



2025:DHC:8957



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Pronounced on: 26th September, 2025+ **CRL.M.C. 3335/2021 & CrI.M.A. 20319/2021 & CrI.M.A.
26005/2022****KAPIL CHOPRA**Director of M/s Karan Technofab Pvt Ltd.
B-65/3, Naraina Industrial Area
Phase-II, New Delhi – 110028

....Petitioner

Through: Mr. . S. K. Pandey, Advocate
versus**SANJIV RAWAL**Proprietor of M/s. Peerless Pack,
B-46, Naraina Industrial Area,
Phase-II, New Delhi-110028

.....Respondent

Through: Mr. Archit Upadhayay (DHCLSC),
Ms. Muskan Aggarwal adv, Ms.
Pragya Mishra adv**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (Oral)**

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) has been filed on behalf of the **Petitioner, Kapil Chopra** for quashing of the Complaint Case No. 27770/2016 (*Previously numbered as CC No. 331/1/13 And CC No. 137/1*) titled as "*Sanjiv Rawal v. Kapil Chopra and Ors.*" pending in the Court of Ld. MM, New Delhi along with Summoning Order dated 20.12.2012,



whereby the Petitioner has been summoned for the offence under Section 288/506(I)/34 Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*).

2. ***The case of the Complainant/Respondent, Sh. Sanjiv Rawal*** is that he is the Proprietor of M/s Peerless Pack, B-46, Naraina Industrial Area, Phase-II, New Delhi, 110028, while the Petitioner/Accused No.1, Sh. Kapil Arora, is the owner of the adjoining Property bearing No.B-46/1, Naraina Industrial Area, Phase-II, New Delhi-110028. As per the Complainant, the Petitioner was carrying out illegal and unauthorized construction work by using sub-standard and hazardous material in the said construction and without any Sanction Plan from North Delhi Municipal Corporation, through *Accused No.2, Amandeep Singh*, who is the occupant of the said premises, in connivance with *Accused No.3, Officials of North Delhi Municipal Corporation*.

3. The *Accused No.2* started drilling the walls and digging the floor for strengthening them, without taking any safety measure. A ***single brick wall of 45 ft. x 4 ft*** was constructed. Despite his repeated objections, the *accused No.1&2* continued the construction and told the Complainant that if he wanted to live peacefully, he should sell off his premises to him.

4. In the morning of 04.06.2012, the wall so constructed, collapsed and fell in the premises of the Complainant. As a result, the entire roof of the Complainant's building crashed and expensive office equipment's and other infrastructure was badly damaged, causing huge and irreparable loss to the tune of lacs of Rupees.

5. The Complainant made a written Complaint to the SHO, P.S. Naraina, Delhi on 04.06.2012, which was taken *vide* Diary No. 501/SHO/MR; but no action was taken. Thereafter, Complaint dated 06.06.2012 and 07.06.2012



were made to the ACP, P.S. Naraina, Delhi, *and* to the DCP, South-West, Delhi, and the Commissioner of Police, respectively.

6. On the same day i.e. 04.06.2012, a Complaint was also made to the Municipal Corporation of Delhi (MCD) Control Room to stop the illegal construction being raised by the Accused persons. Thereafter, Varun Arora, J.E., visited the site on 19.06.2012 at 06:15 P.M., but no action was taken. In fact, the said J.E. recorded twisted facts and attempted to hush up the matter.

7. Reminder Complaint was submitted to the ACP, P.S. Naraina, on 15.06.2012 and to the Deputy Commissioner, North DMC, on 18.06.2012; but no action has been taken either by the Police or the MCD as the Accused enjoys great influence over the local Police and MCD officials.

8. It is further submitted that after the filing of the Complaint, threats have been extended to the life and property of the Complainant by the associates of the Accused No.1, who are still continuing with the illegal construction. The construction is weak and unsafe and it continues to be a danger to the life and property of the Complainant and others. Therefore, immediate action is required against the Accused persons.

9. It is further submitted that the Accused persons are attempting to mitigate the evidence by removing the connecting walls of the Complainant's boundary, repairing the leaking water tank which had further weakened the wall and removing the debris from the site.

10. On 25.06.2012, the SHO, P.S. Naraina, called the Complainant and gave him a copy of the Inspection Report of the MCD, wherein it was informed that the investigation of the said area, had been handed over to the Delhi State Industrial and Infrastructure Development Corporation (DSIIDC) in March, 2012. On receipt of this information, the Complainant



made a representation to the DSIIDC, but no action was taken by any Authority till date.

11. Accused Nos. 1 and 2 have carried out illegal and unauthorized construction and repair work, in active connivance and collusion with the officials of MCD, Accused No. 3, as the MCD officials have failed to stop the illegal construction which was carried out without any Sanction Plan or permission from the MCD. The Accused persons have thus, committed offence under **S. 288 IPC, S. 427 IPC, S. 201 IPC and S. 506 IPC.**

12. Complainant thereafter, filed a Complaint under Section 200 Cr.P.C. before the Ld. CMM, Delhi.

13. In support of his case, the Complainant examined himself as CW-1 and reiterated the averments made in the Complaint. He further asserted that loss was caused to him due to the collapse of the wall and that he suffered business losses as essential business documents were destroyed.

14. The Ld. MM noted that the Complainant had placed on record photographs showing the damage caused to his building due to the collapse of the wall. In view of the testimony of CW-1, a prima facie case is made out. Accordingly, The Petitioner/Accused No.1 has been summoned vide Order dated 20.12.2012 under Sections 288/506(I)/34 IPC and the Accused No.2 has been summoned under Section 288/34 IPC.

15. The summoning Order has been challenged by the Petitioner on the **ground** that he has been wrongfully accused of negligently constructing a wall without taking sufficient measures and to prevent the damages caused by its fall. It is submitted that S. 288 IPC contemplates that *sufficient safety measures should have been taken, or that insufficient safety measures were knowingly or negligently omitted, thereby leading to probable danger to*



human life. The major element of S. 288 IPC is the existence of probable danger to human life due to the fall of a building or any part thereof. However, even as per the version of the Complainant in the Complaint, the collapse of the wall led only to damage to the Complainant's property *without causing any harm or posing any danger to human life*. A long list of proprietary losses has been provided; however, neither has any loss to human life been mentioned nor has any concerns regarding such threat, has been raised at the relevant time or even thereafter.

16. It is submitted that wrongful allegations have been raised in the said Complaint regarding the alleged unauthorized and unlawful construction of the wall by using hazardous and sub-standard material and through dangerous drilling.

17. It is further submitted that the earlier Complaints made by the Complainant, raised *concerns only regarding massive damage to his property and infrastructure* due to the alleged illegal construction. In none of the Complaint, has the Complainant mentioned any threat to human life. Raising such a serious apprehension at a later stage, casts doubt on the veracity of the Complainant's case. The wrongful allegations raised in the Complaint are an aftermath, with malafide intention and has no credibility.

18. Furthermore, in order to attract a charge under S. 288 IPC, some construction activity must be taking place. However, in the instant case, no construction of any sort was being carried out that could have allegedly resulted in the collapse of the building of the Complainant/Respondent.

19. Reliance is placed on the judgment of the Hon'ble Bombay High Court in Vinayak Laxman Vartak v. Lamidas Vithaldas Ganatra and Ors., 1992 (1) Bom CR 447, wherein it was observed that the offence under



Section 288 IPC could be committed only *while the building is being pulled down or is being repaired*, and once the said work of pulling down or repair is completed, the offence cannot be committed irrespective of any deficiencies that may have persisted while the work was in progress.

20. Further, the Report of the Executive Engineer, bearing No. D/440/EE(M)/KBZ dated 25.06.2012, after inspecting the subject area, clearly states that due to heavy rainfall, the old parapet wall could not withstand the pressure of the storm and rainfall, and resultantly it collapsed causing damage to the property and infrastructure of the Complainant/Respondent.

21. It is submitted that no specific averment has been made in the Complaint against the Petitioner/Accused No. 1 which could in any manner suggest his involvement in the offences alleged. Moreover, a bare perusal of the said Complaint makes it amply clear that all averments are of a blanket nature, and nothing specific or particular has been attributed to the Petitioner.

22. It is further submitted that no criminality is attracted in the present case as the Complainant/Respondent has filed a Civil Suit bearing *Civil Suit No. 16486/2016* on the same cause of action and facts as alleged in the present Complaint, against the Petitioner for recovery of losses allegedly suffered by him, which is pending trial.

23. It is submitted that the Complainant/Respondent has also wrongfully alleged that the Petitioner/Accused No. 1 has been criminally intimidating him to sell his property to the Petitioner. The allegations raised against the Petitioner lack the basic ingredients necessary to constitute the alleged offence under S. 506 IPC. The said provision requires threatening a person



with injury to himself, his reputation, or his property, or to the reputation or property of any other person in whom he is interested, *with the intention of inducing him to perform an illegal act* or preventing him from performing his lawful duty. Mere allegations, as levelled by the Complainant/Respondent that the Petitioner has connections with certain Government officials, do not fulfil the requirements of the penal provision for which the Petitioner has been allegedly accused and summoned.

24. Reliance is also placed on the judgment of the Apex Court in State of Haryana v. Bhajan Lal, 1992 AIR 604, for quashing of the present Complaint.

25. *Accordingly, it is prayed that the present Complaint and the Impugned Summoning Order dated 20.12.2012 are liable to be quashed.*

26. ***The Respondent has placed on record*** the MCD document, vide Booking No. B/UC/KBZ/12/400 dated 02.11.2012, in respect of property B-46/1, NIA, PH-II, which shows that the Petitioner was booked by the MCD for unauthorized construction. The said documents reflect that the Petitioner had excessively covered the Ground Floor and First Floor, while the Second Floor along with one room, was under construction. It further indicates that pulling down/repair work was being carried out at the Ground Floor and First Floor, thereby attracting liability under S. 288 IPC.

27. *Accordingly, it is prayed that the present Petition is liable to be dismissed.*

Submissions heard and record perused.

28. In the present case, the issue pertains to a *single-brick boundary wall, measuring 45 ft. x 4 ft.*, constructed by the Petitioner on his premises, adjoining the premises of the Respondent. It is the case of the Complainant



that the collapse of this wall caused damage to his office equipment and other infrastructure, resulting in heavy loss. Details of the damaged equipment have been furnished by the Complainant.

29. *The short issue requiring adjudication is whether offences under S. 288 and S. 506(I) IPC are made out against the Petitioner.*

30. **S. 288 IPC** provides for *Negligent conduct with respect to pulling down or repairing buildings*. It reads as under:

***Sec 288**-Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.*

31. The Petitioner submits that under S. 288 IPC, the requirement is that sufficient safety measures must be taken *in pulling down or repairing any building*, and liability arises only if *such measures are knowingly or negligently omitted, thereby creating probable danger to human life*. It is further submitted that, even as per the Complainant's version, no injury was caused to human life. The only allegation pertains to damage caused to office equipment due to the collapse of the wall.

32. For an offence under **S. 288 IPC**, it must be shown that *while pulling down or repairing a building*, the accused *knowingly or negligently omitted to take precautions sufficient to guard against probable danger to human life*. Thus, active negligence on the part of the accused at the time of pulling down or repairing must be established, and such negligence must result in probable danger or injury to human life.



33. Bombay High Court in Vinayak Laxman Vartak, Consulting Engineer v. Laxmidas Vithaldas Ganatra and Anr., (1991) SCC OnLine Bom 360 has observed as under;

4. A close reading of the section would show that the starting point of the offence is the pulling down of a building or part thereof or repairing the same. **It is while the pulling down or repairing is in process that the offence contemplated by the section can take place. The offence lies in the puller down or repairer knowingly or negligently omitting to do certain things.** What the section requires the puller down or the repairer to do is “to take such order with that building” [sic]. These words imply no more than the taking of such steps with reference to the building. The purpose of taking the said steps is, “to guard against any probable danger to human life”. The need to guard against the probable danger to human life is from “the fall of the building or any part thereof”. **Once the section is split up, it would be clear that the offence can be committed only while the building is being pulled down or repaired.** Once the pulling down or repairing is completed, the offence cannot be committed regardless of the deficiencies in the carrying out of repairs. The complaint in the instant case speaks of the first accused having removed valuable parts of the front portion of the building with a view to misappropriate the said parts. Next, it is alleged that accused No. 1 has used inadequate and sub-standard material in the carrying out of repairs and that such user has endangered the safety and security of the residents of the building. Now that is not something which is covered by section 288. If there had been an accusation of the pulling down or repairing process being so knowingly or negligently carried out as to give rise to a reasonable apprehension about a probable danger to human life, that would have been a different matter. The complaint



here is that the building has been so inefficiently and inadequately repaired that it is likely to fall and this is said to constitute a probable danger to human life. To put it differently, sub-standard and insufficient material has been used to carry out repairs to the building, thus rendering it probable that it or a part thereof may fall and this constitutes a probable danger to human life. That state of affairs would not attract Section 288 of the Penal Code, 1860.

34. These observations finds some support from the judgment of Chandrachud, J. in Manohar Shriniwas Mantri v. Adtarsingh Gangasingh 1970 Mah LJ 890 wherein it was noted:.

“In this case the injury was caused to Shirish not in the process of pulling down the building or its being repaired. The injury was caused because a worker engaged in the work of construction of the third floor threw down a brick. What Section 288 requires is that a person must knowingly or negligently omit to take the necessary order with the building in pulling it down or repairing it. It is not sufficient that an injury is caused while the building is being pulled down or repaired. In other words, the injury must be the direct consequence of the building being pulled down or repaired.... What the section further requires is that the accused must knowingly or negligently omit to take such order with the building as is sufficient to guard against a probable danger to human life “from the fall of that building or any part thereof.”

35. Now coming to the facts of this case, it is relevant to first peruse the letter written by the SHO to MCD.

To,
The Dy. Commissioner of MCD,
Karol Bagh Zone, New Delhi.



Subject: Regarding fall of Parapet (Property No. B-46/1), NIA, Phase-II, New Delhi-110028

Sir,

It is submitted that on 4-6-12 a PCR call was received regarding fall of wall on the office at B-46, Naraina Industrial Area, New Delhi. The occupant of the premises, Sh. Sanjeev Rawal, R/o. C-109, Inderpuri, New Delhi gave a written complaint in which he stated that he closed his office on 2-6-12 in the evening and when he came to his office on 4-6-12 he saw that his office was totally damaged due to fall of parapet from the adjacent building on his roof made up of cemented sheets. The occupant of the adjacent building was also contacted where Amandeep Singh S/o. Jasbir Singh, R/o. Z-67, Rajouri Garden, New Delhi was found present. He was examined, who verbally stated that recently he occupied this building premises for running his business.

Enquiry has revealed that on dated 3-6-12 due to heavy storm, the old constructed parapet of top floor could not face the pressure of waves of storm and fell down. Apparently, the building is old constructed and some of the part appears dangerous in construction.

In view of the above observations MCD control room has also been informed vide complaint no. 853 dated 6.6.2012.

It is requested that concerned officer of MCD may kindly be directed to visit the spot and give an independent opinion regarding cause of fall of wall so that legal action, if required, may be initiated into the matter.

*S.H.O.
Police Station Naraina
New Delhi.*

36. The other Report of the MCD dated 25.06.2012 states thus:

***NORTH DELHI MUNICIPAL CORPORATION
OFFICE OF THE EXECUTIVE ENGINEER (M)
52 BLOCK OLD RAJINDER NAGAR
KAROL BAGH ZONE, NEW DELHI***



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No. D/440/EE(M)/KBZ

Dated: 25.06.12

Subject: Inspection of property No. B-46A, Naraina Indi. Area, Phase-II/KBZ

In reference of the telephonic message received from SHO, Naraina Police Station, the above cited subject property has been inspected by the undersigned on 19.06.2012 in context of the collapse of the parapet wall on the building. The status report is as under:-

During the inspection it is noticed one side parapet wall constructed at the roof level (IIIrd Floor) in property no. B-46-A, collapsed and a part of the debris/malba fell on the abutting property bearing no. B-46, which is constructed upto IInd Floor level. Site enquiry revealed that portion of the prefab roof/structure damaged due to the impact of the debris/malba of the collapsed wall, however, no casualty/human injury take place during the incident.

It is also pertinent to inform that the area under reference has been transferred and handed over to DSIIDC in the month of March 2012, for further maintenance and development on the direction of the Hon'ble L.G.

Submitted please.

A.E.(W)II

E.E.(MI/KBZ

S.H.O. Naraina Police Station

Sd/-

J.E.C-150

37. In the present case, it is not stated anywhere that the wall collapsed during demolition or repair. Rather, the two Reports of the MCD reflects that the wall was an old parapet wall of the third floor, which had collapsed due to heavy rainfall as it could not withstand the pressure of the storm. Consequently, the debris and the Malba fell on the ***of the prefab roof/structure on the second floor of the complainant causing damage*** to the infrastructure.



38. To constitute an offence under S.288 IPC, it is mandatorily required that the person omits to take such precautions while the pulling down or repairing is in process, sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof. In the present case, the parapet wall was an old construction which fell due to rainfall. It was not under repair nor was it in the process of being pulled down. Therefore, the necessary ingredient of S.288 IPC is missing and no offence under S.288IPC is disclosed, even if the entire case of the complainant, is considered to be true and correct.

39. The Ld. Counsel for the Petitioner has argued that in the Complaint, no allegation of injury to human life has been made and only damage to office equipment is asserted, thereby failing to establish the second limb of S.288 IPC. This argument does not hold any water as the Language used is “...as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof..”. The Section mandates taking steps to safeguard any damage that may be caused to human life and not actual damage to human life. This section is peremptory, imposing an obligation on the Person to take the requisite steps to prevent potential damage and not that to attract S.288, some harm to human life must have occurred.

40. The Complainant may have suffered damage to his furniture and property, but he has already filed a Civil Suit bearing No. 16486/2016 for recovery of the alleged loss, which is pending before the Dwarka Courts, New Delhi. The facts as narrated in the Complaint, do not attract S.288 IPC.

41. *The other allegation made by the Complainant pertains to criminal intimidation, resulting in the summoning of the Petitioner under Section*



506(I) IPC.

42. In this regard, it would be relevant to first refer to S. 503 which defines *Criminal intimidation* as under:

“Section 503. Criminal intimidation.— Whoever ***threatens*** another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, ***with intent to cause alarm*** to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation. — A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B’s house. A is guilty of criminal intimidation.”

43. A bare perusal of **Section 503 IPC** makes it clear that before an offence of criminal intimidation is made out, it must be established that an accused ***threatened*** with an ***intention to cause alarm to the victim***. Mere threats given by the accused with no *requisite mens rea*, would not constitute an offence of criminal intimidation.

44. This has been explained in the case of Manik Taneja vs. State of Karnataka, (2015) 7 SCC 423, wherein the Apex Court had observed that simply using abusive or threatening language without any intent to cause alarm, does not come within the scope of S. 503 IPC. For a threat to qualify as criminal intimidation under this Section, it must be made with the *intention to cause alarm* to the person threatened or to coerce them into doing something they are not legally obligated to do, or to refrain from doing something they are legally permitted to do.



45. The further requirement of S. 503 is that *the intention of the appellant to cause alarm or compel doing/abstaining from some act and not mere utterances of words*, is a prerequisite of successful conviction under Section 506 IPC, as observed by the Apex Court in the case of Parminder Kaur v. State of Punjab, (2020) 8 SCC 811.

46. The Apex Court in the recent judgement of Sharif Ahmed v. State of U.P. (2024) 14 SCC 122 held as under:

“48. An offence of criminal intimidation arises when the accused intends to cause alarm to the victim, though **it does not matter whether the victim is alarmed or not**. The intention of the accused to cause alarm must be established by bringing evidence on record. The word “intimidate” means to make timid or fearful, especially: to compel or deter by or as if by threats. The threat communicated or uttered by the person named in the charge-sheet as an accused, should be uttered and communicated by the said person to threaten the victim for the purpose of influencing her mind. The word “threat” refers to the intent to inflict punishment, loss or pain on the other. Injury involves doing an illegal act.”

47. The Apex Court in Naresh Aneja vs. State of U.P., (2025) 2 SCC 604 has reiterated the observations made in Sharif Ahmed (supra) and held that an offence of criminal intimidation arises *when the accused intends to cause alarm to the victim, though it does not matter whether the victim is alarmed or not*.

48. Thus, to constitute criminal intimidation, it has to be established that there is an **intent to cause alarm** and that it must be **intended to alarm or compel doing/abstaining from some act**.

49. In the present case, the Complainant has alleged that the associates of the Petitioner threatened him to sell his premises. However, the Complaint



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does not disclose when such threats were allegedly made. It is well-settled that for an offence under S. 506(I) IPC, specific allegations are required and vague assertions of threat, are insufficient. Moreover, the Petitioner may have an inclination to purchase the Property of the Complainant, but that in itself, in the absence of the specific words, are not sufficient to establish that the *alleged threat was made with the intent to cause alarm*.

50. Hence, averments made by the Complainant, also do not establish the ingredients of S. 506(I) IPC.

Conclusion:

51. In light of the above discussion, Criminal Complaint No. 27770/2016 and the Impugned Summoning order dated 20.12.2012 along with all the proceedings emanating therefrom, are quashed. The Petition is hereby, allowed. The pending Application(s), if any, are accordingly disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

SEPTEMBER 26, 2025/RS