



CIVIL

# Procedure Prescribed Under CRPC Should Be Followed In Matters Of Penal Provisions Under Section 27 Of The Consumer Protection Act

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A bench of the U.P. State Consumer Dispute Redressal Commission (“State Commission”), recently<sup>[1]</sup> set aside the order of conviction by the District Consumer Commission (“District Forum”) and held that the procedure prescribed under the Code of Criminal Procedure Code, 1973 (“CrPC”) should be followed in matters of penal provisions under the Section 27 of the Consumer Protection Act, 1986 (“the said Act”).

The District Forum received a complaint against the Greater Noida Industrial Development Authority (“GNIDA”). The Complainant sought the allocation of a 2500 sq. meters plot and requested compensation and costs for the previous rejection of the allocation. The District Forum ruled in favor of the Complainant, instructing GNIDA to allocate a plot to the Complainant.

Being aggrieved by the said order GNIDA filed an appeal before the National Consumer Dispute Redressal Commission (“NCDRC”). The NCDRC by ruling in favor of GNIDA modified the order of the District Forum and thereby directed GNIDA to refund the deposited amount paid for the allocation to the Complainant along with interest. However, the Complainant being aggrieved, challenged the said order in revision.

In 2014, NCDRC overturned the previous order, modifying the order issued by the District Forum. It was alleged by the Complainant that despite the subsequent order of NCDRC, GNIDA failed to allocate the plot within the stipulated timeframe. Consequently, in January 2023, the CEO of GNIDA was sentenced to imprisonment by the District Forum due to non-compliance with the order issued by the NCDRC. Subsequently, GNIDA filed an Execution Appeal in the State Commission challenging the order of conviction issued by the District Forum.

Along with other grounds, GNIDA argued that District Forum has failed to follow the appropriate procedure as specified under Chapter XXI of CRPC before convicting GNIDA under section 27 of the said Act.

While perusing Section 27 of the said Act, it was observed by the State Commission that Consumer Forums, while dealing with penal provisions under Section 27 of the said Act, shall exercise the powers of a magistrate of first class as per CRPC and for penalizing the accused party u/s 27 of the said Act, the summary procedure, prescribed under Chapter XXI of CRPC should be adopted.

The State Commission placed reliance on the judgment delivered by the Hon’ble Supreme Court in the case of *Kamlesh Aggarwal*<sup>[2]</sup>, wherein it was stated that consumer forums and commissions should adhere to the procedures outlined in the CrPC when dealing with applications filed under Section 27 of the said Act. Additionally, the State Commission also relied on the judgment passed by the NCDRC in the case of *Ramesh G. Kohli*<sup>[3]</sup>, wherein due to the absence of notice under Section 251 of the CRPC, lack of opportunities for cross-examination and presenting a defense, and failure to record the statement under Section 313 read with Section 281 of the CRPC, the impugned order was overturned.

Based on the precedents, the State Commission determined that for proceedings under Section 27 of the said Act, District Forum should follow the procedure outlined for “Summary trials” as prescribed in Chapter XXI of the CRPC. However, in the present case, it was observed by the State Commission that the District Forum had directly sentenced the CEO of GNIDA without issuing any notice under Section 251 of the CRPC. As a result, the State Commission deemed the order of the District Forum to be flawed and subsequently granted the appeal filed by GNIDA.

Thus, it becomes evident that while dealing with penal provisions under Section 27, Consumer Forums, acting as magistrates of first class, must adhere to the procedure specified for “Summary trials” as outlined in Chapter XXI of the CRPC. It is not permissible for the Consumer Forums to directly convict the accused without following the prescribed procedure under the CRPC.

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<sup>[1]</sup>Greater Noida Industrial Development Authority Gautam Budha Nagar vs Mahesh Mitra (Appeal Execution Application No. AEA/1/2023)

<sup>[2]</sup>KAMLESH AGGARWAL Versus NARAIN SINGH DABBAS & ANR Reported In IV (2015) CPJ 1 (SC)

<sup>[3]</sup> Ramesh G. Kohali Vs ShivanandShanbag [2020 NCJ 640(NC)]