

**BEFORE THE CONSUMER DISPUTES REDRESSAL FORUM  
ERNAKULAM**

**Complaint Case No. CC/20/281  
( Date of Filing : 30 Sep 2020 )**

1. MUHAMMED RAFEEQUE N.K  
NEDUVELIKKUDY HOUSE KUTTAMASSERY  
THOTTUMUGHAM P.O ALUVA

.....Complainant(s)

Versus

1. UNION BANK OF INDIA  
UNION BANK BHAVAN 239 VIDHAN BHAVAN MARG,  
NARIMAN POINT MUMBAI

.....Opp.Party(s)

**BEFORE:**

**HON'BLE MR. D.B BINU PRESIDENT  
HON'BLE MR. RAMACHANDRAN .V MEMBER  
HON'BLE MRS. SREEVIDHIA T.N MEMBER**

**PRESENT:**

**Dated : 16 Aug 2024**

**Final Order / Judgement**

**BEFORE THE CONSUMER DISPUTES REDRESSAL COMMISSION ERNAKULAM.**

Dated this the 9<sup>th</sup> day of August 2024

Filed on : 30.09.2020

**PRESENT:**

Shri. D.B.Binu, ,

President.

Shri. V.Ramachandran

Member.

Smt. Sreevidhia T.N,

Member.

**C.C NO. 281/2020**

**Complainants**

1. Muhammed Rafeeqe N.K., S/o.Kadarkunju, Neduvelikkudy House, Kuttamassery, Thottumugham P.O., Aluva-683 105
2. Shaila K.S., W/o.Muhammed Rafeeqe N.K., Neduvelikkudy House, Kuttamassery, Thottumugham P.O., Aluva-683 105
3. Anila N.A., W/o.Abdul Razak, Neduvelikkudy House, Kuttamassery, Thottumugham P.O., Aluva-683 105

(by Adv.Haridas E)

Vs.

**Opposite parties**

1. The Manager, Union Bank of India (UBI), Union Bank Bhavan, 239 Vidhan Bhavan Marg., Nariman Point, Mumbai-400 021
2. The Regional Manager , Union Bank of India, Union Bank Bhavan, Mahatma Gandhi Road, Near Shenoy's, Ernakulam, Kerala-682 035
3. The Branch Manager, Union Bank of India, XIV/466, P.B. No.20, Hospital Road, Aluva, Kochi, Kerala -683 101

(ops rep. by Adv.R.Raja Raja Varma)

**FINAL ORDER**

**V.Ramachandran, Member**

This consumer complaint is filed by Sri.Muhammed Rafeeqe N.K., Shaila K.S wife of Muhammed Rafeeqe N.K and Anila N.A wife of Abdul Razak alleging deficiency of service and unfair trade practice from the side of the opposite parties. The opposite parties are the General Manager and branch Manager of Union Bank of India (UBI), Mumbai, Ernakulam and Aluva respectively. The gist of the complaint is that the 2<sup>nd</sup> complainant is the wife of the 1<sup>st</sup> complainant. The 3<sup>rd</sup> complainant is the wife of the 1<sup>st</sup> complainant's brother. Since the interest of the complainants are same the complainant filed this joint complaint under Section 12 (1) (c) of the Consumer Protection Act, 2019.

The complainants have approached the 3<sup>rd</sup> opposite party for availing gold loan on various dates by pledging their gold ornaments. The 1<sup>st</sup> complainant availed a gold loan to the tune of Rs. 1 lakh on 14.05.2018 by pledging gold having a total weight of 56.900 grams as per Gold loan account No.654/124003 from the 3<sup>rd</sup> opposite party bank as evident from Exbt.A1. Similarly, the 2<sup>nd</sup> complainant availed a gold loan of Rs.3,89,000/- on 31.03.2016 by pledging 209.300 grams of gold ornaments as per gold loan account No.654/123073 as evident from Exbt.A2. The 3<sup>rd</sup> complainant availed a gold loan of Rs.2,80,000/- on 09.01.2017 by pledging 152.63 grams of gold ornaments in the gold loan account No.654/123336.

Thereafter when the complainants approached the 3<sup>rd</sup> opposite party to close their loan accounts during November, 2018, the 3<sup>rd</sup> opposite party informed them that one of the staffs working under the 3<sup>rd</sup> opposite party committed theft of the gold ornaments and sought a little time to return the gold ornaments and orally agreed that they will not make any further demand of interest and on remitting the principal amount and interest up to November, 2018, either the gold ornaments will be returned or its present market price. Thereafter on enquiry it was informed that since the gold ornaments have been taken into custody by the police officials and produced before the Judicial First Class Magistrate Court, Aluva, the 3<sup>rd</sup> opposite party sought a little more time to settle the liability. However, the Manager who was holding the post of the 3<sup>rd</sup> opposite party viz. one Shyji asked the complainants to wait a little more time and assured that no interest will be calculated after November, 2018 and the gold ornaments as per the description in the loan ledger will be returned without delay. When there was change of Manager in the post of 3<sup>rd</sup> opposite party, namely Suresh Kumar, also agreed to accept the principal amount along with interest up to November 2018 and again sought for time. However, when the complainants again approached the opposite parties during October, 2019, a new Manager took charge in the office of the 3<sup>rd</sup> opposite party and on approaching him, he took a totally strange stand that unless principal amount along with interest as on the date is paid the bank will be settling the liability and further stated that the bank will pay Rs.2,900/- per gram as part of settlement. The complainants were astonished to hear such a statement from the person holding the post of Manager of the 3<sup>rd</sup> opposite party. Immediately thereafter exbt.A3 notice to the opposite parties was issued stating that the complainants are not responsible for whatever happened in the bank and they were always ready and willing to close the loan account and further stated that the complainants are not responsible or liable for any interest after November 2018. Though opposite parties 2 and 3 have accepted the notice, no decision on the same was taken and no reply was issued by the opposite parties 2 and 3 to the complainants.

The complainants have availed the service of the opposite parties by paying consideration for the services extended by the opposite parties. The opposite parties have purposefully not settled the dispute and therefore there is deficiency in the service from the side of the opposite parties. The complainant contended that the opposite parties should have returned the gold ornaments on the date on which the complainants are ready to settle the loan amount by remitting the amount along with interest till the date of demand i.e., up to November, 2018. Therefore there is deficiency in the service and also unfair trade practice on the side of the opposite parties and therefore the complainants approached this Commission seeking for issuing orders to the opposite parties with following directions

- i) to accept Rs.1 lakh along with interest as per the loan agreement from 14.05.2018 to 11/2018 from the 1<sup>st</sup> complainant and return 56.900 grams of gold ornaments either old or new with same weight pledged as per gold loan No.654/124003.
- ii) The opposite parties to accept Rs.3,89,000/- along with interest as per the loan agreement from 31.03.2016 to 11/2018 from the 2<sup>nd</sup> complainant and return 209.300 grams of gold ornaments either old or new with same weight pledged as per gold loan No.654/123073.
- iii) The opposite parties to accept Rs.2,80,000/- along with interest as per the loan agreement from 09.01.2017 to 11/2018 from the 3<sup>rd</sup> complainant and return 152.63 grams of gold ornaments either old or new with same weight pledged as per gold loan No.654/123336.
- iv) To award an amount of Rs.25,000/- each to the complainants as compensation for mental agony from the opposite parties.

## 2) Notice

Upon notice from this Commission, the opposite parties filed their joint version.

## 3) Version of the opposite parties

In the version the opposite parties contended that the basic case projected by the three complainants is that they require a unilateral closure of the loan account on the basis of the payment to be effected by them calculating the interest payable upto November 2018. It is submitted that the complainants had availed gold loan from the bank after executing separate loan agreements. The 1<sup>st</sup> complainant had executed an agreement on 14.05.2018 where he had specifically agreed to repay the amount availed, being Rs.1 lakh with further interest till the date of repayment. Similarly, the 2<sup>nd</sup> complainant had executed a loan agreement on 31.03.2016 and availed an amount of Rs.3,89,000/- with further interest to be paid till the closure of the loan account. Similarly, the 3<sup>rd</sup> complainant had availed an amount of Rs.2,80,000/- on 09.01.2017 to be repaid with interest till the date of repayment. The loan account has been in arrears and even now the same has not been repaid. The complainants are bound to discharge their liability by repaying the entire principal amount with further interest to be calculated till the closure of the entire loan account. The complainants have unilaterally fixed a cutoff date as November 2018 for payment of interest and seeking permission to remit the said amount without making a closure of the entire loan account. The opposite parties alleged that the customers who had lost their gold ornaments came to the bank, it was informed to them that they could close the entire loan amount and maintain a zero balance and thereafter the gold ornaments produced before the Magistrate Court could be taken back by them following their own procedure to get back the gold ornaments. In addition to this, another option was given to the borrowers to make payment of the entire loan amount and thereafter accept the then existing market value of the gold ornaments instead of moving the Magistrate Court for return of gold ornaments and the gold ornaments which were produced before the Magistrate Court would be taken by the bank after making the payment of the market value to the customers as stated earlier. The complainants did not choose any of these options and they remained silent without making any repayment to the loan account, as a result of which the amounts due in the loan account increased substantially, in terms of the amount calculated on the basis of the loan agreement. It is totally incorrect to say

that the bank or any of the officers agreed to permit the complainants to repay the amount by calculating interest up to November 2018. It is submitted that all the customers are duly notified to close the loan account by selecting the option of payment of entire amount and waiting for return of gold or to receive the amounts from the bank against the market value of the gold ornaments. The complainants, having not chosen any of these options, cannot unilaterally vary the written terms of contract whereby the interest chargeable in the loan account stands fixed.

#### 4. **Evidence**

The complainants produced Exbt.A1 to A4 and PW1 was examined. The opposite parties produced Exbt.B1 to B3.

Exbt.A1 is a copy of gold loan and identification card issued by the 3<sup>rd</sup> opposite party to the 1<sup>st</sup> complainant.

Exbt.A2 is the copy of the gold loan due and identification card issued by the 3<sup>rd</sup> opposite party to the 2<sup>nd</sup> complainant.

Exbt.A3 is the office copy of the legal notice dated 19.10.2018.

Exbt.A4 is the postal receipts sending Exbt.A3 to opposite parties 2 and 3.

Exbt.B1 is the copy of gold loan pledge form

Exbt.B2 is the statement of accounts.

Exbt.B3 the copy of letter of compensation for fraud in Gold loan Portfolio at Aluva Branch.

#### 5. **The following are the main points to be analysed in this case:**

- i. Whether there is any deficiency in service or unfair trade practice from the side of the opposite parties to the complainants?
- ii. If so, whether the complainants are entitled to get any relief from the side of the opposite parties?
- iii. Costs of the proceedings if any?

#### 6. **Point No. (i)**

The Commission evaluated the complaint, version, evidence from both sides and reached into the following inferences.

It is undisputed that the complainants have pledged their gold ornaments with the opposite parties' bank and according to the opposite party it became unable to return their gold ornaments. The main allegation of the complainant is that they had approached the opposite party on different occasions informing their willingness to pay the amount with interest of the gold loans availed by them and the opposite party had promised that no interest will be

calculated after November 2018. The complainants' claim that they have received such a promise from the Manager of the 3<sup>rd</sup> opposite party from time to time. But later on, the opposite party had not agreed with that condition and hence the complainants demanded to return their gold ornaments or its market value on payment of amount and interest upto November 2018. In the above circumstances, the complainants asked to the bank not to charge interest after November 2018. The Commission has made a thorough probe into the over all aspects of the case and derived into the following observation. It is clearly proved from Exbt.A1 produced by the complainants that they have pledged gold ornaments for Rs.1 lakh with the 3<sup>rd</sup> opposite party on 14.05.2018 as per loan No.654/124003 and also had availed another gold loan amount of Rs.3,89,000/- as per loan No. 364/123073 on 31.03.2016 and Rs.280000/- on 09.01.2027 as per loan account No.654/123336. It is further evident from Exbt.A3 (2) that the bank had received a letter from the complainant on 01.11.2019 as per the seal of the bank as per Exbt.A3 evidence produced by the complainant.

In the above circumstances, the Commission observes that the bank cannot exclude from the responsibilities of providing adequate security to the articles pledged by the customers of the bank. In the instant case, the bank could not protect the valuable gold ornaments of the complainants pledged with trust that it will be having for urgency of money which had not been properly protected by the bank resulting in theft of the articles. The complainant is in no way get back the valuable gold ornaments purchased out of their hard earned money and therefore there is deficiency of service from the side of the opposite party and the Commission therefore issuing the following orders.

1. The opposite parties shall return either gold ornaments equal to that of the weight of the gold pledged by the complainants or shall return the existing market price of the gold to the complainants after accepting the amount and interest. The interest for the total amount shall be worked out by the opposite parties only upto the date of 1<sup>st</sup> November 2019, if the complainants approach the bank with amounts along with interest within 45 days from the date of receipt of a copy of this order.
2. Considering the nature of the complaint no compensation is ordered in this case.

Pronounced in the open Forum on this the 9<sup>th</sup> day of August 2024.

Sd/-

V.Ramachandran, Member

Sd/-

D.B.Binu, President

Sd/-

Assistant Registrar

Forwarded by Order

Assistant Registrar

Appendix

Complainant's Exhibits

Exbt.A1 is a copy of gold loan and identification card issued by the 3<sup>rd</sup> opposite party to the 1<sup>st</sup> complainant.

Exbt.A2 is the copy of the gold loan due and identification card issued by the 3<sup>rd</sup> opposite party to the 2<sup>nd</sup> complainant.

Exbt.A3 is the office copy of the legal notice dated 19.10.2018.

Exbt.A4 is the postal receipts sending Exbt.A3 to opposite parties 2 and 3.

Opposite party's exhibits:

Exbt.B1 is the copy of gold loan pledge form

Exbt.B2 is the statement of accounts.

Exbt.B3 the copy of letter of compensation for fraud in Gold loan Portfolio at Aluva Branch.

Copy of order despatched on :

By Post:

By Hand:

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**[HON'BLE MR. D.B BINU]  
PRESIDENT**

**[HON'BLE MR. RAMACHANDRAN .V]  
MEMBER**



**[HON'BLE MRS. SREEVIDHIA T.N]  
MEMBER**