

CASE COMMENTARY: SAURABH GAUTAM AND OTHERS VS. MANYAVAR AND PAYTM

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INTRODUCTION

This commentary analyzes the case C.C. NO. 149-2022, where Saurabh Gautam and Naveet Arora (complainants) sued Manyavar and PayTm (respondents) ¹for a digital payment issue. The case highlights the challenges consumers face in digital transactions due to inadequate legal protection. By examining the court's decision and relevant laws, this commentary critiques the judgment and proposes potential legislative improvements to safeguard consumer rights in the digital finance landscape.\

FACTS OF THE CASE

The plaintiffs claim that a failed Paytm transaction for a Manyavar purchase resulted in a non-refunded amount. Despite complaints to both companies, the issue remains unresolved. Manyavar claims successful payment, while Paytm denies responsibility, pointing to ICICI Bank's involvement. The case centers on determining liability for the failed digital transaction and the roles of involved parties within the digital payment ecosystem.

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REASONING GIVEN BY COURT

The final order was issued by Dr. R.K. Dogra, President. The present complaint was lodged under Section 35 of the Consumer Protection Act, 2019².

The court has rendered its decision in favor of the complainants. The complainants have found themselves in a distressing predicament. Despite their conscientious efforts, the payment process was marred by purported failure, as relayed by the showroom manager of respondent No.1, who assured them that the amount would be refunded.

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¹ Saurabh Gautam and Ors v Manyavar and Paytm Case No 149/2022

² Consumer Protection Act 2019, s 35

Undeterred, and in good faith, complainant No.1 promptly sought to rectify the situation by making payment through Paytm, utilizing transaction ID number 529356325, which was duly acknowledged and confirmed by respondent No.1. However, the ordeal did not cease there.

Saurabh Gautam and Other v Manyavar & Paytm [2022] CC No 149 (Dogra P). Subsequent attempts to seek resolution through further engagement with respondent No.2's customer care proved futile, leaving the complainants stranded in their quest for fairness and restitution.

The learned counsel- Shri Pawan Kumar, representing the opposing party No.2 has contended that respondent No.2 is actively involved in the provision of various payment bank services, UPI services, and mobile internet banking, among others, to its clientele. It is emphasized that the crux of the complainant's grievance pertains to the conduct of the concerned bank, namely ICICI Bank, which has not been included as a party to this complaint. It is asserted that upon investigation, the transaction in question was deemed successful, with respondent No.2 promptly lodging an offline complaint with the merchant bank, ICICI Bank. Regrettably, no response was forthcoming from the bank in question. It is underscored that respondent No.2's role in facilitating UPI facilities is circumscribed to providing a platform for the execution of UPI transactions.

It is imperative to note that the responsibility for the smooth execution and resolution of the transaction lies with the banking institution involved, namely ICICI Bank. Despite respondent No.2's efforts to address the matter by raising a complaint with the said bank, the lack of response from ICICI Bank reflects a failure on their part to fulfill their obligations in resolving the dispute. Consequently, respondent No.2's role to ensure the effective resolution of the issue at hand cannot be overlooked.

Commission finds it evident that complainant No.1 indeed purchased goods from OP No.1, and complainant No.2, attempted to make payment through Paytm to OP No.1.

The payment made initially by complainant No.2 was not refunded to their account nor credited to the account of OP No.1. The transaction was made but not received back by complainant No.2, indicating a clear deficiency in service on the part of OPs. Therefore, this point is ruled in favor of the complainants.

Regarding Point No.2, mere oral statements by OP No.2 regarding the payment hold no legal weight without supporting documentary evidence. Hence, this point is ruled against the

respondents. In the final order, after thoroughly hearing the contentions of both parties and examining the entire record, this Commission concludes that the complaint of the complainant has merit. Accordingly, the complaint is accepted partly, with a directive to respondents No.1 and 2 to refund Rs.9496/- along with interest at the rate of 9% per annum from the date of filing of the complaint until its actual realization. Additionally, respondents No. 1 and 2 are instructed to pay Rs.5,000/- to the complainants as compensation and Rs.5,500/- as litigation expenses within 45 days. Failure to comply with this directive will empower the complainant to initiate proceedings against the opposite party under sections 71³ and 72⁴ of the Consumer Protection Act, 2019, and they will be entitled to recover the aforementioned amounts with interest at 12% per annum from the date of the order until its actual realization.

INSUFFICIENCY OF LEGAL STATUTES CONCERNING DIGITAL PAYMENT

Section 71⁵ stipulates that any order issued by a District Commission, State Commission, or National Commission shall be enforced in a manner akin to a decree pronounced by a court in a suit before it. The provisions of Order XXI of the First Schedule to the Code of Civil Procedure, 1908,⁶ shall apply mutatis mutandis, with the understanding that any mention of a decree therein shall be construed as referring to the order made under this Act.

Section 72⁷ outlines the penalties for non-compliance with orders issued by the District Commission, State Commission, or National Commission.

1. Failure to comply with such orders may result in imprisonment for a term not less than one month and not exceeding three years, or a fine ranging from twenty-five thousand rupees to one lakh rupees, or both.

2. Despite provisions in the Code of Criminal Procedure, 1973,⁸ the District Commission, State Commission, or National Commission possesses the authority of a Judicial Magistrate of first class for trying offenses under subsection (1). Upon receiving such authority, they are considered Judicial Magistrates of first class for the Code of Criminal Procedure, 1973⁹. Except where otherwise specified, offenses under subsection (1) are to be tried summarily by the

³ Consumer Protection Act 2019, s 71

⁴ Consumer Protection Act 2019, s 72

⁵ Ibid.

⁶ Code of Civil Procedure 1908, Or 21

⁷ Ibid.

⁸ Code of Criminal Procedure 1973

⁹ Id.

District Commission, State Commission, or National Commission, as appropriate. The statutes cited by the judges are deemed insufficient by the plaintiff, as they fail to address pertinent aspects of the case, notably digital and technological intricacies, unmet consumer needs, and deficiencies in customer care. The author asserts that the absence of specific legal provisions for such situations, wherein digital payments made via mobile money fail to reach the intended recipient, necessitates the formulation of comprehensive legislation. This legislation should encompass the consumer journey in digital finance with mobile money, addressing issues such as unstable internet connectivity, technical glitches in UPI platforms or applications, transaction limit exceedances, signing-in issues with the customer the account is suspended, notification of payment made and received issues, responsibilities of National Payments Corporation of India(NPCI), Payment Service Provider(PSP), Third Party Application Provider(TPAP) and unclear bank policies regarding UPI payments.

I underscore the imperative for exclusive laws safeguarding consumer interests in digital payment systems, proposing an amendment to the Consumer Protection Act, 2019.¹⁰ This amendment would introduce a distinct chapter solely dedicated to digital payments and mobile money, incorporating provisions to address various potential consumer challenges and establish regulatory frameworks for effective consumer protection. Furthermore, I suggest integrating relevant provisions from statutes such as The Banking Regulation Act, 1949¹¹; The Reserve Bank of India (RBI) Act, 1934¹²; Foreign Exchange Management Act, 1999¹³; Indian Evidence Act, 1872¹⁴; Indian Contract Act, 1872¹⁵; Information and Technology (IT) Act, 2000¹⁶; Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI) Act, 2002¹⁷; and Negotiable Instruments Act, 1881¹⁸, to comprehensively address the multifaceted aspects of consumer rights in the realm of digital payments and mobile money.

¹⁰ Consumer Protection Act 2019

¹¹ The Banking Regulation Act 1949

¹² The Reserve Bank of India Act 1934

¹³ Foreign Exchange Management Act 1999

¹⁴ Indian Evidence Act, 1872

¹⁵ Indian Contract Act 1872

¹⁶ Information and Technology Act 2000

¹⁷ Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002

¹⁸ Negotiable Instruments Act 1881

PARTIAL JUDGMENT: INCOMPLETE JUSTICE

It is observed that the aspirations of the complainants were not wholly met, as they were not granted the compensation sought, a customary recourse in analogous consumer cases. Notably, the allocation of ₹5,500 for litigation expenses is inadequate. Additionally, the award of ₹5,000 for mental anguish is considered insufficient.

It appears that insufficient attention was given to the arguments presented by the respondents, particularly the assertion made by the second respondent that a UPI application such as PayTm merely serves as a transactional platform and bears no responsibility for errors occurring at the customer's bank. Moreover, the involvement of the other UPI application operated by the first respondent, namely BharatPe, was entirely disregarded, raising the possibility that any fault could stem from BharatPe rather than PayTm or the mentioned merchant bank, ICICI. On ICICI Bank, the court should have delved into its policies concerning UPI payments, especially given the jurisdiction of this being a consumer court.

The failure to address the absence of a response to the customer service call made to ICICI Bank warrants serious consideration, potentially necessitating ICICI's inclusion in the proceedings. Furthermore, the mental distress endured by the first respondent, who may not have received the initial payment and therefore was not obligated to reimburse the plaintiff, deserves acknowledgment.

CONCLUSION- OMITTED ISSUE: BANK LIABILITY OR ACCOUNTABILITY

Upon thorough examination of the case to gain insight into the challenges faced by consumers in digital payment transactions, a framework emphasizing the accountability and liability of merchant banks or banks wherein customers hold accounts appears warranted. The pivotal role of banks in UPI transactions necessitates comprehensive discussion and scrutiny. This may be achieved through requisite amendments to the Consumer Protection Act, 2019¹⁹, the Banking Regulations Act, 1949²⁰, The Reserve Bank of India (RBI) Act²¹, and the Information and Technology (IT) Act, 2000²².

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

The bank of the respondent should have been summoned for questioning, particularly regarding the reception and communication of payment on 10th July 2021 at 5:19 PM, and whether technical failures impeded notification to BharatPe. Bank statements of both the complainants and the first respondent should have been scrutinized per the Indian Evidence Act, 1872.²³



²³ Ibid.