent No.2. He further asserted that though on demand, the respondent No.2 handed over a receipt thereof, but it was found simply printed receipt and was not in accordance with law, which as per section 19 of Sindh Consumer Protection Act, 2014 must show dates of sale, manufacture, expiry; original printed retail price; the quantity and price of goods; name and address of the seller. Per appellant, the respondent No.2 violated the provision of aforementioned law, hence, he filed complaint before the trial Court with following prayers:-

- a). *To put the defendant in prison and impose fine as per Act.*
- b). *To award actual costs including lawyer's fees incurred on the legal proceedings.*
- c). *Direct the defendant to issue receipts as per Act in future.*
- d). *Any other relief this honourable court deems fit may be granted.*

3. Appellant present in person, who is an advocate by profession, *inter alia*, contended that the respondent No.2 is legally bound to issue receipt in accordance with the provision of section 19 of Sindh Consumer Protection Act, 2014; however, he has failed and violated the said law; thus, he is liable to be put into prison and imposition of fine coupled with lawyer's fee.

4. During course of arguments, when appellant was confronted that how his complaint before trial Court was maintainable in view of the fact that neither he alleged any service of respondent No.2 being defective or faulty nor disclosed any damage under section 26 of Sindh Consumer Protection Act, 2014, which he suffered, to which he only replied that it is prime duty of respondent No.2 to act in accordance with law and provide the details in its receipt. Apart from above, the appellant was also queried with regard to limitation for filing of instant appeal against the impugned order, which ought to have been filed within a period of thirty days as provided under section 34 of Sindh Consumer Protection Act, 2014, he responded that due to COVID-19, appeal was not preferred within the period of 30 days.

5. It is mandatory requirement of law that the appeal against any order, which aggrieves the appellant, is to be filed within a prescribed time until and unless such compelling circumstances which prevent the aggrieved party; however, even then the appellant has to make an application for condonation of such delay in filing of appeal. In the instant matter, section 34 of Sindh Consumer Protection Act, 2014, provides the period for filing appeal by aggrieved person against any final order, which is reproduced as under:-

“34. Any person aggrieved by any final order of the Consumer Court may file an appeal in the Sindh High Court within 30 days of such order.”

6. As far as plea taken by appellant that due to COVID-19, he could not file the appeal within prescribed time, it is pertinent to mention here in this regard that vide notification bearing No.Gaz/Notification/Limitation dated 15.04.2020, the Hon'ble Chief Justice of this Court had been pleased to order this Court to be deemed as closed from 22.03.2020 till 30.04.2020 for the purpose of section 4 of the Limitation Act, 1908 (“**the Act**”) as to computing the period of limitation stipulated in the ‘**Act**’ and its ‘Schedules’, or any other law for the time being in force and there shall be no bar on filing of suits, appeals, revisions, reviews and applications etc. within the

period of limitation stipulated by the Act or any other law. Even if, for the purpose of filing instant appeal, the limitation period as relaxed under the referred notification that was upto 30.04.2020, is computed yet instant appeal is not filed within time as it was presented before this Court on 27.07.2020 much later. Further, the learned trial after hearing the counsel for the complainant and taking into account the material facts as well as law on the point has passed speaking order. For the sake of ready reference relevant portion of the impugned order of trial Court is reproduced as under:-

“It is apparent that principle of law provides, where a thing is provided to be done in manner then the same should be done in a manner and not otherwise, although the claim of complainant against the defendant has been alleged but complainant has failed to mention anywhere that what kind of damages he has sustained nor he is claiming any damage and only pray to fine the violator/defendant, which is purely domain of Authority as already discussed supra, otherwise, it is reflecting that there is no any genuine cause available with the complainant before this court, to proceed against the defendant and prima facie the complainant is trying to book the defendant in this case, only to boost up his other claims etc. as the same is very common in our society, whereas, despite of the fact that the complainant being an advocate and law practicing, did not bother to go through the relevant law of Sindh Consumer Protection Act, 2014 and rules thereof, rather he has filed this complaint without any sufficient cause, which resulted in to wastage of precious time of this court, hence, the instant complaint is hereby dismissed being non maintainable, with strict direction to the complainant to be careful in future. Order accordingly.”

7. In view of above facts and circumstances, I have found that there is no illegality or gross irregularity and infirmity in the impugned order, which could warrant interference by this Court. In addition thereto, the instant appeal is barred by limitation as stated above. Consequently, the same is hereby **dismissed** in *limine*.

JUDGE