



**IN THE COURT OF SUB DIVISIONAL MAGISTRATE (DELHI CANTT)**  
**12/1, JAM NAGAR HOUSE, SHAHJAHAN ROAD, NEW DELHI**

Case No. 04/SDM/DC/2013/8701-05  
Under Section 133 CrPC

Dated: 04/9/13

State

Versus

**Sh. Rakesh Kumar S/o Sh. Vishvamitra Aggarwal,**  
**R/o RZ-1068, Gali No. 5/7,**  
**Main Sagar Pur, New Delhi**

**ORDER**

By this order I shall dispose off the Kalandra bearing DD No. 27 A dated 14.06.2013 received on 17.06.2013 from Police Station Sagar Pur against Sh. Rakesh Kumar S/o Sh. Vishvamitra Aggarwal for causing nuisance under section 133 CrPC.

**Brief facts of the case are that-**A Kalandra bearing DD No. 27A dated 14.06.2013 received on 17.06.2013 in this office from Police Station – Sagar Pur, New Delhi under section – 133 of CrPC alleging therein that Sh. Rakesh Kumar S/o Sh. Vishvamitra Aggarwal has demolished the 25 yds linter (roof) of property bearing no. RZ-122, Gali No. 2, East Sagar Pur, New Delhi without any safety measure and information / permission of civic agencies.

Notices were issued to the accused who appeared before this court and has submitted his written submissions. As per the written submission, accused has stated that this house of 25 yds. was purchased by him from Sh. Bhola Nath S/o Sh. Sita Ram Yadav. At the time of purchase, the house was in dangerous position and there are many cracks in the roof. Hence, accused has demolished the old structure.

In her reply, the complainant has submitted that she along with her family had gone to Rajasthan in the first week of June, 2013 and when she returned the front supporting linter of her house was cut by the accused and supporting wall of above three stories to the North-East Side was also removed. Due to this action, the upper two stories were endangered/ became susceptible to come down and cracks were aroused in the eastern wall of all three stories as the support of linter was removed. Putting of weal ballies to support the entire load of upper two stories further endangered the house and



life of the inhabitant therein. The removal of the side wall of the entire building to the North – East side of her house made her entire house to be exposed to monsoon rains and seepage of water thereupon which did happen damaging the costly distemper very recently carried out causing an avoidable financial loss to her. Digging of the adjoining plot has caused a pool of water during the ensuing monsoon next to the base of her house resulting in heavy seepage in the very base of her building affecting the safety of the base wall of the house.

The complainant has also claimed for re-imburement of financial loss due to inhumanly, un-neighborly and unlawful act of the accused as detailed below:

Repair of cracks aroused in the upper two stories	Rs. 80,000/-
Damage of costly distemper caused by seepage	Rs. 18,000/-
Construction of support pillar in place of ballies	Rs. 15,000/-
Loss caused by vacation of parents in upper two stories	Rs. 22,000/-
Mental torture, agony and harassment caused by dangerous situation	Rs. 5,00,000/-
Total	Rs. 6,35,000/-

After going through the content of the Kalandra and averments of both the parties, I find that the matter in dispute is a property bearing No. RZ-122, Gali No. 2, East Sagar Pur, New Delhi vide which the accused has demolished the old structure of his portion which he has purchased recently.

From the perusal of the reports received from Tehsildar (Delhi Cantt), it is emphasized that the combined lintel of the premises of the accused and the complainant was found broken and there is dampness inside the house of the complainant, due to the construction which is apparently without any approval of the local body i.e. North Delhi Municipal Corporation causing nuisance to the neighbors. However, from the Kalandra or the report of Tehsildar (Delhi Cantt), it could not be established that the said nuisance is caused to the general public at large as the premises are privately occupied which are not covered under the definition of public place. Besides due to the said construction, the nuisance by way of blockage of public right of way of endangering life of the public could not be made out from the Kalandra and other documents made available to this court. However, I find that the accused has created nuisance to his neighbor by resulting to illegal construction. Now, therefore, I, Pradeep Kumar, SDM (Delhi Cantt) hereby direct that the accused shall not cause any nuisance to the public as well as the complainant by resorting to the construction without obtaining permission from the competent authority. Further, the accused is directed to immediately remove the cause of nuisance to the




complainant and the public at his own cost. XEN (Building), Municipal Corporation of Delhi, Najafgarh Zone is directed to ensure that no nuisance is caused by the accused in the premises bearing No RZ-122, Gali No. 2, East Sagar Pur, New Delhi and to assess the nature of danger, if any, still persisting at site due to the alleged illegal activities of the accused.

However, I do not find any merit in the claim of the complainant for awarding the compensation to him which is also not mandated under the provision of Section 133 of Cr.P.C. for which remedy lies elsewhere.

A copy of this order be also given to SHO, Police Station – Sagar Pur, New Delhi to ensure compliance of the direction contained in this order.

Order announced accordingly on the 22<sup>nd</sup> day of August, 2013 and the file is consigned to the record room.



  
(PRADEEP KUMAR)  
SUB DIVISIONAL MAGISTRATE  
(DELHI CANTT)

1. Rakesh Kumar S/o Sh. Vishvamitar Aggarwal, R/o RZ-1068, Gali No. 5/7, Main Sagar Pur, New Delhi.
2. Smt. Pista Devi W/o Shri Ram, R/o RZ-122, Gali No. 2, East Sagar Pur, New Delhi.
3. Executive Engineer ( Building), Municipal Corporation of Delhi, Najafgarh Zone, Zonal Building, Near Dhansa Bus Stand, Najafgarh, Delhi-110043.
4. S.H.O. Police Station Sagar Pur, New Delhi.
5. Assistant Programmer, O/o District Magistrate, New Delhi District, 12/1 Jam Nagar House, Shahajahan Road, New Delhi.-110011 to upload it on the website of the district.