

IN THE COURT OF SH. SUSHIL ANUJ TYAGI
ADDITIONAL SESSIONS JUDGE (FTSC) (RC),
SOUTH WEST DISTRICT, DWARKA COURT, NEW DELHI.



CNR No. DLSW01-003555-2025

CR No. 225/2025

In the matter of:

Smt. Sumitra Chauhan
W/o Sh. A.N. Chauhan
R/o C-4G/132-B,
Janakpuri, New Delhi-58.

..... Revisionist

Versus

1. The State
Through SHO P.S Janakpuri

2. Mr. Atul Chandi
R/o C-4G/132-B,
Janakpuri, New Delhi-58.

3. Smt. Gunjan Chandi
R/o C-4G/132-B,
Janakpuri, New Delhi-58.

.... Respondents

Date of Institution of the revision	: 24.04.2025
Date on which order reserved	: 13.02.2026
Date on which order pronounced	: 13.02.2026

ORDER

1. The present revision petition has been filed by the revisionist against the order dated 01.10.2024 passed by Ld. JMFC-11, Dwarka Courts, New Delhi in a case bearing CC No.552/2023, titled as '*Atul Chandi & Anr Vs. Sumitra Chauhan & Ors*', whereby revisionist was summoned for the commission of offence u/s 425/506 IPC.
2. Briefly stated the allegation of the complainant/respondent are that the complainant and revisionist/accused are neighbours. It is alleged that house of the complainant and accused are in the same vertical stack of the building, that comprises of two flats, being 132-A and 132-B and the flat of the complainant is situated on the ground floor and accused is residing on first floor of the building. It is further alleged that accused approached complainant in July 2021 as she intended to repair and renovate her property consisting of first floor as it was not in a habitable state. It is further alleged that complainant informed accused that said flats were almost 50 years old and the foundation and overall structure must not be damaged and it was agreed that repair and renovation work in the flat owned by accused should be done in a lawful manner and there should be no damage caused to the property of the complainant and the overhead water tank installed by the complainant is not to be shifted from its location at the terrace top of accused's flat being the first floor. Thereafter, accused engaged a local building contractor firm for the above stated purpose. It is further alleged that during repair and renovation, accused in active connivance, collusion and collaboration with co-accused had started to build the

second floor on the top of the first floor and due to the same reason some cracks and structural defects occurred in the house of the complainant. It is further alleged that when the complainant confronted accused regarding the same, he abused him and threatened him of dire consequences and for getting him involved in cases of sexual nature.

3. Aggrieved by the impugned order, the revisionist has preferred the present revision petition challenging the same on following grounds:-

A. That the Ld. Trial court has failed to appreciate the settled principles of law that at the stage of summoning, the court must apply its judicial mind and determine whether there exists a prima facie case based on cogent material. In the present case, no such evidence has been produced by the complainant in support of their allegations.

B. That the Ld. Trial Court has not appreciated properly the provisions of section 425 IPC. It is submitted that in the present case, the main ingredient "intent to cause" is totally missing and further the complainant has not placed any document by which it could be established that any damage has been caused to him. And in the absence of "intent to cause damage" the offence under section 425 IPC is not made out.

C. It is submitted that the complainant instead of availing civil remedy has filed this frivolous complaint and has been able to achieve success in his mission. It is submitted that complainant and his brother assaulted the petitioner on 07-05-23 but being resident of the same building/ neighbours, the petitioner did not

pursue her complaint but she got surprised when she received the summons from Ld. Trial Court and came to know that the complainant very cleverly has been prosecuting the present complaint dated 14-03-23 and did not withdraw the same even after the incident dated 07-05-23. The petitioner reserves her rights to initiate complaint qua the incident dated 07-05-23.

D. Because the impugned order is based on presumptions and lacks any prima facie material showing the commission of offences under Sections 425 and Sections 506 IPC.

E. Because the complaint has been filed as a retaliatory measure with malafide intention to pressurize the petitioner.

F. Because the Ld. Magistrate has failed to apply judicial mind and did not record any specific satisfaction as to how the offences are made out against the petitioner.

G. Because mere civil disputes or apprehensions regarding structural repair work cannot give rise to criminal liability, especially in absence of any damage intentionally caused.

H. Because no evidence or witness has established any criminal intimidation as per Section 506 of IPC. It is submitted that there are no averments/incident qua any intimidation made by the accused persons and despite that the petitioner has been summoned.

I. Because the summoning order does not satisfy the legal standard laid down in *Pepsi food Ltd. v. Special Judicial Magistrate. (1998) 5 SCC 749*.

4. This court has heard the contentions from both the sides and has perused the judicial record.
5. The gravamen of the complaint is that the complainant is resident of ground floor and revisionist is resident of first floor of the same building. The revisionist was doing some construction work on his floor due to which cracks and structural defects occurred in the house of complainant and when he confronted the same to the revisionist, he threatened him of dire consequences. On such allegations, the revisionist has been summoned for the offence of mischief and criminal intimidation.
6. During the course of arguments, counsel for revisionist has produced copy of one agreement dated 28.09.2021 between the revisionist and the complainants. The copy of the same has been supplied by counsel for revisionist to the counsel for respondent nos.2 and 3. Respondent nos.2 and 3 admitted their signatures on the said agreement.
7. The said agreement is relating to the construction work to be carried on by the revisionist on the ground floor and the first floor and it was agreed that the expenses were to be borne by the revisionist. The complaint is completely silent about the said agreement between the parties.
8. It is apparent that this agreement has not been considered or shown to the Ld trial court at the time of passing of the impugned order.
9. The impugned order is accordingly set aside. Ld trial court is directed to hear the arguments afresh and to pass fresh orders after considering the aforesaid agreement dated 28.09.2021.

10. Copy of this order be sent alongwith TCR to the Ld. trial court for information and necessary action.
11. Revision file be consigned to record room.

**Announced in the open Court
as on this 13th day of February, 2026**

**(SUSHIL ANUJ TYAGI)
Additional Sessions Judge (FTSC) (RC)
South West District, Dwarka Courts
New Delhi / 13.02.2026**