

(1994) 12 NCDRC CK 0017

In the National Consumer Disputes Redressal Commission

KARAM VIR SINGH GUPTA

APPELLANT

Vs

VINEY KAPUR

RESPONDENT

Date of Decision : 05-12-1994

Acts Referred:

Citation : 1995 1 CPJ 473 : 1995 2 CPR 509

Hon'ble Judges : R.N.Mittal , S.Brar J.

Final Decision : Appeal allowed

Judgement

1. THIS appeal has been filed by the complainant against the order of the District Forum dated 7th June, 1994 by which his complaint has been dismissed.

2. BRIEFLY, the facts are that the complainant is a Chartered Accountant (C.A.). He got a generator installed in his office. It is alleged that on April, 1992 he engaged O.P. to fit charge-overswitch with other fittings on the generator, which he agreed to do for a consideration of Rs. 1,000/-. The O.P. was paid Rs. 1,000/-, partly in cash and partly by a cheque. He installed the charge-over-switch but it went out of order after a short time. It is pleaded that inspite of repeated requests, he did not remove the defect. Consequently, the complainant got another chargeover-switch installed from M/s. Milan Electronics at a cost of Rs. 670/-. It is alleged by him that since the O.P. installed defective change-overswitch, he was entitled to get the amount of Rs. 670/- from him. The complaint was contested by the O.P. who controverted his allegations. He inter alia pleaded that he charged only Rs. 100/- as labour charges and the material was supplied by the complainant. Consequently, he was not liable to pay any amount to the complainant. The learned District Forum held that the version of the complainant was incorrect. Consequently, it dismissed the complaint with costs. The complainant has come up in appeal against the order of the District Forum to the Commission.

The only question that arises for determination is, whether, the O.P. charged Rs. 100/- as labour charges or Rs. 1,000/- on account of price of the change-over-switch and other material and the labour charges. The complainant in his

affidavit dated 1st December, 92 swore the facts as given in the complaint. In support of his affidavit he brought on the record the statement of account of the bank and the cash voucher signed by the O.P. The aforesaid 3 documents support the version of the complainant/appellant. If the complainant had purchased the changeover-switch and other material himself, he would not have issued a cheque of Rs. 500/- in favour of the O.P. The complainant is a respectable man and there is no reason to disbelieve his affidavit, which is supported by documentary evidence. Consequently, we are of the view that he paid Rs. 1,000/- on account of the price of changeover-switch and other material and labour charges. Consequently, the order of the District Forum is liable to be set aside.

3. THE Complainant has produced the bill of Rs. 670/- of Milan Electronics. THE amount was paid by him in cash. In our opinion he is entitled to recover the said amount from the O.P. For the aforesaid reasons we accept the appeal with costs, set-aside the order of the District Forum and direct the opposite party to pay Rs. 670/- to the complainant within a period of 3 months from the date of the orders otherwise, action under Section 27 of the Consumer Protection Act shall be taken against him. Costs Rs. 500/-.

4. IT is stated by the appellant that he deposited a cheque of Rs. 500/- with the Commission. The office is directed to return the cheque to the appellant. Appeal allowed with costs.