

IN THE COURT OF CHIEF METROPOLITAN MAGISTRATE,
TIS HAZARI COURTS, NEW DELHI
Complaint case No. _____ 20XX

IN THE MATTER OF:

AComplainant

Versus

BAccused

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COMPLAINANT

THROUGH COUNSEL

NITINYAYA LAW OFFICES

Advocate(s) for the Complainant

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Supreme Court of India, New Delhi-110001

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IN THE COURT OF CHIEF METROPOLITAN MAGISTRATE,
TIS HAZARI COURTS, NEW DELHI
Complaint case No. _____ 2018

IN THE MATTER OF:

AComplainant

Versus

BAccused

MEMO OF PARTIES

A
(Address) ...Complainant

Versus

BAccused

Also at
(Address)

COMPLAINANT

THROUGH COUNSEL

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TIS HAZARI COURTS, NEW DELHI
Complaint case No. _____ 2018

IN THE MATTER OF:

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**COMPLAINT UNDER SECTION 200 OF CRIMINAL PROCEDURE
CODE, 1973 FOR COMMITTING OFFENCES UNDER SECTION -
420, 405, 409 AND 120B OF INDIAN PENAL CODE**

1. That the complainant is constrained to approach this Hon'ble Court against the illegal and unlawful acts that have been committed by the accused persons in conspiracy and collusion with each other.
2. That the Accused persons herein are running a club/gym under the name and title of " _____ " situated at _____.
3. That Accused No 1, 2 and 3 are the Directors of the Accused Company and Accused no 4 and 5 are its Vice President and General Manager respectively.
4. That the complainant herein before renewing its membership was represented by Accused no 4 and 5 that the accused company is a financially sound company and is a pioneer in fitness industry. Based on the representations of the Accused no 4 and 5, the Complainant herein renewed its membership with the above stated club and the Complainant along with other members of the club paid in advance annual membership fees and fee towards the Personal Training Session(s) with total amounting to Sum of Rupees Forty Lakhs (INR 40,00,000/-) Only ,copy of receipt of the subscription amount paid
5. That it is also pertinent to mention that the club has also been closed from XX/XX/XXXXX till XX/XX/20XX and from XX/XX/20XX till XX/XX/20XX in the past due to issue with the Mall Management and no compensation was given to the members of the club.
6. That it is submitted that the above stated club has been closed since XX/XX/XXXX without any intimation to any of the club members.
7. That subsequently the complainant herein has written various emails to the management of the Accused Company asking them to

refund the membership fees and fees towards the Personal Training Session(s) paid by the Complainant to them.

8. That the Management of club has been making false promise of its opening without any teeth to that effect, copy of the emails written by the Complainant to the Management of the Accused Company is annexed herewith as **ANNEXURE C-2 (Colly) .**
9. That since the Accused Company did not respond hence the Complainant herein was constrained to file a complaint with the Station House Officer, Rajouri Garden Police Station regarding illegal practices being carried out by the Accused Company and asking the authorities to assist the Complainant in obtaining refund of the membership and Personal training fees from the Accused Company. However Police failed to take any action against the Complaint of the Complainant, copy of the complaint dated XX/X/XXXX filed with the SHO, Rajouri Garden Police Station is annexed herewith as **ANNEXURE C-3.**
10. That copy of the above-mentioned complaint has also been sent to Deputy Commissioner of Police, Rajouri Garden, New Delhi – 110027, however the same went in vain as no action was taken on the said complaint.
11. That Subsequently the Complainant herein also filed an RTI Application to the Public Information Officer (PIO) seeking Status and action taken report (ATR) on the above said complaint, copy of the the said RTI Application is attached herewith as **ANNEXURE C-4**
12. That the RTI Application was replied vide letter no.*****, copy of the same attached herewith as **ANNEXURE C-5** with the reply that the enquiry in the said complaint is pending hence the requisite information/document cannot be provided at this stage u/s 8(1) (h) of the RTI Act- 2005.
13. That the Complainant filed an appeal dated _____, copy of the same attached herewith as **ANNEXURE C-6** with the Deputy Commissioner of Police (D.C.P), the first appellate authority which is pending adjudication.
14. That there has been no action taken against the Management of the accused club till date despite filing the Complaint. Despite knowing the fact that the Club is not in good financial condition with dues to the Mall Management, Municipal Authorities and Electricity Supplier

the Management of the club/ Accused persons has made dishonest representation about the financial condition of the club to the clients and made wrongful gain by such representation in the form of advance fees.

15. That the Management of the Accused Club has misappropriated the advance fees paid towards the annual membership fees and Personal Training Session(s) by the Complainant .
16. That it is clear that the Management of the Club conjointly with its Directors in conspiracy with each other are guilty of committing offences of the cheating, Criminal Breach of trust and misappropriation of the advance fees paid by its members.
17. The dereliction of duty on part of the police is apparent. Thus the investigation of the said complaint should be directed to be conducted by Senior Police officer of _____.

PRAYER:

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased:

- A. To direct the concerned Police Authority to investigate the matter against the accused and to file chargesheet.
- B. To direct the Concerned Police Officer to investigate the Case under Section 156(3) CRPC and to register an FIR under Section 420, 405, 409 and 120B of the Indian Penal Code or under any other provision against the accused as this Hon'ble Court thinks fit.
- C. Pass such other further order/orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE HUMBLE COMPLAINANT AS IN DUTY BOUND SHALL EVER PRAY

Filed By:

COMPLAINANT

Filed At: New Delhi

Filed On:

THROUGH COUNSEL

:

NITINYAYA LAW OFFICES
Advocate(s) for the Complainant

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VAKALATNAMA

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KNOW ALL to whom these presents shall come that I, the above named Complainant(s) do hereby appoint

hereinafter called the Advocate to be my/our Advocate in the above-noted case and authorize them:-

To act, appear and plead in the above-noted case in this, or in any other court in which the same may be tried or heard and also in the appellate Courts including High Court.

To sign, file, verify and present pleadings, replications, appeals, cross-objections, or petitions for execution, review, revision, restoration, withdrawal, compromise, or other petition, replies, objections, or affidavits of other documents as may be deemed necessary or proper for the prosecution of said case in all its stages.

To file and take back documents.

To withdraw, or compromise, the said case or submit to as arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take our execution proceedings.

To deposit, draw and receive moneys, cheques and grant receipts thereof, and to do all other acts & things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the advocate whenever he may think fit to do & to sign the power of attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm acts, done by the Advocate or his substitute in the matter as my/our duly authorized agent would appear in Court on all hearings & will inform the Advocate for appearance, when the case is called.

And I/We the undersigned do hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequence of his absence from the Court when the said case is called up for hearing or for any negligence of the said Advocate or his Substitute.

And I/We the undersigned do hereby agree that the whole fee will be payable in advance and that in the even of the whole or any part of the fee agree by me/us to be paid to the Advocate, remaining unpaid, he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. If any costs are allowed for an adjournment, the advocate would be entitled to the same.

IN WITNESS WHEREOF I/WE do hereunto set my/or hand to these presents the contents of which have been understood by me/us on this ____day of ____2018. Accepted subject to the terms of fees.

Advocate /Counsel (_____)

Client(s)