

CC No. 39858/2016
STATE Vs. DINESH CHAND SHARMA
FIR No. 207 /2006
PS EOW (Tilak Marg)

Present:

Sh A. T. Ansari, Ld Addl. PP for the State.
Sh. Vikas Pahwa, Ld Sr. Advocate along with Ms Raavi Sharma, Ld
Counsels for AVUT along with Smt. Neelam Krishnamurthy and Sh. R.
Krishnamurthy.
Sh. P. K. Dubey, Ld Sr. Advocate alongwith Sh. Vikas Aggarwal,
Ld Counsels for Convict Gopal Ansal along with Gopal Ansal.
Sh. Tanvir Ahmad Mir, Sh. Siddharth Kashyap, Sh. Dhruv Gupta, Sh.
Shiraz Berry and Sh. Vaibhav Suri, Ld Counsels for Convict Sushil Ansal along
with Sushil Ansal.
Sh. Manu Sharma along with Ms. Ridhima Mandhar and Sh. Varun Kumar,
Ld Counsels for Convict P.P. Batra along with P. P. Batra.
Sh Sudarshan Rajan, Ld Counsel for Convict Dinesh Chandra Sharma
along with Dinesh Chandra Sharma.
Sh. Rohit Sharma, Ld Counsel for Convict Anoop Singh Karayat along with
Anoop Singh Karayat.

Brief summary of arguments on sentence on behalf of Prosecution: -

On behalf of Prosecution, it was submitted that sentence should be such which is capable enough to send message to the society as this case is not a usual case but it is a case related to justice dispensation system. It was argued that the seriousness of which can be gauged from the fact that Hon'ble High Court of Delhi directed investigation in this case by an officer not less than rank of ACP. It was submitted that conduct of the accused persons namely Gopal Ansal and Sushil Ansal in the case was taken due note by Hon'ble Supreme Court of India which cannot be ignored and should serve an important factor for passing sentence. It is submitted that Hon'ble High Court of Delhi continued to monitor this case and even passed the direction to take up case thrice in a week so that it be concluded in a time bound manner which indicate the gravity of the offence involved. It was argued that a different yardstick has to be adopted for passing sentence in this case to restore faith of the people which they repose in this institution which has been eroded to a greater extent by the act of tampering/ obliterating of the documents in an ongoing trial. It was submitted that accused are the potential threat to the legal system and they have no respect for the rule of law as one of the convict Sushil Ansal obtained passport by concealing material information relating to his

involvement in criminal offences for which a separate case was filed by the orders of Hon'ble High Court of Delhi and subsequently, he was charge-sheeted and facing trial. The convicts are incorrigible persons which is reflecting from their attitude and conduct. It was underscored that the crime committed by accused persons was against an institution of justice as such they should be dealt with stern sentence which must reflect deterrence and retribution. It was submitted that the conduct of the accused persons namely Sushil Ansal and Gopal Ansal has been unsatisfactory as numerous cases have been filed against them by a lot of persons/institutions which is well documented. It was submitted that their old age cannot be a mitigating factor as while the offence was committed they both were matured persons and committed the offence intentionally to gain acquittal by thwarting the trial process through conspiracy. It was submitted that health condition may not be considered as mitigating factor as same is not a relevant consideration for passing a sentence in a case like this. It was submitted that accused persons procrastinated the trial which is evident from the fact that almost all the orders of substantive nature were challenged which contributed to the delay. It was submitted that crime committed by accused persons increased the agony of the victims manifold and made them skeptical about the outcome of the trial, however, due to the inbuilt mechanism of our legal system the said situation was addressed. It was submitted that providing compensation to the victims is part of our sentencing mechanism and in addition to prosecution the victims of the main Uphaar case should be provided compensation. It was submitted that apart from Sushil Ansal and Gopal Ansal, other accused persons paid active role in the conspiracy which has been now established by way of evidence and strict punishment be awarded to them regardless of their age and other mitigating factors. It was argued that society expects that strict punishment be given to the offenders who fiddle with the judicial process regardless of their financial status, age and other responsibilities. It was submitted by Ld Addl PP that Hon'ble the Chief Justice of India, recently remarked that "people faith in the judiciary is the biggest strength of the democracy." It was thus prayed on behalf of prosecution that maximum sentence as provided under the law be handed over to the convicts and the maximum compensation to the victims considering the gravity of the offence and the plight of the victims.

On behalf of AVUT, it was submitted that maximum punishment be awarded to the convicts given the enormity of offence. It was submitted that for Sushil Ansal and Gopal Ansal, this is the second conviction and they are no longer first time offender. It was argued that this offence is graver than principal offence of Uphaar fire punishable under section 304A IPC. This case manifests the audacity and arrogance of accused Gopal Ansal and Sushil Ansal who feel that they are beyond the reach of law and can get away with crime. It was

argued that accused persons namely Gopal Ansal and Sushil Ansal misused their liberty granted in the main Uphaar case and committed this offence in conspiracy with the Court staff and other convicts. It was argued that Hon'ble Supreme Court of India had cancelled their regular bail taking note of the gravity of offence of this case. Convict Sushil Ansal without approaching the Trial Court for grant of NOC for renewal of his passport as required under the law obtained it through concealment of information for which he has been charge-sheeted and facing trial. It was argued that the affidavit submitted by convict Gopal Ansal is false as the amount of Rs. 30 crores was paid by him as fine and not as compensation as in case of non-payment he would have served sentence. It was argued that convict Gopal Ansal has attempted to cheat this Court and also committed perjury. It was submitted that AVUT is a victim of the offences committed by the convict in the present case as on the petition of the AVUT the present case was registered and trial was ordered to be expedited. AVUT suffered immense mental trauma due to deliberate delay in justice caused in the main case. The criminal act of the convicts caused serious mental injury to the victims as denial of justice caused serious mental agony to the victims. The fine amount as ordered by Hon'ble Supreme Court of India was paid by convicts Gopal Ansal and Sushil Ansal to the State and not to the victims. The compensation to the victims was paid by the company and not by convicts Sushil Ansal and Gopal Ansal. It was submitted that convicts are incorrigible persons which is clear from their conduct. The plea of philanthropy and the charitable works are part of Corporate Social Responsibility under the law and same should not be considered as probono work by the convict. Further, the educational institution of convict charged hefty fees and same are not to be confused with charitable or philanthropy work. AVUT was granted Rs. 5.40 crores compensation in civil case and they are entitled for more compensation in the present case owing to the suffering they have undergone during the length of trial. It was argued that victims are entitled for adequate compensation as per scheme of section 357 Cr.P.C and in terms of the judgment of Hon'ble High Court of Delhi titled as Karan v. State Crl. M.A. 352/2020 decided on 27.11.2020. Finally it was submitted that Hon'ble Bench of Hon'ble Supreme Court of India said during proceedings "Tampering with court record is worse than murder and decoity",

Brief summary of arguments on sentence on behalf of Convicts: -

On behalf of convict Gopal Ansal, it was submitted that AVUT can at the most be an informant in this case and same cannot be understood as victim as they were victim in the main Uphaar case and have already received compensation as decided by the Court. It was further submitted that the company which paid compensation was run by convict as such the compensation was paid by him. It was submitted that the conduct of convict has

been fair throughout as he never contributed to delay as he challenged no effective order against him passed during trial of this case. It was submitted that he never disobeyed any order passed by this Court during the trial. It was submitted that age, health and contribution of the convict to the society by way of income tax needs to be considered as a mitigating factor. It was submitted that he is the only earning member of the family having two married daughters and is required to support his ailing wife. It was submitted that convict has a business where around 2000 employees work and punishment in the form of sentence would affect the employees and their families adversely. It was submitted that sentence in the form of incarceration would have an adverse impact on the company which will certainly affect the employees working therein. It is submitted that convict handles his business alone and for the sake of welfare of the employees, a lenient view be taken in his favour. It was submitted that the cases which are shown to be registered against the convict are on account of business transaction and same should not be viewed adversely against him. It was submitted that the affidavit filed by the convict disclosing his medical condition supported with doctor's prescription calls for lenient view in his favour. It was submitted that convict is contributing to the society by way of taxes and has reformed himself which may be taken into account as a strong mitigating factor for the purpose of sentencing. It was submitted that no agony was caused to the victims of AVUT as the trial in the main Uphaar case resumed after few days and ended in conviction. It was argued that considering the age, health, medical condition and his responsibilities, he be awarded minimum punishment.

On behalf of convict Sushil Ansal, it was submitted that he is about 82 years of age and suffers from numerous ailments. It was submitted that he is suffering from deadly disease Hepatitis-C, Genotype III for which he is constantly under medical watch and treatment. It was submitted that convict has also a chronic heart condition from the year 2004 onward for which he has to undergo regular medical check-ups as such he is on a high risk category of suffering a serious heart stroke. He also suffers from asthma and pulmonary diseases for which he is taking regular medicines. Convict is also suffering from urology related problems for which he is being treated by the doctors. Convict is also having opthalmologic problem and he has high IGE level. His sodium and potassium levels occasionally go low and he also suffers from type II diabetes. He also suffers from hypodensity in the brain and is being treated for the said ailment. It was submitted that his medical condition renders him extremely vulnerably to the condition of incarceration as he would not be able to have the requisite medical attention during incarceration. It was argued that Hon'ble Supreme Court of India considered his advanced age and ordered *"having regard to the advance age of the accused and other peculiar facts and circumstances if Sushil Ansal pays*

Rs. 30 crores then the sentence will stand reduced to the period already undergone". It was submitted that the said consideration was related to 2014-2015 and thereafter, the medical complications have aggravated and a lenient view be taken in his favour. It was further argued that convict Sushil Ansal is engaged in social work and philanthropy and his part of several pioneering works in the form of hospital at Punjab, one mobile cleaning van for free medical care in far flung areas for under privileged, NGO "Diya India Foundation" set up two schools for under privileged children of slum clusters, a Trust for senior citizen at Gurgaon, augmenting infrastructure development of 11 villages, plantation drive, day care crèche facility, blood donation camp, during Covid pandemic providing food and shelter to large number of people, Ansal University running Sushant School of Art and Architecture, Sushant School of Design, School of Engineering and Technology and Sushil Ansal Foundation, Kusum Anjali Foundation, Land to ISKCON at Lucknow for spiritual services. It was submitted that considering his creditable work for the society and in view of re-formative approach, he be granted minimum sentence. It was submitted that AVUT does not qualify as a victim for the purpose of compensation in this case as no injury inflicted on it and they suffered no loss and further as per the statutory provision, they have no standing as a victim in this case. It was submitted that the trial of the main Uphaar case resumed within a period of ten days as such no delay was caused in the main Uphaar case and it cannot be assumed that AVUT suffered any substantial loss in any form due to the alleged act. Convict never caused any procrastination to the ongoing trial but availed remedies as provided to him by the statute. It was submitted that the mitigating factors cannot be ignored while sentencing as this case is relegated to its facts and not to the main Uphaar case.

It was argued on behalf of convict P.P. Batra that many mitigating factors exists in his favour which calls for lenient view in his favour. It was submitted that he was not a beneficiary from the crime as it is the admitted case of prosecution that only Ansal Brothers and H.S. Panwar could have benefited from tampering. Further, no overt act has been attributed to him and he was not the custodian of the record. It was argued that convict was himself working as a Stenographer in the legal department of M/s Ansal Properties & Industries Ltd and was junior most in ranking. Further, no direct pecuniary loss was caused on account of tampering and the main Uphaar case resulted in conviction obviating any consequent loss. Convict has faced trial for about thirteen years and during this period, he had been through immense financial and mental strain and this long trial and the strain is itself a punishment. The convict has suffered ignominy of the conviction due to the coverage of the conviction in national newspaper which mentioned his name. Due to his conviction, his family consisting of unmarried daughter and son is also suffering. Convict has clean antecedents

and the conviction in this case has diminished his future prospects. It was submitted that the judicial trend of the superior Court reveal that the Courts lean in favour of least period of imprisonment and the said trend further reveals that Appellate Courts invariably reduced the sentence imposed to a few months or the period already undergone. It was submitted that no minimum period prescribed under section 409 IPC. It was submitted that the instant case had been tried by this Court on account of territorial jurisdiction which is otherwise triable by a Court of Metropolitan Magistrate which can impose a maximum sentence of three years. It was submitted that convict did not wield any influence on the trial and he had limited / obscure role in the entire act. It was submitted that the conduct of the convict had been over board during trial as he took less than ten exemptions, not challenged the order on charge, not taken any adjournment and only cross examined thirty witnesses. It was submitted that convict is about 60 years of age and a lenient view be taken considering the overall facts and circumstances.

On behalf of convict Dinesh Chandra Sharma, it was submitted that convict has already been awarded the most severe punishment in the departmental enquiry whereby he was dismissed from the service. It was submitted that convict has not only lost his job but also source of income. It was submitted that the outcome of trial of main Uphaar case was not affected by the missing / obliterating of documents as accused therein were convicted. It was submitted that convict has already undergone more than four and a half months imprisonment in the instant matter. It was submitted that during the course of trial, convict never sought adjournment or preferred revision against any order as such he never contributed towards delay of the trial. It was submitted that after losing his service, convict acquired LLB and LLM degrees. It was submitted that convict has additional responsibility of his brother's family who is no more. It was submitted that father of the convict recently passed away adding to the further responsibilities of the family. Convict is suffering from various ailments like diabetes, hyper tension, joint pain and he is undergoing medical treatment for the same. It was submitted that convict has faced humiliation for his earlier incarceration and police custody remand. Convict has gone through the agony of trial for almost fifteen years. Convict has two sons and they are not settled in their lives as he is having responsibilities for their future. It was submitted that convict is reformed person as post this case, he indulged in acquiring education and taking care of his family. It was submitted that convict has been sufficiently punished by way of circumstances. Convict has clean antecedents and it is prayed that considering the gamut of mitigating factors in his favour he be awarded minimum punishment.

On behalf of convict Anoop Singh Karayat, it was submitted that he is a man having clean antecedents. It was submitted that convict is 73 years of age having several

age related problems and undergoing medical treatment. It was submitted that wife of the convict is severely ill and suffering from thyroid cancer and convict is taking care of her and any punishment in the form of incarceration would be detrimental to her as well as the convict. It was submitted that convict has great credentials in his favour as he participated in Indo-Pak war in 1971 and thereafter, served with SPG for 15 years. Convict received Indian police medal twice. Convict had an unblemished career during his service with the Indian force. It was submitted that convict has reputation in the society and he had suffered the ordeal of trial for 13 years approximately. It was submitted that convict never made any attempt to procrastinate the trial. It was submitted that he never disobeyed any directions of the Court and considering the overall facts and circumstances, he may be awarded minimum sentence.

Heard. Perused.

Before adverting to the aspect of punishment, the controversy raised on behalf of convicts as to whether AVUT be considered as a victim for the purpose of compensation or not be resolved first. The statutory regime of provisions relevant for consideration are as under :-

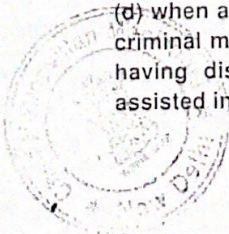
Section 2(wa) of Cr.P.C : "victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir;

Section 39(1)(viii) of Cr.P.C : Every person, aware of the commission of, or of the intention of any other person to commit, any offence punishable under section 409 IPC shall in absence of any reasonable excuse, the burden of proving which excuse shall lie upon the person so aware, forthwith give information to the nearest magistrate or police officers of such commission or intention;

Section 357 Cr.P.C : Order to pay compensation : - (1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment order the whole or any part of the fine recovered to be applied -

(a) in defraying the expenses properly incurred in the prosecution;
(b) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;
(c) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855 (13 of 1855), entitled to recover damages from the person sentenced for the loss resulting to them from such death;

(d) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to



believe the same to be stolen, in compensating any bonafide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or if an appeal be presented, before the decision of the appeal.

(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment order the accused person to pay, by way of compensation such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

Section 11 IPC : "Person"- The word "Person" includes any Company or Association of body of persons, whether incorporated or not.

Section 23 IPC : 'Wrongful Loss' and it says that defines 'Wrongful Loss' is the loss by unlawful means of property to which the person losing it is legally entitled. It is further explained that "a person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property".

Section 44 IPC : The word 'injury' denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.

The plea raised on behalf of convict Gopal Ansal and Sushil Ansal that AVUT do not qualify as a victim for the purpose of compensation under section 357 Cr.P.C is baseless for the reason that, the word 'victim' has a broader connotation and same cannot be restricted to informant or complainant only. AVUT was a victim in the main Uphaar case and provided compensation in a civil proceedings. The trial of the said case was hampered which affected their legal and constitutional rights of fair trial and leading to agony, mental trauma to the victims. It hardly matters that the documents were reconstructed by way of secondary evidence and the trial ended in conviction in the main Uphaar case for the purpose of treating them a victim in this case. In pursuit of justice, AVUT approached the Hon'ble High Court of Delhi and got this case registered and also pursued later for

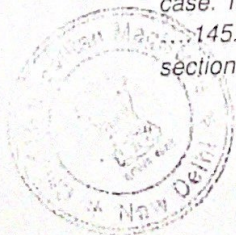
expeditious disposal of the instant case. It has to be borne in mind that the act of the convicts was opposed to the natural/ legal rights of the victims (AVUT). The offence inflicted hardship to the victims and in addition to the institution as a laborious exercise of adducing secondary evidence was undertaken in the main Uphaar case. While construing the scope of "Victim", a pragmatic approach has to be adopted as the injury as defined in Section 44 IPC, includes any harm to mind also. Merely because the acts committed by convicts were prevented from taking their intended shape, the same is hardly a reason to assume that no injury was inflicted to AVUT. It is noteworthy that victims eagerly wait for the outcome of the trial and any assault which derails the trial is an injury on their mind as same causes immense mental trauma and pain to them. The object of the Code is to ensure a full and fair trial in accordance with principals of natural justice to accused as well as to victims. Any attack on the trial process to subvert it would be an attack on the rights of the victims and for the proceedings emanating from such act the victims of the main case must be considered as victims despite the case was registered and investigated by the police. The mischief committed by the convicts in the main Uphaar case leading to the present case would not preclude AVUT from being categorized as victim as the said crime was done for dual purpose one for securing acquittal and another for defeating the rights of victims of fair trial.

In Karan v. State Crl. M.A. 352/2020 decided on 27.11.2020, it was held ".....135. Justice remains incomplete without adequate compensation to the victim. Justice can be complete only when the victim is also compensated. In order to give complete mental satisfaction to the victim, it is extremely essential to provide some solace to him in the form of compensation so that it can work as a support for the victim to start his life afresh.

Section 357 and 357A of Cr.P.C – Compensation to victim (s) of crime

....136. Section 357 Cr.P.C empowers the Court to award compensation to the victim(s) of the offence in respect of the loss/injury suffered. The object of the section is to meet the ends of justice in a better way. This section was enacted to reassure the victims that they are not forgotten in the criminal justice system. The amount of compensation to be awarded under section 357 Cr.P.C depends upon the nature of crime, extent of loss/damage suffered and the capacity of the accused to pay for which the Court has to conduct a summary inquiry. However, if the accused does not have the capacity to pay the compensation or the compensation awarded against the accused is not adequate for rehabilitation of the victim, the Court can invoke section 357A Cr.P.C to recommend the case to the State/ District Legal Services Authority for award of compensation from the State funded Victim Compensation Fund under the Delhi Victim Compensation Scheme, 2018. Section 357 Cr.P.C is mandatory and it is the duty of all Courts to consider it in every criminal case. The Court is required to give reasons to show such consideration.

....145. There is, therefore, not only statutory empowerment under section 357 (3) Cr.P.C of the appellate Court to make an appropriate



order regarding compensation but the mandatory duty of every Court, at the trial stage as well as the appellate Court to consider and pass an order of fair and reasonable compensation on relevant factors.

Section 357 and 357A of Cr.P.C.

....159. Section 357 Cr.P.C empowers the Court to award compensation to victims who have suffered by the action of the accused.

....160. The object of the section 357 (3) Cr.P.C is to provide compensation to the victims who have suffered loss or injury by reason of the act of the accused. Mere punishment of the offender cannot give much solace to the family of the victim-civil action for damages is a long drawn and a cumbersome judicial process. Monetary compensation for redressal by the Court finding the infringement of the indefeasible right to life of the citizen is, therefore, useful and at time perhaps the only effective remedy to apply balm to the wounds of the family members of the deceased victim, who may have been the bread earner of the family.

....161. Section 357 Cr.P.C is intended to reassure the victim that he/she is not forgotten in the criminal justice system.

....162. Section 357 Cr.P.C is a constructive approach to crimes. It is indeed a step forward in our criminal justice system.

....163. The power under section 357 Cr.P.C is not ancillary to other sentences but in addition thereto.

....164. The power under Section 357 Cr.P.C is to be exercised liberally to meet the ends of justice in a better way.

....165. Section 357 Cr.P.C confers a duty on the Court to apply its mind on the question of compensation in every criminal case.

....166. The word 'may' in Section 357(3) Cr.P.C means 'shall' and therefore, Section 357 Cr.P.C is mandatory.

....167. The Supreme Court in Ankush Shivaji Gaikwad (supra) has given directions that the Courts shall consider Section 357 Cr.P.C in every criminal case and if the Court fails to make an order of compensation, it must furnish reasons."

So, from the perusal of the statutory provisions and the judgment (Supra), it is plain that it is not necessary for any person/ association to qualify as a victim to have been subjected to any physical harm or to any property. The ingredients of the definition of 'victim' and 'injury' are satisfied if it is prima facie proved that any person / aggregate of persons received any mental or emotional injury owing to mental trauma or suffering caused to them. Even if the prosecution is launched by State still the real victims cannot be lose sight of. The rights of AVUT cannot be watered down merely because they have not been officially named as a victim in the charge-sheet, however, a broader look is required through the prism of statutory provisions and judicial precedents to reach out to them for considering them victim for the purpose of compensation. The plea raised on behalf of Convict Sushil Ansal that AVUT should have filed Civil Suit for compensation upon coming to know of the present offence, however it failed to filed and now it is hit by limitation, the said plea is devoid

of any substance as criminal and civil proceedings operate in different sphere and mere failure on their part to file Civil Suit cannot foreclose their right of compensation in criminal proceedings which resulted in conviction. Accordingly, in the considered view of this Court, AVUT do qualify to be considered as victim for the purpose of compensation in this case.

Now, coming to the mitigating factors which have been put forth on behalf of convicts for seeking leniency in sentence.

Common mitigating factors putforth on behalf of all the convicts.

All the convicts have rued about their age and ill health condition. It is important to note that all the convicts were of matured age and well educated at the time of commission of crime. The trial prolonged due to the delay tactics adopted by them and obviously with the passage of time, they will grow old and the plea of leniency on this premise is of no relevance as after due deliberations and consultation amongst each other they entered into a conspiracy to do such a wicked act knowing fully well its consequences. Age always progresses and the said phenomenon is known to all and the excuse of old age and related health complications is of no use considering the gravity of the offence. The convicts must have thought about the consequences of their acts at the time of hatching of conspiracy or during its execution. Convicts cannot be permitted to take advantage of their own wrong as they indulged in procrastination and now, they are playing victim by arguing that they had gone through the ordeal of long trial and become old and having severe health problems. In fact, through procrastination, they are successful in agonizing the victims manifold and it is the victims who had gone through the untold misery during this time.

All the convicts have sought leniency on the ground that they have family responsibilities, the said arguments also is of no relevance as these convicts were family men when they committed this nefarious act and were well aware of its consequences.

Other mitigating circumstances on behalf of Convicts.

On behalf of Convict Sushil Ansal, it is sought to be canvassed that he is indulged in many philanthropic activities, however, it is noted that same are part of the Corporate Social Responsibilities and even otherwise the gravity of this crime would urge to preclude the same from the zone of consideration as mitigating circumstance. Further the plea of running educational institution is also no relevance given the gravity of the offence and the manner it is committed. Convict indulged into such behaviour despite being involved in philanthropic activities, belies the bonafides on his part.

On behalf of Convict Gopal Ansal, it was urged that around 2000 people work for him and he is alone handling the business, however given the enormity of offence and the peculiarity of the case as it is not any person or association has been victimized but the

justice system, the said mitigating circumstance is disregarded.

On behalf of Convict P.P. Batra, it was stressed that he was the lowest in the ranks in the legal department of M/s Ansal Properties & Industries Ltd and had already faced trauma by way of conviction, and same may be considered as mitigating circumstance, to this it is observed that, having lower in rank would not be strong enough mitigating circumstance to escape punishment as he is an educated man working in legal department having full knowledge of the consequences of the acts and indulged in the same for the sake of his employers and obviously for his personal gain.

On behalf of Convict Dinesh Chandra Sharma, it was pointed out that he has reformed himself as he acquired LLB and LLM degree during the interregnum, the said plea is devoid of any substance, as being the custodian of the record he was under an obligation to keep it safe and should have rebuffed any allurements by the other convicts, however on the contrary being educated and custodian of the judicial record he entered into criminal conspiracy to eradicate the portion of the record. He miserably failed to discharge his duties in the manner expected from him. He was well aware of the pitfalls of such transgression. Further, mere acquisition of degrees is not a mitigating factor capable enough to convince the Court that convict has reformed himself. The mitigating circumstance of acquiring degrees is required to be disregarded and it is imperative that appropriate punishment be handed over to him so that others working in such responsible position be deterred.

On behalf of Convict Anoop Singh Karayat, it was outlined that he was a decorated officer, the said plea is useless as being an educated and decorated officer he should not have conspired with the other convicts to cause disappearance of important piece of evidence to screen offender. He made overt acts to prevent evidence coming to the possession of police.

Both convicts Sushil Ansal and Gopal Ansal have been convicted earlier as such they are not first time offenders. Convicts Dinesh Chandra Sharma, P. P. Batra and Anoop Singh Karayat have apparently clean antecedents however given the enormity of offence and the gravity of crime committed against the institution of justice, same are of no consequence.

Now, at the time when the sentence is to be pronounced, the convicts have stated that they have reformed or are remorseful or repentant for what ever they have done and are seeking forgiveness, but the regrets offered by the convicts are hollow and their aim is to only escape the punishment.

It is important to note that in a sentencing process, it is not only the crime that is important but the criminal and his/her circumstances are also equally important. The

circumstances during which the instant crime was committed show the deep disrespect which the convicts had for the law and the judicial process and for the victims.

The foundation of judiciary is premised on the trust and confidence of the people and any action which is aimed to thwart the said foundation cannot be permitted and is required to be dealt with utmost strictness. This case is not only related to prosecution and AVUT but the sentencing in this case must respond to the cry of the society.

The DSLSA has suggested in the Victim Impact Report (VIR) that victims have suffered "incalculable harm" and the quantum of compensation also proposed is "incalculable". So far as the expenditure incurred by the State is concerned, same is quantified as Rs.15,251/-. After analyzing the income proofs submitted by convicts, Sushil Ansal and Gopal Ansal are better placed in terms of financial capacity than others to provide compensation to the victims.

Given the enormity of the offence and the manner of its execution by the custodian of the judicial record in conspiracy with other convicts calls for a appropriate sentence which is proportionate to the gravity of offence and capable of having deterrent effect on the potential offenders. The discretion so vested with the court should be exercised judiciously keeping in view the larger interest of the society by protecting the institutional integrity. Misplaced sympathy or unwarranted leniency will send a wrong signal to the public giving room to suspect the institutional integrity and would affect its creditability. Inadequate sentence would do more harm to the justice system and would undermine the public confidence in the efficacy of the law as society could not long endure such assaults on the justice system. Therefore, it is the duty of the court to award such sentence having regard to the nature of the offence and the manner it was committed. It is noteworthy that too lenient sentence would be akin to closing the eyes to the agony and anguish of the victims and the public at large. Collective cry of the society must be responded by way of appropriate punishment to prevent re-occurrence of such crimes. The plea of the Prosecution and the victims that exemplary punishment be handed over to the convicts has substance and same is required to prevent such incidents in future.

After balancing the mitigating circumstances against aggravating circumstances, this court is of considered view that facts do not warrant any distinction amongst convicts for the purpose of punishment except compensation part and accordingly convicts are handed over punishment for the offence **U/S 120-B IPC**, considering the punishment for offence **U/S 409 IPC** as per **Section 120B (1) IPC** as under :

1. Convict Sushil Ansal is sentenced to Seven Years (07 Years) Simple Imprisonment and fine of Rs.1,00,00,000/- (Rupees One Crore) for offence u/s 120-B IPC.

In default of fine, convict shall further undergo Simple Imprisonment for Six months.

2. Convict Gopal Ansal is sentenced to Seven Years (07 Years) Simple Imprisonment and fine of Rs.1,00,00,000/- (Rupees One Crore) for offence u/s 120-B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

3. Convict P. P. Batra is sentenced to Seven Years (07 Years) Simple Imprisonment and fine of Rs.1,00,000/- (Rupees One Lakh) for offence u/s 120B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

4. Convict Dinesh Chandra Sharma is sentenced to Seven Years (07 Years) Simple Imprisonment and fine of Rs.1,00,000/- (Rupees One Lakh) for offence u/s 120B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

5. Convict Anoop Singh Karayat is sentenced to Seven Years (07 Years) Simple Imprisonment and fine of Rs.1,00,000/- (Rupees One Lakh) for offence u/s 120B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

For the offence u/s 409/120-B IPC as under :

1. Convict Sushil Ansal is sentenced to Seven Years (07 Years) Simple Imprisonment and fine of Rs.1,00,00,000/- (Rupees One Crore) for offence u/s 409/120-B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

2. Convict Gopal Ansal is sentenced to Seven Years (07 Years) Simple Imprisonment and fine of Rs.1,00,00,000/- (Rupees One Crore) for offence u/s 409/ 120-B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

3. Convict P. P. Batra is sentenced to Seven Years (07 Years) Simple Imprisonment and fine of Rs.1,00,000/- (Rupees One Lakh) for offence u/s 409/120B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

4. Convict Dinesh Chandra Sharma is sentenced to Seven Years (07 Years) Simple Imprisonment and fine of Rs.1,00,000/- (Rupees One Lakh) for offence u/s 409/120B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

5. Convict Anoop Singh Karayat is sentenced to Seven Years (07 Years) Simple Imprisonment and fine of Rs.1,00,000/- (Rupees One Lakh) for offence u/s 409/120B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

For the offence u/s 201/120-B IPC considering the import of Section 409 IPC as under :

1. Convict Sushil Ansal is sentenced to Three Years (03 Years) Simple Imprisonment and fine of Rs.25,00,000/- (Rupees Twenty Five Lakhs) for offence u/s

201/120-B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

2. Convict Gopal Ansal is sentenced to Three Years (03 Years) Simple Imprisonment and fine of Rs.25,00,000/- (Rupees Twenty Five Lakhs) for offence u/s 201/120-B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

3. Convict P. P. Batra is sentenced to Three Years (03 Years) Simple Imprisonment and fine of Rs.1,00,000/- (Rupees One Lakh) for offence u/s 201/120-B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

4. Convict Dinesh Chandra Sharma is sentenced to Three Years (03 Years) Simple Imprisonment and fine of Rs.1,00,000/- (Rupees One Lakh) for offence u/s 201/120-B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

5. Convict Anoop Singh Karayat is sentenced to Three Years (03 Years) Simple Imprisonment and fine of Rs.1,00,000/- (Rupees One Lakh) for offence u/s 201/120-B IPC. In default of fine, convict shall further undergo Simple Imprisonment for Six months.

However, the sentence must reflect a reformatory approach and same cannot be given complete go by, and considering the same in the light of the submissions made on behalf of the convicts by Ld Counsels, it is directed that the sentences shall run concurrently.

Since no amount of compensation can alleviate the agony, trauma and the pain suffered by the family members of the victims however compensation in the form of money can provide some succor to them. Accordingly, the amount of fine imposed on each convict shall be paid as compensation to the victim AVUT considering the mandate of Section 357 CrPC after disbursing the cost incurred by the Prosecution.

Benefit of section 428 Cr.P.C is extended to convicts wherever applicable.

Bail bonds of convicts are cancelled. Their sureties are discharged.

All the convicts are taken into custody and sent to JC to serve the sentence.

Copy of this order be given to all the convicts and be sent with the conviction warrants for compliance.

Copy of this order be provided to AVUT and be sent to DSLSA for information and necessary action.

Announced in the open court
today i.e. 08.11.2021 at 02.30 p.m.

(Dr. Pankaj Sharma)
CMM/NO/Patiale House Courts
New Delhi/08.11.2021
Principal Magistrate, New Delhi