

In the Court of Chief Metropolitan Magistrate Court, Chennai
C.C. No. 395 of 2006

State of Tamil Nadu

Vs

Complainant

M/s Bronx Bank Cards & Anr.

Accused

1. On 15 February 2006 Mr. Manian. K received a bill from Bronx Bank Cards for a sum of Rs. 81,000/- to be paid on or before 5 March 2006 without charges. The minimum amount payable is Rs.5000/- by that date. The balance amount will be charged at the rate of 24% p.a. The bill pertained to booking of Air tickets to Australia on 12 January 2006 for Rs. 75,400/- purchased online and for software downloads on E-asybuy for Rs. 5,600/- on 13 January 2006.
2. Bronx Bank is a multinational Bank that has a credit cards division handled by Bronx Bank Cards. The card users can make payments for their outstanding balances by way of dropping cheques at the drop boxes provided at the many branches of the Bronx Bank, or send the cheques by post to credit card division, based in New Delhi, opt for giving standing instructions in the branch where the card holder has an account or give instructions for payment by Electronic Clearance Scheme whereby the balance outstanding will be cleared on due date based on the claims.
3. Mr. Manian. K is a senior citizen living in Chennai. He has a Savings Bank account with Bronx Bank for almost 8 years. He is also a Bronx Card user since the facility started and was awarded the card by the inaugural schemes, as a privileged customer of the Bank without processing charges. Mr. Manian. K was also extended the facility of an add-on-card that was dispatched to him with instructions, that it may be used by any one close member of his household (wife, son, daughter etc.).
4. On receiving the Bill from Bronx cards, Mr. Manian. K thought that there must be some mistake and called on their help line number provided. The help line personnel asked for certain details, and Mr. Manian. K informed that presently he could not trace his card as he had misplaced it. He also told the Bronx card staff that the entries in respect of Airline ticket and Software download does not pertain to him. He requested them not to debit these amounts to his savings account. He also sent a letter to Bronx cards to this effect on 20 February 2006. Bronx cards acknowledged the letter and assured Mr. Manian. K of their best services in their letter dated 27 February 2006. Till this incident happened Mr. Manian. K had no issues with Bronx Bank or Bronx Bank Cards.
5. Few months after this Mr. Manian. K forgot about this issue and was planning to leave on a holiday to US to be with his son on 9th June 2006. Before leaving for US he visited his relatives and was traveling quite a bit. While clearing his bills and checking past bank statements, which had accumulated by then, he noticed that a sum of Rs.81000/- has been debited to his account through ECS on 5 March 2006, the due date for payment. He found out that this amount pertained to the transactions not made by him and which he had disputed in writing and informed through the help line. He called them again and strongly condemned their action and requested them to immediately credit the amount to his account. The help line assistant transferred his call to a higher authority, who in turn transferred to another Mr. Malhotra, who was incharge. Mr. Malhotra replied, that the transaction must have been Mr. Manian. K's and loss of card must be informed in advance before any transactions take place, which Mr. Manian. K failed to do. Bronx

Bank Cards have now blacklisted the card and no further transactions would take place. But for the disputed amount, he had no authority to rescind.

6. Mr. Manian. K was very perturbed about this incident and it took a toll on his health. He was admitted in the hospital for hypertension. Following a call from his son he planned to leave for US immediately. While packing for his voyage, he found his card was intact with the ATM Pin letters for cash withdrawal and special PIN for NET Banking transactions among his clothes in his suitcase. Immediately, he called up Bronx Bank Cards and informed that his card was not lost but had been in his custody all the while, and it was just misplaced within his premises as claimed by him already. He also requested them to refund the money. He sent a letter to this effect on 7th June 2006 providing the details and requested them to credit the amount to his Savings Account as he was leaving for US on 9th June 2006.
7. On his return from US in October 2006, he found that Bronx Bank Cards have not responded to his request. And his further representations were futile.
8. On 1st November 2006 Mr. Manian. K lodged information with the police alleging commission of offences under sections 403, 405, 408 and 409 of the Indian Penal Code and section 66 of the Information Technology Act by Mr. V. P. Sinha, Vice President, Customer Service, Bronx Bank Cards. After registering the FIR the authorized officer of Police conducted investigation and submitted a report under section 173 of Cr.P.C. to the competent magistrate. On receipt of the report filed under section 173 Cr.P.C., the competent magistrate, after ensuring that relevant copies were served to the accused, took cognizance of the offences and forwarded the case to the trial court for further proceedings. Subsequently charges were framed under sections 403, 405, 408 and 409 of the Indian Penal Code and section 66 of the Information Technology Act, 2000 against Bronx Bank Cards and Mr. V. P. Sinha, Vice President, Customer Service, Bronx Bank Cards. The matter is now posted for evidence.

Documentary Evidence

1. Bill sent by Bronx Bank Card (Ex: P1)
2. Letter sent by Mr. Manian. K to Bronx Bank Cards (Ex: P2)
3. Credit Card of Mr. Manian. (Ex: P3)
4. ATM PIN communication (unbroken flaps) (Ex: P4)
5. PIN letter for Net Banking with PIN flaps (unbroken flaps) (Ex: P5)
6. Transcript of Details of calls received on help line from Mr. Manian. K (Ex: P6)

Witnesses to be examined

1. Mr. Manian. K (PW 1)
2. Expert witness on using credit card on line (PW 2)
3. Investigation Officer (PW 3)
4. Mr. Malhotra, Manager, Help line, Bronx Bank Cards (DW 1)
5. Mr. V.P. Sinha, Vice President Customer Service Bronx Bank Cards (DW 2)

(Annexure A: FIR is attached separately)

Annexure: B

REPORT OF POLICE OFFICER ON COMPLETION OF INVESTIGATION
(Under Section 173 of Cr.Pc.)

- a) *The Name of the Parties:* Mr. V.P. Sinha, Bronx Bank Cards, Vice President Customer Service
- b) *Nature of the information:* Arrested and released on bond and surety of amounting to Rs.1.00 lakh
- c) *The names of persons who appear to be acquainted with the circumstances of the case:* Mr. Malhotra, Manager, Help line, Bronx Bank Cards
- d) *Whether any offence appears to have been committed and, if so, by whom:* Yes.
Amount has been appropriated by Bronx cards towards charges, that was not incurred by the complainant, inspite of informing the accused and providing adequate documentary evidence thereby disclosing the commission of offences under Sections 403, 405, 408 and 409 of the Indian Penal Code. The facts also disclose the commission of offence under Section 66 of the Information Technology Act, 2000. The facts available further reveal that Mr. V. P Sinha, Vice President, Customer Service, Bronx Bank Cards has authorized the deduction of the amount from the Savings Account of Mr. Manian. K.
- e) *Whether the accused has been arrested:* Yes
- f) *Whether he has been released on his bond and, if so, whether with or without sureties:* Yes. Anticipatory Bail from H.C. Direct (before Charge Sheet) for two sureties of Rs. 50,000/- each.
- g) *Whether he has been forwarded in custody under section 170:* No.

Annexure 1

MONTHLY STATEMENT		BRONX BANK CARD	
Full Name	Card Number	Statement Date	Page
Mr. Manian. K	1000 2000 3000 4000	15 Feb 2006	1 of 1
Credit Limit including cash Rs.	Available credit including cash Rs.	Cash Limit (included in the credit limit)	Available Cash Rs.
1,00,000	19,000	20,000	19,000
Payment Due Date	Minimum amount Due Rs.	Total Amount Due Rs.	
5 Mar 2006	5000	81,000	
Date	Description	Amount Rs.	
12/01/2006 13/01/2006	Transactions for Mr. Ax Credit Card No. 1000 2000 3000 4000 E-asyGo On line – Bangalore IN E-asyBuy On line – Bangalore IN	75,400.00 D 5,600.00 D	
Account Summary			# C=Credit; D=Debit
Opening Balance Rs.	Purchase & Other debits	Payments Reversals & other Credits Rs.	Total Outstanding Rs.
0	81,000.00	0	81,000.00

What do you do when card is lost or stolen: Immediately inform the loss to the 24 hour Bronx Bank Card Customer Helpline + Report the loss to the police and collect a copy of the FIR + Confirm the loss to us in writing along with a copy of the FIR

For better management of credit and risk we will maintain stringent controls / not approve High-Risk Transaction (e.g. jewellery etc) for the Bronx Bank Card holder

Billing Disputes Resolution: For reporting billing discrepancies call the 24 hour Bronx Bank Card customer helpline. All grievance escalations should be marked to Vice President, Customer Services, Bronx Bank Cards, Bank Marg, New Delhi 1100 001 or email at bronxbankcard@bronx.co.in

24 hr Bronx Bank Card Helpline
10020030
1000200030

Annexure: 2

MONTHLY STATEMENT		BRONX BANK CARD	
Full Name	Card Number	Statement Date	Page
Mr. Manian. K	1000 2000 3000 4000	15 March 2006	1 of 1
Credit Limit including cash Rs.	Available credit including cash Rs.	Cash Limit (included in the credit limit)	Available Cash Rs.
1,00,000.00	1,00,000.00	20,000.00	20,000.00
Payment Due Date	Minimum amount Due Rs.	Total Amount Due Rs.	
5 Apr 2006	0	0	
Date	Description	Amount Rs.	
05/03/2006	Transactions for Mr. Ax Credit Card No. 1000 2000 3000 4000 Payment Received in ECS	81,000.00 C	
Account Summary			# C=Credit; D=Debit
Opening Balance Rs.	Purchase & Other debits	Payments Reversals & other Credits Rs.	Total Outstanding Rs.
81,000.00	0	81,000.00	0

What do you do when card is lost or stolen: Immediately inform the loss to the 24 hour Bronx Bank Card Customer Helpline + Report the loss to the police and collect a copy of the FIR + Confirm the loss to us in writing along with a copy of the FIR

For better management of credit and risk we will maintain stringent controls / not approve High-Risk Transaction (e.g. jewellery etc) for the Bronx Bank Card holder

Billing Disputes Resolution: For reporting billing discrepancies call the 24 hour Bronx Bank Card customer helpline. All grievance escalations should be marked to Vice President, Customer Services, Bronx Bank Cards, Bank Marg, New Delhi 1100 001 or email at bronxbankcard@bronx.co.in

24 hr Bronx Bank Card Helpline
10020030
1000200030

Annexure: 3

June 7, 2006

From
Manian. K
20 Bose Road
Chennai 600 001
Credit Card No: 1000 2000 3000 4000

To
The Vice President,
Customer Services,
Bronx Bank Cards,
Bank Marg,
New Delhi 1100 001

Dear Sir

Sub: Monthly statements for credit Card No: 1000 2000 3000 4000 dated 15 Feb 2006 and
15 March 2006 – Debit entries not pertaining to my usage
Ref: 1. My letter dated 20 February 2006
2. Your letter dated 27 February 2006
3. My telecon with Mr. Malhotra on 5 March 2006

Kindly refer to the above letters and my telecon with Mr. Malhotra on the entries present in the subject monthly statements presented to me for payment.

I am a privileged customer of your bank and have not defaulted on payment of my dues at any point of time. In spite of my repeated pleadings that the debit entries in respect of Rs.81,000/ presented in the statement of 15 February 2006, does not belong to me, you have debited my account on 5 March 2006.

Also I would like to bring to your notice that my earlier information that I have misplaced the card and the communication regarding PIN numbers is also not valid presently, since the covers were in my suitcase, and in my possession all the time, which I found today. Mr. Malhotra was very rude over phone and presumed that the card was lost and he could not do anything about the entries and could only take action regarding further misuse.

In the changed circumstances, neither the card nor the PIN number information were lost, and were in my possession at all times, it is very clear that the debit entries does not belong to me and has been misused by some stranger, owing to the lapse in the security procedures of the bank.

Since I am leaving to US on 9 June 2006, to be with my son, and considering my ill-health due to this incident, I request you to immediately refund the amount wrongly debited to my account and oblige.

Sincerely

Sd/-
Manian. K