

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO. 603 OF 2010

ANSAL THEATRES AND CLUBOTELS P. LTD. Appellant(s)

VERSUS

STATE THROUGH CBI Respondent(s)

O R D E R

Application for impleadment (IA No. 8967 of 2021) stands allowed.

The case has a chequered history. But we do not intend to traverse the whole of it.

Suffice it to notice that we are concerned in this *lis* with the question as to whether the appellant which is a company and claims to be the owner of the theater (Uphaar theater) which was involved in the unfortunate fire in the year 1997 leading to the tragic death of 59 persons and leaving 103 injured should be given back the theater in question.

We have heard Shri Mathai M. Paikaday, learned senior counsel for the appellant, Shri K. M. Nataraj, learned Additional Solicitor General who appears on behalf of the respondent-Central Bureau of Investigation, Smt. Neelam Krishnamoorthy who submits that she is the president of the Association of Victims of Uphaar Tragedy and represents the Association.

As far as the impugned litigation consisting of the

criminal trial is concerned, the former directors of the appellant appear to have been arraigned as accused. The curtains have been rung down by the final verdict of this Court in *Sushil Ansal v. State through Central Bureau of Investigation* (2015) 10 SCC 359.

Apart from the punishment in terms of the finding of guilt arrived at by this Court, it is not in dispute that the accused who were Directors, were called upon to deposit a sum of Rs.60 crores. This is better explained as Rs.30 crores each to be paid by the two Directors. This amount was to be invested in a Trauma Centre. That apart, the accused were also fined. According to the appellant, the amount of Rs.60 crores has been deposited in terms of the orders of this Court.

It is the further case of the appellant that the amount in a sum of Rs.10.5 crores which includes interest has been deposited in the High Court in terms of the order of this court. In other words, according to the appellant as things stands, there may be no objection.

In these circumstances, the case of the appellant is that there may be no obstacle in the appellant being given back the theater which has been sealed under the orders of the Court.

The appeal itself is directed against the order dated 20.03.2009 passed by the High Court wherein the appellant had approached the High Court for a direction to release the theater. The appellant placed reliance on the following order

passed by the High Court itself on an earlier occasion viz.,

12.09.2003. The said order reads as follows:

"The relief claimed in this application is that CrI.M.A. 4153/2008, where relief of a direction to release Uphaar Cinema premises has been made, should be disposed of.

During the pendency of Trial, in the case before the learned Sessions Judge, an application for release of the said property had been made. The matter had been considered by this Court at an intervening stage when on 12.09.2003, the following order was made:-

Trial Court shall not only take the decision whether the local inspection of the scene of offence is required for the purpose of properly appreciating the evidence but also visit and inspect the same if it decides to do so within one month of conclusion of defence evidence and shall record memorandum of relevant facts observed at such inspection, copy of which will be given to the prosecutor, AVUT and the accused persons free of cost. Property in question shall be released to the petitioners after expiry of the aforesaid one month's time.

As is evident, the above order directed the Trial Court to decide on the question of inspection of the scene of offence and at the same time directed the property to be released after expiry of one month's time from the inspection by the Trial Court."

(emphasis supplied)

By the impugned order, however, the learned Single Judge took the view that the matters were pending consideration in this Court. There are certain other aspects referred to in the order. Finally, it was found that the Court did not possess jurisdiction to adjudicate upon the matter and to decide on the merits as sought. It was further found that, in any event, even otherwise, it would be inappropriate for the High Court to decide the application on merits and the application was dismissed.

It is, thereafter, nearly 14 years have gone by since the filing of the special leave petition which stands converted into a criminal appeal.

As we have noticed hereinbefore, we have heard the parties.

Shri K. M. Nataraj, learned Additional Solicitor General, would point out the proper course to adopt would be now that the trial is concluded to seek shelter under Section 452 of the Cr.P.C. In other words, an application must be maintained before the trial Judge seeking return of the theater. He would in this regard refer to the judgment of this Court in Bharat Sanchar Nigam Limited v. Suryanarayanan (Criminal Appeal No. 170/2009). According to him, that is the correct course to adopt.

When this Court asked Shri K. M. Nataraj as to whether the CBI or the Delhi Police which he represents, has any claim over the property in question or whether they have any objection to the returning of the theater to the appellant, it was submitted that neither the CBI nor the Delhi Police have any claim over the theater.

Smt. Neelam Krishnamoorthy, President of the additional respondent-Association, would also submit that the Association has neither any claim nor any objection to the returning of the theater to the appellant.

We record the submissions as aforesaid and dispose of the appeal by directing that if the appellant makes an application within the meaning of Section 452 of the Cr.P.C.

before the concerned trial Court for the de-sealing/release of the theater in question to it, a decision will be taken by the trial Court in accordance with law and also bearing in mind the stand taken by the CBI, Delhi Police and the second respondent-Association before us.

A decision will be taken as early as possible and at any rate, within a period of 10 weeks from the date of the production of a copy of this order before the Court along with the application.

....., J.  
[ K.M. JOSEPH ]

....., J.  
[ B.V. NAGARATHNA ]

....., J.  
[ AHSANUDDIN AMANULLAH ]

New Delhi;  
April 27, 2023.

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No. 603/2010

ANSAL THEATRES AND CLUBOTELS P. LTD.

Appellant(s)

VERSUS

STATE THROUGH CBI

Respondent(s)

[ TO GO BEFORE THREE HON'BLE JUDGES ][ AS ITEM NO. 101 ]  
(IA No. 8967/2021 - INTERVENTION/IMPLEADMENT)

Date : 27-04-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.M. JOSEPH  
HON'BLE MRS. JUSTICE B.V. NAGARATHNA  
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Appellant(s)

Mr. Mathai M Paikaday, Sr. Adv.  
Mr. Sudarshan Singh Rawat, Adv.  
Mr. Sajjan Singh Nahar, Adv.  
Mr. Sanjay Jain, AOR

For Respondent(s)

Mr. K M Nataraj, A.S.G.  
Ms. Aprajita Singh, Adv.  
Mrs. Swati Ghildiyal, Adv.  
Mr. Sharath Nambiar, Adv.  
Mr. Arvind Kumar Sharma, AOR  
  
Mr. Sukant Vikram, AORUPON hearing the counsel the Court made the following  
O R D E RApplication for impleadment (IA No. 8967 of 2021) stands  
allowed.

The appeal is disposed of in terms of the signed order.

(NIDHI AHUJA)  
AR-cum-PS(RENU KAPOOR)  
ASSISTANT REGISTRAR

[Signed order is placed on the file.]