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

Date of decision: 16th FEBRUARY, 2022

IN THE MATTER OF:

\+ **CRL.M.C. 3276/2021 & CRL.M.(BAIL) 1557/2021**

SUSHIL ANSAL ..... Petitioner

Through Mr. Arvind Nigam, Senior Advocate with Mr. Tanveer Ahmed Mir, Mr. Dhruv Gupta, Mr. Vaibhav Suri, Mr. Shivaz Berry and Mr. Siddharth Kashyap, Advocates.

versus

STATE OF NCT OF DELHI ..... Respondent

Through Mr. Dayan Krishnan, Sr. Advocate with Mr. Amit Chadha, APP, Ms. Manvi Priya, SPP, Mr. A.T. Ansari, Mr. Sanjeevi Seshadri and Mr. Sukrit Seth, Advocates with IO/SI Nikhil Chaudhary, PS EOW.
Mr. Vikas Pahwa, Sr. Advocate with Ms. Raavi Sharma, Advocate for the Complainant.

\+ **CRL.M.C. 3277/2021 & CRL.M.A. 20145/2021**

GOPAL ANSAL ..... Petitioner

Through Dr. Abhishek Manu Singhvi, Sr. Advocate with Mr. N. Hariharan, Sr. Advocate with Mr. Pramod K. Dubey, Sr. Advocate with Mr. Amit Bhandari, Mr. Vikas Aggarwal, Mr. Nishaank Mattoo, Mr. Avishkar Singhvi, Mr. Siddharth Singh Yadav, Mr. Vikalp Sharma, Advocates

versus

STATE NCT OF DELHI ..... Respondent

Through Mr. Dayan Krishnan, Sr. Advocate with Mr. Amit Chadha, APP, Ms. Manvi Priya, SPP, Mr. A.T. Ansari, Mr. Sanjeevi Seshadri and Mr. Sukrit Seth, Advocates with IO/SI Nikhil Chaudhary, PS EOW.
Mr. Vikas Pahwa, Sr. Advocate with Ms. Raavi Sharma, Advocate for the Complainant.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.

1. *Vide* the present petitions, the Petitioners seek to challenge the Order dated 03.12.2021 passed by the learned Additional Sessions Judge, Patiala House Courts, in Crl. Appeals No. 89/2021, 90/2021, 91/2021, 92/2021 & 95/2021, rejecting the applications of the Petitioners herein under Section 389(2) Cr.P.C for suspension of sentence during the pendency of Appeal.

I. FACTUAL MATRIX:

2. For a better understanding of the instant petitions, it is imperative to narrate the backdrop of the entire episode, which is stated as under:

A. The genesis of the entire proceedings stems from the devastating fire that occurred in Uphaar Cinema on 13.06.1997 which resulted in the death of 59 people due to *asphyxia* and caused injuries to more than 100 people. Initially the investigation was conducted by Delhi Police and later on it was transferred to the CBI which registered a case, being case No. RC-3

(S)/97/SIC.IV/New Delhi. After investigation, charge-sheet was filed on 15.11.1997 against 16 persons, including the Petitioners herein. There was delay in trial and a petition, being Criminal Writ Petition No. 353/2002, was filed by the Association of Victims of Uphaar Tragedy (*hereinafter*, "AVUT") before this Court for a direction to expedite the trial. This Court *vide* Order dated 04.04.2002 in **Criminal Writ Petition No. 353/2002**, titled as Association of Victims of Uphaar Tragedy v. Govt. of NCT of Delhi & Ors., directed the Ld. Trial Court to conduct the trial for ten days in a month from May 2002 onwards, except for June 2002. It was directed that the Ld. Trial Court shall adjust its calendar suitably in consultation with the Ld. Principal District and Sessions Judge, if need be, to explore that no other matter was taken up on the fixed dates. CBI was directed to take steps to ensure that sufficient numbers of witnesses were present and available on the dates fixed for prosecution evidence. The Trial Court was directed to complete the examination of prosecution witnesses on a day-to-day basis. It was also directed that no adjournments would be granted for non-availability of a defence counsel resulting in deferring of the cross-examination of a prosecution witness and in that event, it would be open to the Ld. Trial Court to take recourse to various options in terms of Section 309 Cr.P.C, including closure of cross-examination or cancellation of bail of the accused persons. It was directed that the trial shall be completed by 15.12.2002.

B. Material on record discloses that during the examination of PW-33 (Mr. T. S. Sharma - ADO, Delhi Fire Service), it was found that certain documents which had been marked and which had to be exhibited were found to be torn/mutilated. On 13.01.2003, an application was filed by the Ld. Special Public Prosecutor bringing to the knowledge of the Court that important documents that were seized by the investigating agencies during the course of investigation, which were part of the charge-sheet and judicial record, were missing/mutilated and had been tampered with. On 20.01.2003, after scrutinizing all the papers, the Ld. Special Public Prosecutor filed an application before the Ld. Additional Sessions Judge stating that since certain documents in the Court file had been torn and were missing, therefore, permission must be given for leading secondary evidence. The application was allowed on 31.01.2003 and the prosecution was granted permission to lead secondary evidence to prove the following documents which were found to be missing/mutilated in the Court file:

a) Documents No. D-20 (half-torn) which is a Seizure Memo dated 18.07.1997 dealing with the seizure of following documents :-

i. Register of Director of Green Park Theatres;

ii. Register of Members;

iii. Register of Contract under Section 301 of the Companies Act;

iv. Register of Directors of shareholding and shareholders;

v. Register of share transfer;

vi. Share capital ledger;

vii. Counter foil register;

viii. Original letter with respect to Mr. Pranav Ansal;

ix. Original resignation letter of Mr. Vijay Aggarwal;

x. Three pages of minutes of meeting of Directors of Ansal Theatres and Club Hotels dated 02.06.1997;

b) Document No. D-84 deals with letter dated 28.11.1996 (half-torn) from Ansal Properties and Industries Ltd. (API) to the Divisional Officer, Delhi Fire Service, *vide* No. API VP(S) 1996, intimating the removal of the defects pointed out by DFS *vide* their inspection report dated 18.11.1996;

c) Document No. D-89 is the occurrence book register of control room Headquarters, DFS, dated 12.05.1997, containing pages 1 to 400 (pages 363-400 are missing, including the relevant page 379);

d) Document No. D-91 is the occurrence book register of Bhikaji Cama Place Fire Station from 13.12.1996 to 18.01.1997 (containing pages 1 to 400. Its pages No. 95 to 104 were missing and ink was spread on pages 109 to 116. The relevant pages were Page No.96 to 113);

e) Document No. D-92 is the casual leave register maintained in Headquarters, Delhi Fire Service, for the

period 1995-1996. (Pages No.45 to 50 are missing. Relevant page, being page No. 50 deals with casual leaves (CL) status of H.S. Panwar);

f) Document No. D-24 is the seizure memo dated 27.08.1997 along with original cheque No. 955725 dated 26.06.1995 for Rs. 50,00,000/- drawn on Punjab National Bank, Rajinder Nagar signed by Sushil Ansal in his favour (Cheque No. 955725 missing);

g) Document No. D-25 is the seizure memo dated 18.08.1997 with cheque No. 805578 dated 30.11.1996 for Rs. 1,50,000/- drawn on Punjab National Bank, Tolstoy House, signed by Gopal Ansal in favour of Music Shop, and cheque No. 805590 dated 20.02.1997 for Rs. 2,96,550/- drawn on Punjab National Bank, Tolstoy House in favour of M/s Chancellor Club signed by Gopal Ansal (both the cheque and the Seizure memo were missing);

h) Document No. D-26 is the seizure memo dated 27.08.1997 along with cheque No.183618 dated 23.05.1995 for Rs.9,711/- in favour of Chief Engineer (Water) drawn on Syndicate Bank, Green Park Extension signed by Gopal Ansal (both the cheque and the Seizure memo were missing);

i) Document No. D-28 deals with the file containing minutes of MD's conferences of the Uphaar Grand containing 1 to 40 pages. Page Nos. 1, 9, 12, 14,16 & 19

were missing. The missing pages being Nos. 1,9,12 dealt with the MD's conference of various dates being meetings/conferences held on 07.05.1997, 02.04.1997 & 01.05.1997 which indicate the conference with respect to the management of Uphaar Grand held under the Chairmanship of Mr. Gopal Ansal as the Managing Director circulating under the signatures of Major Ajit Chaudhary, Manager (Admn.), Uphaar Grand;

j) Document No. D-34 is a part of one set of loose sheets containing 62 pages regarding correspondence about Uphaar Cinema. Its pages 1 and 2 are missing.

k) Document No. D- 93 is part of a file of DCP containing 132 documents. The documents No.2, 33, 41, 42, 111, 119 and 127 are missing.

C. The learned Additional Sessions Judge directed for an inquiry against Dinesh Chandra Sharma, the Court Ahlmad. It is pertinent to mention here that Dinesh Chandra Sharma took charge as the Court Ahlmad in the Court in which trial of the main Uphaar case was being concluded. Pursuant to the inquiry, it was found that Dinesh Chandra Sharma was *prima facie* guilty of misconduct as well as for the loss and tampering with the documents which formed a part of the judicial record. He was dismissed from the service *vide* an Order dated 25.06.2004. It is stated that after his dismissal from the service, Dinesh Chandra Sharma approached A-Plus Security Agency, run by Anoop Singh Karayat (the Chairman), for employment and was granted

the same for a remuneration of Rs. 15,000/-, which was higher than the salary that he was paid as a Court Ahlmad.

D. When the factum of tampering with the Court record came to light, AVUT filed an application before the Sessions Court on 14.02.2003 under Section 439(2) Cr.P.C for cancellation of bail granted to the accused in Main Uphaar case. The Sessions Court *vide* Order dated 29.04.2003 dismissed the said application on the ground that the trial in the main Uphaar case was at its fag end. AVUT challenged the Order dated 29.04.2003 before this Court by filing CRL. M.C. 2380/2003. Along with CRL. M.C. 2380/2003, CRL. M. No. 2229/2006 was also filed by the AVUT for registration of FIR against the Petitioners herein and other co-accused for tampering with the Court records. This Court *vide* Order dated 05.05.2006 rejected CRL. M.C. 2380/2003, but allowed CRL. M. No. 2229/2006 and directed the Special Branch of Delhi Police to register a case under appropriate provisions of law against all such persons who were responsible for the disappearance/mutilation and tampering of documents which formed a part of judicial record in the trial of the main Uphaar case. This Court also directed that the investigation be conducted by an officer not below the rank of ACP. Resultantly, FIR No.207/2006 dated 17.05.2006 was registered at Police Station Tilak Marg for offences under Sections 109/193/201/218/409/120B IPC on the complaint by R. Krishnamoorthy, the General Secretary of AVUT.

E. The instant proceedings arise out of the aforementioned FIR. *Vide* Order dated 25.05.2006, the investigation of the case was transferred to the Economic Offence Wing (EOW). It is pertinent to mention that in the Main Uphaar case, the Petitioners herein were convicted by an Order dated 20.11.2007 and were sentenced to undergo 2 years rigorous imprisonment for the offences punishable under Section 304-A read with Section 36 of the IPC. The Order on sentence and conviction were challenged before this Court in appeal and this Court *vide* Order dated 04.01.2008 suspended the sentence of the Petitioners herein along with other co-accused till the pendency of appeal. This order was challenged by the Association of Victims of Uphaar Tragedy (AVUT) and the CBI before the Supreme Court by way of filing Special Leave Petitions. The Supreme Court *vide* Order dated 10.09.2008 reversed the Order of this Court and directed this Court to hear the appeal on a day-to-day basis. This Court heard the appeals on a day-to-day basis and dismissed the appeals *vide* Order dated 19.12.2008. This Order was challenged by the Petitioners herein before the Supreme Court and the Supreme Court *vide* Order dated 05.03.2014 dismissed the challenge and the Petitioners herein were sentenced to undergo rigorous imprisonment for two years, but having regard to the advanced age of the accused, it was directed that the sentence would be reduced provided they paid Rs. 30 crores each within three months from the date of Order. It was directed that if the

amount is not deposited within the stipulated time, then the Petitioners would have to undergo the full sentence.

F. In the instant matter, initially FIR was registered only against Dinesh Chandra Sharma, the Court Ahlmad. Subsequently, supplementary charge-sheets were filed and the Petitioners herein were arrayed as accused. Summons were issued and ultimately charges were framed *vide* Order dated 31.05.2014. Order framing charges was unsuccessfully challenged by the Petitioners herein by way of CRL. REV. P. 264/2016 & 265/2016 before this Court. This Court *vide* Order dated 12.05.2017 dismissed the revision petitions. . After going through the entire evidence, the Ld. Trial Court held that the evidence on record indicated that there was a conspiracy on behalf of the accused (including the Petitioners herein) to ensure that the documents, which were essential to bring home offence against the Petitioners herein and H.S. Panwar (now deceased), were mutilated by tearing of pages, spreading ink on the pages or by causing their disappearance - in connivance with other accused persons. The Ld. Trial Court relied upon various circumstances to come to the conclusion that there was motive on the part of the accused to destroy the documents which had been entrusted to Dinesh Chandra Sharma who was the Court Ahlmad. The Ld. Trial Court had also found that this occurrence of the documents related to the main Uphaar case being destroyed and tampered with would result in securing acquittal of the accused. The Ld. Trial Court further held that the employment of Dinesh Chandra Sharma, post his dismissal, with

the A-Plus Security Agency which was run by Anoop Singh Karayat (the Chairman) indicated that the conspiracy between the accused persons was subsisting till the matter attained finality by the judgments of the Supreme Court.

G. *Vide* Order dated 08.10.2021, the Petitioners have been convicted for offences under Section 120B IPC and Section 409 IPC read with Section 120B and Section 201 IPC read with Section 120B IPC and by way of a separate Order dated 08.11.2021, the Petitioners herein were sentenced to undergo simple imprisonment for seven years with a fine of Rs. 1,00,00,000/- (Rupees One Crore only) for the offence punishable under Section 120B IPC; for offence punishable under Section 409 IPC read with Section 120B IPC, the Petitioners were sentenced to undergo simple imprisonment for a period of three years with a fine of Rs. 1,00,00,000/- (Rupees One Crore only); and for offence punishable under Section 201 IPC read with Section 120B IPC, the Petitioners were sentenced to undergo simple imprisonment for three years with a fine of Rs. 25,00,000/- (Rupees Twenty-Five Lakhs only), and in the event of default in payment of the fine, the Petitioners were directed to undergo simple imprisonment for six months for each offence. The sentences were to run concurrently.

H. Thereafter, the Petitioners herein filed appeals, being Criminal Appeals No. 89/2021 & 90/2021, against the Order on charge and Order on sentence. In the abovementioned appeals, applications were also filed by the Petitioners herein under

Section 389(2) Cr.P.C for suspension of sentence during the pendency of Appeal. The learned Additional Sessions Judge, Patiala House Courts, *vide* Order dated 03.12.2021, dismissed the applications filed by the Petitioners herein under Section 389(2) Cr.P.C for suspension of sentence during the pendency of appeal.

I. It is this Order dated 03.12.2021 which has been challenged by way of the instant petitions.

3. Detailed arguments have been advanced on behalf of the Petitioners and on behalf of the State. Even though the jurisdiction of the High Court to interfere with the Orders passed by the Sessions Court in a petition under Section 482 Cr.P.C is extremely limited, however, given the nature of the case, this Court permitted the learned Counsels to advance detailed arguments on merits of the case to ascertain as to whether the impugned Judgment dated 03.12.2021 suffers from perversity of such nature which would require interference of this Court.

4. This matter pertains to tampering with Court records which obstructs the free flow of justice and has the effect of striking to the core of the rule of law. Considering the gravity of the case, this Court permitted both the sides to argue on the merits of the case to satisfy itself as to whether the judgment of the Ld. Appellate Court requires interference or not.

II. CONTENTIONS OF THE PARTIES:

5. Mr. Arvind Nigam, learned Senior Counsel appearing for the Petitioner in CRL.M.C. 3276/2021, states that the power of the High Court while exercising its jurisdiction in the instant petition is co-terminus with the

Appellate power. He states that the allegation against the Petitioner is one of conspiring to tamper with Court records. He states that it is alleged that the Petitioner has caused destruction of evidence under Section 201 IPC. He contends that the offence punishable under Section 201 IPC does not extend to documents which are in the custody of the Court. For this purpose, Mr. Nigam places reliance on the judgment of the Bombay High Court in Anverkhan Mahamadkhan v. Emperor, **1921 SCC OnLine Bom 126,** and on the judgment of the Gujarat High Court in Jogta Kikla v. The State, **AIR 1962 Guj 225**. Mr. Nigam states that both the Bombay High Court and the Gujarat High Court, held that the conviction under Section 201 IPC cannot be maintained in respect of suppressed papers as these papers are not themselves evidence of the commission of theft. He states that Gujarat High Court followed the judgment of the Bombay High Court to arrive at the same conclusion.

6. Mr. Nigam further went on to state that in conspiracy cases, it is extremely important to fix the parameters of conspiracy. He contends that Section 10 of the Indian Evidence Act, 1872 (*hereinafter*, "IEA") is based on the principle of agents and conspiracy cannot extend beyond the period where the object of conspiracy has been achieved or when it gets frustrated. He states that once the object of conspiracy gets frustrated, Section 10 of the IEA is not available and statements made or things done after the conspiracy cannot be taken into account. He further submits that the Courts below have erred in taking into account the fact that the Court Ahlmad - Dinesh Chandra Sharma, who was given the job after his dismissal from the service of the Court, would amount to continuing of conspiracy. He states that this was a very important factor considered by the Trial Court to hold that the

conspiracy continued much beyond 2003 when it was found that the documents have been torn/mutilated and, therefore, it could not have been taken into account at all for the purpose of the case. Mr. Nigam states that if Section 10 of the IEA is to be applied even beyond the period of conspiracy which is frustrated/unearthed, then it would mean that all the accused who were partners in crime would be partners in perpetuity, which is contrary to the settled law.

7. Mr. Nigam further contends that in any event, secondary evidence was led and the documents were exhibited. He, therefore, states that there was no obstruction in the administration of justice. Mr. Nigam states that the cheques were recovered and, therefore, the Petitioner cannot be held guilty for the loss of cheques. He further states that records were kept in the Ld. Trial Court in a very shabby manner and during trial, these documents were not handled properly, and therefore, the Petitioners cannot be held guilty or liable for the acts done inside the Court. He states that D-24 was the only document that pertained to the Petitioners which was a cheque dated 26.06.1995 for an amount of Rs. 50 lakhs and the Petitioner had admitted this, and therefore, there was no reason to cause its disappearance and, further, the document was traced later. He further states that motive of the prosecutor is suspect. He states that no evidence was led by the prosecution regarding employment granted to the Ahlmad after he was thrown out of the service and for proving that the object of alleged conspiracy was achieved. He states that no benefit had been derived by the Ahlmad from the Petitioners herein till the time he was employed as a public servant. He states that there was a whole series of telephone calls between the principal accused and the Ahlmad, but there was nothing that could be used to state

that the phone exclusively belonged to the Petitioner. He further states that there are 500 pages in the reply to the bail application, but there is nothing to state that there was any link between the Ahlmad and the Petitioner. He submits that the Petitioner is 83 years old and is suffering from various medical ailments which are life-threatening in nature. He states that even the Supreme Court had factored in the age of the Petitioner while considering the Petitioner's application for modification of sentence in a related case *vide* Orders dated 19.08.2015 and 09.02.2017.

8. Mr. Nigam relies on the judgment of the Supreme Court in Bhagwan Swarup Lal Bishan Lal v. State of Maharashtra, **AIR 1965 SC 682,** to contend that the evidentiary value of the acts which have been done in furtherance of conspiracy is limited by two circumstances, namely, that the acts shall be in reference to their common intention and in respect of a period after such intention was entertained by any one of them. He, therefore, states that acts done beyond the period after conspiracy has been frustrated cannot be looked into. For the same proposition, Mr. Nigam relies on the judgment of State v. Nalini, **(1999) 5 SCC 253,** wherein the Supreme Court has held that a statement made by a conspirator before the commencement of the conspiracy is not admissible against the co-conspirator under Section 10 of the Evidence Act. Similarly, a statement made after the conspiracy has been terminated on achieving/abandoning/frustrating its object or on the conspirator leaving the conspiracy in between, is not admissible against the co-conspirator. He, therefore, states that the fact that Dinesh Chandra Sharma was given employment by a different agency cannot be stated to be evidence available against the Petitioner herein and it cannot be said that the conspiracy would

extend up to a point where Dinesh Chandra Sharma was given a job by the agency.

9. Dr. Abhishek Manu Singhvi, learned Senior Counsel appearing for the Petitioner in CRL.M.C. 3277/2021, has culled out 11 parameters which, according to him, should be taken into account while deciding whether the sentence of a convict should be suspended or not, which are as under:

i. The Court has a very wide discretion when it considers an application seeking grant of suspension of sentence.

ii. The Court must adopt a liberal approach while suspending sentence of an accused.

iii. The object of Court is not to punish the accused during the pendency of Appeal.

iv. If the Court is satisfied that there is no chance of the accused absconding during the pendency of Appeal, it must suspend the sentence.

v. If the Court is satisfied that the offence will not be repeated by the accused during the pendency of Appeal, it must suspend the sentence.

vi. Appeals normally take a long time, and if sentence of an accused is not suspended during the pendency of appeal and the appeal is not decided within the limited time, then the appeal becomes infructuous.

vii. The Court must also take into consideration the age of the accused.

viii. The Court must also see the antecedents of the accused.

ix. The Court must also see whether the accused were granted bail as under-trials.

x. The Court must consider the same parameters for suspension of sentence as are stipulated under Sections 437/439 Cr.P.C.

xi. The Court must keep in mind that tampering presupposes possession and control, and if the documents are available with numerous people, then there is no chance of tampering them.

10. Dr. Singhvi places reliance on the judgment of the Supreme Court in Angana v. State of Rajasthan, **(2009) 3 SCC 767,** wherein the Supreme Court has laid down the parameters for suspension of sentence during the pendency of appeal under Section 389 Cr.P.C. He also places reliance on the judgment of the Supreme Court in Kashmira Singh v. State of Punjab, **(1977) 4 SCC 291,** wherein the sentence of an accused who was sentenced to life imprisonment was suspended by the Apex Court. Dr. Singhvi also relies on the judgment of Supreme Court in Babu Singh v. State of Punjab **(1978) 1 SCC 579,** and Emperor v. H.L. Hutchinson, **AIR 1931 All 356,** to substantiate his contention regarding various parameters that have to be looked into to decide as to whether sentence of an accused be suspended or not. Dr. Singhvi has further adopted the arguments of Mr. Nigam to contend that conspiracy cannot extend to a period after conspiracy was frustrated. He states that the events beyond January 2003 cannot be taken into account. He states that the Ld. Trial Court placed too much emphasis on the fact that the Court Ahlmad was given employment, in order to come to a conclusion that the conspiracy was extended. Dr. Singhvi states that the Petitioner is 73 years old, having no previous criminal antecedents. He states that the Petitioner is a responsible citizen having roots in the society. He states that

the Petitioner was on bail throughout the trial and he has not misused the same. Dr. Singhvi has also taken this Court through the medical records of the Petitioner to argue that the Petitioner is not keeping good health and, therefore, the sentence of the Petitioner should be suspended.

11. *Per contra*, Mr. Dayan Krishnan, learned Senior Counsel appearing for the State, submits that the parameters for grant of bail and parameters for considering an application for suspension of sentence under Section 389 Cr.P.C are different. He places reliance on the judgment of the Supreme Court in Preet Pal Singh v. State of U.P., **(2020) 8 SCC 645**, wherein the Apex Court has held that there is a difference between grant of bail under Section 439 Cr.P.C in case of pre-trial arrest and suspension of sentence under Section 389 Cr.P.C and grant of bail, post conviction. The Apex Court has held that while considering an application under Section 439 Cr.P.C, there may be presumption of innocence, which is a fundamental postulate of criminal jurisprudence, and the Courts may be liberal, depending on the facts and circumstances of the case, on the principle that bail is the rule and jail is an exception. However, in case of post-conviction bail by way of suspension of operation of the sentence, there is a finding of guilt and the question of presumption of innocence does not arise. Nor is the principle of bail being the rule and jail an exception attracted, once there is conviction upon trial. He contends that the Apex Court in the said judgment has held that the Courts while considering an application for suspension of sentence and grant of bail, have to consider the *prima facie* merits of the Appeal, coupled with other factors. There should be strong compelling reasons for grant of bail, notwithstanding an order of conviction, by suspension of sentence, and this strong and compelling reason must be recorded in the

Order granting bail, as mandated in Section 389(1) Cr.P.C. He further submits that the while considering an application for suspension of sentence, the Appellate Court only has to examine if there is such patent infirmity in the Order of conviction that renders the Order of conviction *prima facie* erroneous. He states that where there is evidence that has been considered by the Ld. Trial Court, it is not open to a Court considering application under Section 389 Cr.P.C. to reassess and/or re-analyse the same evidence and take a different view, to suspend the execution of the sentence and release the convict on bail. He further states that in the Main Uphaar case, after the Petitioners were convicted, this Court granted benefit of Section 389 Cr.P.C to the Petitioners herein *vide* Order dated 04.01.2008. He states that when this Order was challenged by AVUT and the CBI before the Supreme Court, the Supreme Court *vide* Order dated 10.09.2008 had reversed the said Order and refused to suspend the sentence of the Petitioners herein. He states that it was done primarily looking at the conduct of the Petitioner in tampering with the evidence which has resulted in the instant conviction. He further states that the Order of the Trial Court refusing to suspend the sentence of the Petitioners herein does not require any interference by this Court, and as was done by the Apex Court at the time of refusing to suspend the sentence of the Petitioners herein in the Main Uphaar Case, appropriate directions can be given to the Ld. Appellate Court to hear the appeal expeditiously and, if necessary, appropriate directions can be passed even for day-to-day hearing of the appeal.

12. Mr. Krishnan further contends that the Order on charge is clear and unambiguous. He states that the object of conspiracy was to ensure that certain key documents which would bring home the case of Section 304A

against the Petitioners herein in the Main Uphaar case were mutilated and tampered and the only purpose of doing so was to secure the acquittal of the Petitioners herein. Mr. Krishnan states that even though the Petitioners were not successful in their endeavour, it has resulted in delay in the hearing of the matter. He states that the accused entered into conspiracy for committing various offences like criminal breach of trust by a public servant, being the Court Ahlmad - Dinesh Chandra Sharma, and, thereby, committing the act of missing/destructing/tampering/obliterating the documents which were vital for the case in order to give advantage to the Petitioners herein during trial of the Main Uphaar case. He states that the object was to secure acquittal or delay the trial as much as possible. He further states that the charge is clear as the accused P.P. Batra, who acted as a link between the Petitioners herein and the Court Ahlmad, remained in constant touch with the Court Ahlmad and after his dismissal from the service, the Court Ahlmad was provided a job at A-Plus Security Agency through P.P. Batra on the direction of the Petitioners herein for a monthly remuneration of Rs.15,000/- which was much more than his existing salary as a Court Ahlmad. Mr. Krishnan states that in any event, when this order on charge was challenged before this Court in Crl. Rev. P. No. 262/2016, 263/2016, 264/2016, 265/2016, this Court while affirming the said Order had observed as under:

> *"**106**. Coming now to the offence of conspiracy. The argument of the revisionists that the conspiracy came to an end when the conspiracy was frustrated, i.e., when the fact of the destruction of documents was brought to the knowledge of the concerned court, cannot be countenanced, inasmuch as, the object of*

the conspiracy was not the destruction of the documents, per se.

***107**. It is in fact, evident from the material hereinabove elaborated, that prima facie the object of conspiracy was to secure, favourable orders and the acquittal of Mr. Sushil Ansal, Mr. Gopal Ansal and Mr. H.S. Panwar, by employing illegal means. Therefore, all acts of commission and omission, done in furtherance of the object of the conspiracy, can be considered to form a part of the same offence of the alleged conspiracy. [Ref: State v. Nalini (supra)]*

***108.** In this regard, it is also trite to observe that, it is not necessary that all the actors in the conspiracy must have joined the offence from its very inception. Conspiracy is a continuing offence and the acts of the persons who join the conspiracy at a later point in time, in furtherance of the object thereof, form a part of the same offence of conspiracy. [Ref: State v. Nalini (supra); Yakub Abdul Razak Memon v. State of Maharashtra (supra), Leo Roy Frey (supra)]*

***109**. Therefore, it follows that the acts allegedly committed in furtherance of the objective of the conspiracy include, (i) the act of destruction of the documents forming a part of the judicial file, which were vital to the case of the prosecution in the Main Uphaar Trial as against Mr. Sushil Ansal, Mr. Gopal Ansal and Mr. H.S. Panwar; and (ii) providing a job to Mr. Dinesh Chand Sharma, in order to 'take care' of him in lieu of his role in the conspiracy.*

***110.** In view of the foregoing, the argument of the revisionists that the acts of commission and omission by Mr. D.V. Malhotra and Mr. Anoop Singh, did not form a part of the same alleged conspiracy, does not hold water and is thus, rejected."*

13. Mr. Krishnan places reliance on the judgment of the Supreme Court in Main Pal v. State of Haryana, **(2010) 10 SCC 130,** wherein the Supreme

Court after relying on the judgment of Willie (William) Slaney v. State of M.P., **AIR 1956 SC 116,** had held that when an accused is tried by a competent court, if he is informed and clearly understands the nature of the offence for which he is being tried, if the case against him is fully and fairly explained to him and he is afforded a full and fair opportunity to defend himself, then, provided there is 'substantial' compliance of law, mere mistakes in procedure, mere inconsequential errors and omissions in the trial are regarded as venal by the Code and the trial is not vitiated unless the accused can show substantial prejudice. He states that the accused knew and had been given notice of the fact that the charge against them was that the conspiracy extended up to a point where the Court Ahlmad was provided a job at the instance of the Petitioners herein at a higher salary which was in furtherance of conspiracy.

14. Mr. Krishnan has thereafter taken this Court through various documents to show how these documents were relevant for the purpose of achieving conviction and how it went to the defence of the accused in the trial to establish that the documents were tampered with in order to achieve acquittal. He further states that a perusal of the documents which were tampered with would show that seizure memo dated 18.07.1997 contained documents from Mr. S.S. Gupta, Company Secretary of Ansal Properties & Industries Limited (APIL). He states that the part of the seizure memo (Document No. A D-20) containing signature of S. S. Gupta was torn/mutilated. He states that the said document was first exhibited by PW-78. He states that the seizure memo was prepared in presence of PW-103 (S.S. Gupta) and by the time S. S. Gupta was produced in Court, the document had been mutilated and S. S. Gupta stated that he could not

identify the signatures on the photocopy i.e. signatory evidence and turned hostile which resulted in delay of trial. He, therefore, states that when PW-78 was examined, the document was mutilated before S. S. Gupta was brought into the witness box. He states that the seizure memo was extremely important because it also had documents pertaining to Register of Director of Green Park Theatres; Register of Members; Register of Contract under section 301 of the Companies Act; Register of Directors of shareholding and shareholders; Register of share transfer; Share capital ledger; Counter foil register; Original letter with respect to Mr. Pranav Ansal, Original resignation letter of Mr. Vijay Aggarwal and three pages of minutes of meeting of Directors of Ansal Theatres and Clubotels dated 02.06.1997. Mr. Krishnan states that these documents were necessary to show that the petitioners were in direct control of running of the Uphaar Cinema.

15. Mr. Krishnan has taken this Court through the defence taken by the Petitioners in the judgement of the Supreme Court in Sushil Ansal v. State through Central Bureau of Investigation, **(2014) 6 SCC 173,** to contend that the main defence of the Petitioners was that they were not the Directors of Ansal Theatres & Club Hotels Private Limited when the incident occurred and, therefore, they cannot be held liable for the fire. Mr. Krishnan has taken this Court through the document exhibited as PW-10/C being a letter dated 28.11.1996 from Ansal Properties & Industries Limited (APIL) to the Divisional Officer, Delhi Fire Services intimating the removal of the defects pointed out by the Delhi Fire Services *vide* their inspection report dated 18.11.1996. He states that the bottom lower portion of the said letter containing the address of Ansal Properties and Industries Limited (APIL) and signatures of H. S. Panwar has been torn off. He states that the said

document was relevant to show that the Chairman of Ansal Properties Limited was Sushil Ansal and, therefore, this would have demonstrated that Sushil Ansal was involved in Ansal Theatres & Clubotels Private Limited which was running the Uphaar Cinema and that, as a corollary, Sushil Ansal, had direct control over the running of Uphaar Cinema. Mr. Krishnan contends that the photocopy of the said exhibit was ultimately proved by PW-49 as exhibit PW-49/B.

16. Mr. Krishnan thereafter has taken this Court to the seizure memo dated 27.08.1997 which was a seizure memo of a cheque for a sum of Rs.50 Lakhs which had been signed by Sushil Ansal as an authorized signatory for Green Park Theatre Associated Pvt. Ltd. in his own favour. He states that this cheque would have demolished the defence of the Petitioners that Sushil Ansal was not responsible for the functioning of Uphaar Cinema as Uphaar Cinema at that point of time was not under Green Park Theatre Associated Pvt. Ltd. and it had been taken over by Ansal Theatre & Clubotels Pvt. Ltd. He states that the defence of the Petitioners was that they lost control of Uphaar Cinema beyond 1988 and this cheque, which is dated 1995, would have shown that he was still in control of Uphaar Cinema.

17. Mr. Krishnan has also taken this Court through seizure memo dated 18.08.1997 by which two cheques dated 30.11.1996 and 12.02.1997 of Ansal Theatre & Clubotels Pvt. Ltd. had been seized containing the signatures of Gopal Ansal. He states that these cheques were also necessary to controvert the defence of the Petitioner that they were not involved in the conduct of Uphaar Cinema. He states that these cheques were issued by Ansal Theatre & Clubotels Pvt. Ltd. which was running the Uphaar Cinema and these cheques were signed by Gopal Ansal who was shown as the

authorized signatory. He states that these cheques again magically re-appeared after application for cancellation of bail was filed by the Association of Victims of Uphaar Tragedy (AVUT) and when Gopal Ansal wanted to travel abroad.

18. Mr. Krishnan has taken this Court through D-26 which is a seizure memo dated 27.08.1997 containing cheque dated 23.05.1996 which has been issued by Gopal Ansal for a sum of Rs.9,711/- to show that they were the Directors of Green Park Theatre Associated Pvt. Ltd. and after 1996 Uphaar Cinema was being run by Ansal Theatre & Clubotels Pvt. Ltd. of which the Petitioners were Directors inasmuch as this cheque would have demonstrated that Green Park Theatre Associated Pvt. Ltd. was still effectively running/managing Uphaar Cinema. These cheques, according to Mr. Krishnan, never saw the light of the day because this cheque would have made the Petitioners liable for perjury when they stated that after 1996 Uphaar Cinema was being run by Ansal Theatre & Clubotels Pvt. Ltd. of which the petitioner were Directors. He states that the photocopy of the cheque has to be exhibited through PW-93.

19. Mr. Krishnan has taken this Court through D-28 which deals with the file containing minutes of the MD's conferences of the Uphaar Grand. He states that it dealt with the MD's conference of various dates being meetings/conferences held on 07.05.1997, 02.04.1997 & 01.05.1997 which indicate that the conduct of the conference with respect to the management of Uphaar Grand held under the Chairmanship of Mr. Gopal Ansal as the Managing Director of Uphaar Grand. Mr. Krishnan states that selective documents being tampered with very strongly shows the likelihood of a conspiracy being hatched.

20. The learned Senior Counsel for the State has taken this Court through D-89 [which is the occurrence book register of control room Headquarters, DFS, dated 12.05.1997 containing pages 1 to 400 (pages 363-400 are missing including the relevant page 379)]; D-91 [which is the occurrence book register of Bhikaji Cama Place Fire Station from 13.12.1996 to 18.01.1997 (containing pages 1 to 400. Its pages No. 95 to 104 were missing and on pages 109 to 116 ink was spread)] and Document No. D-92 (which is the casual leave register maintained in Headquarters, Delhi Fire Service, for the period 1995-1996. Pages No.45 to 50 are missing. Relevant page, being page No. 50, which deals with casual leaves (CL) status of H.S. Panwar is also missing) to substantiate that H.S. Panwar who was working in Delhi Fire Services had given NOCs to Uphaar Cinema even when he was on leave. Emphasis is laid by Mr. Krishnan on the movement register of the Bhikaji Cama Place Fire Station which does not show that Panwar went out for any inspection to contend that these documents would have exonerated Panwar from giving false/bogus certificate of compliance of the requirements to the Uphaar Cinema.

21. Mr. Krishnan states that it cannot be said that the judgment of the Ld. Trial Court is based on null evidence or is completely unjustified. He states that there is a strong case against the Petitioners. He states that the Ld. Appellate Court has looked into all these factors while refusing to suspend the sentence of the Petitioners herein. He states that the facts demonstrate that the Petitioners have done acts which will amount to desecration of the temple of justice and that the persons who have been convicted for forgery, manipulation of court record, etc. cannot be released on bail. He states that a person who has been convicted for an offence of forgery, manipulation of

Court records cannot be treated in a routine and casual manner. He further states that a High Court while exercising its jurisdiction under Section 482 Cr.P.C can interfere with the order of the Ld. Appellate Court only when the High Court comes to a conclusion that the Order of the Ld. Appellate Court, in refusing to suspend the sentence of the Petitioners herein, was perverse or that it shook the consciousness of the Court. He states that the High Court should not substitute its own conclusion to the one arrived at by the Ld. Appellate Court just because some other view is possible.

22. Mr. Vikas Pahwa, learned Senior Counsel appearing for the Complainant, places reliance on the judgment of the Supreme Court in Atul Tripathi v. State of U.P., **(2014) 9 SCC 177**, wherein the Apex Court has laid down parameters to be considered while dealing with an application for suspending the sentence of a convict and has held that while releasing an accused by suspending his sentence during the pendency of appeal, the Court must see the manner in which the crime is committed, gravity of the offence, age of the convict, criminal antecedents of the convict, impact on public confidence in the justice-delivery system, etc. He states that the Petitioners are accused of a very serious offence. He states that the Petitioners have tried to delay the proceedings at every stage and, therefore, they now cannot turn around and take advantage of their age. He further states that granting suspension of sentence to the Petitioners would have a major impact on public confidence inasmuch as the Petitioners have trampled with the sanctity of law and that the majesty of Court has been lowered by them. He has adopted the contentions of Mr. Krishnan on the relevance of the documents which were essential for the conviction of the Petitioners in the Main Uphaar case.

23. Dr. Abhishek Manu Singhvi, learned Senior Counsel appearing for Gopal Ansal (Petitioner in CRL.M.C. 3277/2021), in rejoinder, contends that the Courts must adopt a holistic approach while considering an application for suspension of sentence under Section 389 Cr.P.C. He contends that just because the High Court is hearing a petition under Section 482 Cr.P.C against an order of the Ld. Appellate Court rejecting an application filed by the Petitioners under Section 389 Cr.P.C., the High Court must treat the petition as if it is hearing an application under Section 389 Cr.P.C for suspension of sentence. He states that there is no statutory standing of the power of High Court while exercising its power under Section 482 Cr.P.C nor there is any judicial circumspection on the power of the High Court to grant bail. He states that when it comes to Article 21 of the Constitution of India, there cannot be implied circumspection of the power of a High Court. He states that once bail is granted, the superior Courts must be very slow in interfering with the order granting bail, but if bail is not granted, the superior courts have a duty to re-evaluate the entirety of the matter and then only decide whether bail should be denied or not. Dr. Singhvi contends that when applications were filed for secondary evidence, it was the legal right of the Petitioners to do so for furthering a genuine defence. He contends that the trial was never stayed and the Petitioner cannot be accused of delaying the trial. He also contends that the finding of Main Uphaar case cannot be used in the present case and they have to be proved independently.

24. Dr. Singhvi draws the attention of this Court to paragraphs No.35, 36, 38 & 40 of the judgment of the Apex Court in Preet Pal Singh (supra) to state that the Ld. Appellate Court, while considering an application under

Section 389 Cr.P.C has only to examine if there is such patent infirmity in the order of the Ld. Trial Court that renders the order of conviction *prima facie* erroneous. He states that a holistic approach must be made by the Courts while deciding an application under Section 389 Cr.P.C and not a technical approach. He states that in the Main Uphaar case, the Order framing charges was passed on 13.05.2014, while the third charge-sheet was filed on 12.02.2014. He, therefore, states that the trial could not have begun before the third charge-sheet was filed. He states that the trial concluded on 08.10.2021 and by any standards of trial, the trial in the Main Uphaar case has not been delayed. Dr. Singhvi states that the authors of the documents have not been examined to prove the document and the documents have, therefore, not been proved in accordance with law. He relies on Paragraphs No.49 & 50 of the judgment passed by the Supreme Court in Malay Kumar Ganguly v. Dr. Sukumar Mukherjee, **(2009) 9 SCC 221** and on Madholal Sindhu v. Asian Assurance Co. Ltd., **AIR 1954 Bom 305.**

25. Mr. Nigam, in rejoinder, submits that out of three documents which pertain to Sushil Ansal, one is D-24, in relation to which the order on charge records issuance of cheque as well as signatories of the cheque. He states that the Petitioner stands to gain nothing by causing disappearance of the document or tampering with the same. Regarding D-20, Mr. Nigam states that it was not as if this document had been found by the Inspector, but it was a document which had been produced by the Petitioner himself. He states that the bogey of the secondary evidence does not apply to the Petitioner and the Petitioner himself had been summoned to produce the document, and he had accordingly produced it. He further states that the documents, when they were produced, were intact.

26. Mr. Nigam relies on Om Prakash Berlia v. Unit Trust of India, **AIR 1983 Bom 1,** in order to raise the question regarding the proof of underlying documents in original form which was seized with the seizure memo. He submits that the underlying documents were not tampered with/mutilated or were missing. He further states that the destruction of evidence was only in 2005 which is seven years after the case had been instituted and on the basis of this, the allegation that the Petitioner was causing delay in trial was levelled against the Petitioner. Mr. Nigam states that the judgment of Supreme Court in Naveen Singh v. State of U.P., **(2021) 6 SCC 191,** is not applicable in the instant case as the facts in the aforementioned judgment are gross and Mr. Nigam relies on paragraph No.4 of the said judgment to indicate that the person in that judgment was absconding which is not the case in the present matter before this Court. He further relies on the judgment of the Supreme Court in Padam Singh v. State of U.P., **(2000) 1 SCC 621** and Kamlesh Prabhudas Tanna v. State of Gujarat, **(2013) 15 SCC 263.** He relies on Krulewitch v. United States, **336 U.S. 440 (1949)** to state that there are five broad principles regarding circumstantial evidence and each one needs to be definitively established in order to bring home the charge of conspiracy.

27. Mr. Nigam further relies on the judgment of Hanumant v. State of M.P., **AIR 1952 SC 343**, to contend that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should be fully established and no room should be provided to the human mind to fill the gaps. Mr. Nigam concludes his arguments by stating that the Petitioner is 83 years of age and suffers from various co-morbidities. He states that this is a complete bogey prosecution and it has

been established that the Petitioner was neither the custodian of the documents nor has he ever inspected the Court files related to the Main Uphaar case.

28. Mr. N. Hariharan, learned Senior Counsel appearing for Gopal Ansal (Petitioner in CRL.M.C. 3277/2021) contends that this Court, while deciding a revision petition against an order on charge has not expanded the scope of charge. He has taken this Court through paragraphs No.34 and 117 of the judgment dated 12.05.2017 passed by this Court in CRL. REV. P. Nos. 262/2016, 263/2016, 264/2016 & 265/2016 to substantiate his contention. He contends that Section 10 of the IEA is a rule of evidence and Section 10 of the IEA comes into play only when there is a reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong. He states that there is no finding by the Ld. Trial Court that the Petitioners have entered into a conspiracy with any person. He, therefore, states that the second part of Section 10 of IEA being that anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed so to be conspiring, as well for the purpose of proving the existence of the conspiracy. To buttress his argument Mr. Hariharan places reliance on Natwarlal Sakarlal Mody v. The State of Bombay, **1961 SCC OnLine SC 1.** He also places reliance on L.K. Advani v. Central Bureau of Investigation, **1997 SCC OnLine Del 382**, and more particularly on paragraph No. 87 of the said judgment wherein this Court has held that the prosecution must prove the factum of evidence other than the disputed evidence i.e. the diaries and the loose sheets. Paragraph No.87 of decision in

L.K. Advani (supra), on which reliance has been placed by Mr. Hariharan, reads as under:

> *"**87**. There is another aspect of the matter. The prosecution must prove the factum of the conspiracy by evidence other than the disputed evidence i.e. the diaries and the loose sheets which have been placed on the record of this Court. It has been observed above that there is no such evidence. The alleged entries relate to past facts. The alleged entries must have been made after the disbursement. Hence they cannot be said to have been made in execution of the common intention of the conspiracy."*

29. Mr. Hariharan also places reliance on the judgments of the Supreme Court in State v. Nalini, **(1999) 5 SCC 253** and, Paragraphs No.84 and 102 of State (NCT of Delhi) v. Navjot Sandhu**, (2005) 11 SCC 600.** Mr. Hariharan then contends that the Petitioner cannot be charged for an offence under Section 409 IPC read with Section 120B IPC or with Section 201 IPC read with Section 120B IPC without substantiating any evidence of a conspiracy for the offences punishable under Sections 409 IPC or 201 IPC. He states that since the Petitioner was not entrusted with any documents, an offence under Section 401 IPC is not made out against the Petitioner and the same analogy is applicable to the offence punishable under Section 201 IPC for the reason that there is nothing on record to show that the Petitioner conspired with Dinesh Chandra Sharma, the Court Ahlmad.

30. Mr. Hariharan further relies on Paragraph No.153 of the judgment of the Supreme Court in Sharad Birdhichand Sarda v. State of Maharashtra, **(1984) 4 SCC 116**, to contend that in case of circumstantial evidence, the

circumstances from which the conclusion of guilt is to be drawn should be fully established. He states that a reading of the Ld. Trial Court judgment showcases that it is only based on probabilities without there being a definitive finding.

31. Mr. Pramod K. Dubey, learned Senior Counsel appearing for Gopal Ansal (Petitioner in CRL.M.C. 3277/2021), in rejoinder contends that Gopal Ansal never objected to leading of secondary evidence. He states that there were 226 adjournments in the case out of which Gopal Ansal sought adjournments only on 50 occasions and Sushil Ansal sought adjournments only on 12 occasions. He states that delay, if any, in the trial, could be of only 17 days and the application for leading secondary evidence was also allowed.

III. REASONING OF THIS COURT:

32. Heard Mr. Arvind Nigam, learned Senior Counsel appearing for Sushil Ansal, Dr. Abhishek Manu Singhvi, Mr. N. Hariharan, and Mr. Pramod K. Dubey, learned Senior Counsel appearing for Gopal Ansal, Mr. Dayan Krishnan, learned SPP for the State and Mr. Vikas Pahwa, learned Senior Counsel appearing for the Complainant, i.e. Association of Victims of Uphaar Tragedy (AVUT), and perused the material on record.

33. The learned Counsels have taken this Court through the facts of the case, evidence on record, the scope of Section 482 Cr.P.C. while deciding a challenge to an Order refusing to grant suspension of sentence, and also detailed arguments have been addressed on merits of the case.

34. A perusal of the material on record indicates that on 13.06.1997, a fire occurred at Uphaar Cinema which resulted in the death of 59 people due to *asphyxia* and caused injuries to more than 100 people. The investigation had been initially conducted by Delhi Police, but later on it was transferred to the CBI which registered a case, being case No. RC-3 (S)/97/SIC.IV/New Delhi. After investigation, charge-sheet was filed on 15.11.1997 against 16 persons, including the Petitioners herein. When charges were framed all the documents were intact. Accused Dinesh Chandra Sharma took charge as the Court Ahlmad of the Court which was dealing with the trial on 30.04.2001. During the examination of PW-33 (Mr. T. S. Sharma - ADO, Delhi Fire Service), a letter dated 28.11.1996 was found half-torn from the judicial file. On scrutiny, it was found that certain documents were torn, stained with ink and/or were missing. CBI moved an application apprising the Ld. Trial Court about the tampering. CBI also sought permission from the Ld. Trial Court to lead secondary evidence with respect to the missing/tampered documents, which was subsequently allowed. An application under Section 439(2) Cr.P.C was filed for cancellation of the bail that had been granted to the Petitioners herein alleging that the Petitioners herein were responsible for the said tampering.

35. The material on record further reveals that an inquiry was conducted against the accused Dinesh Chandra Sharma who was the Court Ahlmad and, after the said inquiry, it was held that the Ahlmad was responsible for tampering of certain documents, disappearance of certain documents and for spreading ink on certain documents. An application was filed by AVUT before this Court, being CRL.M.No.2229/2006, seeking registration of a criminal case against the offenders for tampering with the documents. *Vide*

Order dated 05.05.2006, this Court directed the Delhi Police to register a case against the accused with regard to the incident of tampering with the evidence. Resultantly, FIR No.207/2006 dated 17.05.2006 was registered at Police Station Tilak Marg for offences under Sections 109/193/201/218/409/120B IPC. Consequently, Dinesh Chandra Sharma was arrested and sent to police custody. First charge-sheet was filed on 12.02.2007. Supplementary charge-sheet was filed on 17.01.2008 against the Petitioners herein, H. S. Panwar, P.P. Batra, Anoop Singh Karayat and Col. D. V. Malhotra. Summons were issued. Third supplementary charge-sheet was filed on 12.02.2014. Charges were framed on 31.05.2014 against all the seven accused persons and, after conclusion of the trial, the accused were convicted *vide* Order dated 08.10.2021 for offences under Section 120B IPC and Section 409 IPC read with Section 120B and Section 201 IPC read with Section 120B IPC. The Petitioners filed appeals, being Criminal Appeals No. 89/2021 & 90/2021, against the Order on charge and Order on sentence, along with applications under Section 389(2) Cr.P.C for suspension of sentence during the pendency of Appeal and the same was rejected *vide* Order dated 03.12.2021. The said Order is under challenge before this Court.

36. The charges framed against the accused is that from the date of filing of the charge-sheet in Case No. RC-3 (S)/97/SIC.IV/New Delhi, for offences under Sections 304/304A IPC till 13.01.2003 when the facts of the missing documents came to the knowledge of the Ld. Trial Court, the accused had already entered into criminal conspiracy for committing various offences like criminal breach of trust by a public servant, by causing the disappearance/destruction/obliterating/tampering as well as spreading ink over the documents which were vital for the trial in the case arising out of

Case No. RC-3 (S)/97/SIC.IV/New Delhi, to give advantage to the Petitioners herein and H.S. Panwar during the trial of the case. Charges were framed under Section 120B IPC and Section 409 IPC read with Section 120B and Section 201 IPC read with Section 120B IPC.

37. The Petitioners herein were Directors of Ansal Theatres & Clubotels Private Limited which was running Uphaar Cinema. It was the contention of the Petitioners during the proceedings in the tampering of the evidence matter that they retired from the Board of Directors by October 1988 and, that Ansal Theatres & Clubotels Private Limited was not running Uphaar Cinema since that day. *Per contra*, the allegation of the prosecution was that the Petitioners herein continued to have full control over Uphaar Cinema and they were occupiers of the building and were wilfully negligent in their running of the cinema, and therefore, were liable to face the consequences of the disaster that had reaped as a result of their negligence. The allegation in the present case, therefore, is that the documents which would have indicated that the Petitioners were in full control of the running of Uphaar Cinema have been mutilated/torn/tampered with to give advantage to the Petitioners herein.

38. There are three basic issues which arise before this Court in the instant matter when deliberating as to whether the Ld. Appellate Court has correctly arrived at the conclusion to refuse to suspend the sentence of the Petitioners herein during pendency of their Appeals.

A. EXISTENCE OF CONSPIRACY

39. What constitutes conspiracy and what can be the extent of conspiracy has been succinctly decided by the Ld. Trial Court while convicting the Petitioners herein and the Ld. Appellate Court while deciding the application under Section 389 Cr.P.C. Material on record indicates that the accused P.P. Batra, who was a stenographer at Ansal Properties and Infrastructure Ltd. (APIL) as well as the *pairvi* for the Petitioners herein, was in regular touch with Dinesh Chandra Sharma, the Court Ahlmad, after he took charge as the Court Ahlmad till the time when it was discovered that the documents had been tampered with. The Ld. Trial Court in its judgment has provided the details of the phone calls between Dinesh Chandra Sharma as well as the landline numbers of APIL wherein the Petitioners were the Directors. The number of phone calls between Dinesh Chandra Sharma and P.P. Batra have also been enumerated in the judgment of the Ld. Trial Court. It is not the case of the Petitioners that P.P. Batra was known to Dinesh Chandra Sharma before he took over as Court Ahlmad in the Court wherein the trial of the Petitioners herein was going on. It can, therefore, be reasonable interpreted that accused P. P. Batra was acting only at the behest of the Petitioners herein to ensure that certain documents which will have the effect of bringing home the case against the Petitioners are tampered with or destroyed.

40. It is well settled that conspiracy is a distinct offence and all conspirators are liable for the acts of each other for the crime or crimes which have been committed as a result of the conspiracy. Section 10 IEA is based on the theory of agency. The principle of agency as a rule of liability and not merely a rule of evidence has been accepted by the Privy Council and the Supreme Court [See Yakub Abdul Razak Memon v. State of

Maharashtra, **(2013) 13 SCC 1**]. It is equally well settled that the offence of criminal conspiracy consists of a meeting of minds of two or more persons for agreeing to do or causing to be done an illegal act or an act by illegal means and the performance of an act in tune thereof [State of H.P. v. Krishan Lal Pardhan, **(1987) 2 SCC 17**].

41. The Supreme Court in State v. Nalini, **(1999) 5 SCC 253**, has observed as under:

> *"**583**. Some of the broad principles governing the law of conspiracy may be summarised though, as the name implies, a summary cannot be exhaustive of the principles.*
>
> *(1) Under Section 120-A IPC offence of criminal conspiracy is committed when two or more persons agree to do or cause to be done an illegal act or legal act by illegal means. When it is a legal act by illegal means overt act is necessary. Offence of criminal conspiracy is an exception to the general law where intent alone does not constitute crime. It is intention to commit crime and joining hands with persons having the same intention. Not only the intention but there has to be agreement to carry out the object of the intention, which is an offence. The question for consideration in a case is did all the accused have the intention and did they agree that the crime be committed. It would not be enough for the offence of conspiracy when some of the accused merely entertained a wish, howsoever horrendous it may be, that offence be committed.*
>
> *(2) Acts subsequent to the achieving of the object of conspiracy may tend to prove that a particular accused was party to the conspiracy. Once the object of conspiracy has been achieved, any*

subsequent act, which may be unlawful, would not make the accused a part of the conspiracy like giving shelter to an absconder.

(3) Conspiracy is hatched in private or in secrecy. It is rarely possible to establish a conspiracy by direct evidence. Usually, both the existence of the conspiracy and its objects have to be inferred from the circumstances and the conduct of the accused.

(4) Conspirators may for example, be enrolled in a chain—A enrolling B, B enrolling C, and so on; and all will be members of a single conspiracy if they so intend and agree, even though each member knows only the person who enrolled him and the person whom he enrols. There may be a kind of umbrella-spoke enrolment, where a single person at the centre does the enrolling and all the other members are unknown to each other, though they know that there are to be other members. These are theories and in practice it may be difficult to tell which conspiracy in a particular case falls into which category. It may however, even overlap. But then there has to be present mutual interest. Persons may be members of a single conspiracy even though each is ignorant of the identity of many others who may have diverse roles to play. It is not a part of the crime of conspiracy that all the conspirators need to agree to play the same or an active role.

(5) When two or more persons agree to commit a crime of conspiracy, then regardless of making or considering any plans for its commission, and despite the fact that no step is taken by any such person to carry out their common purpose, a crime is committed by each and everyone who

joins in the agreement. There have thus to be two conspirators and there may be more than that. To prove the charge of conspiracy it is not necessary that intended crime was committed or not. If committed it may further help prosecution to prove the charge of conspiracy.

(6) It is not necessary that all conspirators should agree to the common purpose at the same time. They may join with other conspirators at any time before the consummation of the intended objective, and all are equally responsible. What part each conspirator is to play may not be known to everyone or the fact as to when a conspirator joined the conspiracy and when he left.

(7) A charge of conspiracy may prejudice the accused because it forces them into a joint trial and the court may consider the entire mass of evidence against every accused. Prosecution has to produce evidence not only to show that each of the accused has knowledge of the object of conspiracy but also of the agreement. In the charge of conspiracy the court has to guard itself against the danger of unfairness to the accused. Introduction of evidence against some may result in the conviction of all, which is to be avoided. By means of evidence in conspiracy, which is otherwise inadmissible in the trial of any other substantive offence prosecution tries to implicate the accused not only in the conspiracy itself but also in the substantive crime of the alleged conspirators. There is always difficulty in tracing the precise contribution of each member of the conspiracy but then there has to be cogent and convincing evidence against each one of the accused charged with the offence of conspiracy. As observed by Judge Learned Hand 'this

distinction is important today when many prosecutors seek to sweep within the dragnet of conspiracy all those who have been associated in any degree whatever with the main offenders' [United States v. Falcone, 109 F 2d 579 (2d Cir 1940)] .

(8) As stated above it is the unlawful agreement and not its accomplishment, which is the gist or essence of the crime of conspiracy. Offence of criminal conspiracy is complete even though there is no agreement as to the means by which the purpose is to be accomplished. It is the unlawful agreement which is the gravamen of the crime of conspiracy. The unlawful agreement which amounts to a conspiracy need not be formal or express, but may be inherent in and inferred from the circumstances, especially declarations, acts and conduct of the conspirators. The agreement need not be entered into by all the parties to it at the same time, but may be reached by successive actions evidencing their joining of the conspiracy.

(9) It has been said that a criminal conspiracy is a partnership in crime, and that there is in each conspiracy a joint or mutual agency for the prosecution of a common plan. Thus, if two or more persons enter into a conspiracy, any act done by any of them pursuant to the agreement is, in contemplation of law, the act of each of them and they are jointly responsible therefor. This means that everything said, written or done by any of the conspirators in execution or furtherance of the common purpose is deemed to have been said, done or written by each of them. And this joint responsibility extends not only to what is done by any of the conspirators pursuant

> ***to the original agreement but also to collateral acts incidental to and growing out of the original purpose. A conspirator is not responsible, however, for acts done by a co-conspirator after termination of the conspiracy. The joinder of a conspiracy by a new member does not create a new conspiracy nor does it change the status of the other conspirators, and the mere fact that conspirators individually or in groups perform different tasks to a common end does not split up a conspiracy into several different conspiracies.***
>
> ***(10) A man may join a conspiracy by word or by deed. However, criminal responsibility for a conspiracy requires more than a merely passive attitude towards an existing conspiracy. One who commits an overt act with knowledge of the conspiracy is guilty. And one who tacitly consents to the object of a conspiracy and goes along with other conspirators, actually standing by while the others put the conspiracy into effect, is guilty though he intends to take no active part in the crime."***
>
> (emphasis supplied)

42. In Edmund S. Lyngdoh v. State of Meghalaya, **(2016) 15 SCC 572,** the Apex Court has observed as under:

> *"**35**. Agreement among the conspirators can be inferred by necessary implications, and the inference can be drawn on the proved facts. The facts and incriminating circumstances so proved must form the full chain whereby the agreement between the accused and their guilt can be safely inferred. The fourth accused supplied DPC to NEHU at an inflated rate of Rs 42.75 per kg and had obtained pecuniary advantage for himself and also to the first accused and thereby caused wrongful loss to NEHU. In the light of the*

evidence and proved facts, the High Court rightly reversed the acquittal and convicted the fourth accused under Section 120-B IPC."

43. A perusal of the abovementioned judgements would show that what is required to be proved for the purposes of establishing a conspiracy is the unlawful agreement which is a *sine qua non* of a conspiracy. This unlawful agreement to hatch a conspiracy can be proved either by direct evidence, which is rarely available, or it may be inferred from the circumstances surrounding the conspiracy, especially the conduct, declarations and acts of the parties to the conspiracy. Further, it is not necessary for all conspirators to have agreed to join the conspiracy at the same time; every conspirator may have played their own part in furtherance of the conspiracy.

44. Keeping this in mind, this Court finds that the conclusion arrived at by the Ld. Trial Court is based on a comprehensive analysis of the material on record to establish that there indeed was a conspiracy in place and the Petitioners herein were involved in the same. This Court deems it appropriate to conduct a cursory perusal of the merits of the instant case at this juncture for the purpose of adjudicating upon the correctness of the impugned Order. The tampered documents were handpicked in order to shield the Petitioners herein from conviction by ensuring that their control over Uphaar Cinema did not come to light, and therefore, the contention of Mr. Nigam that documents in the custody of the Trial Court are susceptible to mishandling and destruction cannot be sustained. The seizure memos dated 27.08.1997 and 18.08.1997 (containing cheques) would have established that both the Petitioners herein were authorized signatories of

Green Park Theatre Associated Pvt. Ltd. and Ansal Theatre and Clubotels Pvt. Ltd., and that they were instrumental in the functioning of Uphaar Cinema. There is, therefore, considerable weight in the submission of the learned Senior Counsel for the State that had these cheques seen the light of day, they would have demolished the argument of the Petitioners that they were no longer associated with Uphaar Cinema and had no role to play in its functioning. These documents had to be exhibited by leading secondary evidence which had been opposed by the Petitioners herein.

45. D-89, D-91 and D-92 were documents pertaining to the Bhikaji Cama Place Fire Station and the Headquarters, Delhi Fire Service. Their exhibition would have brought home the point that accused H.S. Panwar had given bogus NOCs to Uphaar Cinema, without conducting physical inspection of the cinema and despite the cinema not having followed the mandate of the law laid down regarding fire safety in Delhi. A consideration of these submissions does indicate that there was *prima facie* an agreement to hatch a conspiracy that had the potential of leading to the exoneration of the Petitioners herein and it is immaterial whether the conspiracy had been achieved or frustrated. Regardless of the frustration of the object of the conspiracy, it did lead to the trial being delayed.

46. It is also settled law that one who commits an overt act with the knowledge of the conspiracy is guilty, along with one who tacitly consents to the object of conspiracy and goes along with other conspirators. In view of this, this Court cannot take into contention the submission of the learned Senior Counsels for the Petitioners herein that as there was no direct contact between Dinesh Chandra Sharma and the Petitioners herein, therefore, the latter could not be held liable for the acts of the former. The purpose of the

conspiracy was to prevent the Petitioners herein from being convicted in the Main Uphaar case and the documents that were tampered with were evidently hand-picked so as to support the argument that the Petitioners had nothing to do with Uphaar Cinema. Therefore, it is not open to the Petitioners herein to contend that as they had no direct contact with Dinesh Chandra Sharma, they were unaware of the conspiracy that had been hatched. As stated earlier, the judgment of the Ld. Trial Court in inferring the existence of a conspiracy and for that purpose relying on the telephone communication between P.P. Batra and Dinesh Chandra Sharma cannot be said to be perverse. Furthermore, no substantial argument has been advanced on behalf of the Petitioners herein to indicate as to why regular communication was taking place between accused P.P. Batra and Dinesh Chandra Sharma in the first place.

47. The observations regarding conspiracy made in this judgement are only for the purpose of deciding the present application which arises out of an Order rejecting an application under Section 389 Cr.P.C., and they should not be taken as observations on the merits of the case. Both the Courts below have correctly and patiently weighed the material that has been placed before them before arriving at the conclusion that a conspiracy was made out. In establishing conspiracy, as far as the case of the Petitioners is concerned, this Court is not embarking on the question as to whether acts after the discovery of the tampered documents would be taken into account or not, or whether these acts are covered under Section 10 IEA. At this juncture, the Ld. Trial Court has enough material to infer conspiracy for tampering with records of the Court between 27.02.2001 to 13.01.2003.

B. PARAMETERS OF SECTION 389 Cr.P.C VIS-A-VIS SECTION 439 Cr.P.C.

48. The scope of Section 389 Cr.P.C and the parameters that have to be kept in mind while granting suspension of sentence has been stipulated by the Supreme Court in a number of judgments. It is well settled now that there is a difference between the factors that have to be taken into consideration for grant of bail under Section 439 Cr.P.C prior to conviction and grant of suspension of sentence under Section 389 Cr.P.C which is post-conviction for the simple reason that presumption of innocence is no longer applicable to the person who stands convicted for an offence.

49. The Apex Court in Atul Tripathi v. State of U.P., **(2014) 9 SCC 177,** has observed that Section 389 Cr.P.C is more stringent than Section 439 Cr.P.C. The said judgment lays down that the Court before suspending the sentence of a person who has been convicted has to take into account the manner in which the crime is committed, gravity of the offence, age, criminal antecedents of the convict, impact on public confidence in the justice-delivery system, etc.

50. The difference between Section 389 Cr.P.C and Section 439 Cr.P.C has also been summarised very succinctly by the Apex Court in Preet Pal Singh v. State of U.P. (supra), wherein the Supreme Court has observed as under:

> ***"35. There is a difference between grant of bail under Section 439 CrPC in case of pre-trial arrest and suspension of sentence under Section 389 CrPC and grant of bail, post conviction. In the earlier case, there may be presumption of innocence, which is a***

> ***fundamental postulate of criminal jurisprudence, and the courts may be liberal, depending on the facts and circumstances of the case, on the principle that bail is the rule and jail is an exception,*** *as held by this Court in Dataram Singh v. State of U.P. [Dataram Singh v. State of U.P., (2018) 3 SCC 22 : (2018) 1 SCC (Cri) 675]* ***However, in case of post-conviction bail, by suspension of operation of the sentence, there is a finding of guilt and the question of presumption of innocence does not arise. Nor is the principle of bail being the rule and jail an exception attracted, once there is conviction upon trial. Rather, the court considering an application for suspension of sentence and grant of bail, is to consider the prima facie merits of the appeal, coupled with other factors. There should be strong compelling reasons for grant of bail, notwithstanding an order of conviction, by suspension of sentence, and this strong and compelling reason must be recorded in the order granting bail, as mandated in Section 389(1) CrPC.***"
>
> (emphasis supplied)

51. The Petitioners herein have been convicted for the offence of tampering with the Court records which is extremely serious offence and can shake the confidence of the public in the entire judicial system. Furthermore, the manner in which the offence has been committed is insidious in nature and reveals a well-planned and methodical attempt at subverting the justice system in order to reap the benefits and escape conviction in the Main Uphaar case. There is also no presumption of innocence which lies in favour of the Petitioners herein. Applying the same parameters which are to be exercised while considering an application seeking bail prior to conviction would amount to circumspecting the judicial procedure and, therefore, will

undermine the judicial system. In this regard, the submissions of Dr. Singhvi, learned Senior Counsel, concerning the liberty of the Petitioners herein and the wide discretion that must be exercised by this Court while hearing such an application, cannot be countenanced.

52. Much emphasis has been laid on the age of the Petitioners herein by the learned Senior Counsel for the Petitioners herein. While Atul Tripathi v. State of U.P. (supra) states that age should be one of the factors that is to be taken into consideration while deciding an application under Section 389 Cr.P.C., in the instant case, age cannot be a criterion at this stage, especially in view of the object of the conspiracy, i.e. to delay the trial. Moreover, this Court has gone through the medical documents of the Petitioners and it has found that the condition of the Petitioners is not that serious that it should justify the sentence of the Petitioners being suspended. In any event, there are jail hospitals and, in case of any emergency, there are referral hospitals as well. This Court does not deem it appropriate to allow the Petitioners herein to take advantage of their own wrongs.

53. This Court is not going in-depth into the matter or analysing the correctness or otherwise of the judgment of the Ld. Trial Court regarding conviction of the Petitioners herein lest it will have the effect of prejudice to the rights of the parties. Accordingly, it cannot be said that there is patent infirmity in the Order of the Ld. Trial Court. The Ld. Appellate Court has also applied its mind while considering the application under Section 389 Cr.P.C and has gone through records of the case and has come to a conclusion that considering the nature of offence, the antecedents of the convicts, the impact on public confidence in courts, and importantly, in the absence of any extraordinary circumstances meriting suspension of sentence,

the sentence of the Petitioners herein cannot be suspended during the pendency of Appeal.

C. PUBLIC CONFIDENCE IN THE JUDICIAL SYSTEM

54. One of the most important factors while considering an application under Section 389 Cr.P.C. is to decipher the effect that such a decision may be on public confidence in the judicial system. While considering an application under 439 Cr.P.C in Naveen Singh v. State of U.P. (supra), wherein a person had tampered with judicial records, the Supreme Court has observed as under:

> *"12.3. However, the High Court has not at all considered that the accused is charged for the offences under Sections 420, 467, 468, 471 and 120-B IPC and the maximum punishment for the offence under Section 467 IPC is 10 years and fine/imprisonment for life and even for the offence under Section 471 IPC the similar punishment. Apart from that forging and/or manipulating the court record and getting benefit of such forged/manipulated court record is a very serious offence.* ***If the court record is manipulated and/or forged, it will hamper the administration of justice. Forging/manipulating the court record and taking the benefit of the same stands on altogether a different footing than forging/manipulating other documents between two individuals. Therefore, the High Court ought to have been more cautious/serious in granting the bail to a person who is alleged to have forged/manipulated the court record and taken the benefit of such manipulated and forged court record more particularly when he has been charge-sheeted having found prima facie case and the charge has***

been framed."

(emphasis supplied)

55. Similarly, in Mohan Singh v. Amar Singh, **(1998) 6 SCC 686,** the Apex Court has held that tampering with the record of judicial proceedings and filing of false affidavit in a court of law has the tendency of causing obstruction in the due course of justice. It undermines and obstructs free flow of the unsoiled stream of justice and aims at striking a blow at the rule of law. The stream of justice has to be kept clear and pure, and no one can be permitted to take liberties with it by soiling its purity.

56. In Chandra Shashi v. Anil Kumar Verma, **(1995) 1 SCC 421**, the Supreme Court Court has held that the stream of administration of justice has to remain unpolluted so that purity of court's atmosphere may give vitality to all the organs of the State. It has held that the polluters of judicial firmament are, therefore, required to be well taken care of to maintain the sublimity of court's environment, so also to enable it to administer justice fairly and to the satisfaction of all concerned. It has further held that anyone who takes recourse to fraud, deflects the course of judicial proceedings; or if anything is done with oblique motive, the same interferes with the administration of justice. Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice.

57. In Baradakanta Mishra v. Registrar of Orissa High Court, **(1974) 1 SCC 374,** the Supreme Court has observed as under:

> ***"43****. We have not been referred to any comprehensive definition of the expression "administration of justice".*

But historically, and in the minds of the people, administration of justice is exclusively associated with the Courts of justice constitutionally established. Such Courts have been established throughout the land by several statutes. The Presiding Judge of a Court embodies in himself the Court, and when engaged in the task of administering justice is assisted by a complement of clerks and ministerial officers whose duty it is to protect and maintain the records, prepare the writs, serve the processes etc. The acts in which they are engaged are acts in aid of administration of justice by the Presiding Judge. The power of appointment of clerks and ministerial officers involves administrative control by the Presiding Judge over them and though such control is described as administrative to distinguish it from the duties of a judge sitting in the seat of justice, such control is exercised by the Judge as a judge in the course of judicial administration. Judicial administration is an integrated function of the Judge and cannot suffer any dissection so far as maintenance of high standards of rectitude in judicial administration is concerned. The whole set up of a court is for the purpose of administration of justice, and the control which the Judge exercises over his assistants has also the object of maintaining the purity of administration of justice. These observations apply to all courts of justice in the land whether they are regarded as superior or inferior courts of justice.

***44**. Courts of justice have, in accordance with their constitution, to perform multifarious functions for due administration of Justice. Any lapse from the strict standards of rectitude in performing these functions is bound to affect administration of justice which is a term of wider import than mere adjudication of causes from the seat of justice."*

58. In the present case, the Petitioners have been found guilty of tampering with evidence that was in the custody of the Court itself. This tampering, if had not been brought to the notice of the Court, would have had the effect of interfering with the administration of justice. Therefore, contention that the Petitioners herein were on bail during trial is of no consequence as the matter pertains to the serious offence of tampering with evidence. In any event, it has resulted in delay of trial inasmuch as secondary evidence had to be led. In the present case also, charges were framed on 31.05.2014 and it has taken many years to conclude the trial. This Court is of the opinion that suspending the sentence of the Petitioners would, therefore, amount to eroding the faith of the public in the judicial system as it would entail allowing convicts, whose finding of guilt has already been established, to take advantage of the passage of time as well as the judiciary as an institution.

59. In the facts of the present case and especially keeping in mind the nature of offence, it cannot be said that the Order of the Ld. Appellate Court, in not suspending the sentence of the Petitioners herein during the pendency of the Appeal, is perverse or requires to be interfered with. The Order of the Ld. Appellate Court is well-considered and comprehensive, and does not suffer from any patent infirmity. This Court has, in order to satisfy itself, once again looked into the material on record and this Court does not deem it necessary to interfere with the Order of the Ld. Appellate Court refusing to suspend the sentence of the Petitioners herein during the pendency of the Appeal.

60. It is to be noted that since the matter relates to tampering of the judicial record, the same has to be decided as expeditiously as possible in

order to ensure that the faith of the public in the judicial system is not eroded. This Court is of the view that cases of this nature should be heard and decided at the earliest as any delay in dealing with the same will only make people lose faith in the cherished institution, that is the judiciary. The Petitioners herein inhabit the stigma of desecrating the temple of justice and a quietus needs to be put to the same. If they are ultimately found to be innocent in the instant case, this stigma has to be removed at the earliest. Considering this fact, the Ld. Appellate Court is requested to expedite and complete the hearing of the appeals filed by the Petitioners herein within a period of one month from the date of this Order and, if necessary, conduct day-to-day hearings for the same, and to expeditiously pronounce the judgement after concluding the hearing of the appeals filed by the Petitioners herein.

61. With the aforementioned observations, the petitions are dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 16, 2022
Rahul