

HP BOARD OF DEPARTMENTAL EXAMINATION for IAS/HAS Officers  
NOVEMBER/DECEMBER 2018

PAPER 2: **CRIMINAL CASE**

MAXIMUM MARKS: 100

TIME ALLOWED: 3 HOURS

Note: Attempt Both Questions

QUESTION NUMBER 1

Go through the Police Report under Section 107/151 Cr PC (C-1, 3 Pages) and Muchalkas and Jamanatnamas (C-2, 3 Pages). The Police produced the Respondents before the SDM on 14.02.2013 at 3 pm. Assuming that you are SDO (Civil) Shimla Rural, proceed in the matter as directed below:

- Initiate the proceedings by passing order on the Daily Order Sheet. (10 Marks)
- Draft a Notice under Section 111 Cr PC (10 Marks)
- Pass an order under Section 112 Cr PC. (10 Marks)
- The Respondents also present Muchalkas and Jamanatnamas (C-2) before you. How will you treat these under the preventive sections of the Cr PC? Pass an order with justification. (20 Marks)

QUESTION NUMBER 2

A large number of local people from Charabra and Kufri, led by some Public Representatives, meet the SDO (C) Shimla Rural on 8.12.2014 and complain that the Wild Flower Hall Hotel has not been managing the solid waste properly as a result there is lot of foul smell in the bazaar and surrounding areas. They pray to the SDM to take action. The SDM Shimla (Rural) decides to proceed under Section 133 Cr PC. Assume that you are SDM Shimla and Initiate proceedings under Section 133 as directed below:

- Initiate the Proceedings on the Daily Order Sheet and also direct the Member Secretary, SADA, KUFRI to submit a site report personally on the next date of hearing. (10 Marks)
- Pass Conditional Order u. s. 133 Cr P C (10 Marks)

On the date fixed for appearance of the Respondent, that is, 19.12.2014, the Member Secretary SADA; The ADA and the GM of the Respondent Hotel is present. Member Secretary files a spot report (Document D-1) and the GM files Interim Reply (See Document D-2). The GM requests for time to take corrective action.

- After examining D-1 and D-2 pass an order and fix the case for hearing on 30.12.2014. (10 Marks)

On 30.12.2014, the GM files Additional Affidavit (Document D-3).

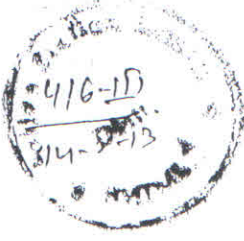
- Pass Daily Order on 30.12.2014 after perusal of the Additional Affidavit. (10 Marks)
- Pass Final Oder in the Case (10 Marks)

Case No. 5-14/2013 (1) (1-1)

व अदालत जनाब S.D.M. साहब (ग्रा०) शिमला जिला शिमला (हि०प्र०)

कलन्दरा सरकार बजरिया:-

पुलिस थाना डोला जिला शिमला



- बनाम:-
1. अजय कुमार पुत्र श्री जय किशन जात राजपुत निवासी कथैयां डा० संजौली थाना डोली जिला शिमला उम्र 25 वर्ष.
  2. अजेश कुमार पुत्र श्री जय किशन जात राजपुत निवासी कथैयां डा० संजौली थाना डोली जिला शिमला उम्र 22 वर्ष.
  3. मंजीत सिंह पुत्र महिन्द्र पाल जात S/C निवासी कथैयां डा० संजौली थाना डोली जिला शिमला उम्र 48 वर्ष।

कलन्दरा जेर धारा 107/151 भा०दं०प्र० संहिता।

श्रीमान जी,

संक्षिप्त हालात कलन्दरा इस प्रकार से है कि दिनांक 13-2-13 को बजरिया मोबाईल न० 98820-47682 से सूचना मिली कि कथैयां निवास गुजरर कलौनी संजौली में हमारे मकान मालिक हमारे साथ झगडा कर रहा है। मौका पर पुलिस भेजे। जिस पर HC रमेश कुमार न० 136 मामा HC दुला राम न० 306 व सवारी गाड़ी सरकारी न० HP-07A-0726 जेरे चालक HHG डोला राम न० 2/4-85 रफता व हवाला रपट न० 41 रोजनामचा दिनांक 13-02-13 बाद तस्दीक हालात मौका व बाद करवाने मेडिकल मुलाहजा मनजीत सिंह, वलविन्दर कौर, मनप्रीत कौर व जसप्रीत सिंह, अजय कुमार व अजेश कुमार पुत्र जय किशन मकान मालिक कथैया निवास, गुजर कलौनी, संजौली हाजिर थाना आशु है। जब HC मथैया जाजमान व दिनेश शर्मा व मनोज शर्मा के मौका पर था तो मनजीत सिंह, अजय कुमार व अजेश कुमार पुत्र जय किशन मकान मालिक कथैया निवास, गुजर कलौनी, संजौली आपस में लडाई झगडा कर रहे थे ओर मरने मारने पर उतारु हुए थे ओर अजय कुमार कह रहा था कि मनजीत सिंह ने इनके मकान का बिजली का बिल न दिया है ओर मकान खाली भी न कर रहा है। बडी मुशिकल से इन तीनों को अलग -2 किया। मौका पर मनजीत सिंह की पत्नि व लडके तथा लडकी ने कहा कि अजय व अजेश कुमार ने इनके साथ भी मारपीट करी है। थाने धार भी मनजीत सिंह, अजय कुमार व अजेश कुमार एक दूसरे को जान से खत्म करने की धमकियाँ दे रहे थे ओर अजय कुमार कह रहा था कि मकान तो खाली करना ही पडेगा वरना जान गवानी पडेगी। फिर भी मन HC ने इन दोनों पक्षों को समझाने की बहुत कोशिश की लेकिन यह दोनों पक्ष न माने फौरी अन्देशा नुक्शे अमन की सुरत में मनजीत सिंह, अजय कुमार व अजेश कुमार को जुर्म जेर धारा 107,151 Crpc में हस्फ जाफता गिरफ्तार किया गया यदि इन्हे गिरफ्तार न किया जाता तो कोई भी संगीन जुर्म घटित हो सकता था। सूचना गिरफ्तारी इनके कहे अनुसार दी गई है। फर्द जमा तलाशी तीनों की अलग से तैयार की गई व वाद लेने मुकरर जमा तलाशी बन्द हवालात आशु किया गया सतरी पहरा HHG धर्मपाल न० 2/4-85 को मामू किया जाकर हिदायत पुनःसिव दी गई। थाने के आनंद सरकार अतः उपरोक्त हालात को मद्देनजर रखते हुए अदालत गिजाला से गुजारिश है कि उपरोक्त मनजीत सिंह, अजय कुमार व अजेश कुमार को जल्द से जल्द तलब करके भारी राशि तथा लंबी अवधि तक जेर धारा 116(3) भा०दं०प्र० संहिता शांति बनाये रखने के लिए पाबन्द करें तथा समायत कलन्दरा की जाए।

तफसील कागजात

1. कलन्दरा असल- 1 वर्क 2. असल शिकायत पत्र- 1 वर्क 3. नकल रपट न० 41 दिनांक 13-2-13 व नकल रपट न० 2 दिनांक 14-2-13- 2 वर्क 4. बयानात भवाहन- 3 वर्क 4. सजा स्लिप- 1 वर्क।
5. MLE = 4 वर्क।

Reader's



सूची गवाहन

1. मनोज शर्मा पुत्र श्री जगत राम शर्मा निवासी VPO वैला त० सुनी जिला शिमला हाल रिहाईश चोपडा निवासी  
नजद गुजर कलौनी संजौली शिमला-6
2. दिनेश शर्मा पुत्र श्री तुलसी राम निवासी खदर डा० नकोडा पुल थाना नेरवा त० चौपाल जिला शिमला हाल  
किरायेदार जय किशन चोपडा गुजर कलौनी संजौली शिमला ।
3. मा०मु०आ० दुला राम न० 306 पुलिस थाना ढली जिला शिमला ।
4. मु० आ० रमेश कुमार न० 136 I/O थाना ढली जिला शिमला ।
5. नि० मदन लाल प्रभारी थाना ढली जिला शिमला ।

प्रभारी,  
श्री जय किशन चोपडा  
Public Station, Shimla ।  
D. Sharma (B.P.)

सेवा में

SHO साख थाना टल्लि,

विषय => विद्यार्थियों द्वारा मारपीट व जान से खतरा कासबारे।

श्रीमान जी निवेदन है कि मैं तथा मेरा भाई आज दिनांक - 13-2-03 को अपने मकान में बैठे थे। मेरे मकान में मेरे विद्यार्थी मंडीत सिंह और इसका परिवार रहता है। मंडीत सिंह ने इस मार का बीजनी का bill नहीं दिया था जिसपर मैंने इसकी light cut कर दी थी। सुप्रच करिव 8:1PM रात मंडीत सिंह व इसका परिवार नीचे ऊपर कंधे से बालियाँ देने लगे। प्रव मैंने ऊपर से काप बालियाँ क्यों दे रहे हैं। मंडीत सिंह shock ले कर बरामदे में उतरा और मेरे और मेरे भाई के साथ मारपीट करे। जिससे हमने व भाई को भागी पड़े हुए हैं। इस मार पीट में, लक्ष्मीत, मन परीत, ज्योती ने भी साथ बिभाष्य है। मंडीत के खिलाफ काकनी वारंट की जाय।

जयशंकर प्रियान्तक  
 जयेश कुमार  
 S/o. Jai Krishan.  
 Chopra niway, near  
 gujar Colony, below  
 dhingra bore.  
 P.N => 284-2529.

(4)

# मचलका व जमानतनामा

C-2(1)

## मचलका

(जेर अरडर ४४६ हस्य नमूना ४२ जाबता फौजदारी)

अदालत डॉ. पी. ए. जे. (10)

जुरम जेर दफा ५२ 104, 151. २२२२  
मनका अजय कुमार वरद अश्विनी कौम राजपुर साकिन कैथिया तहसील शिवापुर जिला

का हूँ। मैं इस तहरीर की रु. से इकारर करता हूँ कि जो तारीख इस मुकदमा की सभात को तहकीकात की तजवीज के अदालत एजा मुकरर करेगी। हर एक तारीख पर अदालत मजकूर अलसदर में हाजिर होता रहूंगा और अगर मुकदमा तजवीज के लिए किसी दूसरी अदालत में सपुर्द किया जाएगा तो उस अदालत में ता फैसला हाजिर होता रहूंगा। अगर हाजिर होने में कसूर कठंगा तो मुबलिया २०००/- रुपये बतौर तावान के गवरनैट को अदा करूंगा।

मबरखा 14/2/13. २००  
गवाह शु ( Manoj Shamy अलबद Desht Kumar गवीह Aadesh Shama Joshi  
Shyam Rajal Rm. Tulsi Ram R/o Kath  
Shama R/o Kathary Newal Sangaril  
Po Sangaril DSH Shma. Dishant

## जमानत

मनका अश्विनी वरद अश्विनी कौम राजपुर साकिन कैथिया तहसील शिवापुर जिला  
का हूँ। मस्मी अजय कुमार वरद अश्विनी कौम राजपुर साकि कैथिया का जागन हीकर इस तहरीर को रु से इकारर करत हूँ जो तारीख इस मुकदमा की तहकीकात व तजवीज के वास्ते अदालत मजकूर अलसदर मुकरर करेगी हर एक तारीख पर मस्मी मजकूर अलसदर में हाजिर होता रहेगा अगर मुकदमा तजवीज के लिये किसी दूसरी अदालत में ता फैसला वह हाजर होता रहेगा अगर वह हाजर होने में कूसर करेगा तो मैं मुबलिया २०००/- रुपए तावान गवरनैट हि. प्र. को अदा करूंगा।

Manoj Shamy  
Dau

Jai Kumar

Aadesh Shama Joshi  
Tulsi Ram R/o Kath



5

# मंचलका व जमानतनामा

C-2(ii)

## मंचलका

(जेर अरडर ४४६ हस्य नमूना ४२ जाबता फौजदारी)

अदालत S.M. Shinde

जुरम जेर दफा 45107, 151. 152 कच्छर/सुखार/कसमि/कनाम - पुलिस कना हला  
 मनका अजेश वल्द अम किशन कौम राजपुर साकिन कसमि तहसील शिवम जिला  
 का हूं। मैं इस तहरीर की रु. से इकरार करता हूं कि जो तारीख इस मुकदमा की सगाअत को तहकीकात की तजवीज के अदालत एजा मुकरर करेगी।  
 हर एक तारीख पर अदालत मजकूर अलसदर में हाजिर होता रहूंगा और अगर मुकदमा तजबीज के लिए किसी दूसरी अदालत में सपुर्द किया जाएगा तो  
 उस अदालत में ता फैसला हाजिर होता रहूंगा। अगर हाजिर होने में कसूर करूंगा तो मुबलिय २०००/- रुपये बतौर तावान के गवरनौट को अदा  
 करूंगा।

मबरखा 14/2/13 २००  
 गवाह शु( Manoj Sharma अलसदर गवाह Arush Sharma  
Sh. Talsi Rgn R/o  
Katham Mewar  
Sampauli  
Distt-Shinde

## जमानत

मनका अम किशन वल्द अम किशन कौम राजपुर साकिन कसमि तहसील शिवम जिला  
 का हूं। मस्मी अजेश वल्द अम किशन कौम राजपुर साकि कसमि का जामन होकर इस तहरीर को रु से इकरार करता  
 हूं जो तारीख इस मुकदमा की तहकीकात व तजवीज के वास्ते अदालत मजकूर अलसदर मुकरर करेगी हर एक तारीख पर मस्मी मजकूर अलसदर में हाजिर  
 होता रहेगा अगर मुकदमा तजबीज के लिये किसी दूसरी अदालत में ता फैसला वह हाजर होता रहेगा अगर वह हाजर होने में कूसर करेगा तो मैं मुबलिय  
२०००/- रुपए तावान गवरनौट हि. प्र. को अदा करूंगा।

Manoj Sharma  
Sh. Talsi Rgn  
Katham Mewar

Arush Sharma

Arush Sharma  
Sh. Talsi Rgn  
Katham Mewar

1

C-2(iii)

# मचलका व जमानतनामा

## मचलका

(जेर अरडर ४४६ हस्य नमूना ४२ जाबता फौजदारी)

अदालत \_\_\_\_\_

कालन्दा इस्कार अरु वनाम

पुलिस आना हुना

जुरम जेर दफा

मनका अजीर सिंह वल्द महिनरपाल कौम ६२ साकिन कसैया तहसील सिन्धुवा जिला

का हुं। मैं इस तहरीर की रु. से इकरार करता हूँ कि जो तारीख इस मुकदमा की समाअत को तहकीकात की तजवीज के अदालत एजा मुकरर करेगी। हर एक तारीख पर अदालत मजकूर अलसदर में हाजिर होता रहूंगा और अगर मुकदमा तजबीज के लिए किसी दूरारी अदालत में सपुर्द किया जाएगा तो उस अदालत में ता फैसला हाजिर होता रहूंगा। अगर हाजिर होने में कसूर करूंगा तो मुबलिय २०००/- रुपये बतौर तावान के गवरनैट को अदा करूंगा।

गबरखा १५/३/१३ २००

महरीर मिल

Jaspreet - Singh  
असप्रीत सिंह ए०  
अजीर सिंह ए० कसैया,  
Po Sanjauli Distt. Sindh.

अरु वनाम  
गवाह शु (अलमिनदर कौर ए०)  
श्री अजीर सिंह  
ए० कसैया Po Sanjauli  
Distt. Sindh

## जमानत

मनफा पदीप हाउस वल्द अमरपाल हाउस कौम ६२ साकिन ११ शिवाखि तहसील सिन्धुवा जिला

का हुं। मस्मी अजीर वल्द महिनरपाल कौम ६२ साकि कसैया का जामन होकर इस तहरीर को रु से इकरार करता

हूँ जो तारीख इस मुकदमा की तहकीकात व तजवीज के वास्ते अदालत मजकूर अलसदर मुकरर करेगी हर एक तारीख पर मस्मी मजकूर अलसदर में हाजिर होता रहेगा अगर मुकदमा तजवीज के लिये किसी दूसरी अदालत में ता फैसला वह हाजर होता रहेगा अगर वह हाजर होने में कसूर करेगा तो मैं मुबलिय २०००/- रुपए तावान गवरनैट हि. प्र. को अदा करूंगा।

Jaspreet - Singh

अरु वनाम  
श्री अमिनदर कौर ए०  
श्री अजीर सिंह ए०

अरु वनाम

असप्रीत सिंह ए०  
श्री अजीर सिंह ए०  
Po Sanjauli Distt. Sindh.



(7) D-1



SPECIAL AREA DEVELOPMENT AUTHORITY  
KUFRI SPECIAL AREA

No. SADA (K)/Notice/- 895

To

Dated: 18-12-2014

Sub-Divisional Magistrate,  
Shimla Rural, Dist. Shimla.

Subject:- (Order for removal of nuisance) U/S 133 Crpc.

This is with reference to your office letter No. SDS/Reader/2014-1854-56 dated 10.12.2014 on the subject cited above. In this regard, it is submitted that site of Hotel Wildflower Hall was visited on dated 09.10.2014 alongwith Member Secretary, SADA, Kufri and observed that the STP was not working properly and emitting a foul smell in the vicinity for which notice has been issued vide this office letter No. SADA(Kufri)Notice/14-Camp dated 10.12.2014 (Photocopy enclosed).

Further, it is informed that this office has received a reply from the said Hotel that they shall review the STP plant immediately and requested to allow two weeks time to revert the findings and the remedial action to this office (Photocopy enclosed). Accordingly a letter has been issued vide No. SADA(K)/Notice-889 dated 15.12.2014 (photocopy enclosed) to take remedial actions for removal of foul smell, please.

Encl:- As Above.

Member Secretary,  
Special Area Development Authority,  
SADA, Kufri, Block No. 32-A,  
SDA Complex, Shimla-9

Rendu  
19/11



Before the Sub Divisional Magistrate (Rural) Shimla, District Shimla,  
Himachal Pradesh

In the matter of:

Interim reply/application to the Show cause notice of nuisance under Section 133 Criminal Procedure Code, as per order No. SDS/Reader/2014-1848 dated 8<sup>th</sup> December 2014, received on 11.12.2014, addressed to the General Manager, Wild Flower Hall, Chharabra, Shimla.

Index

Sr. No.	Particulars of documents	Page numbers
1.	Interim reply/application to the Show cause notice of nuisance under Section 133 Criminal Procedure Code, as per order No. SDS/Reader/2014-1848 dated 8 <sup>th</sup> December 2014, received on 11.12.2014, addressed to the General Manager, Wild Flower Hall, Chharabra, Shimla alongwith affidavit	1 - 5
2.	<u>Annexure R-1(Colly)</u> , copies of the said reports commencing from the 12 <sup>th</sup> March 2014, 3 <sup>rd</sup> June 2014 and also the latest report of the AES laboratories dated 12.11.2014	6 - 8

B. Power Attorney,

9

Applicant/objector

Through counsel

*(Signature)*  
(Ajay Lal)

(Vikas Rajput)

S. Kumar  
(Sanjeev Kumar)  
Advocates

Place on lead.  
17/12

Shimla  
18.12.2014

9

( 17 - 2 (11) )

Before the Sub Divisional Magistrate (Rural) Shimla, District Shimla,  
Himachal Pradesh

**In the matter of:**

Interim reply/application to the Show cause notice of nuisance under Section 133 Criminal Procedure Code, as per order No. SDS/Reader/2014-1848 dated 8<sup>th</sup> December 2014, received on 11.12.2014, addressed to the General Manager, Wild Flower Hall, Chharabra, Shimla.

Interim reply/Application for supply of copy of the complaint / report/ material, forming the basis of the order as also to place on record the factum relating to the lack of jurisdiction, in the matter by this learned Court.

**Date of hearing: 19.12.2014**

**Respectfully Sheweth:**

1. That a show cause notice bearing No. SDS/Reader/2014-1848 dated 8<sup>th</sup> December 2014, received on 11.12.2014 has been received by the applicant on the 11<sup>th</sup> December 2014 at 1600 hours. The said order directs the applicant to take certain steps regarding the alleged repair of the sewer line and also to make functional the sewage treatment plant.
2. That at the very outset the applicant would humbly submit and bring to the knowledge of this Court that it lacks complete jurisdiction in the matter. It may kindly be appreciated that the Union of India, has already enacted the Water (Prevention and Control of Pollution) Act 1974, and the Air (Prevention and Control of Pollution) Act, 1981. As per Section 1 (2) of the said Act applies to the first instance to the State of Himachal Pradesh amongst other States mentioned therein.
3. That as per Section 60 of the Water Pollution Control Act, exercise of powers by this learned Court under Section 133 Criminal Procedure Code would be totally without jurisdiction. Section 60 categorically provides that the provisions of the aforementioned Act shall have



(10)

2 D-2 (111)

- effect notwithstanding anything inconsistent therewith enacted in any other Act, other than the said Act.
4. That similarly, as per Section 52 of Air (Prevention and Control of Pollution) Act, 1981, except for the provisions made under the Atomic Energy Act, 1962, in relation to radioactive pollution, the provisions of the Air (Prevention and Control of Pollution) Act, 1981 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than the said Act. It may further be pointed out that as per Section 1(2) of the Act, the same extends to whole of the India.
  5. That hence, it is submitted that in view of the provisions of Section 60 of the aforementioned Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 the show cause notice under reply is without any jurisdiction and hence the same deserves to be withdrawn.
  6. That it would also be pertinent to submit that alongwith show cause notice under reply, no material /document/ complaint/ report has been furnished to the applicant, on the basis of which it was allegedly made to appear to you that the sewerage line of the Hotel Wild Flower Hall is damaged or as a result of which foul smell is being emitted in the Chharabra area and /or which may allegedly lead to an alleged outbreak of an epidemic. Similarly, no report/ complaint/ document/ material has been furnished alongwith the show cause notice whereby you have been led to believe that the sewage plant of the Hotel is not working properly and the sewerage of the Hotel is allegedly overflowing in the Dhalli catchment area, which according to you may allegedly pollute the water sources below and as such the

same is allegedly in duress to public health. It is submitted that it is only after receipt of such report/ material, complaint/ document, that an effective reply in detail can be submitted, albeit, subject to a decision being rendered by you to the effect that despite the provisions of Section 60 and 52 of the aforementioned two Acts, you have any jurisdiction in the matter.

7. That the respondent/applicant reiterates respectfully that it is only the HP State Pollution Control Board and its officers who have jurisdiction in the matter. It may also be brought to your notice that there is no damage to the sewerage line of the Hotel leading right upto the sewerage treatment plant. Please further be informed that the sewage treatment plant is not situate on the Dhalli catchment area. It is situate on the other side of the hill/watershed, towards Mashobra side and has got nothing to do with the Dhalli catchment area. It may further be submitted that the HP State Pollution Control Board has been taking samples periodically and the same have been found to be satisfactory till date. Copies of the said reports commencing from the 12<sup>th</sup> March 2014, 3<sup>rd</sup> June 2014 and also the latest report of the AES laboratories dated 12.11.2014, are annexed herewith as Annexures R-1 (colly).
8. That in any case, the show cause notice has been issued without complying the provisions of Section 133 (A) of the Criminal Procedure Code, 1973. It may be submitted that the sewage treatment plant is not placed in any public place, or any way, river or channel, which is or may be lawfully used by the public. Thus also, this learned Court lacks jurisdiction in the matter.



It is, therefore, respectfully prayed that this interim reply may kindly be allowed and this learned Court may kindly be pleased to:-

- a) Hold that it lacks jurisdiction in the matter in view of the non-obstante clause contained in Section 60 of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 and consequently, withdraw the show cause notice under reply;
- b) Supply to the objector/ applicant, copies of the material/ document/ complaint/ report, in order to enable it to file a further detailed reply, should this learned Court hold that it has jurisdiction in the matter and the show cause notice is not withdrawn.

Applicant/objector

Through counsel

(Arjun Lall) (Vikas Rajput) (Sanjeev Kumar)

S. Kumar  
Advocates

Shimla  
18.12.2014

Joint Commissioner,  
H.P. High Court

13

D-2 (VI)

5

Before the Sub Divisional Magistrate (Rural) Shimla, District Shimla,  
Himachal Pradesh

In the matter of:

Interim reply/application to the Show cause notice of nuisance under Section 133 Criminal Procedure Code, as per order No. SDS/Reader/2014-1848 dated 8<sup>th</sup> December 2014, received on 11.12.2014, addressed to the General Manager, Wild Flower Hall, Chharabra, Shimla.

**Abhishek Sharma son of Shri Jitender Kumar Sharma, aged 34 years, by occupation General Manager, Wild Flower Hall Hotel, Chharabra, Shimla, in support of Interim reply/application to the Show cause notice of nuisance under Section 133 Criminal Procedure Code, as per order No. SDS/Reader/2014-1848 dated 8<sup>th</sup> December 2014, received on 11.12.2014, addressed to the General Manager, Wild Flower Hall, Chharabra, Shimla.**

I, Abhishek Sharma, the above named deponent do hereby take oath and solemnly affirm and declare that the accompanying reply/application has been prepared and drafted for and on behalf of applicant as per instructions conveyed to the counsel. I am fully conversant with the facts of the case. The Contents of paras 1 to 7 of the same are true and correct as per record of the Hotel and my personal knowledge.

I, the above named deponent do hereby further declare that contents of this affidavit are true and correct to my personal knowledge. No part of it is wrong and nothing relevant has been concealed therefrom.

Signed and verified this 18<sup>th</sup> day of December 2014.

*Abhishek Sharma*  
**Deponent**

**OATH COMMISSIONER,**  
S.P. Field Court

*Abhishek Sharma*  
**Deponent**

Witnessed that the above named deponent was duly sworn

before me on solemn affirmation on this

18<sup>th</sup> Dec 2014

at Shimla

18/12/14

*Abhishek Sharma*  
**Abhishek Sharma**  
*Pram Prakash*  
**Pram Prakash Clerk**

All cuttings & corrections  
are duly attested by me.

**Oath Commissioner**

18/12/14



(14) 10-3 (13)

Before the Sub Divisional Magistrate (Rural) Shimla, District Shimla, Himachal Pradesh

In the matter of:

Show cause notice of nuisance under Section 133 Criminal Procedure Code, as per order No. SDS/Reader/2014-1848 dated 8<sup>th</sup> December 2014, received on 11.12.2014, addressed to the General Manager, Wild Flower Hall, Chharabra, Shimla.

Additional Affidavit on behalf of the Respondent to bring on record subsequent developments and certain additional documents.

Date of hearing: 30<sup>th</sup> December 2014.

I, Abhishek Sharma son of Shri Jitender Kumar Sharma, aged 34 years, by occupation General Manager, Wild Flower Hall Hotel, Chharabra, Shimla do hereby solemnly affirm and declare as under:

1. It is pertinent to bring on record before this Learned Authority that the HP State Pollution Control Board had tested the sample taken from the final outlet of the STP Plant of Mashobra Resorts Ltd. The sample was taken on the 10/12/2014 by the officials of the Pollution Control Board. The sample was analysed on 16/12/2014. The test report no. 9812 dated 26/12/2014 issued by the HP State Pollution Control Board is annexed hereto as Annexure R-A. The report has categorically stated that the analysis of the sample taken shows that it is within the prescribed limits. It also notes that the ultimate receiving body of the treated water, is the land of the hotel, on which the said treated water is used for irrigation purposes. Thus the report shows that there is no element of water pollution attributable to the STP plant of our hotel.

Place on record.

2. 30/12/2014

That the STP plant of the hotel was also inspected by an independent expert on 22<sup>nd</sup> and 23<sup>rd</sup> of December 2014. The inspection was carried out by the experts in the field i.e. Enhanced WAPP Systems (India) Pvt. Ltd. After the inspection by the experts they have found the STP functional in a normal manner and have suggested remedial measures to remove the problem of bad odour. It may be mentioned that in this respect the aforesaid Company has certified its inspection

and the remedial measures to be carried out in the form of a Certificate dated 26/12/2014 signed by the Assistant Manager Technical. Copy of the same is annexed hereto as Annexure R-B.

- 3. That the Company has already undertaken steps to ensure that the sludge tanks at the STP Plant in Hotel Wildflower Hall Charabra Shimla are thoroughly cleaned. Further that the sludge removed from such tanks and is discharged in the nearest Govt authorised STP at Churrah Nallah. For the aforesaid purpose the Company and M/s Sulabh International Shimla have executed an agreement dated 26/12/2014. Copy of the same is annexed hereto as Annexure R-C. The agreement specifically provides for the cleaning of the sludge tanks commencing from the 2/1/2015 to the 14/1/2015.
- 4. That with the above mentioned measures that have already been taken and which shall be completed by 14/1/2015 the alleged problem of odour, shall be hopefully removed.

*Deponent*  
**Deponent**

I, the above named deponent do hereby further declare that contents of this affidavit are true and correct to my personal knowledge and as per record of the Hotel. No part of it is wrong and nothing relevant has been concealed therefrom.

Signed and verified this 30<sup>th</sup> day of December 2014.

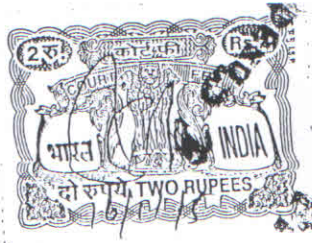
*[Signature]*  
Deponent

**WITNESSED**  
Oath Commissioner,  
H.C. High Court

Subscribed that the above named deponent do hereby further declare that contents of this affidavit are true and correct to my personal knowledge and as per record of the Hotel. No part of it is wrong and nothing relevant has been concealed therefrom.  
before me on solemn affirmation on this 30<sup>th</sup> day of Dec. 2014 at Shimla in the district of Shimla by Sh. Abhishek Sharma who was identified by Sh. Prakash Singh (Deponent)

All cuttings & corrections are hereby corrected by me. 30/12/14





Before the Sub Divisional Magistrate (Rural) Shimla, District Shimla,  
Himachal Pradesh

In the matter of:

Show cause notice of nuisance under Section 133 Criminal Procedure Code, as per order No. SDS/Reader/2014-1848 dated 8<sup>th</sup> December 2014, received on 11.12.2014, addressed to the General Manager, Wild Flower Hall, Chharabra, Shimla.

Supplementary affidavit on behalf of the respondent to bring on record subsequent developments and certain additional documents.

Date of hearing: 16/1/2015.



I, Abhishek Sharma son of Shri Jitender Kumar Sharma, aged 34 years, by occupation General Manager, Wild Flower Hall Hotel, Chharabra, Shimla do hereby solemnly affirm and declare as under:

1. That in continuation of my last affidavit dated 30/12/2014, I am to further submit and bring on record that the STP Plant at the hotel has been completely overhauled and serviced under the supervision of the expert i.e M/s. Enhanced wapp systems India Private Limited. The plant is fully functional and operational and it is working under normal conditions. There is no odour emanating from the STP Plant. The certificate in this respect, issued by the aforementioned expert is annexed hereto as

Annexure R-5.

2. That it is also worthwhile to mention that all the septic tanks have been cleaned of the sludge by M/s Sulabh International, Shimla.
3. We undertake to have the samples tested regularly at our end besides the samples which are in due course taken and tested by the HP State Pollution Control Board.
4. Since the plant is now working efficiently and there is no odour, it is requested that the notice issued by you may kindly be withdrawn and the proceedings may kindly be closed.

*Handwritten scribble*

*Handwritten mark*

I, the above named deponent do hereby further declare that contents of this affidavit are true and correct to my personal knowledge derived from the records of the Hotel. No part of it is wrong and nothing relevant has been concealed therefrom.

Signed and verified this 16<sup>th</sup> January 2015.

16th  
 Jan. 2015  
*Abhishek Kumar*  
*W. K. Singh*  
 16/01/15

*Signature*  
Deponent