

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**Crl. Appeal No. 88/2019**

Umer Shafi

Vs.

Nestle, Pakistan Limited and another.

Appellant by: Mr. Muhammad Shahzad Qureshi,  
Advocate.

Respondent No.1 by: Mr. Muhammad Wisal Khan, Advocate.

Mr. Hasnain Haider Thaheem, State  
Counsel.

Date of Decision: 11.09.2020.

**MOHSIN AKHTAR KAYANI J.** Through the instant appeal, the appellant has assailed the order dated 11.02.2019, passed by learned Additional District & Sessions Judge-VII (West), Islamabad, whereby the complaint filed by the appellant under Section 8 of The Islamabad Consumers Protection Act, 1995 against the respondents has been dismissed.

2. Facts in brief referred in the instant appeal are that appellant has bought carton of 0.5 liter mineral water from the respondents Company Nestle Pure Life from Sector F-8 in the month of March, 2018, however, when he opened the said bottles, alcohol smell with strange taste has been observed, which was checked by the appellant himself and his friends Mohsin Naeem and Shakeel Ahmed as the respondents Company have not checked the quality standard in this defective product, resultantly, he had filed a complaint before Consumer Court under Islamabad Consumers Protection Act, 1995, which was dismissed.

3. Learned counsel for the appellant contends that learned Consumer Court has neither called the evidence to settle the disputed question of fact nor even allowed to submit any such evidence even an expert evidence by way of Chemical Examiner Report was called and dismissed the complaint on the sole ground that appellant has not provided any proof of purchase of the said

product. He further contends that if Consumer Court allows appellant to produce such evidence, he proves the complaint against the respondent Company through cogent evidence.

4. Conversely, learned counsel for the respondent Company contends that it is the imperative duty of the appellant to fulfill the minimum requirement of complaint prior to filing of the same, which includes details of purchased articles, even it has not been brought into the notice of the respondents Company through any mechanism, whereby the Company can check any of their bottles of water on the basis of bar codes and assignments, details, hence, the Court has rightly dismissed the complaint.

5. Arguments heard and record perused.

6. Perusal of record reveals that the appellant had purchased carton of 0.5 liter mineral water from Nestle Pure Life in March, 2018 from Sector F-8, Islamabad, which was found defective having alcohol smell with strange taste, but surprisingly the appellant has not informed the respondent Company nor even placed his purchase bottles to any of the Lab in order to get examined the bottles for determination of its content, rather filed a direct complaint in terms of Section 8 of The Islamabad Consumers Protection Act, 1995 before learned Additional and Sessions Judge-VII (West), Islamabad and the same has been dismissed by the said Court while considering the entire case mainly on the ground that appellant has failed to substantiate his relationship with the purchase of bottles as no receipt was produced on record, even otherwise, the bottles are not available as of today, which was claimed to be in possession of the appellant, therefore, the Consumer Court is not in a position to determine the allegation, especially when the appellant has not established any of his relationship with the purchased bottles, rather the entire background reveals that it is merely hearsay allegation.

7. For what has been discussed above, this Court is fully agreed with the findings of the learned Consumer Court, which confirms that no Laboratory Test is annexed with the consumer complaint and as such the minimum requirements have not been adhered to by the appellant, therefore, the

allegation referred in the complaint could not be substantiated, hence instant consumer appeal/criminal appeal is meritless and same is hereby **DISMISSED.**

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**

RAMZAN

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