DISTRICT CONSUMER DISPUTES REDRESSAL FORUM-III: WEST
GOVT. OF NCT OF DELHI
C-BLOCK, COMMUNITY CENTRE, PANKHA ROAD, JANAK PURI
NEW DELHI

Complaint Case No. CC/525/2024

IN THE MATTER OF:

RAJESH HANDA
S/O LATE R.R. HANDA
R/O H.NO. ZF-10, BLOCK NO. A4
SHIV ENCLAVE, PASCHIM VIHAR
DELHI-110063.

....COMPLAINANT

VERSUS

ICICI BANK LTD.
168, LOK VIHAR, PITAMPURA
DELHI-110034
THROUGH ITS MANAGER/
BANK OFFICIALS .... **RESPONDENT**

DATE OF INSTITUTION:	**20.06.2024**
JUDGMENT RESERVED ON:	**22.11.2024**
DATE OF DECISION:	**26.11.2024**

MS. SONICA MEHROTRA, PRESIDENT
MS.RICHA JINDAL, MEMBER
MR. ANIL KUMAR KOUSHAL, MEMBER

ORDER PASSED BY MS. SONICA MEHROTRA, PRESIDENT

ORDER

1. Complainant was holding a credit card number 4501 7212 4171 3004 issued by OP bank. On his online search for hotel booking in Amritsar on 26.12.2023, he was contacted on call by a person representing himself to be a manager of Lemon Tree

Hotel at Amritsar and complainant was asked by him to pay Rs. 12,295/- on line through credit card on OTP generated only for the purpose of confirmation of booking. Complainant did as asked but on payment of the said amount, he received an SMS alert on his mobile about the debit of Rs. 12,294/- and a second automated SMS about debit of Rs. 4,07,200/- from his credit card. Complainant immediately lodged complaint on IVR of OP and received e-mail confirmation of this complaint from OP asking complainant to submit a signed Transaction Dispute Form (TDR) and e-mail also contained directions to report the matter to Cyber Crime Cell at its portal or helpline number. Complainant did the needful by lodging complaint with Cyber Crime Cell, Rohini, Dehi and filled up the PDF and submitted the same to OP but despite e-mails exchanged between the parties for a week, till January 2024, no resolution was given by OP despite escalation of the complaint at Regional Head Level. Complainant also filed complaint before Banking Ombudsman in January 2024. Therefore, alleging that the complainant has been a victim of planned Cyber Fraud causing him loss of Rs. 4,19,394/- from his Credit Card issued by OP and no resolution/redressal of his grievance by OP, the complainant has filed the present complaint praying for issuance of directions to OP to pay back Rs. 4,19,394/- along with interest and compensation. Complainant has attached e-mails, cyber crime complaint and letter to Regional Head of OP and complaint before Banking Ombudsman.

2. In the preliminary arguments on admission, counsel for complainant was directed to satisfy on the maintainability of complaint as the case pertains to cyber fraud and cases of fraud & forgery are outside domain of Consumer Courts to which

complainant simply submitted that OP has not taken any steps for wrongful debit of the amount in question from his credit card or is settled requisition of law that such cases involve detailed investigation preferably by police as elements of forging, cheating & breach of trust are present. Consumer Commission conducts summary proceedings & not appropriate to try such complaints. In this case, we are guided by catena of precedents set by Hon'ble NCDRC & Hon'ble Supreme Court, more recent being **Manisha Sohil Kumar Chovatiya Vs. HDFC Bank Ltd. IV (2022) CPJ 582(NC)** decided on 03/01/2022 in which unlawful debits were made from Complainant's Mutual Fund Account. Hon'ble NCDRC was of the view that such a matter involves detailed investigation by police agency &Consumer Commission are not appropriate forums to decide on matters like this & dismissed the complaint in limine with liberty to Complainant to file complaint before appropriate Court of Law. **Hon'ble NCDRC in Aruna Devi Vs United Bank of India IV (2022) CPJ 612 (NC)** decided on 29/03/2022 held in case of banking fraud in overdraft account through RTGS transaction that case involves investigations both by concerned bank and police in view of fraud and forgery & FIR filed in this regard and no Back end IT investigation has yet been concluded & dismissed the appeal of the complaint & upheld order of Hon'ble SCDRC(Chandigarh) which had dismissed the original complaint as not maintainable **Hon'ble Supreme Court in landmark judgment of Chairman & MD City Union Bank Ltd. Vs. R. Chandramohan II (2023) CPJ 83 (SC)** decided on 27/03/2023 in CA no. 7289/2009 has clearly observed that proceedings before Consumer Commission being summary in nature, Complaint involving highly disputed questions of facts or cases involving tortions acts or criminality like fraud or cheating cannot be decided by Consumer Commission formed under the Act " Deficiency of Service" is distinguishable from “ Criminal Act” & set-aside orders of Hon’ble SCDRC & NCDRC which had allowed the Complaint against Bank. **Hon’ble SCDRC Delhi in Laxmi Narain Nagpal Vs SBI I (2024) CPJ 74 (Del)** decided on 27/03/2023 relying upon judgments of **Hon’ble NCDRC in Capital Charitable & Educational Society Vs Axis Bank decided on 09/12/2019 & P.N. Khanna Vs Bank of India II (2015) CPJ 54 (NC)** held that in a case of illegal withdrawal from bank account case involves primary question of fraud, forgery outside jurisdiction of Consumer Commission & dismissed this complaint. On the issue of fraud and forgery, the matter no longer being Res-Integra in view of exhaustive legal discourse discussed in foregoing paras, the complaint is evidently non-maintainable before the Consumer Commission as if involves allegation of cheating, fraud & forgery & cyber crime etc. involving detailed police investigation & bank enquiry etc. The same is therefore dismissed in limine with liberty to complainant to approach appropriate Court of law for remedy. No order as to costs.

3. Let a copy of this order be given to Complainant free of cost on application addressed to President, DCDRC-III (west) as per direction of Hon’ble SCDRC, Delhi.

4. File be consigned to record room.

5. Announced on 27.11.2024.

(Richa Jindal)	**(Anil Kumar Koushal)**	**(Sonica Mehrotra)**
Member	**Member**	**President**