

**IN THE COURT OF MS.MAMTA SEHGAL
ADDL.SESIONS JUDGE: NEW DELHI**

IN SC NO. 13/07

STATE

VERSUS

- 1 Sushil Ansal**
S/o Late Chiranji Lal,
R/o N-148, Panchsheel Park, New Delhi.
U/s 304A/337/338 r/w 36 IPC & U/s 14 of
Cinematograph Act
- 2 Gopal Ansal**
S/o Late Chiranji Lal,
R/o [H.No.1](#), 6 Aurangzeb Road,
New Delhi.
U/s 304A/337/338 r/w 36 IPC & U/s 14 of
Cinematograph Act
- 3 Rajender Mohan Puri (Deceased)**
S/o Late [Dr. C.L.](#)Puri
R/o A-1, Gitanjali Enclave,
New Delhi.
U/s 304 r/w 36 IPC
- 4 Krishan Lal Malhotra (Deceased)**
S/oLate Shri Chunni Lal
R/o 122/B/11A, Gautam Nagar,
New Delhi-49
U/s 304 r.w 36 IPC
- 5 Radha Krishan Sharma**
S/o Late Pandit Bishan Dass

**R/o C-50/3A, Janakpuri,
New Delhi
U/s 304 r.w 36 IPC**

**6 Nirmal Singh Chopra
S/o Late Shri Narendra Singh Chopra
R/o 0/28, Lajpat Nagar, IV (Double Storeyed),
New Delhi.
(Asstt. Manager,Uphaar Cinema, Delhi)
U/s 304 r/w 36 IPC**

**7 Ajit Choudhary
(Manager, Uphaar Cinema, Delhi).
S/o Sh.Tek Chand,
R/o 1659, Sec.10, Gurgaon, Haryana
U/s 304 r/w 36 IPC**

**8 Manmohan Uniyal
(Gate keeper Uphaar Cinema, Delhi).
S/o Shri Chintamani Uniyal,
R/o F-48, Sec.22, Noida, Ghaziabad, U.P
U/s 304 r.w 36 IPC**

U/s 304 r/w 36 IPC

**9. Brij Mohan Satija
(Inspector, Sub-Station, [R.K.Puram](#))
District, Delhi Vidyut Board, Delhi
S/o Shri Jeeta Nand,
R/o 25 C, DDA flats, Beg Sarai,
New Mehrauli Road, New Delhi.**

**10 Anand Kumar Gera
Inspector,Sub-Station,[R.K.Puram](#)
District, Delhi Vidyut Board, Delhi ,
S/o [O.P.Gupta](#),
R/o E 54, Amar Colony, Lajpat Nagar-II,
10New Delhi.
U/s 304 r/w 36 IPC**

11 Bir Singh

**Sr.Fitter, Sub-Station,[R.K.Puram](#)
District, Delhi Vidyut Board, Delhi
S/o Shri Roshan Singh,
R/o 407/1, Neb Sarai, New Delhi.
U/s 304 r/w 36 IPC**

12 S N Dandona , (deceased)

**Executive Engineer, PWD (Retired)
R/o 8/50, South Patel Nagar,
New Delhi-8
U/s 304A/337/338 r/w 36 IPC**

13 Shyam Sunder Sharma,

**Administrative Officer,
Municipal Corporation of Delhi South Zone, Delhi
(presently Asstt. Assesse & Collector)
Municipal Corporation of Delhi, R.K. Puram, New Delhi)
S/o Late Shri Jagdish Chander Singh,
R/o BE 377, Gali No.7 Hari Nagar,
New Delhi-64.
U/s 304A/337/338 r/w 36 IPC**

14 Narayan Dutt Tiwari

**Administrative Officer,(Retired)
Municipal Corporation of Delhi, South Zone, Delhi
S/o Late Shri Narottam
R/o C-1,305, Yamuna Vihar,Delhi
U/s 304A/337/338 r/w 36 IPC**

15 Har Swaroop Panwar,

**Divisional Officer (Retired), DFS, Delhi,
S/o Late Shri Khem Chand
R/o F-1 Fire Station, Bhikaji Cama Place,
New Delhi.
U/s 304A/337/338 r/w 36 IPC**

16 Surender Dutt (deceased)

**Station Officer (retired), DFS, Delhi,
S/o Late Dhram Dutt,
R/o F-2, Fire Station, Bhikaji Cama Place,
New Delhi.
U/s 304A/337/338 r/w 36 IPC**

In RC 3 (S) 97 SIC IV ND

**U/s 304/304A/337/338/36 IPC & U/S 14 of
Delhi Cinematograph Act, 1952 .**

J U D G M E N T :-

The facts as set out in the charge sheet and emerged from the evidence and documents in brief are as follows : -

1. On 13.6.1997 at about 7 a.m. a sound of explosion was heard by one Sudhir Kumar, Security Guard. He along with Surat Singh and Arvind Singh rushed towards Parking Area where he noticed smoke in the transformer room. He informed telephonically to the Fire Brigade. The information was also given to DVB complaint centre, R K Puram. Team of DVB officials and fire brigade officials arrived at the site, the fire was extinguished and repair in the transformer was conducted by Delhi Electric Supply Undertaking between 10.30 a.m. to 11.30 a.m.
2. After rectification of the fault, transformer was operated again. The film was exhibited and during the show of 3 p.m. to 6 p.m. of the film ' BORDER ', at intermission, a big explosion

took place followed by heavy smoke. The vehicles parked in the parking area caught fire. Sudhir Kumar immediately requested Uphaar cinema management to inform the police as well as the fire brigade officials. However, smoke had already spread in the cinema hall. A complaint was lodged by Sudhir Kumar, Security Guard in writing depicting the incident of morning as well as of 5 p.m.

3. It was alleged in the Written complaint of Sudhir Kumar that DESU transformer was not properly repaired in the morning, hence the fire took place and without caring for the life and safety of the public, the management used the defective transformer and run away after fire took place. Due to such negligent action, many people died and for the said incident at 5 p.m., the staff as well as management of Uphaar Cinema is responsible. On the basis of written complaint of Sudhir Kumar, FIR No 432/97 was registered in P S Hauz Khas. Initially, investigation was under the control of Delhi Police and subsequently, the investigation was transferred to Crime Branch of Delhi. On 23.7.97 vide Order No. 140011/109/97-Delhi dated 23.7.97, investigation was further transferred to

CBI. On 26.7.97, CBI registered a case bearing No. RC-3(S)/97/SIC.IV/New Delhi.

The facts arising from the investigation are :-

4. M/s Green Park Theaters Associated (P) Ltd. was incorporated on 3.2.72 with a view to construct a Cinema on a plot of land measuring about 2480 Sq. Yards situated at Green Park Extension Shopping Centre, New Delhi. The said plot was taken on Lease by M/s Green Park Theaters Associated (P) Ltd from M/s R C Sood & Co.(P) Ltd vide Lease Deed 24.2.1972.

5. M/s R.C. Sood & Company had purchased this plot for construction of cinema, shops, offices etc. The original plan for cinema building was submitted by [R.C.Sood](#) & Company in the year 1971 which was duly sanctioned by Municipal Corporation of Delhi. For construction of cinema cum office building on the said plot of land, the sanction was granted by Deputy Commissioner(S) vide Orders dated 26.11.1971. M/s R C Sood & Co. was not able to construct cinema cum office building on the said plot of land, therefore, this land was given

on Lease to M/s Green Park Theaters Associated (P) Ltd, a company incorporated under Companies Act 1956. As per the Lease Deed dated 24.2.1972,(Ex. PW 15/D), the Lessee i.e M/s Green Park Theaters Associated (P) Ltd was entitled to construct at its own cost temporary and/or permanent buildings with or without such modifications as may be considered necessary by the Lessee for the purpose of carrying on the business of cinema exhibition and any other purpose, M/s Green Park Theaters Associated (P) Ltd can submit or re-submit at any time building plans and get the same sanctioned from the Authority for the proper use of the plot. At that time, Chiranji Lal Ansal, Sushil Ansal and Gopal Ansal were Directors of M/s Green Park Theaters Associated (P) Ltd as per Form No. 32 Ex. PW 87/9.

6 After taking over the company by Ansals, a revised plan was submitted in 1973 which was sanctioned on 22.3.73 by the authorities vide File No. 117B/HQ/73. The construction was raised and Completion certificate/Occupancy Certificate of the Cinema building(Ex. PW 17/DA) was issued vide File No. 1/CC/HQ/73 dated 10.4.73 after inspection by the

concerned authorities. The approved plan provided for three rooms on the ground/stilt floor for installation of transformer i.e one HT room, LT room and one transformer room. The approved plan also provided for one auditorium having 750 seats, two stair cases, etc on the **first floor**, mezzanine floor, one store room, one sweeper room, one rewinding room, one rectifier room, one Projection Room, one passage, one toilet, one Inspection Room, two stair cases on the second floor, there was provision of 250 seats, one staircase in the balcony and one store, one administrative office, two stair cases on the third floor.

- 7 Accused Sushil Ansal on behalf of M/s Green Park Theaters Associated (P) Ltd applied for grant of cinema license. M/s Green Park Theaters Associated (P) Ltd with accused Sushil Ansal as representative license was granted license bearing No. 51 for running Uphaar Cinema w.e.f 24.4.1973 to 23.4.1974 from Licensing Authority who was District Magistrate. License was granted subject to condition that all buildings or other regulations for observance at public amusement places imposed by municipal bye-laws or by any

other law or by rules under any other law for the time being in force, shall be strictly complied with. The licensed building/place was to be maintained in all respects in strict conformity with the rules contained in the First Schedule Part IV of the Delhi Cinematograph Rules, 1953 i.e Rule 10(1) of Delhi Cinematograph Rules, 1953 (Part IV) which reads as under:-

".....licensee shall be responsible for compliance with the provisions of these rules and with the conditions of his licence for the maintenance of the licensed premises at all times and in all respects in conformity with the standards prescribed by those rules and for taking all necessary measures before any cinematograph exhibition is commenced to ensure the safety of the public and his employees against fire and other accident. The licensee or some responsible person nominated by him in writing for the purpose shall be in general charge of the licensed premises and Cinematograph during the whole time where any such exhibition is in progress....."

Rule 12(1) of Cinematograph Rules 1953 stipulates

".....before granting or renewing an annual license the Licensing Authority shall call upon the report of Executive Engineer of Public Works Department to examine the structural features of the building and report regarding the compliance of the rules. The Electrical Inspector was also to examine the Cinematograph and the Electrical equipment to be used in the building and report about the compliance of the rules and provisions of the Indian Electricity Act 1910 and the reasonable precautions to be taken to protect the spectators and employees from electric shock and to prevent the introduction

of fire into the building through the use of electrical equipments. The Electrical Inspector had also to report whether the prescribed fire extinguishing appliances have been provided are in working order and are suitable for the purpose for which they are intended. In case any defect was found, the Licensing Authority may refuse to grant or renew the license....."

9. Rule 21(1) of Cinematograph Rules, 1953 reads as under :-

".....no addition or alteration of any portion of any premises licensed u/s 10 of the Act, necessitated by fire, natural calamity or any other cause shall be made without the sanction of the Licensing Authority..."

10. Rule 24 of Delhi Cinematograph Rules, 1953 reads as under :-

"....The Attendants and all members of the staff employed in the building during an exhibition were supposed to carry electrical torches to use in emergency in the event of failure of the light...."

11. Clause 6 of the First Schedule of Delhi Cinematograph Rules, 1953 reads as under :-

"..... the total number of spectators accommodated in the building shall not exceed 20 per 100 sq. ft. of the area available for sitting and standing or 20 per 133 1/2 sq. ft. of the over all area of the floor space in the auditorium....."

12. Clause 7 of the First Schedule reads as under :-

".... the sitting in the building shall be so arranged that there is free access to exits....."

Clause 8 of First Schedule reads as under :-

"....the gangways should not be less than 44 inches in width and it should be down each side of the auditorium and down the center of the sitting accommodation at intervals of not more than 25 ft. and parallel to the line of seating so as to provide direct access to exits provided that not more than one gangway for every ten rows shall be required. It further provides that the exits and the gangways and passages leading to exits shall be kept clear of any obstruction other than rope barriers provided in accordance with sub-rule and in no case extra seats be placed in the gangways at the time of performances to block or reduce the width of the gangway...."

Clause 10 provides that

".....Exits, the public portion of the building shall be provided with an adequate number of clearly indicated exits placed in such positions and so maintained as to afford the audience ample means of safe and speedy egress. There is further provision of one exit from every, tier/floor or gallery for every 100 persons accommodated or part thereof. It is further provided that exits from the Auditorium shall be suitably spaced along with both sides and along the back thereof and shall deliver into two or more different thoroughfares or open space from which there are at all times free means of rapid dispersal. All exit doors and doors through which the public have to pass on the way to the open air shall be available for exit during the whole time that the public are in the building and during such time it should not be locked or bolted....."

12. As per the provisions of this Act the licensee was not allowed to assign, sublet or transfer the license or the licensed building/ place or Cinematograph and the licensed building was to be maintained in strict conformity with the rules contained in

the First Schedule and Part IV of the Delhi Cinematograph Rules 1953.

13. On 29.7.1972, accused Sushil Ansal as Director of M/s Green Park Theaters Associated (P) Ltd applied for sanction of load vide his application addressed to DESU and number of correspondences took place between DESU and M/s Green Park Theaters Associated (P) Ltd. Vide letter dated 14.9.1972 written by Shri H. C. Aggarwal, Commercial Officer addressed to Commercial Manager, M/s Green Park Theaters Associated (P) Ltd., it was conveyed to Uphaar cinema that "**since the total load exceeds 100 KW the supply is to be required to be availed on HT 11KV. You would be required to arrange for your own transformer of suitable capacity and will have to provide a suitable built up accommodation for housing our S/stn equipment**". Vide letters dated 22.9.1972, 21.10.72, 13.11.72, 22.11.72, 28.11.72, 8.1.73, 12.1.73, 19.1.73, 24.1.73, 27.1.1973, 1.2.1973, 5.2.73, 6.2.73, 20.2.73, the matter was processed in DESU on the above mentioned dates by Shri H C Aggarwal, Commercial Officer, V S Bansal, Executive Engineer, Sh. R. C. Kalucha, Assistant Engineer, Sh. P D Tuklee,

Superintending Engineer, Shri S N Khanna, Executive Engineer. (in file Ex. PW 100/M). On 19.10.1973, an agreement (in file Ex. PW 100/L) was entered into between DESU and M/s Green Park Theaters Associated (P) Ltd which was signed by accused Gopal Ansal on behalf of M/s Green Park Theaters Associated (P) Ltd. By way of the said agreement, it was agreed to give space for installation of DESU transformer in the car parking area of the building to be used as sub-station, at Rs.11/- per year as rent on condition that in case of emergency, DESU will provide electricity supply to Uphaar cinema. DESU transformer of 750 KVA was energized on 6.9.75 in building.

14. For installation of transformer in a complex, the rules laid down in Indian Electricity Rules and rules laid down in IS :10028 (Part II)-1981 which are as follows:-

3.3 Compliance with Indian Electricity Rules and Other Regulations.

3.3.1 All electrical installations shall comply with the requirements of the Indian Electricity Act and Rules made thereunder and with any other regulations that may be applicable, such as those made under Factories Act, 1948 and Fire Insurance Act. The following rules of Indian Electricity Rules, 1956, are particularly applicable: 35,45,50,51,59,61,62,63,64,65,67,68,69,114.

3.6.2 If two or more transformers are installed side by side, they shall be separated by fire-separation walls. Fire separation walls are deemed to be adequate from fire-safety point of view, even if oil capacity of individual transformers do not exceed 2,000 litres, and total capacity of all transformers installed side by side exceeds 2,000 litres.

3.6.3 The capacity of the oil soak pit shall be such that to soak the entire oil content of the transformer, it is intended for individual soak pits for each transformer (wherever necessary) with capacity as above or a common soak pit to contain the entire oil content of the biggest of the transformers shall be adequate.

3.6.4 Soak pits shall be designed in such a way to provide for safe draining of liquids to soak pits.

4.5 Isolation of Equipment.

4.5.1 Means should be provided for the complete isolation of every transformer from the supply and these should be so placed as to be readily accessible from the position in which danger may arise to enable the supply to such transformers to be cut off immediately. In making provision for isolation, due regard should be paid to the necessity for isolating all control, pilot and interlocking circuits, whether these are derived from the main source of supply or independently. If it is not practicable to carry out complete isolation with a single device, clear and concise instructions should be affixed to the apparatus in a permanent manner setting out the procedure to be adopted to secure complete isolation.

7.3.1. Indoor Sites.

7.3.1.1 The most important thing to be ensured with transformer installed indoors is proper ventilation that is,

free moment of air round all the four sides. The level of the transformer base should be higher than the highest floor and storm water level of that area.

7.3.1.2 The transformers should be kept well away from the wall. The minimum recommended spacing between the walls of the transformer periphery from the point of proper ventilation have been shown in Figure 2. However, the actual spacing may be different than those given in Figure 2, depending on the circumstances, such as access to the accessories.

7.3.1.4 For indoor installations the air inlets and outlets shall be of adequate sizes and so placed as to ensure proper air circulation for the efficient cooling of the transformers. The inlets should preferably be as near the floor as possible and the outlets as high as the building allows to enable the heated air to escape readily and be replaced by cool air.

7.6 Cabling

7.6.1 Cable trenches inside sub-stations and switch stations containing cables shall be filled with sand, pebbles or similar non-inflammable materials, or completely covered with non-inflammable slabs. In many installations, it may be advisable, for reasons of ease of maintenance to locate equipment centrally with cable galleries serving the purpose of cable galleries serving the purpose of cable trenches.

7.6.2 Cables may also be carried along with the walls clamped on the vertical supports at suitable intervals depending on the cable sizes. The cables, when arranged in a vertical plane, should run clear off the walls. Many types of special clamps for this purpose are now available. Where a large number of cables have to be carried and it is not desirable for some reason to have a portion of the wall face covered with cables, these may be run in cable trays

or racks and the spacing between them should be 150mm or more depending on the cable sizes. The cables should be laid in a single layer and the routings should be preplanned so that cross-overs are kept to minimum. The trays may be made from suitable materials such as galvanized iron or aluminium sheets or expanded metal. The expanded metal affords better ventilation for the cable. In view of economy and compactness, control and power cables are laid in the same trench; care shall be taken to segregate them in separate racks, with the control cables effectively screened. DC control cables, ac power circuits and instrument transformer circuits shall be segregated from one another.

7.6.3 The cables should not be exposed to heat from other equipment. The cable trenches should be suitably sloped and arrangements should be made for draining them or preventing them from getting filled with water.

7.9 Precautions against Risk of Fire :

7.9.1 In order to limit the spread of fire in the event of ignition, insulating oil, oil filled switchgear and transformer units should be segregated in groups of moderate capacity; where the size and importance of the plant warrants it, this may be achieved by segregation in separate enclosures. Alternatively fire resisting barriers may be provided between transformers or sections of switchgear.

15. In the year 1974, a request was made by Sushil Ansal for installation of 14 seats in the room which was sanctioned as "Inspection Room " in the original building plan by Municipal Corporation of Delhi and with the permission of the authorities,

the Inspection Room was converted into 14 seater box.

16.The license of Uphaar Cinema was renewed which was approved by the Entertainment Tax Officer i.e. Licensing Authority at the relevant time.

17.Sushil Ansal, Managing Director applied for renewal of the license and the license of Uphaar cinema was renewed by giving temporary permits of two-two months. On 21.3.1975, Sushil Ansal applied for renewal of license for the period 1974-75 and for which he submitted an affidavit (Ex. PW 69/BB) in which he has stated that " I, Sushil Ansal- Managing Director, Green Park Theaters Associated (P) Ltd and licensee of Uphaar Cinema, Green Park Extension for the year 1975-76. I have not without permission transferred the licensee or the licensed place or the Cinematograph not allowed to any other person during the year 1974-75 to exhibit film in the licensed place. I am still the occupier of the licensed premises and owner of the cinematograph ". Temporary Permits were used to be granted for the period 23.4.75 to 22.6.75, 24.4.76 to 22.6.76, 24.4.77 to 23.6.77, 24.6.77 to 23.8.77, 24.8.77 to 23.10.77, 24.4.78 to 23.6.78.

18. On 12.5.1976, DESU wrote a letter to Green Park Theaters Associated (P) Ltd regarding excess load at Uphaar cinema. In this letter it is mentioned **"....during the inspection carried out by Inspector, DESU on 29.3.1975, a load of 242.515 found connected at the cinema in addition to a load of 6.060 kw being subletted to tenants in the building which is against the sanctioned load of 215.894 KW. In this way they have contravened the provisions contained in Clause 4(1)(a) and Clause 4(2) of Delhi Electricity Control Order, 1959 for which the supply is liable for disconnection under Clause 7(2) and 7(b) of the Order laid respectively...."**

Gopal Ansal wrote a letter to DESU, stating therein that **"..... regarding subletting, we are surprised to note your contention, the restaurant, offices etc, within the cinema premises are infact a part of cinema and not subletees. We would like to refer to the discussion held with our representative Mr. Arora and the then CO & CCO of DESU of DESU for giving us separate connection for the Restaurant and other offices within our premises, but our request was not agreed upon on the basis that all the**

offices etc, within the premises are to be treated as part of the cinema establishment and all these requirements had to be met with HT connections given to us.... ". (Ex. PW 100/M).

19 .A Notification was issued on 30.9.76 under Rule 3 of the Delhi Cinematograph Rules, 1953 by Delhi Administration to increase seats in 40 cinema halls including Uphaar Cinema. As per this notification, there was sanction of 100 additional seats out of which 43 seats were to be added in balcony in two vertical gangways and one new gangway was to be introduced in the middle in lieu of closure of two vertical gangways in the right side of the balcony. 57 seats were to be added in the auditorium by reducing existing vertical gangway from 4 to 3 and re-shuffling of the seats. This notification, however, did not allow the closure of exits.

20. On 5.11.1976, Gopal Ansal Director sent information to Entertainment Tax Officer that 43 seats have been added in the balcony. Such addition of 43 seats in the balcony closed the

right hand side vertical gangway leading to the right hand side exit gate as well as the right hand side vertical gangway near the entry gate.

21. On 16.10.1978, permission was sought from Entertainment Tax Officer regarding installation of 57 seats in the auditorium which was allowed by Shri R.D Srivastava, Entertainment Tax Officer on 8.11.78.

22. On 1.12.78 information regarding installation of 42 additional seats was sent to Entertainment Tax Officer against 57 sanctioned seat in the hall along with the revised seating plan. The Entertainment Tax Officer vide letter dated 6.12.78 gave " No objection certificate ".

23. On 24.5.1978 accused Gopal Ansal, Director, M/s Green Park Theaters Associated (P) Ltd. made a request to Entertainment Tax Officer for sanction of additional 8 seater box for personal use, the said letter is Ex. PW 110/AA20.

24. On 19.6.78 Entertainment Tax Officer wrote to Executive Engineer to enquire whether installation of 8 seater box in balcony is in accordance with Cinematograph Rules (Ex. PW 29/DK). Shri S. N. Dandona Executive Engineer,PWD after

inspecting the cinema on 27.6.78 gave his report that 8 seater box was in accordance with the Cinematograph Rules (Ex. PW 29/DL). Entertainment Tax Officer found this report of S N Dandona vague and sought further clarification vide letter Ex. PW 29/DM dated 2.9.78. On 20.9.78, S N Dandona, Executive Engineer, PWD wrote letter to Entertainment Tax Officer and clarified that the installation of eight seater box is in accordance with Clause 6 of First Schedule of Delhi Cinematograph Rules, 1953 (Ex. PW 29/DN). On 8.11.1978, Entertainment Tax Officer, on the basis of this report of S N Dandona, allowed installation of eight seater box. This installation of 8 seater box closed the right hand side exit of the balcony .

25. After the introduction of Deputy Commissioner of Police System(L) in Delhi, the power of granting or renewing the Cinema License was given to Deputy Commissioner of Police (Licensing).

26. On 2.4.1979, Sushil Ansal, wrote a letter to Deputy Commissioner of Police (Licensing) to issue duplicate license as original License No. 51 has been misplaced. An affidavit was also filed by accused Sushil Ansal on 16.4.79 stating

therein that original license has been misplaced and thereafter on the directions of DCP(L), duplicate cinema license was issued.

27. Notification dated 27.7.1979 Under Rule 3 of Delhi Cinematograph Rules 1953 was issued whereby Notification dated 30.9.1976 relating to addition of 100 seats in Uphaar Cinema, was cancelled. On 27.7.79, Show Cause memo was issued to Uphaar Cinema by DCP(L) to withdraw 100 additional seats installed by them and called for report by 4.8.79.

28. M/s Green Park Theaters Associated (P) Ltd and others affected by the above notification, filed a Writ Petition in Delhi High Court and obtained a stay order. It was stated in the orders of Hon'ble High Court of Delhi that “ **such of the additional seats which comply substantially with the requirements of the Rules must be allowed to stay and it is only those seats which infringe upon the Rules which may have to be ordered to be removed by the Administration. ”**

29. As per the directions of the Hon'ble High Court, Shri Amod

Kanth, Deputy Commissioner of Police (Licensing) alongwith Shri S N Dandona, Executive Engineer, Public Works Department, Chief Fire Officer and Executive Engineer inspected Uphaar Cinema.

30. On 6.12.79, a Show Cause Notice (in file Ex. PW 69/AA) was issued for removal of all 100 additional seats for which accused Gopal Ansal, Director of M/s Green Park Theaters Associated (P) Ltd. gave a reply (Ex. PW 110/AA2) on 13.12.79 stating therein that all the seats in the balcony and auditorium are in conformity with the Rules and are not in violation. Then, on 24.12.79 on the technical advise of Shri S. N. Dandona, an order was passed by DCP(L) (Ex.PW29/DR) vide which Uphaar Cinema was allowed to retain 37 seats out of 43 seats in balcony which permanently blocked the gangway on the right hand side and the exit gate.

31. On 4.1.1980, accused Gopal Ansal, Director of M/s Green Park Theaters Associated (P) Ltd informed Deputy Commissioner of Police (Licensing) regarding sale of approved 31 number of additional seats w.e.f 4.1.1980.

32. The temporary permits were being issued from 1980 to

1983 by DCP(Licensing) in the name of Sushil Ansal, Licensee of Uphaar cinema.

33. On 29.7.1980 Gopal Ansal wrote a letter to DCP(L) for addition of 15 seats in the balcony (Ex. PW 110/AA7). On receipt of this letter, DCP(L) sought report from the Executive Engineer Public Works Department and Chief Fire Officer. S N Dandona, Executive Engineer, PWD gave his report (Ex. PW 29/DU) on 3.9.1980 stating therein addition of 15 seats was not in accordance with the First Schedule of DCR, 1953. Therefore, revised plans were sought from the licensee of Uphaar Cinema. Revised seating plans was sent to Executive Engineer on 6.9.80 (Ex. PW 29/DV). On 10.9.80, the addition of 15 seats was approved by S N Dandona, Executive Engineer, PWD (Ex. PW 29/DX). On 4.10.80, DCP(L) allowed installation of additional 15 seats in the balcony (Ex. PW 29/DY).

34. On 31.12.1981, Delhi Cinematographic Rules were amended. As per Delhi Cinematograph Rules, 1981, inspection of the cinema hall by the Chief Fire Officer for confirming availability of means of escape from fire safety point of view

was to be seen hence the inspection report of the chief fire officer was also called for.

35. After amendment, Rule 14(1) of Delhi Cinematograph Rules 1981 stipulated ".... before granting or renewing an annual license the Licensing Authority shall call upon the report of Executive Engineer of Public Works Department to examine the structural features of the building and report regarding the compliance of the rules. The Electrical Inspector was also to examine the Cinematograph and the Electrical equipment to be used in the building and report about the compliance of the requirements of rules and provisions of the Indian Electricity Act 1960 and the reasonable precautions to be taken to protect the spectators and employees from electric shock and to prevent the introduction of fire into the building through the use of electrical equipments....."

The amended rules of Delhi Cinematograph Rules, 1981 insisted that before granting license, "....the Licensing authority shall also call upon the Chief Fire Officer or any officer authorised by him in this behalf for the purpose of

ensuring the proper means of escape and safety against fire and to report whether the prescribed fire extinguishing appliances have been provided, are in working order and are suitable for the purpose for which they are intended. In case any defect was found, the Licensing Authority may refuse to grant or renew the license...."

36.The amended rules also required that **the seating in the building shall be so arranged that there is free access to exits. At least two longitudinal gangways shall directly be connected to the exit door and that there shall be atleast two staircases of width not less than 1.50m to provide access to any gallery or upper floor in the building which is intended for use by the public.**

37.The amended Rules further stipulated **"....The public portion of the building shall be provided with an adequate number of clearly indicated exits placed in such positions and so maintained as to afford the audience ample means of safe and speedy egress upon a public thoroughfare. In auditorium, there shall be one**

exit from every, tier/floor or gallery for every 150 persons accommodated or part thereof. Exits from the Auditorium shall be suitably spaced along with both sides and along the back thereof and shall deliver into two or more different thoroughfares or open space from which there are at all times free means of rapid dispersal. All exit doors and doors through which the public have to pass on the way in the open air shall be available for exit during the whole time the public are in the building....."

- 38.** On 28.5.1982, a Show Cause Notice Ex. PW 69/AA was issued by Deputy Commissioner of Police (Licensing) to the Licensee of Uphaar Cinema stating that "...on 15.5.82, inspection of Uphaar cinema was carried out in the presence of K L Malhotra, Manager. Five gates were found bolted from inside during exhibition of film which was violation of Rule 12(8) of First schedule of DCR, 1981.." On 4.6.82, reply was given by Gopal Ansal, Director of M/s Green Park Theaters Associated (P) Ltd on 4.6.82(Ex. PW 110/AA-24) stating therein that “ **the five gates found bolted inside the**

cinema could, have been bolted from inside by patrons due to constant opening of these doors or due to the pressure of air-conditioners etc. We, however, assure you that there was no intention to violate Para 12 (8) of the First Schedule of Delhi Cinematograph Rules, 1981. We assure you that utmost precaution would be taken in future."

39. In 1983, due to fire incident in LPG godown at Shakur Basti and Gopala Tower, Lt. Governor ordered for inspection of all cinema houses. Accordingly, Joint Team of competent authorities inspected Uphaar Cinema on different dates and structural and fire safety deviations were observed in Uphaar Cinema on which the license of Uphaar Cinema was suspended for a period of four days. Against this order, the licensee obtained stay order on 28.6.1983. On account of said Stay Order, the temporary permits were issued and this practice continued till 13.6.97.

40. On 23.6.1983, Delhi Building Bye-laws, 1983 came into force which placed an obligation on the owner of the premises to ensure safety measures when transformers are housed in

the building which demanded that the transformer shall be protected by an automatic high pressure water spray or a foam sprinkler system. When housed at ground floor level it/they shall be cut off from the other portion of premises by Fire Resisting walls of 4 hours fire resistance. They shall not be housed on upper floors. (Rule K-8.4, Building Bye Laws, 1983)

It also provided

(a) The first aid fire fighting equipments shall be provided on all floors including basements, occupied terrace, lift rooms in accordance with IS: 2217-1982. Recommendations for providing first aid fire fighting arrangements in Public buildings in consultation with the CFO.

(b)The fire fighting appliances shall be distributed over the building in accordance with IS 2190 Code of Practice for selection, installation and maintenance of portable first aid fire appliances.

(c)Buildings above 15m in height depending upon the occupancy use shall be protected by wet riser or sprinkler system with the fire service connections at the base or sprinkler installation as per rules.

(d)In addition to wet risers, first aid hose reels shall be installed on all the floors of the of buildings for fire fighting. A satisfactory supply of water for the purpose of fire fighting

shall always be available in the form of underground static storage tank with capacity specified for each building by the local fire authority with arrangements of replenishment by town's main or alternative course of supply @ 1,000 litres per minute.

(e) Other safety measures were also insisted upon that Automatic Sprinklers- Automatic high pressure water spray or foam sprinklers system shall be installed

(i) In basements, sub-basements which are used as car parks, storage of combustible article, laundry etc.

(ii) On floors used as departmental stores, shops and traders involving fire risks.

(iii) On all floors of the buildings other than apartment buildings, if the height of the building exceeds 45m.

(f) Carbon-Di-Oxide Fire Extinguishing system :- Fixed CO₂ fire extinguishing installation shall be provided as per IS code of practice for design and installation of fixed CO₂ fire extinguishing system on premises where water or foam cannot be used for fire extinguishment because of the special nature of the contents of the buildings/areas to be protected.

B. On 1.2.1984, accused Sushil Ansal, Chairman of M/s Green Park Theaters Associated Pvt. Ltd requested for renewal of cinema license. Shri S P Aggarwal, Chief Fire Officer cum Deputy Commissioner (Water) inspected Uphaar cinema and pointed out certain deviations. On 16.5.84 Gopal

Ansar Director of Green Park Theaters informed that they have substantially rectified the deviations and then again on 31.5.84 Uphaar cinema was inspected and consequentially, permit of Uphaar Cinema was renewed from time to time upto 23.4.85 and subsequently upto 23.4.87 from 23.4.85 to 23.4.87.

42. In 1986 the Delhi Fire Prevention and Fire Safety Act came into force in which there was special provisions for fire safety needs. It empowers **the Chief Fire Officer to enter and inspect any building, the construction of which was completed on or before the 6.6.83(being the date on which the current building bye-laws had come into force) or any building which was under construction on such date if such inspection appears necessary for ascertaining the adequacy of fire prevention and fire safety measures in such building.** As per the Act, minimum standards for fire prevention and fire safety measures were raised for building more than 15 meters in height which are means of access, underground/overhead water static tanks, Automatic sprinklers system, first-aid Hose reels, Fire Extinguishers of ISI certification mark, compartmentation, automatic fire detection

and alarm system/manually operated electrical fire alarm system, Public address system, Illuminated exit way marking signs, alternate source of electric supply, fire lift with fireman switch, Wet riser down corner system. The permit of Uphaar Cinema was renewed upto 23.4.90 from time to time after receiving request from Licensee of Uphaar cinema and obtaining no objection from all the concerned departments.

43. On 1.4.1988, a Parking Contract was entered into between parking Contractor R K Sethi and accused Gopal Ansal, Director of M/s Green Park Theaters Associated (P) Ltd for the covered car parking area and cycle/scooter stand at Uphaar cinema.

44. As per the investigation, on 17.10.88, Sushil Ansal, Gopal Ansal resigned from the Directorship of M/s Green Park Theaters Associated (P) Ltd, as per the minutes of the Board of Director's meeting Ex. PW 103/XX1.

45. On 22.2.1989, Gopal Ansal wrote a letter to Entertainment Tax Officer in the capacity of Director, M/s Green Park Theaters Associated (P) Ltd informing therein that they have appointed Shri K L Malhotra, Dy. General Manager, R K

Sharma, N S Chopra, Managers as nominees for Uphaar Cinema. (Ex. PW 98/C)

46. On the night of 6.7.1989 a fire incident took place in Uphaar Cinema regarding which a letter was given by Shri K.L. Malhotra, Deputy General Manager, stating therein that due to fault in the Sub-station, smoke emerged from the transformer causing fire to the cables which has caused considerable damage to the building and required immediate repairs. Hence the cinema was to be closed for public. On 20.7.89 Deputy Commissioner of Police (Licensing) permitted the cinema to be reopened, provided all the safety measures have been taken for the safety of the patrons. (Ex. PW 88/B to E).

47. On 3.3.1992, Sushil Ansal applied for renewal of cinema license for the period 24.4.92 to 23.4.93 and alongwith an affidavit. Thereafter the temporary permits of Uphaar Cinema were renewed upto 31.3.94 after getting No Objection from concerned authorities.

48. On 29.3.1994, PWD inspected Uphaar Cinema and found that gangways, exit, stairways, seating are in accordance with Delhi Cinematograph Rules, 1981 and accordingly

temporary permits were renewed from time to time.

49. On 3.5.1994 vide notification No.F.18/II/94 the local authority for Inspection of Cinema Halls for renewal of license was changed from Public Works Department to the Municipal Corporation of Delhi and was authorised to issue No Objection Certificate.

50. For renewing the temporary permit of Uphaar cinema, Uphaar cinema was inspected by Shri P K Sharma, ADO and Surender Dutt, Station Officer, DFS. A report was sent on 12.8.94 by Surender Kumar, Deputy Chief Fire Officer pointing out that four deviations mentioned in the order of suspension of license were still in existence which are fire hazards and on the top floor of the building, offices have been created forming part of the stair case and loft and were used by Sarin Associates, Supreme Builders, Supreme Promoters, Supreme Marketing (P) Ltd and Vikky Arin Impex (P) Limited and were causing hindrance in the stair case for free movement of the public and are fire hazard being wooden construction.

51. On 30.8.94 Shri Vimal Nagpal of Uphaar Cinema informed that rectification have been carried out . In this reply,

he has stated that Homeopathic Doctor's cabin has been vacated on the ground floor but the same was still in existence till 13.6.97. On receipt of this reply (Ex. PW 49/F). Another inspection was carried out and two deviations were still found in existence in Uphaar cinema and intimation in this regard was sent to Vimal Nagpal of Uphaar Cinema (Ex. PW 37/AC) on 12.10.94 and directed them to rectify the shortcomings. Further, Vimal Nagpal informed Deputy Chief Fire Officer that shortcomings have been rectified. Thereafter the temporary permit was renewed upto 31.3.95.

52. On 24.12.94, Gopal Ansal was appointed as Director of the company vide minutes of Board of Director's meeting Ex. PW 87/C.

53. On 18.3.95, K L Malhotra, Deputy General Manager of Uphaar cinema applied for renewal of license from 24.4.95 to 23.4.96. DCP(L) obtained ' No Objection ' from P K Sharma, ADO and Shri Surender Dutt, STO of DFS. On 20.4.95 DCP(L) sent one letter Ex. PW 39/DA to Zonal Engineer (Bldg), Municipal Corporation of Delhi to inspect Uphaar Cinema for renewal of license. Accused Shyam Sunder Sharma,

Administrative Officer of Municipal Corporation of Delhi unauthorisedly issued No Objection Certificate on 28.9.95 without conducting any inspection. This 'No Objection Certificate' was personally collected by Shri K.L.Malhotra on the same day and on the basis of this 'No Objection Certificate' (Ex. PW 2/AA26)as well as the 'No Objection Certificate' of Delhi Fire Service, the temporary permit of Uphaar Cinema was renewed for the year 1995-96.

54. On 26.6.95, accused Sushil Ansal signed one cheque (Ex. PW 91/B) amounting to Rs.50 Lacs in his favour.

55.On 30.6.95, accused Gopal Ansal again resigned from the directorship of the company as per Annual Return Form Ex. PW 87/53A.

56 On 23.2.96 Mrs.Vimla Mehra Additional Commissioner of Police (Licensing) vide letter Ex. PW 17/A gave directions for physical inspection of Uphaar Cinema along with 12 other Cinema Halls to Chief Fire Officer and Municipal Corporation of Delhi wherein the copy of deviations found in June 1983 were also enclosed. A team of Municipal Corporation of Delhi officials submitted a report after inspection on 29.4.96

mentioning the deviations.

On 11.3.96, the name of M/s Green Park Theaters & Associated (P) Ltd was changed to Ansal Theaters and Clubotels Pvt. Ltd. On that day, Pranav Ansal, R M Puri, PP Dharwadkar, Kusum Ansal, V K Aggarwal, Subash Verma were the Directors of the company. (Ex. PW 87/A4). On 11.3.96 again Deputy Commissioner of Police (Licensing) sent reminder directing the Chief Fire Officer, Delhi Electrical Inspector, and Zonal Engineer (Building) to inspect Uphaar Cinema. On 9.4.96 accused [H.S.Panwar](#) Divisional Officer and Sh.Surender Dutt Station Officer, Delhi Fire Service inspected Uphaar Cinema. Shri H.S. Panwar sent inspection report (Ex. PW 32/B) (Inspection Proforma Ex. PW 32/A) on 18.4.96 stating that the fire fighting arrangements were found satisfactory but at least 2 trained persons must be available for the exhibition of film and gave no objection. Again the inspection report was called in prescribed proforma and Executive Engineer (Building) Municipal Corporation of Delhi informed Ms. Vimla Mehra that the report has already been sent mentioning the deviations on 23.5.96 and also enclosed

copy of the said letter. On receipt of this letter, on 18.11.96, accused H S Panwar wrote a letter (Ex. PW 33/C) to Manager, Uphaar cinema to rectify the deviations observed during inspection in the existing fire safety arrangements. On 28.11.96, Shri Vimal Nagpal of Uphaar Cinema informed that the necessary rectifications have been carried out vide letter Ex. PW 33/F. On 22.12.1996, Uphaar cinema was re-inspected by accused H.S. Panwar Divisional Officer and Surender Dutt Station Officer in presence of K L Malhotra and on 24.12.96 No Objection Certificate was given. (Inspection Proforma Ex. PW 33/E, 'No Objection Certificate' Ex. PW 33/D). It is alleged that on 22.12.96, inspection was carried out by accused H S Panwar and Surender Dutt, though, H. S. Panwar was on Casual Leave, as per records (Ex. PW 88/J).

58. On 23.5.1996, accused Gopal Ansal issued one cheque (Ex. PW 93/B) for a sum of Rs.9711/- in favour of Chief Engineer (Water) from the account of non-existing company i.e M/s Green Park Theaters Associated (P) Ltd.

59. On the request of Manager Uphaar Cinema vide letter dated 19.9.96 (Ex. PW 23/DB) wherein the copy of letter of

DCP (Licensing) addressed to Administrative Officer was also enclosed. Shri [N.D.Tiwari](#) Administrative Officer unauthorisedly without conducting any inspection, issued ' No objection certificate' on 25.9.96 which was collected by Deputy General Manager Shri [K.L.Malhotra](#) and on the basis of that No Objection Certificate(Ex. PW 2/AA27), temporary permit was renewed for the year 1996-97.

60. On 30.11.96, Gopal Ansal issued one cheque for a sum of Rs.1.50 lacs in the name of The Music Shop from the account of Ansal Theaters and Clubotels (P) Ltd. (Ex.PW 90/B)

61. On 16.12.96, R M Puri, Director of Ansal Theaters & Clubotels (P) Ltd informed DCP(L) regarding the change of name of company w.e.f 11.3.1996 and he further informed that there will be no change in the name of the licensee of the cinema. (Ex. PW 98/C).

62. On 18.12.96, two Office Memos were issued to all Managers of Uphaar cinema to report about their day to day functioning which were issued by R M Puri, Director of Ansal Theaters & Clubotels (P) Ltd. and copy of these memos were forwarded to Gopal Ansal, MD (APIL) for his necessary

information. (Ex. PW 102/D-54 & 55).

63. Temporary permits were applied in the name of M/s Green Park Theaters Associated (P) Ltd, a non-existing company Since 11.3.96 on 17.1.97, 12.3.97 and 28.5.97 by Deputy General Manager, K L Malhotra. (Ex. PW 69/D)

64. On 12.2.1997, Gopal Ansal issued one cheque (Ex. PW 90/C) for a sum of Rs.2,96,550/- in the name of Chancellor Club from the account of Ansal Theaters & Clubotels (P) Ltd.

65. On 27.2.1997, as per the Minute's of MD Conference Ex. PW 98/C, Gopal Ansal as Managing Director had headed the conference and directed that not a even a nail is to be put in the cinema without his permission.

66. On 10.3.1997, Deputy General Manager of Ansal Theaters & Clubotels Pvt Ltd applied for renewal of annual cinema license for the period 1997-98 (Ex. PW 69/D).

67. As per the minutes of meeting dated 28.3.1997 (Ex. PW 103/XX3), resolution was passed authorising Sushil and Gopal Ansal to operate all bank accounts of the company upto any amount and also to create equitable mortgages in respect of the property at Chiranjiv Vihar Ghaziabad and they both were

empowered to deposit the title deeds, already lying with Punjab National Bank, in order to secure a term loan of Rs.40 crores and to create any other mortgage or charge as may be required by the said Punjab National Bank.

68. As per the minutes of MD's conference (Ex. PW 98/X2, X3, X1 and Ex. PW 98/C) dated 2.4.97, 1.5.97, 7.5.97, Gopal Ansal headed the meetings as Managing Director (APIL) and was controlling the functioning of cinema.

69. On receipt of letter from the Deputy General Manager of Uphaar Cinema and affidavit of R M Puri, Director, DCP(L) issued directions vide letter dated 21.4.97 (Ex. PW 37/AM). Accordingly, H S Panwar and Surender Dutt inspected Uphaar Cinema(Ex. PW 31/DB) on 12.5.97 in which it is mentioned that Public Announcement System was functioning, exit lights, emergency lights, two trained fireman have been provided and as per this inspection report, H S Panwar issued No Objection Certificate (Ex. PW 31/DC) for the renewal of licence for the year 1997-98.

70. On 28.5.97 K L Malhotra, Deputy General Manager of Uphaar Cinema applied for renewal of temporary permit from

1.6.97 to 31.7.97 which was made in the name of M/s Green Park Theaters Associated (P) Ltd (Ex. PW 69/D). On 6.6.97, Deputy Commissioner of Police (Licensing) renewed the temporary permit from 1.6.97 to 31.7.97.

71. As per the investigation, on 13.6.97 at about 6.55 a.m., DESU transformer installed on the ground floor of Uphaar cinema building caught fire (Ex. PW 41/A).

72. At 7.25 a.m. Munna Lal, Junior Lineman along with Jiya Lal, Mazdoor, visited Uphaar Cinema and reported to Deep Chand, Shift Incharge that they have extinguished the fire by putting sand (Ex. PW 41/A)

73 At 7.40 a.m., C J Singh, Superintendent went to Uphaar cinema and found the insulation of three LT side cable leads partly burnt. He closed the shutter of the DVB transformer room.

74. P C Bhardwaj, AE received information at 8 a.m and at 9.15 a.m, he instructed B M Satija Inspector, to attend to the Uphaar cinema complaint. In the presence of Bhagwan Din, repairs were carried out by B M Satija, A K Gera, Inspectors and Bir Singh, Senior Fitter, by replacing two aluminum sockets

at B Phase of LT side cable leads with the help of two dyes and hammer as the crimping machine was not with them. After fitting the sockets inside the cable leads, the sockets in the bus bar were connected with the help of nut and bolts. When the work was being carried out, Thakur Singh, Lineman of Green Park Complaint Centre also reached there and Bir Singh Fitter and Inspectors checked the connection and they left Uphaar Cinema at 11.30 a.m after repairs. At 2 p.m., P C Bhardwaj, AE telephoned to R K Puram office and A K Gera, Inspector informed Shri P C Bhardwaj that all the four complaints including that of Uphaar Cinema have been attended by them and supply to Uphaar Cinema was restored at 11.30 a.m and an entry was made about the repairs at Uphaar Cinema. On 13.6.97, from 3.55 p.m. to 4.55 p.m., there was load shedding in Green Park area (Ex. PW 24/DA). At about 5 p.m., fire took place and Mr. Malhotra called Green Park Complaint Centre and informed them about the fire, as per PW 45. As per General Diary Register (Ex. PW 43/A) Jagpal was on duty as Shift Incharge. He received information about fire, noted down the said complaint and he also informed

AIIMS grid to switch off the supply to the main feeder which gives supply to Uphaar cinema S/Stn. of DVB. The officer informed him that DVB transformer at Uphaar cinema has tripped off as per PW 45. At 5.05 p.m., the supply of 11 KV outgoing Green Park Feeder was tripped off showing over current (Ex. PW 24/DA).

75. At 5.10 p.m., Delhi Fire Service received a complaint from K L Malhotra about the fire and accordingly, the information was conveyed to other fire stations but no instructions were given to Projector operator to stop the film and also to inform the patrons. (Ex. PW 96/C and entry is Ex PW 96/E). The fire tenders from Bhikaji Cama Place Fire Station reached the spot and thereafter, fire fighting operations started. The FIR Ex. PW 63/A was lodged in P S Hauz Khas on the basis of statement of Security Guard Sudhir Kumar who had seen fire in the transformer of Delhi Vidyut Board on the morning of 13.6.97 and was also present in the evening when fire incident took place, he saw smoke in the stairs.

76. On 14.6.97 report was given regarding repairs conducted at Uphaar Cinema by DESU officials which is duly signed by B

M Satija, A K Gera, Inspectors and Bir Singh, Senior Fitter. (Ex. PW 108/AA). On 16.6.97, Fire Report of Delhi Fire Service was obtained from Delhi Fire Service (Ex. PW 49/E)

77. On 25.6.97, Post Mortem on the body of Capt. M S Bhinder was conducted and as per the Autopsy Report Ex PW 77/A, the cause of death was declared as Asphyxia.

78. On 25.6.97, the report of Electrical Inspector K L Grover and Asst. Electrical Inspector A K Aggarwal was obtained which is Ex. PW 24/A. On the same day, report of R K Bhattacharya, EE, Municipal Corporation of Delhi was also obtained showing the structural deviations in the Uphaar cinema building. (Ex. PW 39/B alongwith annexures.)

79. On 27.6.97, CFSL report of Dr. Rajender Singh was forwarded to SHO, PS Hauz Khas. (Ex. PW 64/B).

80. On 29.6.97, expert opinion from K V Singh, Executive Engineer(Electrical) PWD was also obtained which is Ex. PW 35/A.

81. On 2.7.97, report from Prof. M L Kothari of IIT, New Delhi was also obtained which is Ex. PW 36/A.

82. On 22.7.97, letter from M M Dass was sent to Crime

Branch.

83. On 2.8.97, a Panchnama was prepared by PWD officials giving floor-wise deviations found in Uphaar cinema building and the same is Ex. PW 29/A.

84. On 11.8.97, Inspection-cum-scrutiny report was submitted by Municipal Corporation of Delhi showing the various structural deviations and was submitted to CBI, the same is Ex. PW 2/A. On 11.8.98, CFSL report Ex. PW 64/D was sent to CBI.

85. On 17.8.97, report of T P Sharma, expert from CBRI was obtained and the same is Ex. PW 25/A.

86. On 18.9.97 opinion from forensic expert was obtained and the same is Ex. PW 62/A.

87. It is alleged by CBI that R M Puri, Director of Uphaar Cinema, K L Malhotra, Deputy General Manager, R K Sharma, Manager, Ajit Choudhary, Manager, Nirmal Singh Chopra, Assistant Manager were present at the time of this incident but they had not cautioned the patrons seated inside the auditorium about the fire and heavy smoke on the ground floor of the building which was spreading, and they all safely escaped

from the building along with their vehicles.

88. Manmohan Uniyal, the Gatekeeper on duty in the balcony, had left his duty without handing over the charge to his reliever after closing and bolting one plank each of the two entry/exit door on the left side of the balcony and completely bolting the middle exit/entry door without caring for the safety and lives of the patrons inside the balcony and the management of Uphaar Cinema had not helped the patrons to come out of the auditorium. There was no announcement on any Public Address System as the same was not in working condition and there was no emergency light. Heavy and dense smoke as well as toxic gases reached the auditorium including the balcony and 59 persons seated in the balcony lost their lives and 100 persons were injured as there was no proper means of escape by way of exits and emergency lights and there was no help from the cinema management.

89. DVB transformer was the source of fire on 13.6.97, firstly, in the morning and then, in late afternoon at 5 p.m. on account of improper repair carried out by B M Satija, Inspector DVB, A K Gera, Inspector DVB and Bir Singh, Senior Fitter. In the

morning, all the three DVB officials repaired the DVB transformer without proper equipments like crimping machine which resulted in loose fitting/connections causing sparking in between the B phase of the transformer at the place where the repair was carried out in the morning and it ultimately resulted in the loosening and falling of one of the cable of B phase of the said transformer on the radiator causing a hole in the radiator fin resulting in leakage of transformer oil which caught fire on account of the rise in the temperature due to sparking and the improper repairs of the DVB transformer. They had the knowledge that they were likely to cause death of public inside the building in case the transformer catches fire again on account of such improper repairs which contributed to the death of 59 persons and injury to 100 persons.

90.As per the investigation, closure of right side gangway in the balcony and the closure of the exit gate on the right side portion of the balcony, the non working condition of public address system, no provision of emergency lights, non-availability of fire alarm systems, non availability of proper fire safety measures in the car parking area and such other

deviations from structural, fire safety and means of escape point of view had contributed to the death of 59 persons and injury to about 100 persons. These deviations were in the knowledge of Sushil Ansal and Gopal Ansal, Ex-Directors of Uphaar Cinema who continued controlling the management and affairs of the said cinema hall which amounts to criminal negligence on their part resulting in the death of 59 persons and injuries to 100 persons.

91. As per the investigation, S S Sharma and N D Tiwari, Administrative Officers of Municipal Corporation of Delhi had also contributed to the death by their criminal negligence of having issued No Objection Certificates for renewal of temporary permits of Uphaar Cinema by the licensing authority.

92. As per the investigation, H S Panwar, Divisional Officer and Surender Dutt, Station Officer, Delhi Fire service have also contributed to the deaths by their criminal negligence by issuing 'No Objection Certificate's from the fire safety and means of escape point of view. Though, fire safety and means of escape were not available, as per minimum standards laid down as per law, in the said Uphaar Cinema theater on the

date of inspection, still 'No Objection Certificate' was issued, on the basis of which, the temporary permits were renewed by Licensing Authority from time to time.

93. S N Dandona, Executive Engineer (Since expired) had also contributed to the said incident by his criminal negligence by recommending approval of installation of eight seater box on the right side top portion of the balcony in 1978 which had resulted in the closure of right side gangway and right side exit gate in the balcony in 1979, though, the approval of 100 additional seats was cancelled by Delhi Administration vide Notification in view of which the licensee should have been directed by S N Dandona to remove the seats and provide right side gangway and exit gate in the balcony and his acts of allowing installation of 15 more seats in 1980 making the total seats in the balcony to be 302 seats which required four exit gates, but he allowed only three exits to be provided which caused obstruction in easy exit of the patrons.

94. The sanction for prosecuting B M Sathija, A K Gera, Bir Singh, S N Dandona, Shyam Sunder Sharma, N D Tiwari, H S Panwar and Surender Dutt was obtained from the

competent authorities under Section 197 Cr P C.

95. After hearing the arguments on behalf of CBI as well as on behalf of all accused persons, following charges were framed.

Sushil Ansal & Gopal Ansal :-

That on or about 13.6.97 being licensee/owners of Uphaar cinema, Green Park Theaters and Clubotels Pvt Ltd caused the death of 59 persons/patrons besides causing simple and grievous hurt to about 100 persons on account of fire in DVB transformer and spread of highly toxic gases inside the building by your acts and omissions of allowing the DESU/DVB transformer installed in Uphaar cinema building and various deviations from structural and fire safety point of view in the said building in contravention of various acts and rules and by your negligent acts in not facilitating the escape of the patrons seated inside the theatre on 13.6.97 to view ' ' BORDER ' ' movie during 3 to 6 p.m. matinee show, which were negligent not amounting to culpable homicide and thereby committed an offence punishable u/s 304A IPC r.w 36 IPC and within my cognizance.

On the above said date time and place, you both caused

simple and grievous hurt to about 100 persons/patrons who had come to Uphaar cinema to view ' BORDER ' movie during 3 to 6 p.m. matinee show on account of fire in DVB transformer and spread of highly toxic gases inside the building by your negligent acts and omissions of showing deviations from structural and fire safety point of view in the building resulting in spreading of highly toxic gases generated due to severe fire in the DVB transformer installed in the said Uphaar cinema and on account of such negligent act on your part so as to endanger human lives and personal safety of other patrons seated inside the uphaar cinema theatre and thus you both committed an offence punishable u/s 337/338 IPC r.w. 36 IPC.

You both on the above said date time and place were the licensee/incharge of Uphaar cinema (Ansal Theaters and Clubotels Pvt Ltd.) and used the said Theatre/cinematograph, allowed it to be used despite deviations from structural and fire safety angles etc in contravention of the provisions of Delhi Cinematograph Rules, 1953 and Delhi Cinematograph Rules 1981 and thereby committed an offence punishable u/s 14 of Cinematograph Act 1952.

H S Panwar & Surender Sutt :-

You all on or about 13.6.97 at Uphaar Cinema (Green Park Theaters/Ansal Theaters & Clubotels Pvt. Ltd) within the area of P S Hauz Khas caused death of 59 persons/patrons besides hurt/grievous hurt to about 100 persons/patrons seated inside the Uphaar cinema to view " BORDER " movie during 3 to 6 p.m. matinee show on account of fire in DVB transformer and highly toxic gases by your acts and or omission by issuing 'No Objection Certificate' without ensuring provisions of fire safety and means of escape in the Uphaar cinema for renewal of cinematograph license in contravention of the act and rules which were negligent not amounting to culpable homicide and thereby committed an offence punishable u/s 304 A IPC r.w. Section 36 IPC.

That you both on the aforesaid date, time and place caused simple and grievous hurt to about 100 persons/patrons who had come to Uphaar cinema to view ' BORDER ' movie during 3 to 6 p.m. matinee show by allowing the highly toxic gases generated inside the building due to severe fire which

took place in the DVB transformer installed in the said Uphaar cinema building and you negligently issued 'No Objection Certificate' for renewal of cinematograph license for Uphaar cinema without ensuring the provision of fire safety and means of escape in the Uphaar cinema and thereby committed an offence punishable u/s 337/338 r.w. 36 IPC.

During the pendency of trial, accused Surinder Dutt expired and proceedings against him are abated.

Shyam Sunder Sharma & N D Tiwari :-

That you all on or about 13.6.97 at Uphaar cinema caused death of 59 persons/patrons in Uphaar cinema who had come to view ' BORDER ' movie during 3 to 6 p.m. matinee show on account of fire in DVB transformer and highly toxic gases by your act and omission by issuing 'No Objection Certificate' without inspection of the said cinema in contravention or authorisation of the Act and rules for renewal of cinematograph license of Uphaar cinema which was negligent act not amounting to culpable homicide and thereby committed an offence punishable u/s 304 A IPC r.w 36 IPC.

Secondly, that you both on the aforesaid date time and

place caused simple and grievous hurt to about 100 persons/patrons who had come to Uphaar cinema to view ' BORDER ' movie during 3 to 6 p.m. matinee show by allowing the highly toxic gases generated inside the building due to severe fire which took place in the DVB transformer installed in the said Uphaar cinema building and the gases spread inside the cinema building and you negligently issued 'No Objection Certificate' for renewal of cinematograph license for Uphaar cinema without ensuring the provisions of the fire safety and means of escape in the Uphaar cinema and thereby committed an offence punishable u/s 337/338 IPC r.w 36 IPC.

S N Dandona :-

Charge under Section 304A/337/338 IPC r.w 36 IPC was framed to which he stated not guilty and claimed trial. Accused S N Dandona has expired and proceedings against him are abated.

B M Satija, A K Gera and Bir Singh :-

That you all on 13.6.97 at Uphaar cinema committed culpable homicide not amounting to murder by causing death of 59 persons/patrons beside simple and grievous hurt to about 100 persons/patrons seated inside Uphaar cinema building to

view ' BORDER ' movie during 3 to 6 p.m. matinee show by your act and omission in not properly repairing the DVB transformer installed in the said Uphaar cinema building in which fire took place in the morning of 13.6.97 by using the required crimping machine with the knowledge that the said act on your part was likely to cause death or such bodily injury to others which was likely to cause death as a result of such failure/faulty repair on your part, fire took place again in the said DVB transformer at about 5 p.m. resulting in spreading of fire and highly toxic gases and death of 59 persons and you all thereby committed an offence punishable u/s 304 r.w. 36 IPC.

R M Puri, K L Malhotra, R K Sharma, N S Chopra, Ajit Choudhary and Man Mohan Uniyal :-

That you all on or about 13.6.97 at Uphaar cinema committed culpable homicide not amounting to murder by causing death of 59 persons/patrons beside simple and grievous hurt to about 100 persons/patrons who had come to view ' BORDER ' movie during 3 to 6 p.m. matinee show and by your act and omission fire took place inside the transformer installed in the Uphaar cinema building and highly toxic gases

generated inside the cinema and spread inside the theatre and by your failure to inform, alert and facilitate the patrons seated inside the theatre to escape from inside the building and your act was in violation of rules knowing that your said act was likely to cause death or such bodily injury which was likely to cause death and you thereby committed an offence punishable U/s 304 r/w 36 IPC.

During the pendency of trial, accused K L Malhotra, R M Puri expired and proceedings against them stands abated.

The above-mentioned charge was framed against accused persons to which they stated not guilty and claim trial.

In support of their case, the CBI has examined 115 witnesses in total which are as follows:-

- 1.Kanwaljit Kaur Eye Witness
- 2.R N Gupta Executive Engineer,M.C.D.
- 3.Karan Kumar Eye Witness
- 4.Neelam Krishnamoorthy
- 5.Ajay Mehra
- 6.Harish Dang
- 7.Rishi Arora Eye Witness
- 8.Amit Eye Witness
- 9.Satish Khanna
- 10.Kishan Kumar Kohli

- | | |
|----------------------|-------------------------------------|
| 11.Hans Raj | Eye Witness |
| 12.Satpal Singh | |
| 13.Raman Singh Sidhu | |
| 14.Gopichand Babuta | Eye Witness |
| 15.B L Jindal | Asst. Engineer, M.C.D |
| 16.B B Mahajan | Chief Engineer, M.C.D |
| 17.Ram Kumar Gupta | Junior Engineer, M.C.D |
| 18.RamKumar Sharma | Junior Engineer, M.C.D |
| 19S K Sachdeva | Stenographer, M.C.D |
| 20 Vinod Kumar | Junior Engineer, M.C.D |
| 21S K Bhatnagar | P.A to Addl. Commissioner,
M.C.D |
| 22 Vir Bhan Sethia | Clerk, M.C.D |
| 23Bharat Bhushan | UDC, M.C.D |
| 24K L Grover | |
| 25 | |
| 26 | |
| 27 | |
| 28 | Electrical Inspector, DVB |
-
- | | |
|-------------------|----------------------------|
| 19T P Sharma | Expert, CBRI, Roorkee |
| 20A K Aggarwal | Asst. Electrical Inspector |
| 21Bansi Ram Meena | Delhi Fire Service |
| 22K C Chopra | LDC, M.C.D |
| 23B S Randhawa | Asst. Engineer, PWD |
| 24Ajit Singh | Delhi Fire Service |
| 25Surinder Singh | Delhi Fire Service |

26	Ashok Kumar	Delhi Fire Service
27	T S Sharma	Delhi Fire Service
28	M M Dass	Suptd. Engineer, M.C.D
29	K V Singh	EE, CPWD
30	Dr. M L Kothari	Professor, IIT
31	G D Verma	M.C.D
32	Sanjay Kumar	Steno, M.C.D
33	R K Bhattacharya	EE, M.C.D
34	P C Bhardwaj	AE, DVB
35	Deepchand	DVB
36	C J Singh	DVB
37	Vinod Kumar Gupta	DVB
38	Bhagwandeem	DVB
39	Jagpal	DVB
40	Munna Lal	DVB
41	Baljit Singh	DVB
42	S K Behl	DVB
43	R C Sharma	Delhi Fire Service
44	Insp. Mahavir Singh Tyagi	Delhi Police
45	Manmohan Sehgal	Tenant
46	Ct. Samar Singh	Delhi Police
47	S K Dass	DVB
48	Seema Mukherjee	Tenant
49	D P Bassi	Tenant
50	R K Sethi	Parking Contractor
51	V K Gupta	Pan Shop Owner
52	H S Bhandari	DVB

53Sanjay Singh	Tenant
54Sushil Sadana	Tenant
55Gautam Roy	Sr. Scientific Officer
56Dr T D Dogra	Professor, AIIMS
57Sudhir Kumar	Security Guard
58Dr. Rajender Singh	Sr. Scientific Officer, CFSL
59ACP Gurmail Singh	Licensing Branch
66.Surjit Singh	Mohinder Hospital
67Y K Luthra	BSES Rajdhani
68Dr. D R Thukral	A.E, DVB
69ASI Tilak Raj	Delhi Police
70SI Azad Singh	Delhi Police
71C B Verma	Asst. Commissioner
72V Sree Kumar	Professor L&D
73Y P Singh	Member Technical DVB
74Balbir Singh	Delhi Police
75Dharambir Gupta	ACP, Delhi Police
76Insp. Ranbir singh	Delhi Police
77S Satyanarayan	AFMC, Puna
78Insp. R S Jakhar	Delhi Police
79SHO Kumedan Khan	Delhi Police
80Insp. Data Ram	Delhi Police
81Insp.Prithvi Singh	CBI
82ASI Ratan Lal	Delhi Police
83K S Chabra	Sr. Scientific Officer
84V K Duggal	Sp. Secretary, Govt. of India
85Madhukar Bagde	Projector Operator

86	Ins. Ran Singh	Delhi Police
87	Samir Biswas	Registrar of Companies
88	Surinder Kumar	Dy. CFO
89	Sanjay Tomar	DFS
90	M L Dhuper	PNB
91	M C Khullar	
92	Dr. S C Mittal	Hand writing Expert
93	Ishwar Bhatt	Syndicate Bank
94	Insp. A K Gupta	
95	T S Mokha	Gen. Manager, APIL
96	Vijay Bahadur	DFS
97	Bharat Singh	Gatekeeper
98	M S Phartayal	Insp. CBI
99	Insp. Tribhuvan	CBI
100	Insp. R C Garvan	CBI
101	Insp. Deepak Gaur	CBI
102	Insp. Rajiv Chandola	CBI
103	S S Gupta	Employee, Ansals
104	N S Virk	DSP, CBI
105	Insp. Satpal Singh	
106	Insp. Kishore Kumar	CBI
107	Avtar Singh	PNB
108	R S Khatri	IO/DSP, CBI
109	Pranav Ansal	Family Member
110	Ritu Ansal	Family Member
111	Kushagra Ansal	Family Member
112	Divya Ansal	Family Member

113V K Aggarwal	Director
114Subash Verma	Director
115Kusum Ansal	Family Member

Against the order on charge, accused Sushil Ansal and N S Chopra filed petition in Hon'ble High Court of Delhi but the same was dismissed vide Order dated 11.9.2001 passed by Hon'ble Justice Shri R C Chopra. The petition filed by accused Gopal Ansal was dismissed as withdrawn vide Order dated 13.5.2001 passed by Hon'ble Justice Shri K S Gupta. The petition of accused N D Tiwari and Shyam Sunder Sharma was dismissed on 28.8.2001 by Hon'ble Justice Shri R S Sodhi and petition of remaining accused persons was also dismissed on 20.2.2004 by Hon'ble High Court. Thereafter, accused Sushil Ansal filed Special Leave Petition before Supreme Court of India but the same was dismissed as withdrawn on 12.4.2002.

EYE WITNESSES OF THE SCENE OF

THE OCCURRENCE ON 13.6.1997

PW 1 Ms. Kanwaljit Kaur has deposed that she went to watch "' BORDER ' movie" in Uphaar Cinema on 13.6.97 alongwith her husband, daughter Payal and friend . At that time movie had already started and torchman showed their seat

which was towards right hand in fifth row. The movie till the interval was watched by them. After interval they heard noise like bomb-blast and thereafter the cries of ' Fire Fire ' . On looking down stair they found hall of the cinema was empty and the movie was stopped. There was black smoke. There was no announcement system and there were no emergency lights. She felt suffocation and it was pitch dark . There was commotion in the balcony. Patrons were saying that the doors of balcony were closed. Thereafter, she became unconscious.

PW 3 is Raman Kumar and he has deposed that on 13.6.97 he along with his father Kushal Kumar, sister Kanika and his father's friend Kartar Malhotra and his wife Kusum Malhotra went to the see the ' BORDER ' movie at Uphaar Cinema and sat in the second row towards the left facing the screen. After the interval he noticed smoke coming inside through air-conditioner duct and lights went off, no exit lights were there, no alarm and nobody from management was there. Patrons were trying to push the main door but it was found locked. They got up and caught hold of each other's hand and managed to reach the tea stall opposite to cinema hall where water was provided to them to drink and to wash their face and at that time, he realized that his father Kushal Kumar and his sister Kanika and Kartar Malhotra were not with him .Due to smoke he could not enter back. After sometime Hydraulic Fire Tender arrived. One Fireman had climbed the hydraulic ladder to second floor but he was not able to break any of the windows. He could not do so without axe or any other

equipment. He managed to get some wooden plank from nearby building but was not able to break the window. Lot of people jumped from one building to another. He watched people bringing their babies, children and other persons dead out of the cinema building . He saw two Firemen with torches were present there. On further enquiry he got the information that people who had died and sustained injury have been taken to Safdar Jung hospital and AIIMS where he was able to locate dead body of sister and father.

PW 7 Rishi Arora, in his testimony, has deposed that on 13.6.97 he along with his sister Monika Arora had gone to watch ' BORDER ' movie at Uphaar Cinema. After interval he felt some gases in the rear stall and lights went off and it was pitch dark. He along with his sister tried to come out of balcony but were not able to come out. There was lot of smoke and gases due to which they felt suffocation and it was difficult to breath, they got stuck in balcony for 10 to 15 minutes. There was no gate keeper, no torch man, no emergency announcement system, there was no emergency light. They somehow managed to reach near Canteen but there was lot of smoke. After 10/15 minutes, they saw ladder of Fire Brigade but that ladder was also very hot because of fire inside the cinema hall and while getting down he fell down from that stair case and thereafter he became unconscious .He regained his consciousness in Safdurjung hospital and his parents shifted him to Ashlok Hospital where he was treated

for his burn and bleeding problem. He remained in hospital from 13.6.97 to 20.6.97. A Discharge Summary mark PW 7/1 was seized by the CBI vide memo Ex. PW 7/B. He proved the death Certificate of his sister who had expired in the hall as Ex. PW 7/A.

PW 11 Hans Raj has deposed that on 13.6.97, he along with his friend Tej Bir and two sons had gone to watch movie ' BORDER ' at Uphaar Cinema. They had balcony tickets. Before interval the lights went off and after interval they noticed lot of smoke and thereafter lights went off. The doors of the balcony were found locked. There was lot of smoke and gases. It was difficult to breath. There was no announcement system, no lights. The public who were near the balcony door pushed the door and opened the same. They came out in the lobby where lot of smoke was there. Nothing was visible . He became unconscious. Fire brigade arrived. He regained his consciousness for a while and again became unconscious. He was removed to hospital where he was admitted till 18.6.97. He proved his Discharge Slip as Ex. PW 11/1.

PW 59 Sanjay singh was tenant on the ground floor of Uphaar Cinema building and was present in his shop on 13.6.97 at about 5 p.m.. He has deposed that he saw transformer on fire and 2/3 staff members along with Mr. Malhotra were trying to extinguish the fire and after some time, there was another loud bang which caused black smoke coming to his office. He evacuated the office and fire brigade officials extinguished the fire.

PW 63 Sudhir Kumar Security Guard who has deposed that on the morning of 13.6.97, he heard a sound of bang(dhamaka) inside the building, he went inside and saw fire in DVB transformer. He rang up 100 number and DESU officials. Information was passed on to 101 number, P S Hauz Khas about the fire and then, chowkidar of building informed Mr. Malhotra, Manager of Uphaar Cinema.

The witness has deposed that the fire brigade officials extinguished the fire and the police of PS Hauz Khas also reached there. The Manager of Uphaar Cinema inspected the entire area and thereafter, the morning show was displayed in Uphaar Cinema.

The witness has deposed that the second show was displayed between 3 to 6p.m. and at about 5 p.m , he went upstairs to find out about his reliever and while he along with his reliever was coming down via stair case, he noticed some smoke coming through the stairs and on seeing the smoke, he concluded that fire had taken place in transformer. He heard the noise of cries of the public. He went to the staircase which was ending on the fourth floor and where there was a door, he pushed that door and it was opened. He told the public to go upstairs but at the end the staircase was locked. He broke open the door and tried to take up another staircase leading to top floor which was at some distance from that broken door, the door was found to be bolted. He tried to open it, lot of smoke and gas was there. He immediately closed the door. He entered inside the office on the fourth floor, public also followed

him. The Fire Brigade officials came and with the help of Hydraulic lift rescued them. His statement Ex. PW 63/A was recorded on the basis of which the FIR was lodged. The police collected various articles which were taken into possession vide memo Ex. PW 63/B. He has deposed that Sushil Ansal and Gopal Ansal were owners of Uphaar Cinema. Mr. Puri was Director, Mr. Malhotra, Mr. Chopra, Mr. Sharma and Ajit Choudhary were Managers of Uphaar Cinema.

VICTIMS OF THE INCIDENT ON 13.6.97

PW 4 is Mrs. Neelam Krishnamurti. Her children Unatti and Ujjwal had gone to watch ' BORDER ' movie in Uphaar Cinema in 3 to 6 show. She along with her husband were present in their office. Her daughter informed her that they will return back by 7.30 p.m. but she did not come back and there was no information despite message given on pager which she was carrying. They reached their home at about 8.05 p.m. to 8.10 p.m., but there was no information about the children. Telephone call was received from a friend Vishal Bakshi to know about the welfare of Unnati and Ujjwal. She told Vishal that Unnati and Ujjwal had gone to watch ' BORDER ' movie at Uphaar Cinema. At that time he informed them that fire had taken place in the Uphaar Cinema. They immediately reached Uphaar cinema at around 8.30 p.m. and found that entire area had been cordoned and nobody was allowed inside. She along with Vishal and her husband went to AIIMS and in OPD she found dead body of her children. She had preserved the tickets of her children. She went to Uphaar Cinema along with

Commission and at that time she saw that her children were sitting on A4 and A5 which was the first row in balcony on right hand side, there was no gangway, no exit on the right hand side. She has proved the photocopies of those tickets as Ex. PW 4/ A1 and A2 and has also proved the Death Certificates as Ex. PW 4/A3 and A4.

PW 5 is Ajay Mehta. He has deposed that in the year 1997, his family consisted of his wife Rekha Mehra and their two sons Kunaljit Mehra and Vedant Mehra. He deposed that on 13.6.97, he was in a meeting in Golf Link at about 5 p.m. When he was about to proceed to his house, at that time, he received a call from his Secretary saying that his wife was desperately trying to get in touch with him and he should keep his mobile line free and his Secretary further told him that his wife was sounding desperate. Thereafter, he rang up his house from where he got the information that his wife and younger son had gone to Uphaar to watch movie ' BORDER ' and immediately, his wife called him on his mobile at about 5.19 p.m. and told him that fire had taken place in the cinema hall and they have managed to break the balcony door and managed to come in the lobby of cinema hall with great difficulty. There was gas and smoke all around here and there is total darkness inside the building and nothing is visible. She was feeling suffocated and asked him to come and to save them. Thereafter, she must have collapsed and he could not reach back to her on telephone as the phone got disconnected. Thereafter, he rushed to Uphaar Cinema and

found crowd gathered there. Thereafter, police and Fire Brigade came. At that time, he was looking for his wife and son on the roof top but they could not be traced . Thereafter, he received a telephone call from his brother in law that dead bodies of his family member have been brought to Safdur Jung Hospital. He immediately rushed to Safdur Jung Hospital and found the dead body of his wife and son Vedant Mehra lying. There was black soot on their nose and mouth and doctor told him that the cause of death was Asphyxia. He has proved the certified copies of Death Certificate as ex. PW 5/A and B.

PW 6 is Harish Dang. He deposed that his sister Renu Dawar was resident of Kirti Nagar but due to vacations, she had come to their house prior to 13.6.97 with her children namely, Heena and Shristi. He deposed that on 13.6.97, his wife, his two children, his sister, four nieces and one nephew had gone to Uphaar Cinema during 3 to 6 show of ' BORDER ' film and at about 6 , he received information that fire incident has taken place at Uphaar Cinema. He reached there immediately and found lot of crowd gathered there and he tried to locate his family members. He got the information that injured have been taken to AIIMS Hospital, then, he reached AIIMS Hospital where he could locate his wife Madhu, his son Moksh, his nephew Sagar and Shristi (his niece) lying dead. He was able to locate Heena(his niece), Megha and Resam at Safdur jung hospital and body of his sister Renu and his niece Shristi were found at AIIMS Hospital. He has proved the Death Certificates as mark PW 6/1 to 4 and Death Certificates of

Madhu Dang, Moksh Dang, Sagar Dang and Kirti Dang as Ex. PW 6/5 to 8.

PW 8 is Amit. In his testimony he has deposed that on 13.6.97 he along with his maternal uncle Raj Pal had gone to see movie ' BORDER ' of 3 to 6 show at Uphaar Cinema. While the movie was being watched by them the lights went off and some smoke arose before the screen. Noise was heard from Auditorium and people were found going out . There was lot of smoke. They tried to come out. All the doors were closed and he could not open them. They were able to break open one door leading to canteen . There was lot of smoke and nobody to help. They reached canteen but were not able to find any way to come out. He managed to break one big glass and provide space to Fire Brigade Officials but it was very hot and he fell down and suffered injuries in his hand and feet. He was removed in semi-conscious condition to AIIMS Hospital and his maternal uncle was removed to AIIMS Hospital. He was discharged from there. He went home and became unconscious. His mother took him to hospital where he was treated by family doctor.

PW 9 Satish Khanna has deposed that on 13.6.97, his sister Geeta along with her husband and two daughters had gone to Uphaar Cinema to watch movie ' BORDER ' of 3 p.m to 6 p.m show. At about 5.17 p.m., he received a call from his sister that fire had taken place in Uphaar Cinema and requested him to save her. He informed Fire Brigade and he came to know that fire brigade had reached there. Thereafter

he passed on the information to the father in law of his sister and reached Uphaar Cinema where lot of people had gathered. He was informed that the injured had been shifted to AIIMS. He reached AIIMS and found dead body of his sister and her husband. He got the information from father in law of his sister that dead body of two children of his sister had been located in Safdurjung Hospital.

PW 10 Krishan Kumar Kohli. He has deposed that on 13.6.97 he received call from PW9 Satish Khanna at about 5.20 p.m about fire at Uphaar Cinema and factum of his sister and her husband being present there. He also noted down the mobile number of his sister. He tried to contact her at 5.22 p.m., when he called her, she informed that she is unable to breath due to smoke and that her children are missing. He called up her husband but that call was received by Geeta Kochar but her voice was not audible due to lot of noise. He again contacted them at about 5.30 but nobody attended the call. Thereafter, he went to Uphaar Cinema and found passage blocked. Thereafter he reached AIIMS hospital and located the dead bodies of sister and brother in law of Satish Khanna and also found dead bodies of the two children of Geeta in Safdur Jung hospital.

PW 12 Satpal Singh deposed that on 13.6.97 at about 5/5.15p.m. he received a call from Ravi Dutt Sharma resident of their village. He informed him about the fire in Uphaar Cinema. He deposed that he managed to come out but Virender Singh, Brahmpal Singh and Kartar Singh (all relatives of the

witness) who had accompanied him were stuck up inside the balcony. He reached Uphaar Cinema alongwith Mahipal and Mahesh and came to know from police officials that everybody had been shifted to AIIMS and other hospitals. He ran towards the balcony from the parking side and found the doors closed. He kicked the door and found darkness and saw some children and ladies lying unconscious on the floor. On going deep into the lobby he saw some light coming from window and at some distance he located his cousins Kartar Singh, Virender Singh and Brahmpal who were lying unconscious. They were removed to hospital by police officials. In the hospital all his three cousins declared dead. He proved Death Certificates as Ex. PW 12/A to C. There was lot of smoke inside uphaar cinema . It was difficult to breath. He suffered pain in chest because of smoke for which he was treated.

PW13 Raman Singh Siddhu has deposed that on 13.6.97 his wife Konika along with two daughters Malvika and Saloni and his sister Malika Mann and her three children and wife and son of his friend Ajay Mehra had gone to Uphaar Cinema to watch movie ' BORDER ' of 3 p.m. to 6 show. He got the information at about 5.30p.m. on telephone from his father that fire had taken place at Uphaar Cinema. He reached Uphaar Cinema at about 6.20 p.m.. He reached AIIMS crossing and found that the passage was blocked by the police . He contacted his brother in law Jagdeep Mann and Ajay Mehra who informed him that his sister Malika Mann and Dhruv Mann had been located and seem to be alive. The dead bodies

of his two daughters and two daughters of Jagdeep Mann had also been located. He reached Uphaar Cinema and got the information that the bodies had been taken Safdurjung hospital. He located his daughter Malvika . The dead body of his sister, her two daughters, her son, maid servant of his sister were brought there and they all were declared dead. The wife and son of his friend Ajay Mehra were also declared dead. Thereafter, he went to Safdur Jung hospital where he located the dead body of his wife and younger daughter Saloni.

PW 66 Surjit Singh, owner of Mahindra Hospital deposed that on 13.6.97 victims of Uphaar Fire incident who were having less injuries were brought to their hospital and victims of serious injuries were taken to AIIMS hospital. The injured/victims admitted were treated in their hospital. He deposed that on 13.6.97 at about 8 p.m , he came to know that his sister, her husband and her daughter were also injured in the said fire incident. He went to AIIMS hospital where he found that his brother in law Inderjit Singh Bhalla has died and traced his sister Kanwaljit Kaur and her daughter Payal and brought them to his hospital and they were treated there. On 20.8.97, he had given the photocopy of treatment record to CBI which was seized vide memo Ex. PW 66/A, the original treatment record collectively has been proved as Mark X1 to X14.

PW 14 Gopi Chand Babuta has deposed that on 13.6.97 he had gone to Hauz Khas to deposit the telephone bill while coming back at about 4.30/4.45 he noticed fire at Uphaar Cinema and found people standing outside. Fire Brigade and

police was there to help them. He came from back side and pulled out the air-conditioner and entered the building from back side. Ct. Samar Singh followed him. He pulled out the air-conditioner with the help of Samar Singh. There was lot of smoke and darkness. People were lying on the floor. They also found some people in bathroom and he brought them back upto balcony, he brought 8/9 people out of the balcony. Later on he got treatment in Safdur Jung Hospital. He deposed that at the time of rescue process, none of the cinema staff or the Managers of Uphaar Cinema were present there.

Sanction Plan

PW 15 is Babu Lal Jindal, Assistant Engineer, Municipal Corporation of Delhi. He scrutinized the building plans. After seeing MR No. 341/97, he has deposed that M/s Green Park Theaters Associated (P) Ltd. submitted building plan on 3.2.73 for sanction which was entertained by MC vide File No. 117/B/HQ/73 dated 3.2.73. Mr. V K Gupta, the then Assistant Engineer examined this case. He proved Scrutiny Report as Ex. PW 15/A. The matter was placed before the Building Plan Committee and the building plan was sanctioned on 3.2.73 and sanction was issued on 22.3.73. He also proved Sanction Letter Ex. PW 15/B. This sanction was received by A Sen Gupta, Architect/ Engineer/ Authorised Signatory on behalf of M/s Green Park Theaters Associated (P) Ltd. The endorsement on this letter was made by the Architect A Sen Gupta whose writing and signature has been identified by the witness which is marked as Ex. PW 15/C. He deposed that the application

was accompanied by the copy of ownership documents i.e. Lease Deed Ex. PW 15/D in favour of M/s Green Park Theater Associated (P) Ltd. and other documents consist of Memorandum and Articles of Association of M/s Green Park Theaters Associated Pvt. Ltd. which was proved as Ex. PW 15/E, **resolution of Director of M/s Green Park Theaters in favour of Gopal Ansal being an Authorised Signatory as Ex. PW 15/F.** He has proved the Building Plan Application Form submitted by M/s Green Park Theaters Associated (P) Ltd as Ex. PW 15/G, Authority Letter in favour of A S Kapoor and V K Bedi, Architects as Ex. PW 15/H and I. The building plan consisting of sixteen drawings were submitted by M/s Green Park Theaters Associated Pvt Ltd. The said drawings are Ex. PW 2/A9 lay out plan showing the site in question of cinema plot. Ex. PW 2/A14 is a detail of area site plan of cinema building. In this plan, details of each floor has been shown. Ex. PW 2/A23 is basement floor plan, in the basement, parking for scooters, cycles, Generator room, AC Plant room, blower room, ramp and stair cases had been shown, Ex. PW 2/A11 is parking lay out plan at ground floor. In this plan, number of car parking is 15, scooter 200 numbers, cycles 300 numbers, restaurant ,ticket foyer, transformer, HT ramp, Manager Room, Toilet blocks, staircases have been shown. Ex. PW 2/A19 is a stilt floor plan, the details of which are mentioned in Ex. PW 2/A11. Ex. PW 2/A18 is first floor plan and in this plan auditorium of cinema hall for 750 seats has been shown, foyer, lower class foyer, toilet blocks, stair cases, lift and duct has been shown,

Ex. PW 2/A13 is second floor plan showing sitting capacity of 250 seats (Balcony) rectifier, Operation Rest Room, sweeper room, toilets, stair cases has been shown, Ex. PW 2/A12 is third floor plan for Administration Office, toilet blocks and stair cases. Ex. PW 2/A16 is a mezzanine plan for mezzanine foyer, toilet block and stair cases. Ex. PW 2/A15 is a longitudinal Section CC showing the accommodation of basement, stilt, car parking, auditorium, mezzanine floor, second floor, loft and third floor with total height of building 74 feet has been mentioned. Ex. PW 2/A20 is a Section AA showing the detail of parking in basement, stilt car parking and position of screen etc., Ex. PW 2/A24 is front elevation showing the elevation of all floors above ground level, Ex. PW 2/A17 is rear elevation showing the elevation of all floors above ground level, Ex. PW 2/A10 is side elevation showing elevation of the building from the side, Ex. PW 2/A22 is a terrace floor plan and Section DD through staircase and part elevation. In this elevation, basement, ground floor, first floor, mezzanine, second floor, loft, third floor has been shown, the total height of the building has been shown as 74 feet. In Section DD, machine room on top of stair case has been shown. Ex. PW 2/A21 is a loft plan, in these drawings, the title has been mentioned as proposed addition and alteration to cinema building under construction as per plans sanctioned by Municipal Corporation of Delhi vide its file No. 436/B/HQ order dated 30.5.72 at Green Park belonging to M/s Green Park Theaters Associated Pvt. Ltd. **these plans were signed by**

Sushil Ansal as Director, A Sen Gupta as Architect. He deposed that after sanction of building plan, sanction was issued under the signatures of V K Gupta, the then A.E. Building Head Quarter on behalf of Deputy Commissioner of Municipal Corporation of Delhi.

PW 17 Ram Kumar Gupta, Junior Engineer , Municipal Corporation of Delhi department deposed that in Building Department Head Quarter, the building plans of residential property (of above 400 Sq. Yards) and all the commercial properties is received for sanction from Municipal Corporation of Delhi. For residential plots, four sets of building plans including documents of ownership and other documents as per building bye laws are to be submitted and for commercial properties, eight sets of building plans apart from other documents as per building bye laws are to be submitted. He deposed that Ex. PW 15/A is a Scrutiny proforma of the building File No. 117/B/HQ/73 dated 3.2.73 in respect of Uphaar Cinema Building and applicant is M/s Green Park Theaters Associated (P) Ltd. As per the report, the then Junior Engineer had given his report regarding the coverage on each floor of said cinema hall. The total area of the plot has been shown as 2480 Sq. Yards in this report. This report was marked to Assistant Engineer (Building) on 21.2.73 and report was again put up by the said junior Engineer and as per this report, the compounding fee of Rs.20,294.30P was proposed. He has deposed that notice dated 1.3.73 and 5.3.73 were sent to M/s Green Park Theaters for providing the proof of

ownership and existing structure at site to be shown in plan vide notice dated 1.3.73 and in notice dated 5.3.73, the applicant was informed that since the construction being carried out at site is unauthorized due to change of ownership vide ownership document of Lease Deed, therefore, the structure carried out unauthorizedly be got compounded. Cost of construction incurred upto that date be intimated. He had identified letter dated 2.3.73 which is in response to notice dated 1.3.73 which is signed by Managing Director of M/s Green park Theaters Associated (P) Ltd. He deposed that letter dated 23.2.96 Ex. PW 17/A was sent by Mrs. Vimla Mehra to Commissioner Municipal Corporation of Delhi and it pertains to inspection report of thirteen cinema houses including Uphaar Cinema and eleven objections in respect of Uphaar Cinema have also been enclosed with this letter and on receiving this letter along with enclosures, a letter Ex. PW 17/C was issued to all Assistant Engineers for inspection of cinemas as mentioned in letter Ex. PW 17/B. He has deposed that he alongwith R K Sharma, J E Building Head Quarters, Vinod Sharma, Junior Engineer Building inspected the cinema Hall pertaining to jurisdictions of Central zone and South Zone including Uphaar Cinema on 30.4.96 and prepared a report mentioning the compliance of the objections raised in the letter dated 23.2.96, the said report is Ex. PW 17/D. The said report was submitted to the Assistant Engineer R K Gupta who made an endorsement Ex. PW 17/E and marked the same to Executive Engineer, Building. This report also contains the

inspection of Uphaar Cinema. He has proved the Compliance Report Ex. PW 16/E of thirteen cinema including Uphaar Cinema. He has also proved the letter dated 6.2.97 of Shri T N Mohan, DCP (Licensing) addressed to Shri V K Duggal for annual inspection report of the cinema halls as Ex. PW 17/F which was marked for necessary action to all DMCs and also S.Es. He has proved the letter dated 3.10.96 addressed to V K Duggal sent by Additional Commission of Police (Licensing) as Ex. PW 17/G for sending inspection reports in prescribed proforma. He has proved the letter dated 23.7.96 of Mrs. Vimla Mehra addressed to O P Kelkar for sending annual inspection report of the cinemas on prescribed proformas.

INSPECTION/DEVIATION

PW 2 Shri R N Gupta deposed that in the year 1997, while he was working as Executive Engineer -I, Karol Bagh Zone of Municipal Corporation of Delhi, he was looking after the work of maintenance. On 1.8.97, he was directed by Engineer in Chief, Municipal Corporation of Delhi to go to CBI Office at Samrat Hotel. On 2.8.97 he along with the team consisting of himself, Arun Kumar, Anand Parkash, Sunil Taneja and Arun Goyal went to CBI office where they met Kishore Kumar, DSP and from there, they were taken to Uphaar Cinema building along with the relevant records and documents. They had gone there to prepare report with regard to unauthorized constructions, deviations against the sanction plan accorded to the owner of the cinema. He deposed that on reaching Uphaar Cinema, they compared the drawings of sanction building plan,

completion certificate with the site of Uphaar Cinema. The sanction plans and completion certificate were provided by Mr. Kishore Kumar, DSP, CBI. They inspected the whole building except the portion which was found sealed. They inspected the building right from basement, ground floor, first floor, second floor and third floor and terrace. He has deposed that after inspection, certain discrepancies were observed and they requested DSP, CBI to get a plan prepared of the Cinema building with regard to the existing features/structure and Mr. S S Bhatia was assigned this job who prepared eight drawings marked **PW 2/A1 to A8** of existing structure. They along with these drawings, sanction plan and completion certificate inspected the site of Uphaar Cinema building and then, technical report Ex. PW 2/A titled as Inspection cum Scrutiny Report in respect of Uphaar Cinema Building was prepared and submitted by their team before CBI on 11.8.97 . This report bears the signatures of all the five members of the team. This report contains the floor wise deviations. As per the report, the exhaust fans should had been towards permanent open space but they were not found in open space whereas these four exhaust fans had been provided in the stairs. They had mentioned all discrepancies, deviations etc, in their inspection report **Ex. PW 2/A** as observed by them. He deposed that sixteen sanction plans of Uphaar Cinema were given by DSP Kishore Kumar which are **mark PW 2/A9 to A 24**. He has deposed that the Administrative Officer deals with administration of Municipal Corporation of Delhi in each zone

and they did not deal with technical matter. He deposed that with regard to Cinematograph Rules and structural stabilities of the cinema and other building, only technical staff such as Executive Engineer/Zonal Engineer of the Zone are competent to issue 'No Objection Certificate'. Completion Certificate mark PW 2/A25 was given to him by CBI at the time of inspection of Uphaar Cinema building which was issued on 10.4.73. Administrative Officer has only concern with the administration of the respective zone. The Investigation Officer had shown him the letters mark PW 2/A 26 and A27 dated 28.9.95 and 25.9.96 and after seeing the letters, he told the IO that **being a non-technical person, these letters could not have been issued by the Administrative Officer.**

PW 16 Shri B B Mahajan, Superintendent Engineer (Building). He deposed that letter Ex. PW 16/A dated 3.10.96 was received from Mrs. Smt. Vimla Mehra, Additional Commissioner of Police (Licensing) addressed to Shri V K Duggal, Commissioner, Municipal Corporation of Delhi regarding annual inspection of cinema hall regarding health and building point of view. As he was concerned only with building department, this letter was marked to him from Chief Engineer and this letter was received in his office on 23.10.96. He circulated this letter to all Additional Deputy Commissioners, Zonal Assistant, Commissioner and Zonal Engineer (Building) on the same day and this letter bears his endorsement at Point A. He has proved another letter of Mrs. Smt. Vimla Mehra as

Ex. PW 16/B dated 23.7.96 which was received in their office on 13.8.96 and the same was marked to him by R K Jain, Chief Engineer and on the same day, he made endorsement at Point A to Executive Engineer. He has also proved the Note sheet signed by M Dass, Executive Engineer (Building) and second noting dated 16.8.96 at Point C and D which was in his hand as Ex. PW 16/C. As per his endorsement, this report has been sent from Head Quarter, no further report from Zone is required, duplicate copy of the report sent earlier may be enclosed. He has proved the office letter dated 23.5.96 addressed to Smt. Vimla Mehra as Ex. PW 16/D and Inspection Report of 13 cinema hall was also enclosed with this letter. He deposed that Inspection Report of 13 cinema halls at pages 19C, 20C and 21C of File No. D 79 have also been proved as mark PW 16/A. He has also proved the note sheet pages 1N, 2N and 3N in Document No. D 79 as Ex. PW 16/E which bears the signatures of Anil Prakash, Executive Engineer Building and also bears his endorsement at Point A. Inspection Report in tabular form was prepared which are Page 27C to 42C and the same has been proved as Ex. PW 16/F and page 39C and 40C in Ex. PW 16/F contains the report in respect of Uphaar Cinema including deviations and objections etc.

PW 18 Ram Kumar Sharma. As per the directions of Executive Engineer (Building), he along with Vinod Sharma, R K Gupta, Junior Engineer had inspected Uphaar Cinema and six other cinema halls on 29.4.96 and after the inspection,

report **Ex. PW 17/E** was prepared and in the said report, all the deviations, alterations in Uphaar Cinema were also mentioned at Point A of the said report. He has also proved photocopy of office order delegating the powers to various authorities in Municipal Corporation of Delhi dated 2.6.97 as mark PW 18/A.

PW 20 Vinod Kumar, Junior Engineer, Municipal Corporation of Delhi deposed that on receipt of letter dated 23.2.96 Ex. PW 17/A alongwith questionnaire Ex. PW 17/B regarding inspection of thirteen cinema halls in Delhi, he along with R K Gupta, R K Sharma went to inspect Uphaar Cinema on 29.4.96. The Inspection Report Ex. PW 17/D was prepared which was signed by them at Point A,B and C and whatever deviations they found in the Cinema Halls including Uphaar Cinema have also been mentioned in this Inspection Report at Serial No. 4.

PW 24 K.L Grover, Electrical Inspector has deposed that his duty was to enforce Indian Electricity Rules 1956 framed under the Indian Electricity Act 1910, Delhi Cinematograph Rules 1981 and Delhi Lift Rules 1942. As per Delhi Cinematograph Rules 1981, regarding cinema halls in Delhi, the power was given to him to enforce these rules by inspecting cinema halls and other buildings with regard to compliance of rules. Deputy Electrical Inspector, Assistant Electrical Inspector used to assist him in carrying out the duties.

On 14.6.97, he received a telephonic message at his office from SHO Rajinder Bakshi regarding fire incident in the

transformer of Uphaar Cinema. He also received information from G P Goel, Chief Engineer, Delhi Vidyut Board regarding this incident. He alongwith Mr. Avinash Kumar Aggarwal, Assistant Electrical Inspector reached Uphaar Cinema at about 12.30. At Uphaar Cinema, he was taken to its rear side and was taken to parking area where lot of vehicles were being parked. He met Naresh Kumar, DCP (South), various DVB officials were also present including G P Goel, Chief Electrical Engineer, Y P Manocha, Additional Chief Engineer, B R Oberoi, Superintendent Engineer, A K Gupta Executive Engineer R K Puram, Deepak Kapoor, Executive Engineer and Mr. Bhardwaj, Assistant Engineer, DVB and R C Sharma, Deputy Chief Fire Officer was also present there and Dr. Rajinder Singh from CFSL was also present there. On the directions of Naresh Kumar, DCP (South), he inspected back of Uphaar cinema where there was parking area. There three rooms were there, the shutters of those rooms were closed and on his request, an attempt was made to open those shutters and forcibly shutters of middle room and third room were opened and shutter of first room was opened with keys. In the first room, 500 KVA transformer of Uphaar cinema was installed which was found alright and in the second room, 1000KVA DVB transformer was installed and was found partially burnt. The Low Tension cable on the secondary side of DVB transformer was found burnt, the transformer oil was spilled on the floor of transformer room as well as outside the shutter of that room. There were total ten cables, single core LT PVC, size 630 sq. mm, one Blue Phase (

B Phase) one LT PVC cable was found detached from the transformer bushing and was lying on the floor touching the transformer radiator fin and thereby causing slit (cut) in the fin of the radiator through which hot transformer oil gushed out in the form of spray and caught fire and fell down on the floor of transformer room and outside shutter of transformer room and when it touched the fin, it caught fire because of short circuiting. He has deposed that magnitude of the current of 1000 KVA transformer on LT side is to the range of 1333 amperes, on HT side, current is to the tune of 53 amperes. On detailed examination of 1000 KVA DVB transformer in the presence of DVB officials, Fire officials, CFSL officials and DCP (South), he observed that two bushings of HT side were damaged and third bushing was found cracked. On the LT side of the transformer, the metal bus bar of B Phase was found burnt partly and one of the B phase cable end socket had got attached from the secondary side of the transformer due to over heating. One of the cable end socket was found dis-connected and had a notch in the form of U shape. Normally, cable end socket has got one round hole, said to be eye of hole, connected to the metal bus bar with the help of nuts and bolts and on checking, cavity was found on the hole and other cable end sockets were found loosely connected and on further examination, it was found that on B phase, a new cable end socket appeared to have been replaced recently and **cable socket was found to be fixed to the cable conductor by hammering and not by using crimping machine and due to hammering on the cable**

socket, there was loose connection and as the transformer was on full load on 13.6.97, heavy sparking took place which caused cavity and U form cut in the cable socket. Cable socket fell down and touched the radiator fin, electrical fire started which was the cause of fire in the said transformer. Other two phases were also affected with fire. LT and PVC insulation of the cables was found burnt from transformer room upto the wall of LT room (Third room). In the third room, there were HT panels, LT panels, battery charger and metering cubicle belonging to Delhi Vidyut Board and on examining the HT room, it was observed that **there was a four panel HT board and none of these panels were having any protection relay system. The 1000KVA transformer installed in the middle room was also not having any gas pressure relay (Buchholtz Relay) which is mandatory as per rule 64(2)(c) of Indian Electricity Rules, 1956.** The over current and earth fault protection relays are also mandatory on the HT panel Board as per rules 64(2)(a) and (b) of Indian Electricity Rules, 1956. **The cables of DVB were found lying in haphazard way and cannot be distinguished as required under the provisions of Rule 41 of Indian Electricity Rules, 1956 and were lying on the surface of the transformer room instead of being laid in the cable trenches as required under the provisions of Indian Electricity Rules 1956 and IS:10028 (Para 2) of 1981. The cables lying on the surface were not even covered with**

sand or with non-flammable slabs to avoid the spread of fire. The LT PVC cable socket was not crimped as required under the provisions of IS Code 1255 of 1983 read with sub rule 2 of Rule 29 of Indian Electricity Rules 1956. The HT oil circuit breakers provided on the HT panels were not provided with protection system, and as such the said Oil Circuit Breakers (OCB) were acting like as manual isolator and not as OCBs as the same could not have been tripped automatically in the case of abnormal condition of supply. **The 1000 KVA transformer was not having sufficient clearances as required under IS 1886/1967 which could be 1.25 meters all around the transformer in the case of an enclosed room, there was no arrangement for draining out the transformer oil in case of damage/rupture to transformer which is mandatory as per the provisions of IS 1886/1967 and IS10028 of 1981 rules. The frame of the said transformer was not properly earthed at the time of inspection, as per the provisions of Rule 67(1) and Rule 62(i) of the said rules.** On 14.6.97, Uphaar Cinema Official Mr. Sharma informed them that one complaint was lodged with DVB regarding the said transformer in the forenoon of 13.6.97 and DVB officials had replaced two cable end sockets on 13.6.97 on LT side of the transformer. After inspecting the cinema hall in the presence of DVB officials, he prepared his detailed report Ex. PW 24/A which bears his signatures and signatures of Avinash Aggarwal who assisted him in inspection and in

preparing report.

PW 25 Shri T.P Sharma, Scientist CBRI has deposed that on 8.8.97, they received a letter from CBI for inspection of Uphaar Cinema building and on 12.8.97, they inspected the cinema building. After inspection, they received a questionnaire Ex. PW 25/D sent by CBI vide letter Ex. PW 25/C dated 13.8.97 and thereafter, prepared the **report Ex PW 25/A** including the drawings of the affected area with the signs of smoke spread and travelling of the fire. He has deposed that since two months have elapsed at the time of their inspection, they could not ascertain the cause of fire due to lapse of time. They have inspected the place as per the information collected from the persons involved in the investigation and from media, they came to know that fire had started from a particular place i.e. transformer room and had inspected the spot keeping in view those facts.

PW 26 Shri A K Aggarwal, Asst. Electrical Inspector assisted PW 24 K L Grover during inspection of Uphaar cinema on 14.6.97. He has corroborated the statement of PW 24 K L Grover regarding the observations observed at the spot at the time of inspection carried out on 14.6.97.

PW 29 B S Randhawa, Assistant Engineer, Public Works Department has deposed that on 2.8.97, he along with Dalip Singh, Executive Engineer inspected Uphaar Cinema along with CBI officials and prepared **report Ex. PW 29/A** which bears his signatures at Point A and that of Dalip Singh at Point B. During inspection of the spot, they found various

additions/alterations in basement, ground floor, first floor, mezzanine floor/balcony and loft level in the building of Uphaar Cinema. All these additions/alterations have been mentioned in the report/Punchnama dated 2.8.97. He has deposed that CBI officials had shown him the drawings of the building of Uphaar Cinema and reports contained in the file. Drawings/sanction plan of Uphaar Cinema are in File No. 12(62)/PWDII/Uphaar Volume I(D73) marked PW 28/A. There were sixteen sanction plans mark PW 29/A1 to A16 in this file which were shown to him at the time of preparing report on which he identified the signatures of S N Dandona. The Inspection Report Proforma dated 7.3.80 has been proved as Ex. PW 29/B. He has proved the Inspection Report dated 22.3.78 bearing the signatures of S N Dandona as Ex. PW 29/C. He has proved the Inspection report of Uphaar Cinema dated 30.12.77 as Ex. PW 29/D, Inspection report dated 28.3.79 as Ex. PW 29/E and he identified the signatures of S.N Dandona on all the abovesaid reports but he could not identify the initials of S N Dandona. He has deposed that **on inspection, he found that in the balcony on the right side, the gangway on the right side was found closed by providing extra seats, the gangway on the right side of the middle entrance gate has been found 1'.10" instead of 3'.8" which was restricting the passage. There were total 302 seats in the balcony, on the right side, a box with eight seats was found provided by covering the exit passage.**

The Inspection Room between stair case and projection room has been found converted in eighteen seater box. Hence, total number of seats in the balcony including two boxes comes to 328 instead of 250 seats. Sweeper room and adjoining toilets were found converted into office room, operator rest room has also been converted into office cum bar room in which drink counters were found to be provided at the corner. He has deposed that in between the second floor i.e. projection room floor and loft floor, a full width door on right side of the stair case landing has been found provided which has created obstruction for going to terrace and one reception counter of Sareen Associates has also been found in the stair case leading to terrace, thus, obstructing stair case passage. He has deposed that on the ground floor, stilt floor, the portion above ramp for basement has been found constructed and was used as homeopathy dispensary of size 20' X 9' behind the transformer room, outer wall behind HT transformer and LT room was found constructed upto the first floor height instead of three feet height. The outer side of LT room, transformer room and HT room as shown in the sanction plan were same but the positioning of the partition had been shifted resulting in alteration in internal sizes of these rooms. A room 14 X 7 feet adjoining to HT room was constructed and used as a ticket counter and a portion of ticket foyer measuring 20

feet X 20 feet was found converted into Syndicate bank, the restaurant on the front side of hall was converted into office of Sanjay Press Office. A mezzanine floor was found constructed with RS Joist and probably timber flooring found completely burnt over the first floor which was said to have been used as offices. The height of this floor was 8' above the stilt floor level and with total covered area if 40 feet X 33 feet plus 40' X 39.3" 1/2— 2890 Sq. Feet. Another portion with RCT slab found constructed at mid landing of the stair case at eight feet height above the stilt floor and used as office. The portion of stair case around lift well and leading to basement has been found occupied by M/s Sehgal Carpet by converting the same into an office. Total seats in the auditorium were 751 instead of approved 750 seats. He has deposed that in the loft level i.e. top floor, the big hall of loft level was found converted into office cabins by providing the wooden partition and were used by Sareen Associates, Supreme Builders, Supreme Promoters, Supreme Marketing (P) Ltd and Vicky Arain Impacts (P) Ltd., as per the Board displayed on the wall. The stair case over the loft level was found converted into an office.

PW 35 K V Singh, Executive Engineer, CPWD has deposed that as per the directions of Chief Engineer, he visited the office of DCP, South on 18.6.97 and accordingly, he along with Assistant Engineer Davinder Singh and

representatives of DCP South inspected Uphaar Cinema and prepared **detailed report Ex. PW 35/A**. He had given his **detailed report regarding LT Panel, possible cause of fire in Uphaar Cinema in the transformer room, air conditioner and possibility of fire and smoke through air conditioning system**. There were two transformers i.e. one of 500KVA and other of 1000KVA capacity in that room. The 500KVA transformer was owned by Uphaar Cinema and 1000KVA transformer was installed by DVB to meet the requirement of the nearby areas. On inspection, he found the 500KVA transformer alright and 1000KVA transformer was already open, the parts of radiator were removed, some cables were also removed for investigation by other agencies. He restricted his inspection to the possible cause of fire, he was also shown the photographs of the spot taken on the day of occurrence or next day and on the basis of his observations of the photographs and inspection of the spot. He observed that one of the **LT cable of the transformer of 1000KVA transformer had broken away from the terminal and had fallen on the radiator which caused line to ground fault and also caused heavy flow of the current which caused hole in their radiator and resulted in spilling of transformer oil and the transformer oil which spilled on the ground, due to hole in the radiator. Fire had taken place because of arching which had taken place in the cable which had fallen down and this was the cause of fire**. There was

heavy smoke in LT and HT rooms and carbon deposits were there, LT and HT panels were not having fuses and it appears that tripping of power supply took place only in AIIMS grid not in the Uphaar Sub-station and this shows that there was no protection system available at Uphaar Cinema and there was no tripping system. He also observed that there was parking of vehicles outside the transformer room but does not know whether any vehicle was damaged or not but fire would have aggravated because of the petrol and diesel of the vehicles on the same floor and he had not noticed about the loose connection. **The reason of breaking down of the cables was loose connection or over loading.** The smoke traveled through air conditioning duct but he found air conditioning blowers were not connected through generator supply, therefore, he inferred that after the fault was cleared, air conditioning blowers were not working and the smoke did not travel through air conditioning duct, after the fire, the blower should have **stopped working but it did not.** The supply came between 4.55 to 5.05 and during that period, the blowers were on which enhanced the speed of smoke inside the cinema hall.

PW 36 Dr. M L Kothari Professor, Department of Electrical Engineer, has deposed that he was deputed by Director, IIT Delhi to assist Naresh Kumar, DCP, South. On 26.6.97, he interviewed certain people in his presence On 27.6.97, he inspected Uphaar Cinema along with DCP, South.

Then, they went back to the DCP office where he further continued to interview people and during this period, he met K V Singh and had some conversation with him. K V Singh submitted his report and after going through the report, he prepared his **comments Ex. PW 36/A** and submitted the same to DCP, South on 2.7.97. He has deposed that his written report was based on the basis of observation made on the spot i.e. inspection at Uphaar Cinema and after going through the report of K V Singh.

PW 39 Rajat Kanti Bhattacharya, Executive Engineer, Municipal Corporation of Delhi has deposed that on 24/6/97 he inspected Uphaar Cinema with his staff in the presence of C B Sanghi, Deputy Commissioner under the directions of Naresh Kumar. He submitted the **report Ex. PW 39/A on 25.6.97** on which he has identified his signatures at Point A and along with the report. He had also submitted Annexure Ex PW 39/B. Various major internal changes made by the owner/builder of Uphaar Cinema were pointed out in the said report. All the irregularities were marked in red and yellow pencil. Photocopy of the sanction plan of 1973 relating to the mezzanine floor has been provided by him in Ex.PW39/B, of second floor is mark PW 39/C, of third floor plan is mark PW 39/D, which also contains the alterations and deviations with red and yellow pencil and noting are mentioned in the margins. He has deposed that **report dated 2.7.97 mark PW 39/B was sent to Karnal Singh, IPS, Deputy Commissioner of Police, Crimes and Railways showing the major internal changes made by**

owner/builder of Uphaar Cinema.

The witness has deposed about the inspection of four partition walls, exit in basement upto ceiling height. Provision of additional floor in stilt portion by providing RS Joist, Homeopathy dispensary behind LT room above ramp on stilt floor, the stairs around lift well from stilt portion to basement converted into office of Sehgal Carpet, space marked for restaurant on stilt floor converted into a bank and another office, manager room and attached WC on stilt floor converted into verandah with glazed door and loft above, the sitting capacity of balcony at second floor increased from 250 seats to 302 seats. Additional seats were provided in gangways, inspection room converted into 18 seater box. One exit near toilet was blocked by creating eight seater box, the stair case portion around lift well and a part of toilet on third floor was converted into office space. Letter dated 11.7.97 Ex. PW 39/E was sent to the IO. The letter received from Crime Branch has been proved as Ex. PW 39/F. File D 78 containing 13 sheets including six copies of building plan of Uphaar Cinema building were seized by CBI vide memo Ex. PW 39/G.

PW64 Dr. Rajinder Singh , Senior Scientific Officer, Grade-I, CFSL has deposed that message was received from Director , CFSL at about 10.00p.m. regarding fire incident in Uphaar Cinema. He reached there but could not inspect

because there was no light. On 14.6.97 and 15.6.97 he along with Director, CFSL Mr. Chabra inspected the spot and submitted their report to SHO Hauz Khas. A letter dated 1.8.97 was received from SP, CBI along with the questionnaire Annexure-I and articles therein received in CFSL for examination and his opinion. The copy of the said letter is proved as Ex. PW 64/A. On 27th, 28th and 31st July, 1997, 6th and 7th August, 1997 he visited Uphaar Cinema and also examined the articles and prepared report Ex. PW 64/B. He deposed that as per his finding, **the constant intense sparking between the detached phase cable and radiator had initiated the fire and caused spreading along with the oil spill.** He deposed that letter dated 5.8.97 Ex. PW 64/C was received from SP CBI along with annexures A and B for examination and opinion and after examining the documents, he prepared his report Ex. PW 64/D and gave **opinion.** The report dated 11.8.97 was sent to SP CBI vide forwarding letter Ex.PW64/E dated 11.8.97 which bears the signature of Dr. S.R Singh , Director, CFSL whose signature and writing he identified. He deposed that his finding as per Ex.PW64/D was that **the fire had started from DVB transformer which was situated in western portion of the car parking hall situated on the ground floor of cinema complex, the shutter of the transformer room opens towards the car parking lot and thereafter, the smoke appears to have traveled in northward and southward**

directions. The northward bound smoke encountered collapsible gate and a staircase adjacent to it, the smoke has gushed through stair-wall due to chimney effect, the doors next to screen on either side had severe smoke effects. The doors on the either side of screen were two plank doors, both portion shows effect of smoke, one door opposite to the staircase was closed at the time of the incident and smoke effect was observed on the staircase side of the door, another door was to the right of the above door and one plank of the door was open at the time of fire and in this way, the smoke had entered the Auditorium through right door as one plank of the door was open at the time of fire incident. The Southward bound smoke traveled through aerial route towards the staircase situated to the south of the DVB transformer. The aerial route was exhibited by the fact that the concrete pillars of the building does not show any sign of smoke at the bottom portion and cable hanging overhead of Uphaar cinema complex shows sign of heat and smoke. The smoke gushed through the staircase due to chimney effect. The rear stall foyer canteen was not effected by smoke as well as fire as the connecting door from the stair case had strong blisters, hence, the smoke had gone further up and reached the lower portion of balcony of the Auditorium. **The smoke effect had been seen on the outside as well inside of one plank portion of door next to the stair wall leading to lower portion of the**

balcony and the smoke had entered the balcony through the half open door. The connecting door of the foyer canteen from the staircase was closed, hence, this door had effect of smoke and heat at its outside portion, further the smoke had gone up and effect of smoke was detected on the entry door to the rear portion of the balcony, the doors from the foyer/canteen side to the Auditorium and Balcony were closed at the time of incident, out of four doors from rear stall side, three doors of double plank have been forcibly opened from the inner side of cinema hall. In the DVB transformer, the LT side cables from the bus bar do not have clamping system or any support to the cables, the earth cable of the transformer has been found temporarily fitted with the earth strip i.e. twisting of earth cable, there was no cable trench to conceal the cable, the HT panel board do not have any relay system to trip the transformer in case of any fault, the Buchholtz relay system was not fitted on the transformer, the temperature meter was not found fitted on the transformer. He has deposed that on inspection of Uphaar Cinema Complex, the ground floor basement i.e. car parking lot has been effected by the fire and rest of the cinema complex was effected by smoke. No emergency light system could be detected in the auditorium and balcony of cinema hall at the time of inspection. The physical examination of the DVB transformer revealed that cable on bus bar on LT side

do not have any check nuts except one lower terminal of Phase Y and neutral, the check nut of neutral terminal was found in loose condition. The blue phase single cable at the top along with cable end socket fell down on radiator fin due to constant sparking at nut bolt portion on the bus bar, decoiling effect of cable and weight of cable and all coupled together lead to eating away of metal of cable end socket resulting in U shape cable socket end. He had also mentioned about the laboratory examination of fire extinguishers and his report Ex. PW 64/D bear his signatures.

PW 65 Shri Gurmail Singh deposed that since 13.8.96 he was posted in Licensing Department as DCP Licensing. The licensing branch deals with cinema, hotels, guest houses, restaurants, explosives, entertainment, amusement and newspapers, publication etc. Before 1978, the licensing matters were dealt by the District Magistrate but after introduction of Commission system w.e.f 1.7.98, the license matters regarding cinemas are being dealt by Licensing Department. He deposed that the procedure being laid down for issuing cinema license and as per the procedure, before issuing the cinema license, reports used to be called from PWD,NDMC, Municipal Corporation of Delhi, Relief cantonment Area, Chief Fire Officer, Electrical Officer and Health Department. Only after the reports are found to be satisfactory , the license was renewed. The owner of cinema used to submit application and if reports are okay, then, license is issued only for one year and then, it has to be renewed and in case of

delay in receipt of reports or stay, the DCP Licensing issued license for two months without any technical report. After the two big fire incidents in LPG Godown, Shakur Basti and Gopala Towers, Rajendra Place, Lieutenant Governor asked DCP (Licensing) and other technical authorities to inspect all the cinema houses to remove any fire hazard and other deficiencies. Later on joint inspection was carried out of all 63 cinema houses by the officials of all technical authorities and they found that thirteen cinema halls including Uphaar Cinema were violating in one way or the other bye laws or fire hazards in their premises and those cinema halls were given Show Cause Notices and directions were given to them to remove all the deficiencies. When they failed to remove the deficiencies, the license of Uphaar Cinema was suspended for four days but the said order was stayed by Hon'ble High Court and then, this stay was made absolute and was confirmed. The temporary license used to be granted for two months, after receiving reports from all the technical authorities. He proved the letter dated 23.2.96 of Smt. Vimla Mehra as Ex. PW 17/A, list of cinema halls regarding details of deviations etc. including Uphaar Cinema as Ex. PW 17/B. He deposed that the fire incident took place on 13.6.97 in the DVB transformer installed in Uphaar Cinema premises and then, DCP (Licensing) issued the Show Cause notice and revoked the license.

PW 69 SI Tilak Raj deposed that in November 1995, he was posted in the office of DCP (Licensing) and he was entrusted with the job to look after the correspondence related

to issue of license in respect of cinemas and Petroleum. The files are being maintained in the normal course of official business, separate files for separate cinema was maintained in their office. He deposed that on 13.7.97 he handed over file D 93 mark PW 69/A to Inspector Data Ram Crime Branch which was seized vide memo Ex. PW 69/A. This file relates to correspondence regarding change of name of company, renewal of license, Inspection of Uphaar cinema, copy of map of additions and alterations in cinema building, correspondence regarding installation of seats and File D 94 and D95, D96, D 97, D 98 was also being maintained in their office and the same is proved as mark PW 69/B and C,D to F, and all the above said files were handed over to CBI vide memo Ex. PW 69/G. He further proved File no. F.9(60) Uphaar-1993-97 (D101) Ex. PW 69/C which was being maintained in Licensing Department and contains the note sheets and correspondence for renewal of license and temporary permit for running Uphaar Cinema, File No. F-9(60)/Uphaar/1997-98 (D102) as Ex. PW 69/D and File no.1(A) was handed over to CBI relating to correspondence with Uphaar Cinema by District Magistrate Entertainment containing pages 1 to 37.

Formal Witness :-

PW 19 Satish Kumar Sachdeva had identified endorsement on letter dated 6.2.1997 Ex. PW 17/F, on letter dated 3.10.96 of Smt. Vimla Mehra, ACP(L) Ex. PW17/G. On the reverse of Ex. PW 17/G, he made endorsement Ex. PW 19/A as per the directions of Suptd. Engineer and Executive Engineer (Bldg). He has proved endorsement as Ex. PW 19/B on the photocopy of letter dated 3.10.96. He has proved the Office Copy of letter dated 2.9.96 signed by M M Dass, Executive Engineer, Building addressed to Smt. Vimla Mehra regarding inspection of thirteen cinema halls Ex. PW 19/D, and has also proved the office copy of letter dated 23.5.96 signed by B B Mahajan as Ex. PW 16/D. He has proved letter dated 23.2.96 Ex. PW 17/A. After inspection by a team of Junior Engineers and report Ex. PW 16/D was sent to Smt. Vimla Mehra vide letter dated 23.5.96 under the signatures of Shri B B Mahajan and has also proved the note sheet at Page 5N typed by him as Ex. PW 16/C bearing signatures of M M Dass, EE(Bldg.)

PW 21 Shri S K Bhatnagar was P.A to Additional Commissioner Engineering Shri Vishan Saroop Sharma. He has proved the endorsement of Anil Prakash, Executive Engineer dated 8.3.96 on the letter Ex. PW 17/A. **He has also proved the carbon copy of Letter No. D 122/ EE(B) HQ dated 16.4.96 as Ex. PW 17/C under the signatures of Anil Prakash and its copy was marked to all Assistant Engineers (Building) and this letter is in respect of**

inspection reports of Cinema halls called by Delhi Police. He has proved the notesheet Ex. PW 16/E regarding inspection report of cinema houses as well as signatures of Anil Prakash, Executive Engineer (Building) with date 6.5.96 who had marked this report to SE 10 B B Mahajan and he further marked this letter to Anil Prakash Executive Engineer (Building) who made an endorsement dated 8.5.96 and marked it to B B Mahajan, the letter was again marked to Anil Prakash regarding draft letter for Additional Commissioner of Police (Licensing) to whom the information has to be sent. He has also proved the noting of Anil Prakash dated 15.5.96, notings of R K Jain dated 22.5.96, endorsement of B B Mahajan dated 23.5.96 asking his P.A. to prepare letter from his side. He has proved the signatures of M M Dass, Executive Engineer with date 14.8.96 on letter Ex. PW 16/C who marked the same to B B Mahajan and he made noting dated 16.8.96. He identified the signatures of all the above said officials on Ex. PW 21/A. On receipt of letter Ex. PW 16/B of Smt. Vimla Mehra addressed to O P Kelkar which was marked to Additional Commissioner Health M C D but he could not identify the signatures on the said letter and it was marked to Vishnu Saroop Sharma, Additional Commissioner Engineering, Municipal Corporation of Delhi and the letter was further marked to M M Dass. He identified the signatures and hand writing of all the above said officials on letter Ex. PW

16/B. He has proved the letter dated 8.8.96 as Ex. PW 17/H and identified all the markings made in the handwriting of O P Kelkar, he also identified the noting of Mr. Tiwari, Additional Director Health Service (PH) on letter Ex. PW 21/B. He has proved initials on carbon copy of letter dated 2.9.96 addressed to Vimla Mehra sent by M M Dass as Ex. PW 19/D. He has proved letter dated 6.2.97 of T N Mohan, DCP (Licensing) addressed to V K Duggal as Ex. PW 17/F which was received in the office of Additional Commissioner Engineering, Shri Vishnu Saroop Sharma who marked the same to G C Garg, Engineer in Chief and then, to C M Vij, Chief Engineer Central and this letter was in turn marked to M M Dass and the same was endorsed to all Deputy Municipal Commissioners and to all Superintendent Engineers. He has proved letter dated 15.4.96 addressed to O P Kelkar sent by Vimla Mehra as Ex. PW 21/C which was marked to Deputy Municipal Health Officer and has proved bears the endorsement and initials of all concerned officials.

PW 28 Kishan Chander Chopra of Public Works Department. He has deposed that file D73 File No. 12/(62)/PWDII/Uphaar Vol. I and D 74 File No. 12(62)/Steno/PWDII Vol. II pertains to his office and the files are mark PW 28/A and B and were handed over by Mr. Kaul, Executive Engineer on 29.7.97 vide memo Ex. PW 28/A.

PW 31 is Surender Singh. He has proved the entry dated 12.5.97 as Ex. PW 31/A1 showing the departure of DCRO N K Batra and H S Panwar. **He has deposed that the**

last line of the relevant entry was written by him in the month of June at the instance of SDO who had called him at his house later on and he had written the words SATH MAIN SDO and this entry is showing the departure at 10.20 a.m on 12.5.97. The entry at Page 64 shows the arrival back in office at 13:50 hours and the same is Ex. PW 31/B and in this entry also, the portion encircled red at Point B was written by him later on at the instance of SDO Surinder Dutt and was made in the end of June 1997.

PW 32 Ashok Kumar who was P.A to H S Panwar during the period 1995 to August 1997 at Bhikaji Cama Place Fire Station and **at that time, accused H S Panwar was the Divisional Officer (A), accused Surender Dutt was Station Officer. File D 84 was being maintained in their office and was basically kept in Head Quarter and was called at the time of inspection and relates to Uphaar Cinema. He has deposed that he had filled the proforma Ex. PW 32/A at Page C 113 of file D 84 at the instructions of accused H S Panwar and Surender Dutt and identified their signatures at point A and B of Ex. PW 32/A. He also identified the signatures of H S Panwar on letter dated 18.4.96 Ex. PW 32/B. The portion encircled red in Ex. PW 32/A is in his hand writing and he had written this DO Ex. PW 32/C at the instructions of accused Surender Dutt and H S Panwar. The Note sheet dated 5.11.96 bears the signatures of H S Panwar and Surender Dutt. The draft letter was written by him**

at the instruction of Surinder Dutt and H S Panwar and the same has been proved as Ex. PW 32/D. Note sheet at Page N30 has been proved as Ex. PW 32/E (Ex. PW 31/DA) which bears the signatures of both above said accused persons. He has deposed that Inspection Proforma Ex. PW 31/DB dated 12.5.97 at Page C 127 of D 84 was also written by him under the instructions of Surender Dutt and H S Panwar and has been proved as Ex. PW 31/DC. He has deposed that after inspection and after preparing the documents, the file was sent back to their Head Quarter.

PW 33 T S Sharma has deposed that he is Station Officer in Fire station at Head Quarter since 1997 and he used to maintain the record of fire prevention cell for multi storey building. Records regarding inspection of cinema halls are being maintained in their Head Quarter. The record of each cinema hall are separately maintained. The file D 84 relates to Uphaar Cinema, Green Park and was being maintained in due course of the official business. He has proved the letter dated 17.4.95 as Ex. PW 33/A bearing the signatures of Mr. Surender Kumar Deputy Chief Fire Officer addressed to DCP (Licensing) in connection with no objection from fire safety and means of escape point of view in respect of Uphaar Cinema. Letter in respect of no objection to the renewal of license of Uphaar Cinema from fire safety and means of escape point of view was issued under the signatures of P K Sharma, Assistant Divisional Officer and he identified his signatures which has been proved as Ex. PW 33/B. He proved the letter

issued by H S Panwar as Ex. PW 32/B, Inspection Proforma bearing the signatures of H S Panwar and Surinder Dutt as Ex. PW 32/A. He has deposed that letter dated 18.11.96 was issued by H S Panwar to Manager Uphaar Cinema indicating short comings in the cinema hall, the letter is Ex. PW 33/C, letter dated 24.12.96 was issued by H S Panwar, Divisional Officer of Fire Service to the DCP (Licensing) and the said letter has been proved as **Ex. PW 33/D. The copy of this letter was sent to Manager Uphaar Cinema, Chief Fire Officer and Deputy Chief Fire Officer and this letter was in respect of No Objection for the renewal of license of Uphaar Cinema from fire safety and means of escape point of view.** He has proved the Inspection Proforma dated 22.12.96 bearing the signatures of H S Panwar and Surender Dutt as Ex. PW 33/E. He has deposed that Inspection Proforma dated 12.5.97 Ex. PW 31/DB bears the signatures of only H S Panwar and in the said document, the names of H S Panwar, Divisional Officer (A) and Surinder Dutt, Station Officer are mentioned and Ex. PW 31/DC is a No Objection Certificate letter dated 15.5.97 which was sent by H S Panwar to DCP (Licensing). Ex. PW 33/G is 'No Objection Certificate' dated 19.4.94 which was signed by H S Panwar as Divisional Officer, Fire service. **The name of Surender Dutt, Station Officer and K L Malhotra, Manager of cinema, H S Panwar, Divisional Officer are mentioned and it relates to inspection of Uphaar Cinema and inspection proforma dated 14.4.94 bears the signatures of**

H S Panwar and the same has been proved as Ex. PW 33/H.

PW 34 M M Dass, Superintendent Engineer, Building has deposed about the procedure set for sanctioning building plans as per the requirement of Building Bye Laws. He identified his signatures and as well as the signatures of Mr. Chauhan, AE on seizure memo Ex. PW 34/A and he had handed over various files including this seizure memo to Insp. Rajbir Singh. He also handed over file bearing No. 117/BHQ/73 dated 3.2.73 which consists of application for addition/alteration in the building and scrutiny of department, issuance of sanction letter to applicant, application for completion certificate, completion certificate issued to the applicant and different correspondences and its reply given by with applicant. He has proved the copy of completion certificate as Ex. PW 17/DA which was issued on the basis of application of owner M/s Green Park Theater and Associated Pvt. Ltd., copy of letter dated 23.5.96 issued by B B Mahajan, SE Municipal Corporation of Delhi to Vimla Mehra which was the compliance of the queries raised by Smt. Vimla Mehra in respect of thirteen picture halls, **the original of the letter along with enclosure of compliance has already been exhibited as Ex. PW 16/D on which he identified the signatures of B B Mahajan.** He has deposed that Scrutiny Form Ex. PW 15/A is in respect of building application of Uphaar Cinema moved by M/s Green Park Theaters Associated Pvt. Ltd. Letter Ex. PW 34/B in respect of correspondence made by building department with M/s Green Park Theaters Pvt. Ltd bears the signatures of V K Gupta, the

then Assistant Engineer, Building. There are letters of applicant M/s Green Park Theaters Associated Pvt. Ltd. dated 2.3.73 and 5.3.73 in respect of proposed additions and alterations to cinema building. He has proved the sanction building plans of Green Park Theaters Associated Pvt. Ltd. for addition and alteration as Ex. PW 2/A9 to A21 and Ex. PW 2/A23 to A25. He has deposed that letter Ex. PW 34/C was issued by him, bears his signatures and was handed over to Ranbir Singh and **he had mentioned the deviations and differences after comparing sanction plan of Municipal Corporation of Delhi and the plan of PWD.**

PW 37 Ganesh Das Verma has deposed that during his tenure, Shri S K Dheri joined as Chief Fire Officer on 28.4.84, H S Panwar was Station Officer, Delhi Fire Service and retired as Asstt. Divisional Fire Officer, Surender Dutt was Station Officer in Delhi Fire Service. Gulshan Jaggi, J C Sharma, N K Bhawakar, A K Bhasin, P K Sharma, V S Ahluwalia, S P Maggo were also working on different posts in Delhi Fire service during his tenure. He has deposed that File D 84 pertains to Delhi Fire Service in respect of Uphaar Cinema. It contains the note sheets as well as correspondences. He has proved letter dated 18.2.82 at Page C9 received from DCP (Licensing) as Ex. PW 37/A which was marked by S S Sharma, Chief Fire Officer bearing his endorsement and date. This letter is in connection with the annual inspection of Uphaar Cinema and has been proved as Ex. PW 37/B which bears the endorsement of S S Sharma, Chief Fire Officer. He has proved the letter at Page

C17 dated 28.2.84 sent by DCP (Licensing) as Ex. PW 37/C, the Re-Inspection report of Uphaar Cinema dated 30.7.84 at Page C22 as Ex. PW 37/D, letter dated 16.4.85 at Page C23 received from DCP (Licensing) as Ex. PW 37/E, letter dated 25.6.86 at Page 327 received from DCP (Licensing) as **Ex. PW 37/F which was in connection with annual inspection of Uphaar Cinema**, letter dated 23.4.87 received from DCP (Licensing) as Ex. PW 37/G, letter dated 18.8.97 received from DCP (Licensing) at Page 330 as Ex. PW 37/H. He has proved the initials of Gulshan Jaggi, V S Ahluwalia, N K Bhawakar on Inspection proforma Ex. PW 37/J for the period 24.4.88 to 23.4.89 dated 10.8.88 at Page 336, copy of letter dated 2.5.88 at Page 346 received from DCP (Licensing) vide Fire Prevention Diary No. MS-1269/9.5.88 as **Ex. PW 37/K and this letter contains the objections in respect of various cinemas and objections in respect of Uphaar Cinema are at Page 2 and 3 of the said enclosures.** He has proved letter dated 29.3.88 at Page 359 as Ex. PW 37/L which bears the signatures and endorsement of Gulshan Jaggi with date 6.4.89 and of A K Bhatnagar with date 7.4.89, the Inspection Proforma at Page 60 for the period 24.4.89 to 23.4.90 as Ex. PW 37/M, letter dated 7.7.89 at Page 63 received from Chief Fire Officer as **Ex. PW 37/N which was in reference to the letter of M/s Green Park Theater Associated Pvt. Ltd. at Page 362 and has been proved as mark A.** He has proved letter dated 25.4.90 at Page 364 received from DCP (Licensing)

as Ex. PW 37/O, Inspection Proforma dated 14.6.90 for the period 24.4.90 to 23.4.91 at Page 365 as Ex. PW 37/P, letter dated 9.4.91 received from DCP (Licensing) as Ex. PW 37/Q which bears the endorsement and signatures of N K Bhawakar and A K Bhatnagar and this letter was in respect of annual inspection of Uphaar Cinema, the inspection Proforma dated 28.4.91 at Page 368 for the period 1.4.91 to 31.3.92 as Ex. PW 39/R, office copy of letter dated 29.4.91 signed by N K Bhawakar addressed to DCP Licensing as **Ex. PW 37/S which was in respect of annual inspection of Uphaar Cinema,** office copy of letter dated 6.6.91 issued by N K Bhawakar addressed to DCP (Licensing) as Ex. PW 37/T in respect of 'No Objection Certificate' from Fire safety/means of escape point of view in favour of Uphaar Cinema for the purpose of renewal of annual license. This witness has proved the Inspection Proforma dated 27.5.91 at Page 373 as Ex. PW 37/U, letter dated 12.3.92 of DCP (Licensing) at Page 379 as Ex. PW 37/V which bears the endorsement of N K Bhawakar, Om Parkash Gupta at Point A and B, Inspection Proforma dated 26.3.92 for the period 1.4.92 to 31.3.93 at Page 380 bearing the signatures of A K Bhasin as Ex. PW 37/W, office copy of letter dated 27.3.92 at Page 381 addressed to DCP (Licensing) and Manager Uphaar Cinema as Ex. PW 37/X, letter dated 18.4.93 at Page 382 received from DCP (Licensing) as Ex. PW 37/Y, Inspection Proforma dated 29.4.93 at Page 383 as **Ex. PW 37/Z in which the column for date of renewal is lying blank,** letter dated 27.8.93 of DCP (Licensing) at Page C-85 was

received in the office vide Diary No. 2719/O dated 3.9.93 as Ex. PW 37/AA which bears the signatures of R C Sharma dated 6.9.93, endorsement of H S Panwar dated 14.9.93 at Point B and endorsement with signatures of Shri Dhan Singh and **vide this letter, DCP had requested to send early requisite report relating to annual inspection of Uphaar Cinema, letter dated 15.3.94 of DCP (Licensing) at Page C 86 received vide Diary No. 8037/O dated 18.3.94 as Ex. PW 37/AB bearing the endorsement of H S Panwar with his signatures dated 24.3.94 and endorsement of O P Gupta with date.** He has proved the Inspection Proforma dated 14.4.94 for the period 1993-94 at Page C 87 under the signatures of H S Panwar as Ex. PW 33/H, office copy of letter dated 19.4.94 issued under the signatures of H S Panwar as Ex. PW 33/G, photocopy of letter dated 9.5.94 at Page C92 of DCP (Licensing) as Mark B, photocopy of reply to Assistant Commissioner of Police Licensing from Deputy Chief Fire officer dated 12.8.94 at Page C 95 relating to Inspection Report of various cinemas including Uphaar Cinema as Mark C, office copy of letter dated 12.10.94 addressed to Vimal Nagpal for Green Park Theaters Associated Pvt. Limited at Page C 99 as Ex. PW 37/AC. He has proved the letter dated 8.3.95 at Page 302 addressed to Vimal Nagpal for M/s Green Park Theaters Associated (P) Ltd as Ex. PW 37/AD, copy of letter dated 20.3.95 at Page 304 as Ex. PW 37/AE marked to Assistant Divisional Officer, SafdarJung bearing Diary No. M-593/23.3.95 of Fire Prevention Section which was in respect of inspection

of Uphaar Cinema with respect to fire fighting arrangement, copy of letter addressed to DCP (Licensing) is at Page 306 as Ex. PW 33/A which was issued under the signatures of Surender Kumar, letter at Page 307 signed by Vimal Nagpal received in their office vide Diary No. 3393/O as Ex. PW 37/AF bearing the initials of R C Sharma and P K Sharma in which request was made to issue No Objection Certificate from fire fighting and fire prevention point of view addressed to Deputy Chief Fire Officer-II. He has proved letter at Page 308 received from DCP (Licensing) vide Diary No. 7465/O dated 21.4.95 bearing endorsement of Surender Kumar, P K Sharma and Om Parkash Gupta as Ex. PW 37/AG and also bears the Diary No. MS746/24.4.95 of Fire Prevention Section, Inspection Proforma at Page 309 dated 29.4.95 as Ex. PW 37/AH in which the column of date of renewal is blank. He has proved the 'No Objection Certificate' of renewal of license at Page 310 bearing the signatures of P K Sharma and Surender Dutt as Ex. PW 33/B, copy of the same was marked to Manager Uphaar Cinema, Chief Fire Officer and Deputy Chief Fire Officer. Letter at Page 312 was received from DCP (Licensing) dated 12.3.96 bearing the endorsement and initials of N K Batura, H S Panwar as Ex. PW 37/AJ, letter dated 1.3.96 at Page 311 issued by R C Sharma for report regarding inspection of cinema houses including Uphaar cinema as Ex. PW 37/AK, Inspection Proforma dated 9.4.96 in respect of Uphaar Cinema at Page C113 bearing the signatures of H S Panwar and Surender Dutt as Ex. PW 32/A, letter dated 18.4.96 at Page C114 issued by H

S Panwar to DCP (Licensing) as Ex. PW 32/B bearing his signatures at Point A. He has proved the letter at Page C119 received from DCP (Licensing) vide Diary No. 7769/O dated 16.10.96 regarding submission of Inspection Report in respect of Uphaar Cinema as Ex. PW 37/AL bearing endorsement of R C Sharma, Umed Singh Chillar, H S Panwar, letter at Page C121 dated 18.11.96 issued to Manager, Uphaar Cinema under the signatures of H S Panwar as Ex. PW 33/C, letter at Page 123 dated 28.11.96 as Ex. PW 33/F (half portion of the said letter is torn), the photocopy of the said letter has been proved as Mark Z. He has also proved the Inspection Proforma dated 2.12.96 at Page C124 bearing the signatures of H S Panwar and Surender Dutt as Ex. PW 33/E. He has proved letter dated 24.12.96 at Page C125 issued by H S Panwar as Ex. PW 33/D. He has proved letter dated 21.4.97 at Page C126 received from DCP (Licensing) as Ex. PW 37/AM, letter dated 15.5.97 at Page C128 issued by H S Panwar as Ex. PW 31/DC, the Inspection Proforma dated 12.5.97 at Page C127 as Ex. PW 31/DB in which the column for date of renewal is blank.

PW 38 Sanjay Kumar is Stenographer from Municipal Corporation of Delhi department. He had handed over the file to CBI. The file D-82, the correspondence and note sheet mark PW 38/A were seized vide memo Ex. PW 38/B on which he made his endorsement with date at Point B.

PW 50 Mahabir Singh Tyagi, Inspector Licensing branch has deposed that during December 1991 to December 1993,

his duty was to issue license and other correspondence under his signatures. He has deposed that as applications are received under Rule 7(1) Delhi Cinematograph Act 1981 for grant of temporary permit to the cinema halls which were running under stay order of Hon'ble High Court, temporary permits were being granted to 13 cinema halls. Temporary permit is for two months, the same is issued after obtaining 'No Objection Certificate' from four departments PWD, Electrical Inspector, Health Department and Fire Officer. He has proved the file D 99 relating to issue of license to Uphaar Cinema and notesheet as Ex. PW 50/A which is for temporary permit for two months from 1.2.92 to 31.3.92 to Uphaar Cinema. He has also proved the file D 100 as Ex. PW 50/B containing application for renewal of license for the period 24.4.92 to 23.4.93. He has deposed that temporary permit for a period 1.2.93 to 31.3.93 was issued. Letter dated 25.1.93 was issued under signatures of ACP Ram Narain requesting the Licensee to remove the deviations. He has proved file D 101 pertaining to grant of temporary permit/license to Uphaar Cinema as Ex. PW 50/C1 for the period 24.4.93 to 23.4.94. He has proved Ex. PW 50/C2 to C4, reports called from different authorities vide Ex. PW 50/C5, the application for temporary permit for two months Ex. PW 50/C6, the receipt for deposit of Rs.10/- Ex. PW 50/C7, reminder sent to Chief Fire Officer for submitting report of Uphaar Cinema Ex. PW 50/C8, copy of this letter was also sent to Licensee of Uphaar Cinema, letter dated 29.9.93 Ex. PW 50/C9 received from Uphaar Cinema marked to SI Raj

Kumar, receipt for deposit of Rs.10/- by Uphaar Cinema Ex. PW 50/C10. He has proved the notesheet Ex. PW 50/C11 which is with regard to the 'No Objection Certificate's from the concerned authorities and also issue of temporary permit for two months, the notesheets Ex. PW 50/C12 bearing his signatures and signatures of SI Raj Kumar, ACP Ram Narain, Vimla Mehra at Point A to D, letter dated 27.11.93 Ex. PW 50/C13 of Uphaar Cinema as, receipt for deposit of Rs.10/- Ex. PW 50/C14, note sheet Ex. PW 50/C15 .

PW58 HS Bhandari of DESU has deposed that as per document D 51 and D 53, two electricity connections were granted, one on the first floor of Uphaar Cinema bearing no. Z 701/LC/125294 on 20.6.87. **As per file D 51, there are twelve papers relating to the grant of electricity connection to Ashok Gandhi on first floor of cinema building, File D 53 contains six pages including file containing 'No Objection Certificate' of Gopal Ansal in favour of Ashok Gandhi for installation of connection.** Both the files have been proved as mark PW 58/X and Y. File mark PW 58/Z relates to grant of electric connection to M/s Sareen Associates, fourth floor in Uphaar Cinema building containing all the relevant papers. File D 50 relates to grant of connection to Vinod kumar of M/s Paan Bhandar and has been proved as mark PW 89/Z1, File D-49 relates to electric connection of Ms/ Republic Construction, fourth floor and has been proved as mark PW 58/Z2, File D54 relates to installation of electrical connection in favour of M/s

Syndicate Bank and same has been proved as mark PW 58/Z3. PW 60 Sushil Sadana has deposed that there was no fire extinguisher in his office.

PW 61 is Gautam Roy, Senior Scientific Officer, CFSL. He has deposed that a letter was received from SP, CBI in his office for visiting the scene of crime and to take photographs of the spot. On 28th and 29th July 1997, he along with Physics Expert and IO visited the place of occurrence and took photographs of the whole building and handed over the same to CBI.

PW 74 is Insp. Balbir Singh. He has deposed that he handed over the documents mentioned in seizure memo dated 19.6.97 mark PW 74/A to DCP Prithvi Singh and endorsement in his hand writing is Ex. PW 74/A. He also handed over articles mentioned in seizure memo mark B to DSP Prithvi Singh, CBI which bears his endorsement Ex. PW 74/B. He also handed over the documents mentioned in mark PW 74/C to DSP, CBI.

PW 75 ACP Dharamvir Gupta, PCR has deposed that on 13.6.97, he got the information regarding fire incident in Uphaar Cinema from ten sources and ten different forms were filled and the photocopies of the same were handed over to CBI, the original of which has been destroyed. The attested photocopies are mark PW 75/1 to 10.

PW 76 Insp. Ranbir Singh has deposed that on 10.7.97 at the instructions of ACP Jaipal Singh and Insp. R S Jakhar, Chief IO, he went to Municipal Corporation of Delhi Head

Quarters Town Hall where he met M M Dass and M L Chauhan and prepared seizure memo Ex. PW 34/A and seized the articles as mentioned in the seizure memo in File D 77. Sixteen maps of M/s Green Park Theaters Associated Pvt. Ltd., Green Park PW 2/A9 to A20 which were sanctioned by Deputy Commissioner vide order dated 22.3.73 were also seized vide seizure memo Ex. PW 34/A and also recorded the statement of M M Dass and M L Chauhan under Section 161 Cr P C and thereafter, he handed over all the documents along with the site plan and seizure memo and Case Diary to Insp. R S Jakhar.

PW 79 SHO/Insp. Kumedan Khan has deposed that on 13.6.97 at about 5 p.m. ,on receipt of information regarding fire incident in Uphaar Cinema, he along with his staff immediately rushed to the spot where he controlled the mob, cleared the roads, made arrangements for supply of light, water and other essential commodities and also helped in rescue process. He has deposed that he also went to hospitals and remained at the spot till 7/7.30 p.m. and investigation was handed over to Insp. Azad Singh, Addl. SHO. On 14.6.97, further investigation was marked to him and during investigation, the FIR was got registered by Insp. Azad Singh and he also arrested accused Bir Singh, Man Mohan Uniyal, seized the Attendance Register of staff of Uphaar Cinema vide memo Ex. PW 79/A along with 26 Duty Slips Ex. PW 79/B1 to B26 and the said articles were sent to FSL. Thereafter, on 22.6.97, the investigation was handed over to Rajbir Singh of Crime Branch.

PW 78 Insp. Rajbir Singh Jakhar has deposed that on

25.6.97, the present case file was handed over to him for further investigation and on 18.7.97, he seized 22 fire extinguishers Ex. P8/1-22 from the parking area of Uphaar Cinema, cinema hall, ground floor, balcony, stair case, Projection Room and store of Uphaar Cinema vide memo Ex. PW 78/A and on that day, he also seized documents as mentioned in seizure memo Ex. PW 78/B. He also seized semi-burnt vehicles from the parking of Uphaar Cinema vide memo Ex. PW 78/C. He also seized documents vide memo Ex. PW 78/D which were produced by T S Mokha, General Manager/Administrative Officer of M/s Ansal Properties. He also seized Diary Ex. P9, seized other documents as mentioned in seizure memo Ex. PW 78/F and thereafter the case was transferred to CBI and he handed over the seized articles and documents to CBI. He has deposed that during investigation, he also arrested accused B M Satija and R M Puri and recorded the statement of witnesses.

PW 80 Insp. Data Ram had seized documents as mentioned in seizure memo Ex. PW 69/A on 13.7.97 which were produced by SI Tilak Raj of Licensing Branch.

PW 81 DSP Prithvi Singh of CBI, had seized documents from Insp. Balbir Singh on 27.7.97 vide memo Ex. PW 74/A and on 26.7.97. He had also seized documents as mentioned in seizure memo Ex. PW 78/B vide his endorsement Ex. PW 81/A and the said memo was intact at that time, second page of which was found torn, at the time of deposition, the intact photocopy of second page has been proved as Ex. PW 81/B.

He had also seized registers mark PW 78/A1, A2, C, D from Insp. Satya Pal and also seized other 7/8 registers from Insp. Satya Pal Singh. On 27.7.97, he also seized documents as mentioned in seizure memo D40 (Ex. PW 86/A) from Insp. Balbir which were seized from the office of Delhi Vidyut Board. The General Diary Register w.e.f 24.4.97 Ex. PW 42/A, another General Diary register of Sub/Station R K Puram w.e.f 14.5.96 to 13.6.97 Ex. PW 40/A, No Current Complaint Register of Green Park Complaint Centre Ex. PW 43/A were handed over to R S Khatri, Chief IO. He has deposed that on 2.8.97, the proceedings regarding measurement and inspection of various parts of Uphaar Cinema complex were prepared with the assistance of Dalip Singh, Executive Engineer and B S Randhawa of Public Works Department, the Punchnama Ex. PW 29/A was prepared and he also prepared the memo Ex. PW 29/A after taking measurements by the officers accompanying. He has deposed that on 29.7.97, he had seized files Ex. PW 29/DA and DB from Executive Engineer PWD II Division under Production cum Receipt memo Ex. PW 28/A. On 26.7.97, he seized documents as mentioned in Seizure memo Ex. PW 69/A from Insp. Satya Pal Singh.

PW 82 ASI Rattan Lal had recorded FIR bearing No. 432/97 relating to Uphaar Cinema on the basis of complaint of Sudhir Kumar, carbon copy of which has been proved as Ex. PW 82/A.

PW 86 Insp. Ran Singh has deposed that on 20.7.97 he assisted the main IO in the investigation of the present case

and during investigation, he seized documents from the office of Delhi Vidyut Board vide memo Ex. PW 86/A and had also seized register Ex. PW 42/A, Ex. PW 40/A and Ex. PW 43/A also besides other documents as per seizure memo Ex. PW 86/A.

PW 88 Surender Kumar, Deputy Chief Fire Officer had handed over the file relating to serious fire at Uphaar cinema dated 6.7.89 with FR No. 238 of Safdur Jung Fire Station. The first note sheet Portion A to A bears the signatures of V S Ahluwalia, Note sheet Portion B to B bears the signatures of Gulshan, Divisional Officer, Portion C to C bears the signatures of R C Sharma, Deputy Chief Fire Officer, Portion D to D bears the signatures of Gulshan Jaggi, Portion E to E bears the signatures of R C Sharma, Portion F to F bears the signatures of J C Sharma, Portion G to G bears the signatures of S K Dheri, Chief Fire Officer. The correspondence portion consists of letter of Deputy General Manager of Uphaar Cinema intimating about the fire and to carry out repairs to the building. The said letter has been proved as Ex. PW 88/B. He has deposed that at the request of Deputy General Manager, Fire report was sent to him which was received on behalf of M/s Green Park Theaters and Associated Pvt. Ltd., carbon copy of which has been proved as Ex. PW 88/C. The said report was also sent to Government, carbon copy of which has been proved as Ex. PW 88/D. He has also proved the Fire Report of S K Dheri, Chief Fire Officer as Ex. PW 88/E with enclosures Ex. PW 88/E1 and E2. The seizure memo Ex. PW

88/F bears his signatures which was prepared for handing over the FIR report (D-88). He also handed over one Casual Leave Register for the period 1995 to 1996 containing 92 pages to CBI vide memo Ex. PW 88/G and as per Page 50 of the said register, leave was sanctioned to H S Panwar, Divisional Officer for 22.12.96 by S K Dheri, Chief Fire Officer, the said register has been proved as Ex. PW 88/H. He has deposed that at the time of handing over this register, Page 45 to 50 were there but at the time of deposition, these pages were found missing photocopy of Page No. 50 has been proved as Ex. PW 88/J which bears his signatures at Point A and B.

PW 89 Sanjay Tomar, Station Officer has deposed that on 2.8.97 he had handed over nine documents to CBI vide seizure memo Ex. PW 89/A including register of Occurrence Book for the period 13.12.96 to 18.1.97 in respect of Bhikaji Cama Place Fire Station consisting of 400 pages in intact position but at the time of deposition, Page No. 95 to 104 were found missing. The said register has been proved as mark PW 89/A1.

PW 90 M L Dhuper while working as Chief Manager in Punjab National Bank, on 18.8.97, he had handed over two cheques i.e one cheque bearing No.805590 for Rs.2,96,550/- dated 12.2.97 favouring M/s Chancellor Club in Account No. 4442 and another cheque bearing No.805578 dated 30.11.96 for Rs.1,50,000/- favouring Music Shop in account No. 4442. Account No. 4442 was in the name of M/s Ansal Theaters and

Clubotels Pvt Ltd vide seizure memo Ex. PW 90/A, the photocopies of the said cheques have been proved as Ex. PW 90/B and C.

PW 91 M C Khullar, Manager, Punjab National Bank has deposed that on 27.8.97 as per the instructions from Senior Manager, he went to CBI Office and delivered Cheque bearing No. 955725 dated 26.6.95 drawn on their bank for a sum of Rs.50 lacs issued in the account of M/s Green Park Theaters Associated Pvt. Ltd (Current A/c No. 4129) in favour of Sushil Ansal, the said cheque was seized by CBI vide memo Ex. PW 91/A, the copy of said cheque has been proved as Ex. PW 91/B.

PW 93 is Ishwar Bhatt. He has deposed that on 27.8.97 while he was posted as Assistant Manager in Syndicate Bank, Green Park Branch, he handed over original cheque to CBI bearing No. 183618 dated 23.5.96 for a sum of Rs.9711/- issued by Gopal Ansal in favour of Chief Engineer which was seized vide seizure memo Ex. PW 93/A, the photocopy of said cheque is Ex. PW 93/B and this cheque pertains to Current Account No. 642.

PW 94 Insp. A K Gupta, on 18.8.97, had seized two cheques vide memo Ex. PW 90/A, photocopy of cheques have been proved as Ex. PW 90/B and C. On 27.8.97, he had seized another cheque Ex. PW 93/B vide memo Ex. PW 93/A.

PW 95 T S Mokha has deposed that in the year 1997, he was working as Senior General Manager in Ansal Property and

Industries. He handed over documents which were seized by CBI vide memo Ex. PW 78/D. He has deposed that he had handed over Diary of M/s Ansal Group of Properties Ex. P9, four coloured seating plans to CBI vide covering letter Ex. PW 95/A. On 27.8.97, he had handed over attested photocopies consisting of four sheets pertaining to sitting plan to the Investigating Officer and the same have been proved as Ex. PW 95/B1 to B3 and Ex. PW 29/DJ.

PW 96 is Vijay Bahadur, Station Officer. In his testimony, he has deposed that on 21.7.97 while he was posted as Sub Officer in Bhikaji Cama Place Fire Station, he had handed over one register Ex. PW 96/B to Inspector, Crime Branch which was seized vide memo Ex. PW 96/A. This register was being maintained in normal course for making entries regarding fire incident or any other entry for occurrence and it also contains the entry of the officials who attended the occurrence and their arrival back to the office and for making entries in the said register, one Fireman has been deputed. The register Ex. PW 96/B consists of 400 pages and contains the entries for the period 6.5.97 to 11.6.97. Another register Ex. PW 96/C for period 11.6.97 to 18.7.97 consisting of 378 pages was also seized by CBI officials vide memo Ex. PW 96/D, **the said register contains the entry for 13.6.97 from Page 16 to Page no. 25, as per the entry Ex PW 96/E made by Ajit Singh, the information was received in their office at 17.10 hours. The said entry is in red ink and bears the initials of Ajit Singh as per rules.**

INVESTIGATION/FORMAL WITNESSES

PW 67 Y K Luthra, Executive Engineer, BSES deposed that on 13.6.97 he was posted as Assistant Engineer at Okhla and was assigned the job of Assistant Engineer at Sub-Station R K Puram on 18.6.97 and came to know through media about the fire incident in Uphaar Cinema. On 18.9.97 as per the directions of SP,CBI, he went to CBI Head Quarter Samrat Hotel where he met Mr. Shekhar, Junior Engineer and IO and where specimen signatures of Mr. Gera were taken, same have been proved as Ex. PW 67/A1 to A33. He has deposed that on 8.10.97, he again went to CBI Head Quarters where specimen signatures of Bir Singh Ex. PW 67/A34 to A37 and specimen signatures of B M Satija Ex. PW 67/A38 to A41 were taken. He also handed over the leave application of A K Gera Ex. PW 67/A42 for the period 23.5.97 to 30.5.97 to the IO.

PW 68 D R Thukral, retired Assistant Engineer deposed that on 8.10.97, he was posted as Assistant Engineer Zone 1603 Andrews Ganj. As per the directions of the IO, he handed over leave application of A K Gera Ex. PW 68/A to the IO in CBI office which he seized vide memo Ex. PW 68/B and on the same date, specimen signatures of Bir Singh Ex. PW 67/A34 to A37 and B M Satija Ex. PW 67/A38 to A41 were also taken in his presence.

PW 70 Insp. Azad Singh has deposed that on 13.6.97 while he was posted as Addl. SHO in P S Hauz Khas he received an information on wireless regarding fire in Uphaar cinema building at Green Park. He immediately rushed to the

spot at about 5.30 p.m. and found police officials present there and lot of smoke was coming up from cinema building. Fire Brigade officials were also present there, injured persons were shifted to different hospital. He inquired from the cinema staff and recorded the statement of one gatekeeper Sudhir Kumar Ex. PW 63/A on which he made his endorsement Ex. PW 70/A and got the FIR registered, carbon copy of FIR is proved as mark PW 70/A. He prepared site plan Ex. PW 70/B and he interrogated the persons present there and recorded their statement and also inquired from the Managers of Uphaar Cinema and arrested accused Mr. Malhotra, Ajit Choudhary, Radha Kishan Sharma, Mr. Chopra. He deposed that spot was got inspected by the Crime Team and five articles were seized from the spot as per the instructions of Dr. Rajinder Singh SSO-1, Physics, CFSL vide memo Ex. PW 64/DA. He had also taken into possession the transformer oil in a separate bottle Ex. P6. He had also seized lead and bolt Ex. P2 and P3, aluminium wires Ex. P4 and P5 and all these articles were seized vide memo Ex. P7/1-5. He had also seized radiator fin vide memo Ex. PW 64/DA and also the radiator tube. Later on the case file was handed over to Insp. Kumedan Khan for further investigation.

PW 99 Insp. Tribhuwan in his testimony deposed that during investigation he had assisted Shri R S Khatri the main IO of the present case and had taken charge of register Ex. PW 99/B (D-89) titled as Occurrence Book of Control room Delhi Fire Service Head Quarters consisting of 400 pages from A K

Bhatnagar, Asst. Divisional Officer vide memo Ex. PW 99/A which bears his signatures at Point A and signatures of A K Bhatnagar at Point B. He deposed that at the time of seizure this register contained 400 pages but at the time of deposition, it was found to contain 362 pages, he has proved the photocopy of Page No. 379 containing the entry dated 12.5.97 regarding occurrence as Ex. PW 99/C. This witness also identified his signatures on Ex. PW 88/G (D-92) at Point A and of Surender Kumar, Deputy Chief Fire Officer at Point B. He had also seized Casual Leave Register Ex. PW 88/H consisting of 192 pages but page No. 50 was found missing from this register, photocopy of Page No. 50 has been proved as Ex. PW 88/J. This page relates to H S Panwar, Divisional Fire Officer for 22.12.96. He has deposed that on 27.8.97, he had taken charge of another file (D-88) relating to fire incident at Uphaar Cinema on 6.7.89 from Surender Kumar, Deputy Chief Fire Officer which contains one sheet Ex. PW 88/A containing notings and Page No. 1 to 7 contains the correspondence and the same have been proved as Ex. PW 88/C, Ex. PW 88/B, Ex. PW 88/D, Ex. PW 88/E, E1 and E2.

PW 100 Insp. Ram Chander Garvan in his testimony deposed that he also assisted IO R S Khatri in the investigation of the present case. On 6.9.97, he had seized one General Diary Register Ex. PW 100/B of Sub Station R K Puram w.e.f January, 1989 to December, 1989 from Insp. Nagender Shekhar, DVB vide memo Ex. PW 100/A (D41) which bears his signatures as well as the signatures of Insp. Nagender

Shekhar, DVB. He has deposed that on 1.8.97 he had seized one MAS register Ex. PW 100/D of DESU Sub Station R K Puram from Y K Luthra, Asst. Engineer vide receipt memo Ex. PW 100/C and at the time of its seizure, Page No. 151 was missing. On 4.8.97, he had also seized file Ex. PW 100/F marked L1(524) HT supply to Uphaar Cinema, New Delhi Land and Estate DESU containing 43 sheets of correspondence and 17 pages of notings from M K Saxena, Naib Tehsildar, DVB vide memo Ex. PW 100/E. He had also seized Logsheet of AIIMS Grid Station dated 13.6.97 Ex. PW 24/DA from Baljit Singh, Technical Superintendent vide memo Ex. PW 100/G. He had also seized carbon copies of sheet of formal INA-32 showing details of attendance of supervisory staff of Sub Station R K Puram(DESU) for the period 22.6.89 to 21.7.89 and 1.6.97 to 30.6.97 vide memo Ex. PW 100/H. He had also seized the original Agreement made on 19.10.1973 between DESU and M/s Green Park Theaters Associated Pvt. Ltd alongwith other relevant papers Ex. PW 100/L and file Ex. PW 100/M pertaining to M/s Green Park Extension Market bearing No. BS-2-286 containing 43 pages on noting side and Page No.1 to 213 on correspondence side vide memo Ex. PW 100/K. He had also seized six documents Ex. PW 100/P1 to P6 as mentioned at Serial No. 1 to 6 on seizure memo Ex. PW 100/N from H S Bhandari, AE(P&S) Delhi Vidyut Board, Distt. R K Puram which bears his signatures as well as signatures of H S Bhandari. He has deposed that after seizing all the abovesaid documents, he handed over all the documents to Shri R S Khatri, the main IO

of the present case.

PW 101 Insp. Deepak Gaur, CBI, in his testimony, has deposed that on 2.8.97 the investigation of the present case was handed over to him and on 2.8.97. He prepared seizure memo Ex. PW 89/A vide which nine documents were seized by him from Sanjay Kumar Tomar, Sub Officer Head Quarters Delhi Fire Service. He had seized register Ex. PW 101/A for the period 13.12.96 to 18.1.97 containing 400 pages. At the time of his deposition, Page No. 95 to 104 were found missing and on Page No. 109 to 116, ink was spread over these pages and he has deposed that no page was missing nor any ink was spread on any of the pages at the time of its seizure. He has proved the photocopy of those pages as Ex. PW 101/A1 to A11.

PW 102 Insp. Rajiv Chandola on 26.8.97 had seized Autopsy report of Capt. M S Binder Ex. PW 77/A vide seizure memo Ex. PW 77/B. He had also seized file of Uphaar Cinema Ex. PW 102/B, sixteen original sanction plans of Uphaar Cinema Ex. PW 102/C1 to C16, another file consisting of Page No. 1 to 62 Ex. PW 102/D1 to D62 pertaining to correspondence of Uphaar Cinema vide seizure memo Ex. PW 102/A. He had handed over all the seized documents to R S Khatri, main IO of the present case.

PW 104 Shri M S Virk in his testimony deposed that while he was working as DSP, SIC IV, CBI, he assisted R S Khatri, main IO of the present case. On 27.8.97, as per the instructions of the IO, he seized cheque in original from M C Khullar, Asst. Manager bearing No. 955725 dated 26.6.95 issued by Sushil

Ansal, Authorised Signatory of M/s Green Park Theaters and Associated Pvt. Ltd amounting to Rupees Fifty Lacs drawn from Account no. 4129 of Punjab National Bank, Rajinder Nagar vide seizure memo Ex. PW 91/A and has proved the photocopy of the cheque as Ex. PW 91/B.

PW 105 Insp. Satpal Singh in his testimony deposed that on 26.7.97 after the investigation of the present case was transferred to CBI, he handed over the documents as mentioned in seizure memo Ex. PW 78/B and photocopy Ex. PW 81/B to Prithvi Singh, DSP, CBI which bears his signatures as well as the signatures of Prithvi Singh, DSP,CBI. He has deposed that register mark PW 78/A, 78/A2, 78/C,D bears his initials on each written page. He had also handed over documents mentioned in memo Ex. PW 103/A which were seized by him on 11.7.97. After seeing four registers regarding Minutes of Board of Director's Meeting mark PW 103/X1 to X3 and Ex. PW 103/X, he has deposed that as per the last register mark PW 103/X3, the name of the company was changed to Ansal Theaters and Clubotels Pvt. Ltd on 11.3.96. He had also handed over two registers mark PW 103/X4 and X5 to CBI.

PW 106 Insp. Kishore Kumar, Delhi Police in his testimony deposed that in the year 1997 while he was posted as DSP,CBI, as per the instructions of Shri M Narayanan, he assisted R S Khatri, Chief Investigating Officer in the present case and during investigation, on 29.7.97, he had collected one file mark PW 106/A titled as ' Report regarding Uphaar Cinema ' from the office of Building Department, Municipal Corporation

of Delhi, South Zone Green Park from R K Bhattacharya, Executive Engineer vide memo Ex. PW 39/G. **This file contains 13 sheets in respect of detailed inspection and inspection of scene of crime which was conducted on 24.6.97 regarding irregularity in the building of Uphaar Cinema.** He had also seized one file mark PW 106/A1 titled as ' Letters received from DCP (Licensing)' from the building department. He has deposed that on 30.7.97 he had seized one file mark PW 106/A2 titled as ' Report of Physical Survey of various cinema halls from R K Dutta, JE, Municipal Corporation of Delhi and each page of this file bears the initials of R K Dutta with date as 30.7.97. On 4.8.97 he had seized one original D.O Letter No.6304 dated 15.4.96 of DCP (Licensing), copy of Office Order dated 2.6.97 of Municipal Corporation of Delhi, Engineering Department, copy of Lt. Govn. order dated 24.3.84 from Ombir Singh, Vigilance Department, Municipal Corporation of Delhi vide seizure memo Ex PW 106/C. On 9.8.97, he had seized one file Ex. PW 38/A titled as M/s Green Park Associated Pvt. Ltd vide seizure memo Ex. PW 38/B as per which, Shyam Sunder Sharma, Administrative Officer had issued 'No Objection Certificate' to DCP (Licensing) whereas he was not empowered as per the Cinematograph Act, the memo in this regard is Ex PW 2/A26, similarly, on 23.9.96 N D Tiwari, Administrative Officer of Municipal Corporation of Delhi South Zone had issued 'No Objection Certificate' to DCP (Licensing) for the year 1996-97, office copy of the said letter has been placed in file Ex. PW

2/A27 and seized the above said files vide memo Ex. PW 70/H. After seizing the above said documents, he handed over the documents as well as the statement of witnesses to R S Khatri, Chief Investigating Officer.

PW 107 Avtar Singh in his testimony deposed that in the year 1997 while he was posted in Punjab and Sind Bank, Green Park on 27.8.97, certain documents as mentioned in seizure memo Ex. PW 98/A were handed over by K L Malhotra, Deputy General Manager to CBI. He identified his signatures at Point B, of K L Malhotra at Point A and that of CBI officer at Point C of the said memo. Attendance register Ex. PW 98/B for the month of May and June, 1997, file Ex. PW 98/C containing minutes of meetings was seized vide memo Ex. PW 98/A. He has deposed that in file containing minutes of MD meeting, Page No.1,9,12,14,18 and 19 were found to be missing but at the time of its seizure, file was intact and no page was missing. He had initialed on each page of this file. He has proved the photocopy of missing pages as Ex. PW 98/X1 to X6.

PW 97 Bharat Singh in his testimony deposed that in the year 1997 he was Gate Keeper in Uphaar Cinema. As per the routine there were two shifts i.e. 9 a.m. to 5 p.m. and from 5 p.m. till the end of last show. In Uphaar Cinema there were 13/14 gatekeepers, four Managers, namely, K L Malhotra, Nirmal Chopra, Ajit Choudhary and R K Sharma and Man Mohan Uniyal was Gatekeeper. He deposed that as per the rules duty List was prepared for Gatekeepers for each day and

duty roaster for 13.6.97 is proved as Ex. PW 97/A, as per which, accused Man Mohan Uniyal was on duty in balcony. He was deputed on main gate and remaining five gatekeepers were deputed on different gates. Duty Roaster Ex. PW 97/A bears the signatures of Man Mohan Uniyal at Point A and his signatures at Point B and he has also proved 20 Duty Roasters for the month of June, 1997 as Ex. PW 97/B1 to B20 and has also proved the attendance Register as Ex. PW 97/C.

PW 98 Insp. M S Phartyal has deposed that during investigation he had assisted Shri R S Khatri, the main IO of the present case and on 27.8.97. He seized certain documents vide memo Ex. PW 98/A from Mr. Malhotra, Deputy General Manager, Uphaar Cinema in the presence of one witness Avtar Singh of Punjab and Sind Bank, Green Park Branch. He deposed that he had seized Attendance Register Ex. PW 98/B showing attendance of May and June, 1997, file Ex. PW 98/C consisting of Minutes of MD meeting and other correspondence consisting of 40 pages. He had obtained signatures of witness Avtar Singh on each page of this file. proved the photocopies of Page No.1,9,12,14,18 and 19 as Ex. PW 98/X1 to X6 as the same were found missing at the time of his deposition.

No Objection Certificate

PW 22 Vir Bhan Sethia in the year 1995-96 was working as Licensing Inspector and his duty was to remove the unauthorized encroachment on government as well as public land. He has deposed that Cyclostyled copy of letter No. 5275-79/DCP-LIC (Cinema) dated 20.4.95 was received in their office relating to M/s Green Park Theaters Associated Private Limited of Uphaar Cinema, Green Park. This letter was marked to Zonal Engineer Building and on the remarks of Mr. Sehrawat and the same was put up before ZE Building. Then it was marked to Shyam Sunder Sharma, Administrative Officer, South Zone who marked the same to Licensing Department and Shyam Sunder Sharma, accused present in court marked this letter to PW 22. He has deposed that Mr. Malhotra (now deceased), Manager of Uphaar Cinema met accused Shyam Sunder Sharma and requested him to issue 'No Objection Certificate' and also informed him that they have to get Trade License for storage of films. On the oral orders of accused Shyam Sunder Sharma, 'No Objection Certificate' was issued for the year 1995-96 for renewal of Annual Cinematograph License for Uphaar Cinema. He has proved the letter/'No Objection Certificate' dated 28.9.95 bearing No. 1606/AO/SZ/95 as Ex. PW 2/A26 which bears the initials of Shyam Sunder Sharma. The original of this letter was received by K L Malhotra and put his sign on the carbon copy at Point C, for transmission to DCP (Licensing). He has proved letter dated 20.4.95 as mark PW 22/A which was received by Shyam

Sunder Sharma and has also proved his noting dated 28.9.95 regarding issue of 'No Objection Certificate' for renewal of license with reference to letter dated 20.4.95 and proved the noting as Ex. PW 22/A and endorsement/order of Shyam Sunder Sharma below this noting for issue of 'No Objection Certificate' at Point A and B of Ex. PW 22/A and this note was marked to him (PW 22) for issuing the 'No Objection Certificate'. He has also proved the note sheet at Page 4N as Ex. PW 22/B which is in his hand writing and bears the signatures of Rajbir Singh with date 16.10.95 and this note was regarding issuance of duplicate license as the previous was destroyed. **He has deposed that physical inspection of Uphaar Cinema hall was not conducted by him and Shyam Sunder Sharma before issuing 'No Objection Certificate' for the year 1995-96.**

PW 23 Bharat Bhushan is Licensing Inspector. Letter dated 19.9.96 mark 23/A addressed to Administration Officer was received in their office from Manager, Uphaar Cinema and accused N D Tiwari marked the said letter to Licensing Clerk. The Licensing Clerk made endorsement in his name to issue 'No Objection Certificate' for renewal of license from 1.4.96 to 31.3.97 and he identified the hand writing and initials of Rajbir Chauhan at Point Y of mark PW 23/A . He identified the noting at Page 5N of file D 82 which is in his hand writing and he had prepared this noting for issue of 'No Objection Certificate' for renewal of license for Uphaar Cinema from 1.4.96 to 31.3.97

after discussing it with accused N D Tiwari and he has proved the endorsement with his signatures dated 23.9.96 as Ex. PW 23/A. Then N D Tiwari approved the note at Point Z. Thereafter as per the marking, Licensing Clerk, the said note along with the letter was put up before N D Tiwari who put his signatures at Point Y 1. He has deposed that Mr. Malhotra, Manager of Uphaar Cinema met N D Tiwari on 23.9.96 and letter/'No Objection Certificate' dated 25.9.96 Ex. PW 2/A27 was typed in their office and in his presence, accused K L Malhotra had collected the original of this letter from Dispatch Clerk. **This 'No Objection Certificate' was issued without inspecting Uphaar Cinema nor in his presence.** Administrative Officer had inspected the Uphaar Cinema.

Scene of Fire :-

PW 27 Bansi Ram Meena, Fireman was on duty on Water Tender 85 at about 5 p.m. At 5.10 p.m., on hearing the fire alarm, getting slip from all of them boarded their fire vehicles. He along with SDO Roop Ram, Fireman Brahm Singh, Sukhbir Singh, Suresh M, Samunder Singh boarded one vehicle. At Uphaar cinema, they found lot of smoke coming out from the cinema building and they also saw flames in car parking area. As per the directions of SDO Roop Ram, fire was extinguished with the help of pipelines. Another fire brigade vehicles helped in rescue process.

PW 30 Ajit Singh, Fireman has deposed that on 13.6.97, he was on duty on WT 116 and on that day, at about 5 p.m., on hearing the fire alarm, he Sub-Officer Vijay Bahadur, Davinder

and Surender, Bhagwan Singh reached Uphaar Cinema and they saw that public was running around Uphaar Cinema. They laid down pipe line and extinguished the fire and it took them 45 minutes to one hour to extinguish the fire.

PW 49 R C Sharma, Chief Fire Officer has deposed about Proforma of 1994 prepared by the Chief Fire officer. Proforma was prepared to upgrade fire safety requirements for the cinema hall. As per the earlier Cinematograph Rule, 1981 this particular cinema had only three recommendations regarding fire safety i.e. fire blankets, fire buckets and trained operator. The new recommendations included fire extinguisher in specific areas, rubber mats, Public Announcement System, emergency exits, sign age standby power supply, first aid box, asbestos blankets, hosereels, water tanks and trained personnels etc.

He has deposed that on 13.6.97 that he received a call of fire at 17: 25 hours at Connaught Circus Fire Station. He reached Uphaar Cinema and found people trapped inside the balcony area. He entered through staircase near the lift and went upto the first floor. There was no fire at that place at that time. The official of the fire department were cooling the area which was quite hot. He went to the balcony level and found smoke there. He tried to open the door of the balcony but could not open it. With the help of other officers A K Bhatnagar and Rajan Wadhera, the door was opened and rescue process took place to help the people trapped inside. At the request of Naresh Kumar DCP, South he reached Uphaar Cinema on 14.6.97 and inspected the spot along with Naresh Kumar, DCP

South. They also operated two or three fire extinguishers which were found functioning, Hosereel was there but water was not available as there was no electricity. The fire extinguishers were displayed at different boxes and two three were lying outside the transformer room. He has deposed that the underground tank by the side of cinema hall was having a wire mesh fencing constructed and some crates of cold drink were also lying there. There was no restaurant on the top.

On inspection of the transformer room he found that the fire confined to DVB transformer room which was part of the parking area. The burnt vehicles which were parked there were at a distance of one meter from the door of transformer. There was no separate mark for parking line.

The Public Announcement System was there in the Projector Room but mike was in other room. Emergency light was not available. During the inspection, it was found that the building was more than 15 meters and was covered in the category of high rise building but the Expert Committee has not included it in the list of high rise building. He has proved the Note Sheet No. 23 (D-84) pertaining to Delhi Fire Service as Ex. PW 49/A which was prepared in compliance to the letter dated 20.3.95 of DCP Licensing Ex. PW 37/AE. He has proved 'No Objection Certificate' dated 17.4.95 Ex. PW 33/A issued by their office under the signatures of Deputy Chief Fire Officer. This witness has also proved the letter dated 28.11.96 Ex. PW 33/F which is torn from bottom bearing the signatures of H S Panwar. He has deposed that photocopy of full document was taken at that

time when it was complete and the same was supplied to accused. The photocopy of document has been proved as Ex. PW 49/B, Note Sheet bearing the signatures of Surender Dutt and H S Panwar as Ex. PW 49/C. He has also proved the Occurrence Register of Delhi Fire Service as Ex. PW 49/D and on 12.7.97. He handed over this file and register D 85 to Crime Branch vide memo Ex. PW 49/E. File D 88 containing the Inspection Report Ex. PW 88/D pertaining to fire incident on 6.7.89 at Uphaar Cinema building and the note sheet dated 11.7.89 Ex. PW 88/A. He has also proved the carbon copy of the report sent to Lieutenant Governor of Delhi as Ex. PW 49/E, letter dated 30.8.94 received from Uphaar Cinema by Chief Fire Officer as Ex. PW 49/F.

PW 51 Manmohan Sehgal was running the business of carpet cleaning and was having a shop on the right side of Uphaar Cinema outside car parking since 1976 having an area of 100 Sq. Feet. He has deposed that on 13.6.97 due to some business work he was away and when he came back at 4.55p.m. at Uphaar Cinema building, he found lot of smoke but he could not enter inside the shop and saw people throwing water on fire.

PW 52 Ct. Sumer Singh has deposed about the ownership by Gopal Ansal and Sushil Ansal and also deposed about the scene of fire being present at the spot. He has deposed that Gopal Ansal and Sushil Ansal were the owners of Uphaar Cinema and Mr. Malhotra, Mr. RM Puri, Ajit Choudhary and Radha Kishan Sharma and Chopra were the Managers of

Uphaar Cinema. In his testimony he has deposed that while the show between 3 p.m. to 6 p.m. was being displayed, after the interval, he went to check up whether everything is right. He went upstairs and heard 'Dhamaka' and came downstairs running and saw that the transformer room had caught fire and transformer oil was coming at a fast speed. A dark black smoke was coming out of the room. He passed on the information to the worker of Sethi to throw sand to extinguish the fire and then he rushed to Manager room. He passed on information at 100,101,102 number. He raised alarm. All the doormen of Uphaar Cinema ran away without opening the door. 24/25 people were standing on the roof and he helped the public in rescue process and also helped in shifting them to hospitals. None of the official/ manager of Uphaar Cinema was present there. There was no announcement system and no provision of emergency light.

Sanction:

PW 71 Shri C B Verma has proved the Sanction Order Ex. PW 71/A accorded by Lieutenant Governor of Delhi for prosecuting accused H S Panwar and Surinder Dutt.

PW 72 Shri V Shree Kumar has proved the Sanction Order for prosecuting accused S N Dandona as Ex. PW 72/A.

PW 73 Shri Y P Singh has proved the Sanction Order for prosecuting accused A K Gera, B M Satija and Bir Singh as Ex. PW 73/A.

PW 84 Shri V K Duggal has deposed that on 28.11.97

while he was posted as Commissioner in Municipal Corporation of Delhi, he accorded the sanction to prosecute Shyam Sunder Sharma and N D Tiwari, Administrative Officers, Municipal Corporation of Delhi vide Ex. PW 84/A which bears his signatures at Point A.

Cause of Death :

PW 62 Dr. T D Dogra received letter dated 5.9.97 addressed to Director, AIIMS from M Narayanan, SP CBI enclosing a questionnaire for expert opinion with a request to visit scene of occurrence. Medical Board consisting of five doctors considered and gave the answers to the questionnaire and proved the report Ex. PW 62/A which bears the signatures of all the concerned doctors. The witness has stated that the report consisting of Annexure 1 containing the list of deceased persons, Annexure 2 containing the list of injured persons, Annexure C the photocopy of relevant material of the text book of Medical Toxicology and Annexure 4 containing the photographs of relevant portion of the Textbook on Toxicological Emergency. The witness has proved Ex. PW 62/B and C letter of CBI dated 5.9.97 containing seven questions signed by M Narayanan and R S Khatri. He has proved 41 certificates in respect of dead persons PW 62/D1 to D41 counter signed by him at Point A. The cause of death was stated to be suffocation in all the 41 cases. 65 MLCs mark X1 to X65 have also been proved and the witness has stated that same were prepared by Dr. Deepak Singh and Dr. P S N Yadav.

PW 77 is Col. S Satyanarayanan of A.F.M.C Pune. He

has deposed that on 14.6.97, while he was posted as Classified Specialist in Command Pathology Laboratory Delhi Cantt, he was given the Authority Letter by Senior Registrar and O C Troupes Army Hospital to conduct the Post Mortem on the body of Late Captain M S Bhinder and thereby, he conducted internal, external and pathological examination over the body of deceased M S Bhinder. He prepared the Autopsy Report Ex. PW 77/A and also opined the cause of death as asphyxia. He also identified the signatures of Lt. Col. P J S Bhalla on memo Ex. PW 77/B.

Report regarding oil :

PW 83 K S Chabbra is Senior Scientific Officer cum Assistant Examiner, CFSL. He has deposed that he had examined Parcel No.1, 4, 5,7 and 8 containing transformer oil Ex. P6, petrol Ex. P7, soil samples taken underneath the radiator, at middle point from the transformer, outside the transformer room, from the right wall, collection from underneath the burnt cars back portion Ex. S1(1) to S1(5) in his Laboratory and prepared report Ex. PW 83/A.

Non-availability of PA system, lights etc. :-

PW 85 Madhukar Bagde, Projector Operator in Uphaar Cinema has deposed that Sushil Ansal and Gopal Ansal were the owners of Uphaar cinema and used to come sometime whereas R M Puri, K L Malhotra, N S Chopra, Mr. Choudhary and Mr. Sharma were the Managers of the said cinema and used to come daily to cinema. He has deposed that besides

him, one Mishra was also Operator in Uphaar Cinema, one Gopi Chand was also working as Operator and including him, there were four Operators. The projector was installed in Projector Room, the balcony was underneath Projector Room. There was announcement in the Operator Room but that was not functioning, **he had told this fact to Mr. Malhotra to get it rectified but it was not rectified** and was not operating. He has deposed that on 13.6.97, he resumed his duties at 5 p.m. and he straight away went to his cabin where he was informed about fire in cinema hall and was directed to stop the movie but there was no electricity and everything stopped itself and then, there was fire. People sitting in the hall came out of the hall and persons who were sitting on the balcony went to roof and balcony. Thereafter, he helped the public in rescue process. The staff and public was also helping in rescue process. He has deposed that none of the operators were given any training for fire fighting.

Directors

PW 87 Samir Biswas has deposed that in the year 1997, while he was posted as Registrar of Companies, he had handed over certain documents on 1.8.97 vide memo Ex. PW 87/A. He had handed over copies of seventy two documents, the same are Ex. PW 87/1 to 72. The photocopy of certificate of M/s Green Park Associated Pvt. Ltd has been proved as Ex. PW 87/A1. He has proved the photocopy of Memorandum of Associations and Articles of Association as Ex. PW 87/A2 and A3, photocopy of certificate of incorporation consequent to

the change of name of company has been proved as Ex. PW 87/A4 and Articles of Association and Memorandum of Association as Ex. PW 87/A5 and A6. He has proved Form No. 32 dated 17.11.88 filed by Green Park Theaters & Associated Pvt. Ltd presented by S K Ichhapuniani, Director of the said company and in that Form, particulars of Sushil Ansal, Gopal Ansal, Mrs. Divya Ansal are mentioned as ceased to be Directors of the company w.e.f 17.10.88 and in addition, S K Ichhapuniani and J L Dhar have been shown to be appointed as Additional Directors w.e.f 17.10.88 **but this Form was not registered till date.** He has deposed that it is not true that Director who has been appointed as Additional Director of the Company by virtue of Form No. 32 cannot act as Additional Director. Form No. 32 has been proved as Ex. PW 87/B. Another Form No. 32 Ex. PW 87/C was filed by Green Park Theaters & Associated Pvt Ltd presented by P Dharwadkar reported to be Director of the company on 23.1.95 and was filed on account of appointment of Gopal Ansal, P P Dharwadkar, Vijay Kumar Aggarwal, Subash Verma, Kusum Ansal w.e.f 24.12.94 as Directors of the Company, **this form is also lying pending in office on account of some irregularities.** He has deposed that unregistered documents are not available for public inspection and only registered documents are available for public inspection. He has deposed that non-registration of documents does not effect the working of the Director after filing of the said documents. He has deposed that from the perusal of records of registrar of companies and

Form No. 32 filed by the said company are dated 23.1.95, 22.3.95, 11.4.96, 16.6.97, 29.8.97, although, appointment of Gopal Ansal as Director w.e.f 24.12.94 has been shown but resignation of Gopal Ansal as Director of the company has not been shown in any of the Forms and as on 13.6.97, **resignation of Gopal Ansal was not received in the office of Registrar of Companies, hence, he continued to be Director of company on 13.6.97.**

PW 103 Shyam Sunder Gupta in his testimony has deposed that in the year 1993 he had joined Ansal Properties and Industries Ltd and prior to that he was Company Secretary in Ansal Housing and Constructions Ltd w.e.f 2.9.85. He left that company in August 1990. He was never Director in the abovesaid company and was always a Company Secretary of these companies and Uphaar Cinema was not in Ansal Group as it was separate entity in the name and style of Green Park Theaters Associated Pvt. Ltd and its name was later on changed to Ansal Theaters and Clubotels Pvt Ltd. He was Director in Green Park Theaters Associated Pvt. Ltd w.e.f 1.3.93 to May 1995. In the year 1997 as a Company Secretary of M/s Ansal Properties and Industries he was holding the position as Additional General Manager. He has deposed that he had handed over documents to Insp. Satpal Singh who seized the same vide memo Ex. PW 103/A. He handed over the secretarial record to Inspector after opening the almirah with the help of keys. These secretarial records consists of Minute Books and files consisting of correspondence with ROC

and filing of documents with Registrar of Companies. He was also asked to fetch the secretarial documents of M/s Green Park Theaters and Associated Pvt. Ltd which is Director's Minute Book Mark X as mentioned at Serial No. 1 of the said memo. He has deposed that as per memo Ex. PW 103/A, he handed over registers mark PW 103/X, mark PW 103/X1 to X4. He deposed that as per register mark PW 103/X3 Page No. 481 to 485, R M Puri chaired the meeting and at that time, besides him, R M Puri, Rakesh Malhotra were Directors of the company and in that meeting, he was appointed as Addl. Director of the company and was appointed as Chairman of next meeting. The relevant five pages signed by him have been proved as Ex. PW 103/B1 to B5, Minutes of meeting held on 1.3.94, 5.4.94 and 30.6.94 as Ex. PW 103/B7 to B11, Ex. PW 103/B13 to B16 and Ex. PW 103/B17 to B18, Minutes of meetings held on 1.9.94, 25.10.94, 15.11.94, 28.11.94, 5.12.94 as Ex. PW 103/B19 to B33 and Ex. PW 103/B35 to B38. He has deposed that he had also chaired the meeting held on 24.12.94 but he did not know as to who signed the minutes or who prepared the minutes and what happened in that

meeting. Minutes of the meeting held on 24.12.94 is proved as mark PW 103/X6 to X8. He had not chaired the meeting held on 5.1.95 but he attend the meeting as Director and after seeing the contents of this meeting, he had stated that he had not tendered his resignation in this meeting. Minutes of the said meeting is proved as mark PW 103/X9 to X11. He was unable to confirm as to who was the Director and invitees in the meeting held on 24.12.94 or that whether the names mentioned in the minute book were present in the said meeting or not. He has deposed that he submitted his resignation in March,1995. After seeing the contents of the Minutes of the meeting held on 5.1.95, he has stated that Vijay Kumar Aggarwal had chaired this meeting. He has deposed that he had not attended the meeting held on 18.3.95 and he did not remember whether his resignation was put in this meeting or his activities were appreciated in this meeting and even after seeing the contents of the minutes of the meeting held on 31.3.95, this witness could not recall that whether he was the authorised signatory of the company or not. This witness was not able to recognize records mark PW 78/A and B, even after seeing Memo Ex. PW 78/B (Original as well as photocopy). He has deposed that as a Company Secretary, his duty was to look after the law work of Ansal Properties and Industries and he used to attend Board meetings and to assist in completing the Minutes of meeting of Board of Directors of Ansal Properties and Industries Ltd. He also used to send annual return of the company to Registrar of Companies. He has deposed that he

had never seen Diary Ex. P9 and he does not know as to whose photograph is printed on the second page of this diary and he had never seen Chiranji Lal, father of Sushil Ansal and Gopal Ansal. R M Puri was the whole time Director of the company M/s Green Park Theaters Associated Pvt Ltd. This name was later on changed to Ansal Theaters and Clubotels Pvt. Ltd and he does not know as to who were the Managers of Ansal Theaters and Clubotels Pvt. Ltd. After seeing the register mark PW 78/A1, he had admitted his date of appointment as 1.12.93 and date of his resignation as 18.3.95 but he did not remember that besides Green Park Associated Pvt., he was Director of eight other companies, the relevant Page No. 16 is proved as mark PW 103/A. He has deposed that he did not remember whether he was appointed as Additional Director of M/s Green Park Theaters Associated Pvt. Ltd. He did not know the functions of Authorized Signatory or that he is required to sign the official documents relating to financial matters. Documents Ex. PW 103/B1 to B5 bears his initials at Point A and full signatures at Point B with date. He did not remember the contents of the minutes or that he was further authorized to represent the company, to attend and to vote on behalf of the company in an Extra Ordinary General Meeting. He admitted his initials and full signatures with date 5.4.94 on Page 490 and 491. He does not remember whether in that meeting he was authorized alongwith Anita and R M Puri to sign duplicate Share Certificate. He chaired the meeting held on 5.4.94 of Board of Directors of M/s Green Park

Theaters Associated Pvt Ltd or besides him, R M Puri also attended that meeting or that whether being the Chairman, he informed the Board that District Officer, Entertainment Tax has increased the amount of Entertainment Tax leviable for one week duration (Full House Basis) which will come to Rs. Two Lacs or that he was given financial powers to the sum not exceeding Rs.2,50,000/-. He identified his initials and signatures on Ex. PW 103/B13 to B16. He has deposed that he did not remember whether he had chaired the meeting held on 30.6.94 but he identified his initials and signatures on Ex. PW 103/B17 and B18. He did not remember the contents or that in that meeting, shares of Chiranji Lal were transferred in the name of Pranav Ansal as mentioned at Page No. 497 of Ex. PW 103/B17 and B18. He did not remember whether he had received the request to transfer Shares No. 546 i.e. Equity shares of the company from the name of Chiranji Lal to Pranav Ansal. He did not remember whether he chaired the meeting held on 1.9.94 or the contents of the meeting relating to the fact that it was resolved that he alongwith S Ichhapuniani, Parveen Jain were severally authorised to represent, attend and vote on behalf of the company at the forthcoming Annual General Meeting of M/s Ansal Properties and Industries Ltd to be held on 16.9.94. He doesn't remember the contents of this meeting whether as a Chairman he informed the Board that the company M/s Green Park Theaters Associated Pvt. Ltd is a member of Ansal Housing and Construction Ltd whose meeting was scheduled to be held on 9.9.94 or that it was considered

expedient to authorize Director/Officers to attend the said meeting on behalf of the company or that they were authorised to represent, attend and vote on behalf of company in the said meeting or that he informed the Board that M/s Green Park Theaters Associated Pvt. Ltd. is a member of Ansal Buildwell Ltd whose meeting was scheduled to be held on 16.9.94 or that in the meeting dated 1.9.94, he was authorized to make any amendment as may be considered necessary and to sign Annual accounts for the financial year ended on 31.3.94 and circulate to the shareholder alongwith audited annual accounts of the company. He had identified his initials and signatures of the minutes of the meeting held on 25.10.94 Ex. PW 103/B25 and B26. He did not remember whether as a Chairman, he had informed the Board that a request had been received from M/s Ansal Housing and Construction Ltd for creation of equitable mortgage by way of deposit of Title Deed over the property of M/s Green Park Theater Associated Pvt. Ltd to secure the loan of Rs.2,50,000/- sanctioned to Ansal Housing and Construction Ltd by Housing Development Finance Corporation Ltd. He does not remember whether by depositing the original Sale Deed with the Housing Development Finance Corporation who shall be holding the land to secure the construction finance loan to Ansal Housing and Construction Ltd for their Ashiana Project or that whether it was resolved that he alongwith R M Puri, Sushil Ansal, Deepak Ansal, Ichhapuniani, Rakesh Malhotra, Authorised Signatories were authorised and empowered severally to deposit the said Title

Deed with HDFC with an intent to create any other mortgage or charge as may be required by the said HDFC and such other documents in this regard as required by HDFC and to affix a common seal of the company on such documents and to sign the same in token of acceptance. He has deposed that he did not remember whether he chaired the Board meeting held on 15.11.94 alongwith R M Puri, as per his initials and signatures on Ex. PW 103/B27 to B30. He also did not remember whether as a Chairman, he informed the Board that it was proposed to expand and diversify into the new business area concerning setting up and running of clubs, Hotel etc and to take over the existing business of clubs running of M/s Chancellor Club (P) Ltd or that whether it was resolved in the meeting held on 15.11.94 that the approval of the board was accorded to take the unit/undertaking of any other company in terms of Clause 60 of other object or that he further informed the Board that with a view to take advantage of high demand potential in the business of club/hotels etc, sequel to the economic liberalisation, it is considered desirable to expand the business operations by diversifying into clubs, hotels, resorts and in that meeting, approval was given to commence the business as covered in Sub-Clause 37 of other object in Clause IV of the Memorandum of Association of the company so as to enable the company to commence and carry on all business activity relating to setting up and running of hotels, resorts, restaurant, club and allied activities in addition to the existing line of business. He deposed that company has to act upon as per

the terms of the Memorandum and terms of the Articles. He did not remember whether he chaired the meeting held on 28.11.94 or that R M Puri was also present in that meeting. He did not remember as to what was resolved in that meeting or in the meeting held on 5.12.94. He did not remember whether he had chaired the meeting held on 24.12.94, or that in that meeting, Gopal Ansal, Kusum Ansal, Vijay Kumar Aggarwal, Subash Verma, P P Dharwadkar, R M Puri, Directors, Ichhapuniani, permanent invitee and Sushil Ansal was special invitee or that Gopal Ansal, P P Dharwadkar, Kusum Ansal, Vijay Kumar Aggarwal, Subash Verma were appointed as Additional Directors of the company, the minutes of the said meeting did not bears his initials or signatures. He did not remember whether he attend the meeting held on 5.1.95 alongwith Vijay Kumar Aggarwal, Subash Verma, P P Dharwadkar, R M Puri, Directors or that he was authorised to present the documents, Sale Deed, Lease Deed etc to the Sub-Registrar or Registrar in Union Territory or that his services were appreciated before Board of Directors or that he was authorised to make an application to the Registrar of Companies Delhi and Haryana for change of name of company from Green Park Theaters Associated Pvt. Ltd. To Ansal Theaters and Clubotels Pvt. Ltd in Board of Director's meeting held on 31.3.95. He has deposed that he had not attend the meeting held on 31.3.95, hence, he did not know as to what had happened in that meeting. He deposed that he was not serving as Company Secretary in M/s Green Park Theaters

Associated Pvt. Ltd later on changed to Ansal Theaters and Clubotels Pvt Ltd, hence, he does not know that whether he was given any financial power in the said company. He had denied the suggestion that after resigning from Director, he continued to work in that company and was authorised with financial powers not exceeding Rupees One Lac and that he was an authorised signatory. He has deposed that he does not know about any meeting held on 30.6.95 or that whether he moved an application for change of name of company after his resignation as Director of the company. He has stated that he did not know about the Annual General Meetings of M/s Green Park Theaters Associated Pvt Ltd or that whether he attend any such meeting held on 30.9.94 as Director alongwith other Directors and members or that as to which records were being maintained by M/s Green Park Theaters Associated Pvt. Ltd, he could not identify his signatures on the photocopy of Ex. PW 81/B. He has deposed that he did not remember whether there were shareholders in the company M/s Green Park Theaters Associated Pvt. Ltd later on changed to Ansal Theaters and Clubotels Pvt. Ltd, whether any register of shareholder was being maintained or not.

PW 109 is Pranab Ansal. In his testimony, he has deposed that he knows about the existence of Uphaar Cinema at Green Park but he does not remember that under which name and style it was being run. He does not remember whether M/s Green Park Theaters and Associated Pvt. Ltd was existing earlier or its name was later on changed or not or that

its a shareholder company. He only knows that fire had taken place in Uphaar Cinema in the year 1997 and he had shares but he does not know the name of the company and number of shares. He does not remember whether he had 1144 number of shares in the said company or that whether any transfer of shares had taken place or that he was having 988 shares on 13.6.97, whether any register of Director and Register of Member was being maintained in this company or that whether besides him, his other family members were also shareholders in that company or that what kind of details are mentioned in Register of Members. He does not remember but he might have attend one or two meetings of the Directors. He does not remember when he was appointed as Director of the said company or that whether he had chaired the meeting held on 4.9.96. He does not know whether any book of Board of Directors is being maintained or not. He could not identify his signatures with certainty at Point A Page 592 of the Minute Book mark PW 103/X3 and has deposed that he had no idea whether any financial powers were delegated to him. He does not know the duties and functions of a Director, he does not remember the number of meetings attend by him as a Director, he could not identify his signatures with certainty at Point A1 Page 591, A2 Page 590, A3 Page 589 on mark PW 103/X3. He has deposed that he does not remember whether he had attend meeting of shareholders in September,1991 or that besides him, his mother also attend the meeting. He does not know whether any register of shareholders was being

maintained or not or that any meeting of general body of shareholder had taken place or not or that any register was being maintained or not in this regard. He could not identify his signatures at Point B1 to B16 Page 77 to 88 of mark PW 103/X5, at Point C1 to C3 Page 89 to 91 of mark PW 103/X5. He was cross-examined by Ld. Special PP but nothing has come out in his cross-examination, in reply to each and every question put by Ld. Special PP, he had stated that he does not remember and he had no idea.

PW 110 is Ritu Ansal, wife of Gopal Ansal. In her testimony, she has deposed that Uphaar Cinema was established in the year 1974, the name of the company was M/s Green Park Theaters Associated Pvt. Ltd and he does not know whether its name was changed to M/s Ansal Theaters and Clubotels Pvt Ltd and she was having shares in M/s Green Park Theaters Associated Pvt Ltd but she does not remember her number of shares. After seeing document mark PW 78/A2, she had stated that she does not remember whether she had 596 shares in her name or that other family members were having shares in the company or that her husband Gopal Ansal had any shares in the company. She does not remember whether she had attend any meeting of the shareholders. She could not identify her signatures and the signatures of Kusum Ansal, S K Ichhapuniani with certainty on the minutes of the meeting held on 28.9.90. She does not remember whether resolution was passed proposed by her and seconded by Mrs. Divya Ansal or that resolutions were proposed by Mrs. Divya

Ansal and seconded by her even after seeing register mark PW 103/X4. After seeing Minutes Book mark PW 103/X5 relating to Annual General Meeting of M/s Green Park Theaters Associated Pvt Ltd, she has stated that she does not remember whether she had attend the Annual General Meeting held on 13.9.92 alongwith Sushil Ansal, Kusum Ansal, Surat Kumar, Pranab Ansal, Deepak Ansal and others or the meeting held on 30.9.93 or that whether there was any proposal by Divya Ansal which was seconded by her. She does not remember whether she had attend the meeting held on 30.9.96 or that Subash Verma was chairman of that meeting or that any proposal was made by Divya Ansal which was seconded by her or any other proposal was made by P P Dharwadkar which was seconded by her. Even after seeing minutes book mark PW 103/X5, she has stated that she does not remember whether she had attend any meeting held on 30.9.94 and 30.9.95 or any proposal made by Pranab Ansal and Kusum Ansal, Divya Ansal was seconded by her or that R M Puri was Chairman of these meetings. She has stated that due to lapse of time, she does not remember that whether she seconded the proposal for change of name from Green park Theaters Associated Pvt Ltd to Ansla Theaters and Clubotels pvt Ltd or that in the meeting held on 30.9.95, proposal was made by Divya Ansal to appoint Kusum Ansal as Additional Director of the company which was seconded by her or that in the meeting held on 30.9.96, Pranab Ansal was appointed as Additional Director of the company whose name was proposed by P P Dharwadkar and seconded by her. She

has deposed that whether any share transfer register was being maintained in their company or that some of the shares pending her name were transferred as per details mentioned in register mark PW 78/D. This witness was not able to identify the signatures of her husband Gopal Ansal on documents mark PW 110/A, A1 to A11 containing in file mark PW 69/C, mark PW 110/A12 to A21, mark PW 110/A22 to A26, mark PW 11/A27 to A39 containing in file Ex. PW 100/M or on letter dated 5.9.1980 mark PW 110/A40. She was also cross-examined by Ld. Special PP, in her cross-examination, she has deposed that fire incident had taken place in June, 1997, there were casualties. She has deposed that she does not know whether there was any Homeopathy Dispensary, bank and other offices in Uphaar Cinema complex or that whether M/s Green Park Theaters Associated Pvt Ltd later changed its name to Ansal Theaters and Clubotels Pvt Ltd were holding regular general meetings or not or that whether any Minute Books were being maintained by the company or that their copies were sent to Registrar of Companies. She has stated that she was not holding any status in the said company and she was shareholder in M/s Green Park Theaters Associated Pvt Ltd later changed to Ansal Theaters and Clubotels Pvt Ltd and she had approximately 500 shares but she does not know whether she was having 596 shares in the said company or not. She has denied the suggestion that she alongwith her other family members was taking active role in the functioning of Green Park Theaters Associated Pvt Ltd later changed to Ansal

Theaters Clubotels Pvt Ltd or. She has deposed that she does not know that whether Uphaar Cinema was constructed on a land taken on lease or that whether Uphaar cinema was mortgaged and loan of crore of rupees was taken against it or that her husband Gopal Ansal, Sushil Ansal and Chiranji Lal were Directors of the company. She could not identify the signatures of Chiranji Lal, Sushil Ansal and Gopal Ansal on mark PW 103/X, she could not identify signatures of Gopal Ansal, Sushil Ansal, Divya Ansal on mark PW 103/X1 at Point A,B and C.

PW 111 is Kushagar Ansal. In his testimony, he has deposed that his father Deepak Ansal is Chairman and Managing Director of Ansal Housing and Construction Limited. He has deposed that he does not know M/s Green Park Theaters & Associated Pvt Ltd or that whether its name was changed to Ansal Theaters and Clubotels Pvt Ltd. He used to visit Uphaar Cinema. He does not remember whether he had 283 shares in M/s Green Park Theaters and Associated Pvt Ltd. He was also cross-examined by Ld. Special PP but nothing has come out in his cross-examination.

PW 112 is Divya Ansal. In her testimony, she has deposed that she does not remember whether m/s Green Park Theater Associated Pvt Ltd was running Uphaar Cinema or that its name was changed to Ansal Theaters and Clubotels Pvt Ltd and she does not know as to who was running Uphaar Cinema. She does not remember whether she alongwith her husband and children were Shareholders in M/s Green Park

Theaters and Associated Pvt. Ltd. After seeing Register of Members mark PW 78/A2, she has stated that she does not remember that she had 50 shares allotted on 18.10.80 in her name or that her husband Deepak Ansal was allowed 772 number of shares or that 283 shares each were allotted in the name of her son Kushagar and Karun Ansal. She does not remember whether she was inducted as Director in the said company w.e.f 12.9.80. She has deposed that she does not remember whether she had 50 shares of Rs.100/- each in her name, she does not know that whether Chiranji Lal, Sushil Ansal, Gopal Ansal, Kusum Ansal, Pranav Ansal were having different number of shares in their own name in the company M/s Green Park Theaters Associated Pvt Ltd. She does not remember whether any meeting of Board of Directors used to held on different dates or that in those meetings, Directors used to sign the minutes of meeting or that whether she attend any such meeting. She could not identify her signatures with certainty on Pages 115 to 118 and at Point C of Minutes Book mark PW 103/X1 due to lapse of time and she could not identify the signatures of Gopal Ansal, Sushil Ansal and Chiranji Lal or that whether they attend the said meeting or not or that whether her husband had requested for splitting of 150 shares or to transfer 50 shares in her name or any application was moved in this regard. She does not know whether Gopal Ansal, Sushil Ansal and Chiranji Lal were authorised to sign the Share Certificate of the company. She identified her signatures on pages 119 and 121 of mark PW 103/X1 but she could not

identify the signatures of Gopal Ansal, Sushil Ansal and Chiranji Lal. She does not remember whether any meeting of Board of Directors of Green Park Theaters Associated Pvt Ltd was held on 28.3.81 and 3.6.81, 3.9.81, 29.12.81, 5.3.82 but she identified her signatures on the minutes of the said meetings. She has stated that she does not remember whether in the meeting held on 5.3.82, she alongwith Gopal Ansal was authorised to sign the necessary forms and documents or the bank was instructed accordingly or that whether she alongwith Sushil Ansal and Gopal Ansal were authorised to do necessary documentation for the opening of account or also availment of overdrafts or cash credit facilities with the bank or that they were authorised to withdraw and to deal with company's securities and properties or documents of title thereto which may be deposited with the bank from time to time by way of security or otherwise or that whether they were authorised to acknowledge all types of debts on behalf of the company. She does not remember whether in the meeting held on 17.5.82 she alongwith Gopal Ansal and Sushil Ansal were authorised to get registered and delivered on behalf of the company, all documents and forms relating to all its advances and credit facilities and also for lodgment and withdrawal of securities in accounts of the company and the sale with advances temporarily or otherwise against pledge, mortgage, charge, hypothecation, lien of movable properties and of all or any properties of the company movable or immovable in such other securities including goods that may be acceptable to the bank

in such terms as may be required by the bank in such terms as may be required by the bank to sign any instructions, indemnities and counter indemnities which may be by the bank from the company in connection with its business or that whether in the said meeting they were authorised to exercise the powers vested to them by the resolution in addition to such powers as may be substituting in them by virtue of Power of Attorney already granted by the provisions of Memorandum and Articles of Association of the company. She does not remember whether she attended the meeting held on 3.12.82, 3.3.83, 27.6.83, 3.9.83, 21.11.83, 19.3.84, 6.6.84, 5.9.84, 29.12.84, 10.1.85, 18.11.85, 3.3.86, 2.6.86, 9.9.86, 20.11.86, 3.6.87, 10.7.87, 15.10.87, 18.11.87, 9.3.88, 12.5.88, 29.7.88, 17.10.88 or that as to what was discussed or done in the said meetings. She does not remember whether in the meeting held on 26.9.81, she was appointed as Director of the company and the same was brought on record on 29.9.80 or that she was getting any remuneration, residential accommodation as a Director of the company. She does not remember whether she attended the meeting held on 30.9.82, 29.9.84, 28.1.85, 30.9.85, 2.1.86, 29.9.86, 30.9.87, 21.9.88 or that whether she attended Annual General Meetings held on 28.9.90, 30.9.92, 30.9.93, 30.9.94, 30.9.95 and 30.9.96 alongwith other Members or not. She was also cross-examined by Ld. Spl. PP and in reply to all the questions put to her, she replied that she does not remember or she does not know.

PW 113 is Shri Vijay Kumar Aggarwal. In his testimony,

he has deposed that he know M/s Green Park Theaters Associated Pvt Ltd, the name of which was changed to Ansal Theaters and Clubotels Pvt. Ltd and so far as he remember, he was Director in this company for a short while. After seeing mark PW 78/A1 Register of Directors of Green Park Theaters Pvt Ltd, he has stated that he does not know about the date of appointment and resignation. He had not done any functions in that company as a Director during 24.12.94 to 28.3.97. He does not remember whether any records were being maintained by the company. There were some more Directors in the company, Subash Verma, Pranav Ansal were also Directors of the company alongwith other Directors whose name he does not remember. He does not remember whether Sushil Ansal and Gopal **Ansal, Kusum Ansal, Divya Ansal were also Directors of the said company.** He does not know whether Chiranjil Lal and Suraj Kumar, father and mother of Sushil and Gopal Ansal were also Directors of the company. He does not know whether Shyam Sunder Gupta was Director of the said company for some time or that whether P P Dharwadkar and S K Ichhapuniani were also Directors of the company. **He has stated that Board meeting used to be attend by the Directors of the company and not by the Members of the company.** He has deposed that he does not remember whether any issues relating to the business of company were discussed in the meetings or not. After seeing Minutes of meeting of Board of Directors mark PW 103/X3, he has deposed that he does not remember whether he had attend

the meeting alongwith other Directors or not. He could not identify his signatures with certainty. He does not remember whether he had attend the Board meeting held on 18.3.95 alongwith P P Dharwadkar, Subash Verma, R M Puri or that he chaired the meeting or that as to what was discussed in the said meeting or that who were appointed as authorised signatories of the company. He does not remember whether his resignation was accepted by the board Members or not. **He does not remember whether he had attended the meeting held on 31.3.95 alongwith Gopal Ansal, Subash Verma, R M Puri, P P Dharwadkar or that Sushil Ansal was special invitee in that meeting or that as to what was discussed or resolved in the said meeting.** He could not identify his signatures on the minutes of the meeting with certainty. He does not remember whether he attended the meeting held on 30.6.95, 23.12.95, 25.3.96, 29.6.96 or that as to what was discussed or resolved in the said meetings. He could not identify his signatures on any of the pages of Minutes Book with certainty. He was also cross-examined by Ld. Special PP for CBI and in the cross-examination, he has deposed that he does not know whether M/s Green Park Theaters Associated Pvt Ltd had intimated Registrar of Companies in Form No. 32 about the appointment of Directors in the said company including himself. He does not remember that he was appointed as Director of the company on 24.12.94 or that as to when he or Pranav Ansal resigned from the Directorship of the company or that whether any intimation was given in this regard

to Registrar of Companies. He does not know that as to who inducted him as Director in M/s Green Park Theaters and Associated Pvt Ltd. To each and every question put by Ld. SPP for CBI, he had given the same reply that he does not remember and that he does not know.

PW 114 is Subash Verma. In his testimony, he has deposed that in the year 1984-85, he joined as General Manager in Ansals company and continued on whole time basis with them till June,2002 and thereafter, he was promoted as Executive Director of the company and besides him, there were other Directors in the company. As an Executive Director of the company, he was looking after the contracts and construction department. He knows about the existence of company named M/s Green Park Theaters Associated Pvt Ltd, later on its name changed to Ansal Theaters and Clubotels Pvt Ltd. He does not know that whether any Shareholder Register, register regarding transfer of shares was being maintained in the company. After seeing Register of Directors of M/s Green Park Theaters Pvt Ltd mark PW 78/A1 Page 21, he has stated that he has been shown as Director of M/s Nirman Overseas Pvt Ltd, Ansal Engineering Projects Ltd, Ansal Housing and Estates Pvt Ltd and Ansals Hotel Ltd. w.e.f 29.3.97, entries have been proved as mark PW 114/A. He used to attend Board of Director's meeting of m/s Green Park Theaters pvt Ltd alongwith other Directors. He does not remember whether he attend the meeting held on 24.12.94 alongwith Gopal Ansal, Kusum Ansal, Vijay Kumar Aggarwal, P P Dharwadkar, R M

Puri and Shyam Sunder Gupta. He was inducted as an Additional Director of the company. He does not remember whether he attend the meeting held on 18.3.95 alongwith Vijay Kuamr Aggarwal, P P Dharwadkar, R M Puri or that as to what resolution was passed in that meeting. He does not remember whether he attend the meeting held on 31.3.95, 30.6.95, 2.9.95 or that as to what was discussed or resolved in these meetings. He does not remember whether the Director produced, signed and approved the draft annual account comprising of Balance Sheet as on 31.3.95 and Profit & Loss Account for the year ending or that schedule attached thereto forming part of the annual account for submission to Statutory Auditors for their signatures. He does not remember whether he attend the meeting held on 23.9.95 alongwith Vijay Kumar Aggarwal and R M Puri or that he attend the Board meeting held on 25.3.96 or that as to what was discussed in these meetings or that Pranav Ansal was appointed as Director of the company. He does not remember whether he attend the meeting held on 4.6.96, 20.6.96, 31.12.96, 28.3.97 or that whether he attend Annual General Meetings held on 30.9.95, 30.9.96. He could not identify his signatures in Ex. PW 87/E and F and in Annual Returns Ex. PW 87/54A. He was also cross-examined by Ld. Special PP and in his cross-examination, he has deposed that he visited Uphaar Cinema on the day of incident at about 7.30 to 8 p.m., while he was sitting in his office at Kasturba Gandhi Marg, he was informed about fire at Uphaar Cinema, then, he went there. He has deposed that he was never in

possession of records or the keys of the room, he had not handed over any keys to Shyam Sunder Gupta, who was Company Secretary in one of the company of Ansal Group. He was having records of only clubs and hotels.

PW 115 is Smt. Kusum Ansal. In her testimony, she has deposed that M/s Green Park Theaters and Associated Pvt Ltd running cinema in the name of Uphaar but she does not remember that as to who were the Directors of the company or that she alongwith her husband Sushil Ansal and brother in laws Gopal and Deepak Ansal was Director of the company or that whether she alongwith her other family members were having shares in the said company. She does not remember whether 1886 number of shares were procured in her name during the period 4.4.72 to 28.3.97 or that whether there was any transfer of shares by Sushil Ansal. Pranav Ansal, Alpana Kiroloskar in her name during the period 1990 to 1997. She could not identify her signature as well as signatures of Sushil Ansal, Gopal Ansal, S K Ichhapuniani, Divya Ansal, J L Dhar, R.M Puri in pages contained in Director's Minute Book mark PW 103/X from January, 1972 to 12.1.76, mark PW 103/X1. She does not remember whether she was Director of M/s Green Park Theaters Associated Pvt Ltd w.e.f 24.12.94 or that she resigned on 25.3.96 or that her name is mentioned in the Register of Directors. She does not remember whether she attend the meeting held on 24.12.94, 18.3.95. **She could not identify her signatures as well as signatures of Sushil Ansal, Gopal Ansal, Divya Ansal, Deepak Ansal on register**

mark PW 103/X4 and X5. She was also cross-examined by Ld. Special PP but nothing has come out and to each and every question put by Ld. Special PP, she had replied that she does not remember and that she does not know.

Hand-writing Expert

PW 92 Dr. S C Mittal, Principal Scientific Officer, CFSL has deposed that in the present case, few documents were referred to CFSL by SP, CBI vide forwarding letter Ex. PW 92/A dated 9.10.97, the specimen and admitted writing was also forwarded alongwith questioned documents for their scientific examination and opinion. He had thoroughly and carefully examined all the documents with the help of various scientific instruments and prepared his detailed report including opinion Ex. PW 92/B and forwarded the same to SP, CBI.

Investigation :- PW 108 IO/Insp. R S Khatri has deposed that in the year 1997 while he was posted as DSP, CBI in SIC IV on deputation from Delhi Police, the present case was registered in CBI on 26.7.97 as per orders of Government of India vide Letter No. U140011/109/97 Delhi-I dated 23.7.97 regarding transferring the investigation of case FIR No. 432/97 P S Hauz Khas relating to Uphaar Fire Tragedy which was registered under the signatures of M Naryanan, SP, CBI, the carbon copy of FIR has been proved as Ex. PW 108/A. The copies of FIR were sent to various officers as mentioned on the last page of the FIR including CMM, Delhi. As per the directions of M

Narayanan, the investigation of the present case was entrusted to him and during investigation, a team consisting of DSP Prithvi Singh, Kishore Kumar, N S Wirk, D P Jha, Insp. Ram Chander, M S Phartyal, Tribhuvan and other Sub Inspectors. He has deposed that during investigation, documents were seized by Insp. R S Jakhar of Crime Branch vide memo Ex. PW 78/F, copies of DD No. 39A and 40A were seized vide memo Ex. PW 78/F. During investigation, he inspected the scene of occurrence on 27.7.97 and sketch Ex PW 108/B was prepared which bears his signatures at Point A of each page. He has deposed that on 31.7.97, Insp. Sat Singh seized documents from R K Sethi, Parking Contractor Uphaar Cinema vide memo Ex. PW 56/C, he also seized copy of letter issued by Gopal Ansal dated 21.4.97 in connection with parking contract vide memo Ex. PW 56/C, the photocopy of contract has been proved as mark PW 108/Z3. The letter Ex. PW 95/A dated 27.8.97 alongwith annexures Ex. PW 95/B1 to B4 was received from T S Mokha, authorised signatory of Ansal Theaters and Clubotels Pvt Ltd, Letter No. PC/5963 dated 1.8.97 Ex. PW 87/A was collected by Insp. A K Gupta from Registrar of Companies alongwith annexures Ex. PW 87/A1 to A72. He has deposed that during investigation, P C Bhardwaj, Asst. Engineer, DVB R K Puram vide letter dated 17.9.97 Ex. PW 40/D had provided photocopy of report of Insp. A K Gera, B M Satija, Bir Singh regarding repairs conducted in DVB transformer on the morning of 13.6.97 at Uphaar Cinema, the said report has been proved as Ex. PW 108/AA (mark PW

40/A), the original of this report could not be traced, hence, hand writing opinion was obtained on mark PW 40/A. The specimen hand writing of A K Gera, DVB was obtained on 23 sheets mark S1 to S23 on Ex. PW 67/A1 to A23, specimen signatures of A K Gera in the presence of two independent witnesses on 18.9.97 on ten sheets which have been proved as Ex. PW 67/A24 to A33. He also obtained the specimen signatures of Bir Singh on 8.10.97 in presence of two independent witnesses which have been proved as Ex. PW 67/A34 to A37, similarly, specimen signatures of B M Satija Ex. PW 67/A38 to A41 were also obtained. He also collected admitted hand writing of A K Gera Ex. PW 68/A and B from Y K Luthra, AE, Sub Station Mehrauli vide seizure memo Ex. PW 108/C. The questioned document mark PW 40/A alongwith specimen signatures/handwriting and questionnaire Ex. PW 108/D was sent to CFSL vide letter Ex. PW 92/A and CFSL report in this regard has been proved as Ex. PW 92/B which was received alongwith the questioned documents, specimen and admitted writing. During investigation, Insp. R S Jakhar sent a letter mark PW 108/Z4 to DVB to clarify certain points regarding DVB transformer at Uphaar cinema and vide letter Ex. PW 48/B, S K Behl, Addl. Chief Engineer sent their reply of all the points as mentioned in the letter, letter Ex. PW 108/E (mark PW 108/Z5) was written for seeking information on additional points to DVB by Insp. Ran Singh and in continuation to these letters, another letter mark PW 108/Z6 was written to Addl Chief Engineer and letter Ex. PW 108/F was written by M

Naryanan to Chairman, DVB requesting some documents relating to fire incident at Uphaar Cinema. He has deposed that Casual Leave application dated 20.6.96 of Anand Kumar Gera was seized vide seizure memo Ex. PW 68/C, he also seized various letters of different dates written by CBI to DVB office and their replies also were seized by him, during investigation. He has deposed that Addl. Chief Personal Officer, DVB was requested vide letter ex. PW 108/K for providing information regarding duties of DVB officials relating to Sub Stations specially and reply Ex. PW 108/L was received alongwith enclosures Ex. PW 108/L1 to L7 in reference to that letter. The exhibits were sent to CFSL alongwith questionnaire for opinion, CFSL report in this regard have been proved as Ex. PW 63/A and the said report was marked to him. He has deposed that report dated 11.8.97 of Dr Rajender Singh, Senior Scientific Officer, CFSL received in reference to above letter had been proved as Ex. PW 64/D which was also marked to him by M Naryanan, SP, CBI. During investigation, Director, Central Power Research Institute, Gaziabad was requested for testing the transformer oil of DVB transformer vide letter Ex. PW 108/M alongwith questionnaire, report was received on 29.10.97 vide forwarding letter Ex. PW 108/N. He has deposed that Director, AIIMS hospital was requested for expert opinion vide letter Ex. PW 108/O alongwith questionnaire and letter dated 18.9.97 Ex. PW 62/A was received from Department of Forensic Medicines and Toxicology, AIIMS and the same was marked to him for

conducting investigation and during investigation, he collected MLC of 43 deceased persons and 59 injured persons from AIIMS hospital. Dr. A K Sharma, Chief Medical Officer, Safdar Jung hospital in response to their letter Ex. PW 108/P, provided details of 16 deceased and 30 injured persons vide their letter Ex PW 108/Q and as per the letter, the Post-mortem in all the cases, either brought dead or died subsequently in hospital, had been waived of as per orders of Hon'ble Lieutenant Governor of Delhi. The Death reports/MLCs of sixteen deceased persons have been proved as mark PW 108/Y1 to Y16. He has deposed that during investigation, vide letter dated 20.8.97 Ex. PW 108/R, R C Sharma, Chief Fire Officer submitted a copy of Fire Report dated 10.7.89 relating to Uphaar Cinema, vide letter dated 13.10.97 Ex. PW 108/S, inspection report of Uphaar Cinema was received, the certified photocopy of records relating to PCR General Diary dated 13.6.97 Ex. PW 75/A was marked to him on 11.9.97 by M Narayanan alongwith enclosures mark PW 75/1-10. He has deposed that he had collected documents and articles from Insp. Rajbir Singh Jakhar vide Production cum seizure memo Ex. PW 78/E and as per this memo, he had collected Thirty Four photographs Ex. PW 108/ZZ35 to 68 alongwith their negatives Ex. PW 108/ZZ1 to 34, Video cassette mark PW 108/ZZ69. He has deposed that as per his instructions, Insp. Rajiv Chandola collected sample of transformer oil from the burnt DVB transformer installed at Uphaar Cinema vide memo Ex. PW 108/T, seizure memo Ex. PW 78/A of Fire

Extinguishers seized by Insp. R S Jakhar from Uphaar cinema was received in CBI office vide Road Certificate, carbon copy of which has been proved as Ex. PW 108/U. He has deposed that Video Cassette of the spot Ex. PW 108/V was also got prepared through CFSL authorities. SI Rajiv Chandola seized certain documents from Insp. Balbir Singh of Crime Branch vide memo Ex. PW 108/X. He has deposed that the Controller of Publication was requested vide letter Ex. PW 108/Y to prove attested photocopies of six gazette notifications, attested photocopies of Gazette Notifications of Govt of India dated 30.9.76 Ex. PW 29/DC, dated 24.1.77 Ex. PW 108/Z, dated 22.7.77 Ex. PW 108/Z1, dated 23.12.77 and 28.12.77 Ex. PW 108/Z2, dated 5.1.78 Ex. PW 108/Z3, dated 29.3.78 Ex. PW 108/Z4, dated 27.7.78 Ex. PW 29/DD were received. He has deposed that the officials who were assisting him in the investigation of the present case used to hand over the documents collected from various departments and statements recorded by them time to time. After completion of investigation, prima facie case was made out against sixteen accused persons and the concerned competent authorities were approached for obtaining prosecution sanction against the accused persons under Section 197 Cr P C and thereafter, Charge-sheet Ex. PW 108/BB alongwith list of documents, list of witnesses as well as original documents and copies of statements was filed in the Court. The list of documents have been proved as Ex. PW 108/BB1.

Protection relay & repair on 13/6/97

PW 40 Prem Chand Bhardwaj, Assistant Engineer, South Zone DESU has deposed that formal complaints were being received by him and his staff by the Supervisors at Sector 6, RBI Colony, Katwaria Sarai which were conveyed to the Supervisors of the Sub-station and also to the Inspectors, Foreman. They used to attend the call and do the needful. Information was given by them and Senior Electrical Fitters, Foremen, Assistant Electrical Fitters and helpers used to attend these calls. After compliance the compliance report was given. In May 1996, he inspected the transformer installed at Uphaar Cinema, one was of DVB and second was of owners of Uphaar Cinema. And there was separate room of HT and LT panel and both the rooms were adjacent to each other. On 22.1.97, the DVB transformer was inspected in routine. Breather, silicajel, oil level, general tightening of connections, loading were checked. Protection relays were not there and were found missing since long. In Uphaar cinema sub-station, there was Direct current relays which was obsolete because it required battery, so they were converting them to AC.

Witness has deposed that as per the instructions, the protection relay to the first reaching station i.e. from where the supply comes directly from the grid first of all should be there and thereafter the protection relays of further transformers were to be **proved**.

He has deposed that the Complaint Register and General Diary Register containing the work done by the concerned

staff were being maintained in the sub station. He has proved the General Diary Register for the period 14.5.96 to 13.6.97 Ex. PW 40/A showing the entries of the checking at Uphaar Cinema. On 22.1.97, they had attended maintenance schedule at Uphaar Cinema along with his staff and proved the necessary entries Ex. PW 40/A, which is in the hand writing of B M Satija is Ex. PW 40/B.

He has proved entry dated 13.6.97 of Ex. PW 40/C which is in the hand writing of A K Gera, two aluminium sockets of 630mm were replaced in DVB transformer installed at Uphaar Cinema. Name of Bir Singh is also mentioned there. On 13.6.97 he received call at 8 a.m about the complaints and after reaching the office he informed accused B M Satija about these complaints. At about 2 p.m., accused A K Gera informed him on telephone about rectification of the complaint and restoration of supply at 11.30 a.m. There were three zones i.e. 1601,1602 and 1603 and Uphaar Cinema comes under Zone 1601.

The witness has deposed that there was no allocation of duty and whosoever is available used to attend the complaints. On receiving the information to contact Green Park Office he reached there at about 7/7.15 p.m. and came to know about the fire having taken place at Uphaar Cinema. The DVB transformer installed inside Uphaar Cinema was getting electric supply from AIIMS grid via other sub stations. The photocopy of report of Bir Singh, A K Gera, BM Satija regarding repairs conducted at the DVB transformer at Uphaar cinema

was handed over to the police vide memo mark PW 40/A. He wrote letter Ex. PW 40/D to SP CBI SIC IV. The original report was handed over to the police on 14.6.97 this fact has been mentioned in his letter Ex. PW 40/D. The document D 36 mark PW 40/A is in the hand writing of A K Gera which contained the signatures of Bir Singh, A K Gera and B M Satija and the same was seized vide memo Ex. PW 40/D on 17.9.97.

Information regarding fire on 13.6.97

PW 41 is Deep Chand, Attendant, Delhi Vidyut Board. On 13.6.97 at about 6.55 a.m, he received information from Shakti Sadan regarding the fire taken place at Uphaar Cinema, he sent Munna Lal who came back to Sub-station R K Puram and passed on the information that one lead in LT side of DVB transformer has burnt due to which electric supply has been disrupted, he passed on information to C J Singh, Superintendent. He has proved the entry as Ex. PW 41/A in No Current Complaint Register (D38) maintained in their office which is in his hand writing and on that day, the Shift In charge was Jagpal, he identified his hand writing, who was incharge on that day and passed on the information to Mr. Vyas and he also informed A K Gupta.

PW 42 C J Singh, Junior Engineer has deposed that his team used to attend the fault reported from the area. District R K Puram has proved the register Ex. PW 42/A. The witness has proved the entries at Page no. 131 from Point A to A 1 on Ex. PW 42/A to be in his handwriting.

He has deposed that on 13.6.97, at about 7.20 hours, he got

the information from Green Park Complaint Centre and also from Munna Lal about the fire having taken place in Uphaar transformer and he along with his team reached Uphaar Cinema at 7.40am. On inspection of DVB transformer he found that three leads out of 11 leads were partly burnt on the LT side of the transformer. The fault was not repairable at his level. He passed on the information to Assistant Zonal Engineer, zone 1601, S C Mehta, who was custodian of that area with the request to pass on the information to P C Bhardwaj, In charge of sub-station. He has given the entire information in General Diary and handed over the charge to Chetan Prakash, Maintenance Officer and entry regarding the complaint of Uphaar Cinema was mentioned at Page 131 of Ex. PW 42/A.

PW 43 is Vinod Kumar Gupta, Junior Engineer. He has deposed that the Complaint Register (D38) is maintained in their office which has been proved as Ex. PW 43/A and relevant entry is Ex. PW 41/A which is in the hand writing of Jagpal. Jagpal had informed him between 5 to 5.30 p.m. on 13.6.97 about the fire in Uphaar Cinema, he reached there and was informed about breakdown and tripping at AIIMS grid.

PW 47 Baljit Singh, Junior Engineer DVB has deposed about the load shedding in the Green Park feeder from 15.55. hours to 16.55 hours regarding which entry was made in the Log Sheet dated 13.6.97 as Ex. PW 24/DA. He has stated that the electric supply to Green Park feeder tripped off at 17.05 hours and he passed on the information to Mr. Sood at South Circle

and endorsement was made by Mr. Dass on Ex. PW 24/A and signed by other officers who were present there. He has proved the log sheet Ex. PW 24/DA.

PW 53 S K Dass, Shift In charge at AIIMS Grid has proved the Log Sheet Ex. PW 24/DA and has deposed that on 13.6.97, when he took charge, Green Park feeder was under load shedding from 15.55 hours to 16.55 hours and has proved entry Ex. PW 24/DA. At 16.55 hours, he lifted the load shedding and made entry at Point A in Ex. PW 24/DA, he passed on this information to Circle South and the entries relating to 17.00 hours to 24.00 hours were made by him in Ex. PW 24/DA. At 17.05 hours, there was over current at Green Park Feeder and it tripped off, he passed on the information to Mr. Sood, the entry in this regard is at Point C of Ex. PW 24/DA. As per the procedure, Mr. Rajpal, Superintendent Breakdown came to their office at 22.20 hours, he issued the permit at 22.25 hours to start the work, the entry is at Point Q of Ex. PW 24/DA. The main cable of Green Park was found healthy and was put on No load which means that no electricity was supplied to the consumer from that point that it was going upto feeder point and after clearing of line, he cancelled the permit at 22.40 hours, Mr. Rajpal had given the clearance and thereafter, permit was cancelled and the entry in this regard is at Point R of Ex. PW 24/DA. The switch was put to No load at 22.50 hours.

Repairs

PW 44 is Bhagwan Din, Lineman, DESU posted at Sector 6 R K Puram office of DESU. On 13/6/97 he accompanied B M

Satija, A K Gera, Bir Singh to Uphaar Cinema at about 10/10.30 a.m, Bir Singh opened the shutter of transformer room at Uphaar Cinema where DVB transformer was installed, the socket was changed with the help of dye and **hammer**, the lead with socket was connected to bus bar, thereafter, the switch was put on and supply was restored.

PW 45 Jagpal, Shift Incharge received the complaint from Shakti Sadan PC cable and Lineman Munna Lal was deputed to attend the fault and after attending the complaint, Munna Lal came back and informed him that one lead had got heat up and insulation was melting and falling down and he dis-connected the HT panel, put sand thereon and at that time officials of Break Down office came there. On 13/6/97 at about 4.55 p.m., fire report was received from KL Malhotra after noting down the complaint he rang up AIIMS Grid that after load shedding, it should not be put to energy and at that time, the tripping had taken place. He had proved the entry at Point C of Ex. PW 43/A and identified his hand writing.

PW 46 Munna Lal, retired DESU official has deposed that on 13.6.97, he was posted as Jr. Lineman in Green Park Complaint Centre and in between 6 a.m to 7 a.m complaint was given to him by Deep Chand, Shift Incharge in connection with fire at Uphaar and he along with Jia Lal reached at Uphaar Cinema that DVB transformer which required replacement and saw some fire and found that insulation of one lead upto one feet and second lead upto six inches were burning and melting, he switched off the HT panel of the adjoining room, he put

sand on fire and reported the matter to his office. He came back to his office and reported to Deep Chand who passed on the information to Break Down division.

Transformer

PW 48 Shri S K Behl, Chief Engineer, DVB has deposed about the working of their department. He has deposed that the Junior Engineers in their respective area are responsible for 100% check of the sub-stations, likewise, AE and Executive Engineers are responsible to the extent of 50/20%, Superintendent Engineer and Addl. Chief Engineers are supposed to check 2% of the total Sub-Station equipment. He has deposed that normally, Protection Relays are provided at HT Panels for protection against over current or earth fault at 11 KV level to ensure the safety of transformer and other accessories, crimping machine are provided for the purpose of crimping the sockets with LT leads of the transformer to secure that no loose connections are made which could give rise to high temperature resulting in burning of the leads which depends upon the quantum of load and the looseness of the sockets.

He has deposed that one transformer of 1000 KVA of DVB was been installed at Uphaar Cinema Complex. So far as he remembers protection relays were not provided though, back up protection was available at the grid station located in AIIMS complex from where a 11 KV feeder emanates and feeds power upto Uphaar Cinema. This indicates that despite protection relays not being available at Uphaar Cinema Sub-

Station, protection to the said system was available from the grid station. The supply must have tripped from AIIMS immediately on the occurrence of fire as the protection system was functioning smoothly at the AIIMS grid station. He has proved the replies to the queries of Karnal Singh, IPS, DCP as Ex. PW 48/A and the letter Ex. PW 48/B along with the enclosures, letters dated 16/17.7.97 Ex. PW 48/C, letter dated 30.7.97 Ex. PW 48/D, letter dated 30.7.97 Ex. PW 48/E. Letter dated 30.7.97 Ex. PW 48/F all addressed to Shri Karnal Singh, IPS and to SP, CBI, letter dated 4.9.97 (D68) Ex. PW 48/G, letter dated 8.9.97 (D70) Ex. PW 48/H addressed to M Narayanan.

Tenant

PW 54 Ms. Seema Mukherjee was a tenant in a shop at Uphaar Cinema building on the ground floor since 1973 vide Agreement Ex. PW 54/A.

PW 55 Dharam Pal Bassi is another tenant having his office in Uphaar Cinema complex on its fourth floor.

PW 57 Vinod Kumar Gupta was having Paan Shop near Uphaar Cinema complex. He has deposed about the fire having taken place inside the Uphaar Cinema. He passed on the information to Delhi Fire Brigade who went inside the building and extinguished the fire and also helped in rescue process.

Car Parking

PW 56 R K Sethi is contractor of car parking at Uphaar Cinema in the basement for scooter/cycles and on ground floor for cars. He was granted contract for parking vide letter dated 1.4.88 from Gopal Ansal Ex. PW 56/A. He has deposed that on

13/6/97 the fire took place in Uphaar Cinema transformer, he reached Uphaar cinema and found that his employees were taking out cars and scooters from the parking area and he found lot of smoke and heat and also found 8/10 cars in burnt condition. He has proved sheet Ex. PW 56/B containing the details of token issued to cars parked on 13.6.97 same was seized vide memo Ex. PW 56/C.

Thereafter, Prosecution Evidence was closed and statement of accused persons under Section 313 Cr P C was recorded in which they have denied the entire evidence and have stated that they have been falsely implicated by CBI.

Accused No.1 Sushil Ansal in his statement u/s 313 Cr.P.C has stated that to the best of his knowledge, there were no deviations in the cinema building endangering the safety of patrons. He further stated that there were no alterations which were not approved in subsequent inspections from concerned competent authorities from time to time. Even the permission to let out premises were obtained from the competent authorities. The changes in seating arrangement, exit doors, change in gangways etc. were all duly got approved from the competent authorities from time to time. Infact the report was fabricated with malafide intention at the instance of prosecuting agency. He further stated that the cinema management had

strictly complied with the requirements of Cinematograph Act and all safety measures for the safety of public and the structures were strictly complied with. He further stated that he was out of Delhi on the day of incident and that he had already resigned from the Directorship of the company in the year 1988 and that he was not Associated with the day to day working of the Cinema.

In statement under Section 313 Cr P C, Accused No. 2 Gopal Ansal has stated that the investigation of the present case is biased and it is a false case against him. He is innocent. He had already resigned from the Directorship of company in the year 1988 and was not Associated with day to day working of the cinema.

Accused No. 3 R K Sharma, in his statement under Section 313 Cr P C, has stated that he has been implicated in a false case and was picked up by the police from his house on intervening night of 13/14.6.97 at 4 AM and was sent in Lock Up.

Accused No. 4 N S Chopra has stated in his statement u/s 313 Cr P C that he is innocent and falsely implicated in the present case. All witnesses are false witnesses. He used to come on duty at 5.30 p.m. and when he came on duty at 5.30

p.m. on 13.6.97, he was not allowed to enter the Uphaar cinema.

Accused No. 5 Ajit Choudhary has stated in his statement u/s 313 Cr P C that he had helped the patrons to come out of the cinema hall and he has been falsely implicated in the present case.

Accused No. 6 Manmohan Uniyal has stated in his statement u/s 313 Cr P C that he has been falsely implicated in the present case.

In his statement u/s 313 Cr P C, Accused No. 7 B M Satija has stated that he is innocent and falsely implicated in the present case. He has further stated that he had not done any repair on the DVB transformer installed at Uphaar Cinema in the morning of 13.6.97 nor he supervised that repair work.

Accused No. 8 Anand Kumar Gera has stated in his statement u/s 313 Cr P C that he is innocent and has been falsely implicated in the present case. He has further stated that as per record, he was not In charge of Uphaar Cinema Sub-station on 13.6.97 nor the repair of the DVB transformer installed at Uphaar cinema was carried out by him. He had not

supervised the Uphaar Cinema complaint on 13.6.97 in the morning. On 13.6.97 at about 2 p.m., P C Bhardwaj had asked him about B M Satija and also told him about the Uphaar Cinema complaint and he informed P C Bhardwaj that complaint has been attended by Bhagwan Din and Bir Singh under the physical supervision of B M Satija. He had made all the four entries dated 13.6.97 as per the instructions of P C Bhardwaj. On 14.6.97, he was called at P S Hauz Khas and was forced to write the report regarding the repairs conducted on 13.6.97. P C Bhardwaj had given special remarks on the original report that he (A K Gera) was not Incharge of Uphaar Cinema and complaint dated 13.6.97 was not given to him but that original report was withheld by the prosecution and on 14.6.97, he was suspended by his department for which he made representation. He has further stated that he was not supposed to attend the complaints of Zone 1601 unless specifically directed by Asst. Engineer to do so.

Accused N0. 9 Bir Singh, in his statement u/s 313 Cr P C, has stated that he has been falsely implicated in the present case and he has nothing to do with the commission of the

offence.

Accused No. 10 Shyam Sunder Sharma, in his statement u/s 313 Cr P C has stated that he issued 'No Objection Certificate' for the period 1.4.95 to 31.3.96 and during that period, no incident had taken place. The 'No Objection Certificate' Ex. PW 2AA/26 dated 28.9.95 was issued by him under Section 417/422 D.M.C Act which was considered by DCP(Licensing) under Cinematograph Act which is mis-use of 'No Objection Certificate'. If he was not authorised to issue 'No Objection Certificate', DCP(Licensing) should not have issued the license on the basis of said 'No Objection Certificate'. 'No Objection Certificate' issued by Executive Engineer(Building) is under Cinematograph Act. DCP (Licensing) has not made efforts to obtain this 'No Objection Certificate' from Executive Engineer (Building) and simply on seeing Municipal Corporation of Delhi Letter Head on which 'No Objection Certificate' Ex. PW 2AA/26 was issued, has renewed the license of Uphaar Cinema under Cinematograph Act. In the present case, DCP (Licensing) has acted negligently which was kept aside by the investigating agency.

Accused No. 11 N. D. Tiwari in his statement u/s 313 Cr. P. C has stated that CBI has placed a disposed file of licensing branch of Municipal Corporation of Delhi of South Zone before this court. This 'No Objection Certificate' cannot be connected with Uphaar cinema and with the temporary license issued by DCP(L) for two months from 1.4.97 to 1.6.97. The temporary license was issued by DCP(L) on his own authority and in the absence of formality from other departments. It is baseless to say that 'No Objection Certificate' was issued without the inspection when Insp. B B Bajaj himself admitted before this court that he inspected the Uphaar cinema. It is also baseless to say that A.O, Municipal Corporation of Delhi was not empowered to issue 'No Objection Certificate' to DCP(L). The Executive Engineer Building submitted his report on 23.5.96 against the demand of letter dated 23.2.96 and this was inspection under Delhi Cinematograph Act, 1981 and DCP(L) acknowledged its receipt on the letter of 3.10.96 which proves that A.O, Municipal Corporation of Delhi, South Zone has nothing to do with Delhi Cinematograph Act, 1981.

Accused No. 12 H S Panwar has stated, in his statement

u/s 313 Cr P C, that on 6.7.97, he alongwith Crime Team including R S Jakhar, ACP Jai Pal went to Uphaar Cinema and showed them cinema from basement to top floor, fire safety equipments were also shown to them which were found in working order. The fire extinguishers were found in working condition. Overhead tank, underground water tank were also there. Boosting arrangement was there in Uphaar Cinema, the fixture of emergency light was also there. The video film was prepared in this regard. On 13.6.97, the emergency light was in the hands of Mr. Malhotra and Fire Officer Surinder Dutt. Thereafter, he was arrested despite the fact that fire safety system was in working order. The 'No Objection Certificate' was issued by DCP (Licensing) and also by Electrical Inspector but they were not arrested by the police. He has further stated that on 13.6.97, while he was Divisional Officer of the area, all the fire fighting work was done under his supervision and staff of Uphaar Cinema was also helping in rescue process. He had inspected Uphaar Cinema one month prior to the incident. He is innocent and has been falsely implicated in the present case.

Accused H S Panwar, Bir Singh, Anand Kumar Gera lead

evidence in their defence.

In his defence, accused H S Panwar produced DW 1 N K Batura, retired Deputy Chief Fire Officer. In his testimony, he has deposed that accused H S Panwar was his subordinate from 1994 till March, 2001 till he retired. Accused had retired in the year 1997. Accused H S Panwar used to accompany him during inspections of sites. He had inspected Uphaar Cinema before the incident. There was a Proforma for inspection and inspection was being carried out accordingly and during the inspection, they used to check the performance of equipments installed in the cinema hall. There was no disciplinary action against accused H S Panwar regarding issues of No Objection Certificate. He has proved the Proforma as Ex. PW 33/E dated 22.12.96. He has deposed that only after seeing the record, he can say that H S Panwar was on duty on that day or not.

Accused Bir Singh, in his defence, had produced DW 2 SI Mukesh Kumar Jain of Delhi Police. In his testimony, he has deposed that on 11.7.97, at the request of Insp. R S Jakhar, he went to Uphaar Cinema and inspected the scene of occurrence and on the basis of rough notes and

measurements, he prepared seven scaled site plans Ex. PW 108/DB1 to DB7. The scaled site plan Ex. PW 108/DB7 relates to parking area and ground floor of Uphaar Cinema building and when he inspected the spot, cars and jeeps were present at the spot. Thereafter, he handed over these scaled site plans to Insp. R S Jakhar.

Accused A K Gera produced DW 3 Shri R C Upadhyay, in his defence. In his testimony, he has deposed that in July, 1997, he was holding the charge of Sub Station South Circle, accused A K Gera was in Sub-Station R K Puram. After seeing letter Ex. PW 108/DX dated 23.9.97, he has deposed that he alongwith A K Gupta, Executive Engineer had prepared reply of this letter but this letter does not bear any endorsement with regarding to marking of this letter to him. The said reply has been proved as Ex. DW 3/A which bears his signatures at Point A and that of A K Gupta at Point B and of Superintendent Engineer Mr Jethi at Point C. After seeing the original of mark PW 48/DK, he has deposed that it bears his signatures and signatures of A K Gupta but he could not identify the signatures of Shri B R Jethi, the photocopy of this report has been proved

as Ex. DW 3/B. He had also given the clarification of the office order issued by the Administration on 31.3.97 Ex. PW 48/DF, the said clarifications were issued regarding the duties of Insp. A K Gera, after obtaining the approval from the Member Technical/ Addl. Chief. He has proved the letter of their department as Ex. PW 108/D2 sent in response to CBI letter Ex. PW 108/D1. He has also proved the signatures of Y P Singh, Member Technical at Point A, S K Behl at point B and of Gyan singh at Point C of ex. PW 48/DJ. After seeing Office Order No. GM/PS-12/2231 dated 26.7.90 in a book form mark DW 3/X, he has deposed that as per Page IV of this officer order, the duties were assigned to each DVB employee i.e. Inspector to Addl. Chief at the relevant time, photocopy of Page IV has been proved as mark DW 3/X1. He identified his endorsement and signatures Ex. DW 3/D on photocopy of letter mark DW 3/X3 dated 3.7.97, he also proved his endorsement as Ex. DW 3/E on photocopy of letter dated 17.9.97 Ex. DW 3/X4, he also identified his hand writing and signatures on Notesheet Ex. DW 3/F which bears his endorsement Ex. DW 3/G at reverse page and it also bears the endorsement and

signatures of B R Jethi, Superintendent Engineer. He has deposed that the General Diary Register is being maintained in the office of Assistant Engineer and it contains information regarding failure of supply/rectification of supply and any maintenance work carried out during the day which is being recorded by a Supervisor/Foreman and accordingly, after ascertaining the priority of the complaint, the staff is deputed and working is carried out. All informations are recorded in General Diary Register regarding complaint received during the day and attended by any supervisor/Foreman. Material at Site register is being maintained by Junior Engineer of a sub or a Junior Engineer of a zone of Sub-station department and he records utilization of material/work done by him in his sub zone/zone.

Thereafter, Defence Evidence was closed.

The following documents have been admitted in evidence :-

Ex.PW1/A, Ex.PW3/A, Ex.PW3/B, Ex.PW3/C , Ex.PW4/A-3, Ex.PW4/A-4 , Ex.PW5/A, Ex.PW5/B, Ex.PW6/1 to 8, Ex.PW7/A , Ex.PW12/A , Ex.PW12/B and Ex.PW12/C are

death certificates of victims.

Ex.PW2/A is inspection cum scrutiny report of Municipal Corporation of Delhi Engineers showing floor wise deviations :-

Ground Floor :-

- 1 One Manager room alongwith toilet in front was converted into a glazed verandah with loft by removing front wall and toilet.
- 2 The size of the ticket foyer was reduced thereby amalgamating a part of its area to the adjoining portion.
- 3 The portion adjoining the ticket foyer was divided into two portions which was used as Syndicate Bank and some other private office reported to be a printing press.
- 4 The portion of the staircase around liftwell and leading to basement was occupied by M/s Sehgal Carpets which was blocking the egress and ingress to the basement through this staircase.
- 5 There was one ticket booth on the side portion near the ramp.
- 6 The outer size of HT & LT room and transformer room was same but the positioning of the partitions have been shifted resulting in alterations in internal sizes of these rooms.

- 7 There was dispensary behind the transformer block in some portion over ramp.
- 8 There was one toilet adjoining AC duct.
- 9 The staircase in the sanctioned building plan is shown enclosed on all its four sides but it was found without any enclosure on its two sides on stilt floor.
- 10 R S Joists have been provided in a large portion of stilt at a height of 8' from the stilt floor.
- 11 An office over R S Joists was found erected in the portion near rear staircase and also an opening was existing on the front staircase at the R S Joists level.
- 12 In the rear a pucca wall was constructed in full height of building whereas this wall has been shown in sanction plan upto a height of 12' i.e without any enclosure except some portion which was provided with parapet/railing etc for safety reasons (Imp.)
- 13 In parking layout plan, the parking of vehicles/15 cars have been shown towards the side of ticket foyer and on both sides of rear staircase, leaving the middle portion of 16' width (passage) in front of transformer block. But vehicles

were parked in this area which had affected the free and smooth movement of vehicles.

First Floor :-

1. Two snack bar counters in the foyer by the side of rear stair hall were causing obstruction in the free movement of visitors.
2. There were 751 seats in the auditorium instead of 750 seats.

Second Floor/Balcony :-

- 1 The total number of seats in the balcony are 302 instead of 250 seats.
- 2 Inspection room was converted into 18 seater box.
- 3 Eight seater box was provided by closing exit way of balcony adjoining the front staircase.
- 4 Four gangways of 3'-8" width each was sanctioned across the rows of balcony, out of which, one gangway, near Central exit/entrance, was reduced to 1'-10 ½ ", the other gangway has not been provided near the wall but this gangway has been shifted and provided in the middle of rows, reducing the width of the gangway.
- 5 To meet the numerological requirement, one exit/entrance was provided on the other side of the balcony but proper care was not taken. Six seats were arranged in front of the new

exit/entrance which caused obstruction.

- 6 A toilet block was converted into office.
- 7 Operator rest room and a single room tenement with toilet for sweeper was converted into a retiring room alongwith office and attached toilet cum dress.
- 8 Four exhaust fans in the second floor are opening in the front staircase hall instead of opening into a direct open space.

Top floor :-

- 1 In this floor, by providing several wooden partitions, number of offices have been provided in various names as under :-
 - 2 a. M/s Sarin & Associates
 - b. M/s Kamal Construction Co.
 - c. M/s Bassi Builders
 - d. M/s Vicky Sarin Impex, etc.

Few offices have been provided around the lift well in the staircase hall by providing wooden floor at different levels. One more office was provided by converting part of the sanctioned toilet block. Besides this, two exhaust fans are opening in the rear stair hall instead of opening in the direct open space. These offices do not have proper ventilation and

sanitation requirement.

Set Backs:-

1.As per the sanctioned Building Plan 20' wide set backs have been sanctioned in the front, rear and right side. Although, 20' wide set back exists on all the three sides, these set backs have been infringed by the following :-

a) A number of RS Joists encased by M.S. Sheets have been erected in the front set back right from the ground level to the top of the building. These R.S. Joists exist vertically as well as horizontally at different heights. Though these structures are purely architectural features but being originating from ground level, they amount to set back infringement of 2'-6" in the front set back.

2.A kiosk is existing in the front set back as shown in the stilt floor plan.

3.An advertising display cabin has been erected on a steel frame as shown in the stilt floor plan.

4.In the rear set back an enclosure has been provided by fixing M.S. Angles with BRC fabric on its two sides and on the top. One side of the boundary wall has been raised upto 8' height

to support the roof of abovesaid enclosures. Besides this, a water storage/static tank was also found existing in the rear set back near stair case which was full of water which was partly under the above mentioned M.S enclosure (Refer Building Bye Laws No. 2(71) Page 60 and Bye Law No. 98(4)(h) Page 118. Although, all the above alterations are within the sanctioned building plan, some of the main deviations are reiterated in brief hereunder :-

- 1 Conversion of cinema hall into cinema cum private office complex.
- 2 Shifting of cinema administration offices at various floors without keeping in mind the aspect of proper ventilation and sanitary requirements.
- 3 Opening of exhaust fans in the stair-hall instead of opening into a direct open space
- 4 Erection of RS Joists in between stilt & first floor to create extra floor.
- 5 Enclosure of stilt area and construction of dispensary in the stilt area.
- 6 Storing and using of various combustible materials including

provision of wooden acoustic panels and wooden partitions in the building.

7 Considerable increase in number of seats in the auditorium and also creating of boxes/dress circle

Closure of one of the exits and shifting of gangway from its proper sanction plan and also reduction in width of one of the gangways thereby increasing travel distance.

Ex.PW2/AA-26 is No Objection Certificate dated 28.9.95 issued by Sh. SS Sharma for issuance of Annual Cinematograph Licence for the year 1995-1996.

Ex.PW2/AA27 is No Objection Certificate dated 25.9.96 issued by Sh. N.D Tiwari for issuance of Annual Cinematograph licence for the year 1996-97.

Ex.PW2/DA, Ex.PW2/DB Ex.PW2/DC (earlier mark PW2/A-11, PW2/A-18 and PW2/ A-19) are sanction plans

Ex.PW4/A-1 and Ex.PW4/A-2 are tickets of Uphaar Cinema of Friday for the show of 3.15 p.m..

Ex.PW5/AA is print out of bill of mobile of Essar bearing no.919811079330 in the name of Mr. Saya K. Rao for the period of 24-5-97 to 23-6-97.

Ex.PW7/B is seizure memo of discharge summary of Sh.

Rishi Arora issued by Dr. Lal of Aashlok Hospital.

Ex.PW7/AA-1 is discharge summary of victim Rishi Arora

Ex.PW 15/A is the report of Municipal Corporation of Delhi regarding the electricity connection to Uphaar Cinema regarding proposal for additions and alternation at basement, stilt floor (Ground floor), 1st floor, Mazanine floor, 2nd floor and 3rd floor only.

Ex.PW15/D is the lease deed executed on 24/2/72 between M/s RC Sood and Co.(P) Ltd a company incorporated under the companies Act – Lessor and M/s Green Park Theater Associated (P)Ltd

Ex.PW15/E is the Memorandum and Articles of Association of Green Park Threat res Associated (P)Ltd.

Ex.PW15/F is the copy of resolution passed by the Board of Directors at their meeting held on 15th July 1972 wherein it is resolved that," Resolved unanimously that Shri Gopal Ansal be and is hereby authorised to sign all the documents, drawing and other connected papers regarding submission of revised plans, applications for water and electric connection, licensee, permissions from time to time regarding 'Uphaar Cinema' Green

Park Extension Market, New Delhi to all the concerned authorities."

Ex.PW15/G is the building plan application showing the additions and alterations as per plans in respect of land signed by Sushil Ansal as owner of M/s Green Park Theaters Associated (P) Limited addressed to the Commissioner Municipal Corporation of Delhi, Delhi.

Ex.PW15/H is the authorisation letter of RC Sood Managing Director of M/s RC Sood and Company authorising Mr. A Kapoor , Architect to deal, discuss and explain in connection of building plan on Cinema plot situated at Green Park Extention, Shopping Centre, New Delhi and to make necessary corrections in the plan as required under the building bye laws and to collect the sanction plans on their behalf.

Ex.PW15/I is the authority letter by Sushil Ansal, owner of Ms/ Green Park Theaters Associated (P) Ltd authorising Mr. VK Bedi Architect.

Ex.PW16/A is letter dated 3/10/96 sent by Ms. Vimla Mehra IPS to Shri VK Duggal, Commissioner, Municipal Corporation of Delhi Town Hall, Delhi

Ex.PW16/B is letter dated 23/7/96 send by Ms. Vimla Mehra, IPS to Shri OP Kelkar, Commissioner, Municipal Corporation of Delhi, Town Hall, Delhi regarding inspection report .

Ex.PW16/C notesheet signed by MM Dass EE Bulding Municipal Corporation of Delhi

Ex.PW16/D is the letter addressed to Smt. Vimla Mehra, ACP by Shri BB Mahajan Superintending Engineer-X sent on 23/5/96 regarding inspection report.

Ex.PW16/E is the inspection report of 13 cinema halls.

As regards Uphaar Cinema it is reported that,

- 1 From the basement, office of M/s East Coast Breveries Ltd have been removed and the provision of car parking has been made, but several partition walls are in existence, which needs rectifications.
- 2 Since wooden planks have been removed from the loft/mezzanine, as such, the office accommodation automatically removed at RS Joints, structure is still existing which needs removal.
- 3 As regards to objection no.3 to 11 they have not been removed at site.

Ex.PW16/F report in respect of Uphaar cinema including deviation and objections.

Ex.PW17/A Letter dated 23/2/96 from Mrs. Vimla Mehra Additional Commissioner of Police (Licensing) addressed to Commissioner, Municipal Corporation of Delhi pertaining to inspection report of 13 cinema halls including 'Uphaar cinema. This letter has reference of order hon'ble High Court of Delhi.

Ex.PW17/B enclosure giving details of 11 number of objections mentioned in respect of Uphaar cinema. The said eleven objections are as follows :-

- 1 The basement meant for parking of vehicles was covered and let out to M/S East Coast Braveries and Distillaries .**
- 2 Creation of additional floor between stilt floor and floor of auditorium by providing wooden plank . A part of it let out to M/S Nariers in violation of sanction plan**
- 3 Third floor let out to various organizations.**
- 4 Wooden plank removed as noticed at the time of second inspection but steel post and RS joist are still intact.**
- 5 A homeopathic dispensary between stilt floor and floor of auditorium created by providing wooden plank flooring which unauthorized and fire hazard.**
- 6 This part of the basement made inaccessible from the basement level and having access from ground floor and same was used for printing press which is not only violation of building bye laws but also a fire hazard.**

- 7 Part of basement is used for storage of combustible material which is a fire hazard.**
- 8 On the top floor an office has been created forming part of the stair-case plus a loft over it and extending to the portion above the toilet shown in the sanction plan.**
- 9 One room at second floor mentioned as store in the completion certificate is being used as office of M/S Anil Chopra and Company .**
- 10 Many offices on the top floor for which no permission seems to have been taken as required under condition 17 of the license.**

The space marked for restaurant has been let out to bank.

Ex.PW17/C is the internal letter dated 16/4/96 of Municipal Corporation of Delhi to inspect the cinema halls including Uphaar cinema whether objections raised by Joint Committee has been rectified.

Ex.PW17/D & E is the Inspection report dated 30/4/96 of cinema halls including Uphaar cinema conducted by RK Gupta, RK Sharma and Vinod Sharma which reads as follows :-

From the basement, office of East Coast Breweries Ltd have been removed and provision of car parking have been made, but several partition walls are in existence , needs rectification.

2. Since wooden planks have been removed from the loft/mezzaine such the office accommodation automatically removed but RS joist , structure is still existing which needs

removal.

Points 3,4, 5,8,10 and 11 are yet to be removed.

Ex.PW17/F is letter dated 16/2/97 from DCP Licensing to Municipal Corporation of Delhi Commissioner asking for annual inspection report in prescribed proforma.

Ex.PW17/G is Letter dated 13/10/96 sent by Addl CP (lic) to Municipal Corporation of Delhi Comm for sending inspection report in prescribed proforma.

Ex.PW17/H letter 8.8.96 of DCP License to Municipal Corporation of Delhi commr. Municipal Corporation of Delhi for sending annual inspection of cinema halls on prescribed proforma.

Ex.PW17/DA completion certificate dated 10/4/73 of Uphaar Cinema.

Ex.PW17/DB Annual license for the year 1973-74

Ex.PW17/DC letter dated 12/7/74 from Sh. J.C Rawal Entertainment Tax Officer regarding letting out of top floor and ground floor.

Ex.PW19/A notesheet of Municipal Corporation of Delhi
Ex.PW19/B & C note sheet of Municipal Corporation of Delhi enclosing the letter of DCP licensing dated 3.10.96

Ex.PW19/D letter dated 2.9.96 from MM Dass EE Municipal Corporation of Delhi to Vimla Mehra Addl. Commr. Of Police(lic) regarding inspection report of Cinema building.

Ex.PW21/A internal letter dated 24/4/96 of Municipal Corporation of Delhi pertaining to inspection of cinema halls with respect to the CWP 1348 to 1351 and 1354 to 1356/83

pertaining to inspection of cinema halls with respect to the CWP 1348 to 1351 and 1354 to 1356/83.

Ex.PW22/A This noting dated 28/9/95 regarding issue of 'No Objection Certificate' for renewal licence with reference to letter dated 20.4.96

Ex.PW22/B is the notesheet page 4N dated 16/10/95. This note was regarding issuance of duplicate storage license as the previous was destroyed with reference to letter of manager of Uphaar cinema dated 28.9.96.

Ex.PW23/A is noting at page 5 N for issuance of 'No Objection Certificate' for renewal of licence for the period 01.4.1996 to 31.3.1997.

Ex.PW23/DA this is a letter of Sh. T.R Sharma DCP (License) dated 11.3.96 to Chief Fire officer , The Electrical Inspector, The Director (Building) DDA, , The Zonal Engineer, (building) Municipal Corporation of Delhi, The Zonal Health Officer, Municipal Corporation of Delhi for issuance of Annual Cinematograph Licence as per DCR 1981 for the period of 01.04.96 to 31.3.97.

Ex.PW23/DB is the letter dated 19.9.1996 from Manager Uphaar Cinema to Administrative Officer Municipal Corporation of Delhi for issuance of 'No Objection Certificate' for renewal of licence of Uphaar Cinema for the period 1996-97.

Ex.PW24/A is the report dated 25.6.1997 prepared by K.L Grover and Avinash kumar Aggarwal , Electrical Inspector. The report is as follows :-

The premises from where the fire started, as reported by

the witnesses, is a Sub-station located, on the raised ground floor i.e stilt floor of Uphaar cinema complex. This sub-station comprises of three rooms adjacent to each other. There is a ramp way leading to the basement on the rear portion of these rooms and the space in front of these rooms was being used as a car parking lot where number of cars in burnt condition were still found parked.

In the extreme left nearer to balcony exit staircase, 500 KVA, 11/0.43 KV transformer belonging to consumer was installed which was being used for feeding electricity to Uphaar cinema complex. In the middle room, 1000 KVA transformer of Delhi Vidyut Board was installed and in third room which was adjacent to DESU transformer room, Low Tension Panel, Metering Cubicle, Battery Charger, High Tension four panel board of DVB was found installed. Two LT bushings for each phase of the transformer and the bushings of each phase had been found shorted with a common metal bus-bar. There were four holes in each of the Bus-bar mounted on the transformer LT bushing. Out of these four holes, two holes were used for fixing the Bus-bar on the LT bushing Terminals and the remaining two holes were used for jointing the LT. Cable end sockets with the Bus-bar. On each phase, three number of single core aluminium cables of size 630 sq.mm had been connected for carrying electric supply from the transformer to the Air Circuit Breaker installed on the LT Panel Board.

On detailed examination of 1000 KVA transformer and HT/LT Panel Boards of DESU, the following observations were

made :

1.Two HT Bushings of the transformer were broken and the third one was cracked. There were no flash marks on HT supply leads and HT bushings of the transformer.

2.One of the LT supply cable end socket of B phase through which the LT supply from transformer to LT ACB had been taken, was found detached from the transformer LT Bus-bar (Blue Phase) and was lying by the side of the transformer radiator.

3.There was a cavity in the B-Phase Bus-bar (around the hole from where cable got detached) of the transformer and the upper portion of the cable-end-socket which was lying by the side of the radiator also melted/burnt in a way that the centre hole of the socket took a U-shape.

4.The earth conductors connected to neutral terminal of the transformer were found disconnected near the neutral terminal. There were short-circuit marks on these earth conductors indicating beads formation at the end of these earth conductors.

5.The neutral Bus-bar was loose and the check nut used for tightening the Bus-bar was also loose.

6.The PVC insulation of the LT cables connected to the transformer Bus-bar were found damaged/burnt. The insulation of the cable which was lying by the side of the radiator was also found almost burnt out from transformer upto LT switch room.

7.Battery charger & KT Panel Board were found almost

damaged with fire.

8.No protection relays/system were found installed on any of the HT Breakers of the said HT Four Panel Board from where the HT supply to 1000 KVA transformer in question was fed.

The representative of Uphaar Cinema had lodged a complaint with DVB Complaint Centre regarding sparking in DVB transformer on 13.6.1997, the said complaint was attended on the noon of that day and thereafter, the power supply was switched ON after replacing two burnt cable end sockets of Y-phase of LT supply cables.

It is evident that due to loose connection of the cable end socket of B-phase Bus-bar of transformer, there was sparking and at that time, the transformer was 'on load' and the current supplied from the 1000 KVA transformer was passing through these Bus-bars and at that time, there was sparking on the B-phase bus-bar. Thus the magnitude of the current supplied through B-phase could be large which had caused excessive heating of the transformer B-phase Bus-bar and cable end socket. The excessive heating and sparking formed a cavity on the B-phase bus-bar and also melted the upper portion of the cable end socket. Due to weight of cable and decoiling effect of the cable, it had exerted cable end socket on the transformer and hit the transformer's radiator fin due to overheating of the cable, its insulation gave-way and conductor became naked/exposed. The live conductor of this cable after hitting the radiator fin formed an opening in the radiator fin due to short circuiting from where transformer oil gushed out and

spilled over the floor. Short circuiting of cable with radiator fin continued for a sufficient time and since there was no protection system provided for the transformer, the transformer oil caught fire due to arcing/sparking caused by short circuiting.

There was no protection relay system against over-current, Earth faulty and excessive Gas pressure which could have automatically disconnected the supply in normal condition as provided in Rule 64A(2) of Indian Electricity Rules, 1956. The cable end socket of B-phase of LT supply cables had not been fixed properly. They have used hammer and not crimping machine which was required as per Rule 65(5) of Indian Electricity Rules, 1956 and as specified in Specification No.13.3(Table-2) of IS Code No. 1886-1967. The effect of short circuiting of LT supply cable with the transformer and subsequently catching of fire by the transformer oil which was caused because of the loose connection because of the fault repaired in the morning of 13.6.1997 and this could have been avoided if the fault would have been repaired properly and if protection relays/system would have been provided to protect the transformer against over-current, earth fault and excessive gas pressure.

Ex.PW24/DA is Log-sheet of AIIMS Grid for 13th June 1997, as per which, there was a load shedding in NDSE Part-I at 14-55 hours and lifted at 15-55 hours and there is also a mention of load shedding in Green Park at 15-55 hours and lifted at 16-55 hours and at 17-05 hours, the 11 KV transformer, Green Park was running on over current.

Ex.PW24/DB is annual inspection report of Electrical installation at Uphaar Cinema dated 06.6.95 stating that the inspection of the electrical installation of 'Uphaar Cinema' , Green Park Extension Market, New Delhi was carried out on 06.6.95 and the same was found in accordance with the provision of the Indian Electricity Rules 1956 and Cinematograph Rules and there is no objection , so far as this office is concerned, if the license of the cinema is renewed.

Ex.PW24/DC is annual inspection of Electrical Installation at Uphaar Cinema dated 21.5.96 written by B.R. Meena, Asst. Electrical Inspector , Delhi to DCP (LIC.)

Ex.PW24/DD is annual inspection of Electrical Installation at Uphaar Cinema dated 06.5.97 written by B.R. Meena, Asst. Electrical Inspector , Delhi to DCP (LIC.)

Ex. PW 25/A is the report of Shri T.P. Sharma, expert from Central Building Research Institute, Roorkee. The report is as follows :-

General :-

We were informed that fire started from overheating of the transformer resulting into spillage of the transformer oil which was flown out from the Transformer Room as the room level was higher than that of the floor outside. This has resulted the fire in the car which was parked outside the Transformer Room and subsequently to all the cars in that area caught fire.

Since the fire load, which is responsible to the growth and spread of fire was in the form of cushion seats, tyres, petrol/diesel, transformer oil and cable besides other materials like wood etc. The nature of the flammable material and their amount with low ventilation has resulted in the burning which can be categorised as partial burning or burning as a result of defficient oxygen supply. This has resulted in the high smoke generation evolving the toxic gases (alongwith carbon dioxide gases) like carbon monoxide, hydrocloric, (HCL) gas, cynogen gas (HCN), Sulphur dioxide etc. The later these gases may be in very low concentration but they are highly toxic to cause fatal injury.

The generation of the smoke has resulted in creation of high and low pressure areas which were responsible for the travel of smoke. Thus smoke has traveled mainly through the thorough horizontal opening from bottom to top on the stairways and also through the staircase from this area to ground floor as shown in figures. Since the balcony was naturally at the upper height and there was no opening in the false ceiling hence smoke from all sources tried to enter to the balcony but mainly from the right side. Infact the travel of smoke from left side towards the ladies toilet has resulted later and that is the reason that most of the people though that it was probably a safer place to stay till the fire is extinguished.

The smoke, travel through staircase NO. 3, was again responsible for the faster spread in the first floor auditorium area through the door provided at the base of the podium of the

screen. Similarly the small opening of about 45 cm dia at the roof of the ground floor was also responsible for the spread of the smoke at the first floor through A.C. Tunnels.

The reply to queries is as follows:-

1.What is the source and cause of fire in Uphaar Cinema on 13.6.97 ?

A: No comments. As the visit to the fire scenario was not immediate and by the time we visited lot of parts were already taken away by various agencies for investigation.

2.How did the fire spread to various parts of the building after it started. What are the places affected by fire?

3.What are the items burnt. There were about 28 vehicles parked near by in the parking place and they have been burnt.

A: Car tyres, diesel/petrol, bumpers, seats and upholstery, dashboards and other car furnishings such as carpet etc. Besides these, other combustible materials in the basement, transformer oil and cables must also have burnt during the fire.

4.What is the chemical composition of the transformer oil and at what temperature it catches fire and what are the gases evolved on account of burning of transformer oil?

A: Type of transformer oil used may be known from DESU and its composition, flash point etc may please be ascertained from IOC Research Centre, Faridabad.

5.How did smoke spread? What are the constituents of the smoke formed at the initial stage when the transformer oil caught fire and what are the constituents of smoke when the car tyres, petrol, car seats, false ceilings etc were burnt?

A: Smoke spread from car parking to the main theater via the stair wells. The actual contents of smoke will depend on the items burnt: the likely items were of Rubber, Polyurethane, Polyvinyl Chloride, Acrylonitrile-Butadiene Styrene, Petrol Diesel, Nylon, therefore the combustion products may contain: Carbon soot, hydrocarbons (Saturated +unsaturated) CO, CO₂, SO₂, H₂S, NO₂, HCN, HCL, Vinylchloride, Phosgene, ammonia, aldehydes etc.

6. What could be gases created/resulted on account of the fire and burning of various materials as mentioned above and found that the scene of occurrence and what are the details/effects of various type of gases which thus emerge from fire/smoke?

<i>Toxicant</i>	<i>Sources</i>	<i>Effects</i>	<i>Estimate of short term Lethal Concentration (ppm)</i>
Hydrogen Cyanide (HCN)	Combustion of wool, silk, polyacrylonitrile, nylon, polyurethane	A rapidly fatal asphyxiant poison	350

<i>Toxicant</i>	<i>Sources</i>	<i>Effects</i>	<i>Estimate of short term Lethal Concentration -n(ppm)</i>
Nitrogen dioxide & other oxides of nitrogen	Produced in small quantities from fabrics and in larger quantities from cellulose nitrate & celluloid	Strong pulmonary irritant capable of causing immediate death as well as delayed injury.	>200
Ammonia	Combustion of wool, silk, nylon, melamine,	Pungent, unbearable odor, irritant to eyes, nose	>1000
Hydrogen Chloride	Combustion of polyvinyl chloride and some fire retardant treated materials.	Respiratory irritant; potential toxicity of HCl coated on particulate may be greater than that for an equivalent amount of gaseous HCl	>500, if particulate is absent.

<i>Toxicant</i>	<i>Sources</i>	<i>Effects</i>	<i>Estimate of short term Lethal Concentration (ppm)</i>
Other Halogen acid gases	Combustion of fluorinated resins of films and some fire retardant materials	Respiratory irritants	HF~400, HBR >500
Sulfur dioxide	From materials containing sulfur	Strong irritant, intolerable well below lethal concentrations	>500

- SO₂ results in damage of mucos, is extremely pungent and leads to death due to 1) asphyxiation 2) cardio respiratory disorder.
- H₂S is extremely dangerous to mucos membrane.
- NH₃ is extremely dangerous to mucos membrane. Inhalation of strong concentration may lead to immediate death from direct vagal inhibition.
- Irritant(gases) may be chloride, aldehydes phosgene, vinyl monomers etc. They result in deaths due to pulmonary complications & respiratory tract damage. Presence of particulate further enhances these effects.
- Particulates. They carry toxic products on them(absorbed) and penetrate deeper in lungs.

7.What could be the route of the smoke/heat? How did it reach the balcony and other places in the cinema hall?

A: The generation of smoke has resulted in creation of high and low pressure areas which were responsible for the travel of smoke. Thus smoke has traveled mainly through the thorough horizontal opening from bottom to top on the stairways and also through the staircase from this area to ground floor. Since the balcony was naturally at the upper height and there was no opening in the false ceiling hence smoke from all sources tried to enter to the balcony but mainly from the right side. Infact the travel of smoke from left side towards the ladies toilet has resulted later and that is the reason that most of the people thought that it was probably a safer place to stay till the fire is extinguished. The smoke, travel through stiarcase No.3 was again responsible for the faster spread in the first floor auditorium area through the door provided at the base of the podium of the screen. Similarly the small opening of about 45 cm dia at the roof of the ground floor was also responsible for the spread of the smoke at the first floor through AC Tunnels.

8.Can we say that which type/kind of gas spread to/reached the balcony and other places. The time taken for such gases as well as the smoke/soot to reach the balcony and other places in the Hall, from the starting point, may please be given ?

A:No meaningful estimates can be made however, soot particles, CO, CO₂,HCL, HCN etc are likely to have spread to/reached the balcony and other places mainly through right hand side staircases as well as through other openings as a

result of pressure differential.

9.How did the people die and what could be the effect of the gas/smoke on them. May please see the copy of the post mortem report in respect of Capt. M S Bhinder and please comment on the nature of gas which had caused the death.

A:People might have died due to :

- Lack of oxygen
- Carbon monoxide(CO) inhalation in large quantity resulting in impaired cardiovascular function, high COHb percentage.
- CO₂ increases respiration rate thus resulting in increased inhalation of toxic products of combustion.
- HCN- due to histotoxic anoxia in which normal cellular metabolism is prevented from occurring due to the enzyme inhibition. Asphyxia results as oxygen is not effectively utilized. (Documented cases in which HCN alone is considered to be primarily toxic in fire are rare)

Ex.PW25/D is questionnaire sent by CBI

Ex.PW28/A is seizure memo dated 29.7.97 regarding seizure of files pertaining to Uphaar Cinema from PWD.

Ex.PW29/A is panchnama dated 02.8.97 prepared by Shri B S Randhawa ASW, PWD, DSP Prithvi Singh and Dalip Singh, Executive Engineer, Public Works Department giving floor-wise deviations which are as follows :-

Basement :-

1.A room 12' X20' adjoining to the staircase has been found constructed.

2. Another room extension was found to be made which is 26' X 20' adjoining to blower room.

3. A wooden store constructed with wooden partitions in the basement was used as store.

4. Three brick walls have been found constructed of 40' length and another wall was 20' in length and the enclosures between them were partially full of old seats.

Ground Floor/Stilt Floor :-

1 The portion above ramp was constructed and was being used as Homeopathy Dispensary of size 20' X 9' behind the transformer room.

2 The outer wall behind HT & LT room, transformer room was constructed upto the first floor height instead of 3' height.

3 The outer size of the LT room, transformer room and HT room was as per the sanction plan but the positioning of the partitioning have been shifted resulting in alterations in internal sizes of these rooms. (site plan Ex. PW 39/AA)

4 A room of the size of 14' X 7' was adjoining HT room and was used as ticket counter.

5 A portion of ticket foyer measuring 20' X 20' was converted into Syndicate Bank. The restaurant on the front side was converted into Sanjay Press Office.

6 Mezzanine floor was constructed with R S Joists of timber flooring, which were completely burnt, reported to have been used as offices. The height of this floor was 8' above the stilt floor and with total covered area of 40' X 33' plus 40' X 39'-3"

= 2890 Sq. ft.

- 7 Another small portion with RCC slab was constructed at mid landing of the staircase case at 8' height above the stilt floor and used as offices.
- 8 There was partition of the staircase around lift well which was leading to basement and was occupied by M/s Sehgal Carpets.

Foyer/First Floor :-

- 1 Refreshment counter was constructed between the staircase door and expansion joint.
- 2 Another refreshment counter was constructed towards rear exit gate at the distance of 10'-9" from the auditorium exit gate.
- 3 In the back row of the auditorium, ten seats were provided instead of nine seats which was restricting the exit door passage. Total seats in the auditorium were 751 instead of 750 seats. (Seating arrangement)

Balcony :-

- 1 The gangway on right side was closed by providing extra seats
- 2 The gangway on the right of the middle entrance gate was 1'-9" instead of 3'-8" which was restricting the passage.
- 3 On the right side, a eight seater box was provided by covering the exit passage.
- 4 The inspection room between staircase and Projection Room was converted into 18 seater box.

- 5 Sweeper room and adjoining toilets were converted into office room, operator rest room was converted into office cum bar room where drink counter was provided.
- 6 In between the second floor (i.e Projection room floor) and loft floor, a full width door on right side of stair case landing was provided which created obstruction for going to terrace.
- 7 One reception counter of Sarin Associates was in the staircase leading to terrace which was obstructing the stair case passage.

Top Floor :-

- 1 The big hall of the loft level was converted in office cabins by providing wooden partition and was used by Sarin Associates, Supreme Builders, Supreme Promoters, Supreme Marketing(P) Ltd and Vikky Arin Impex (P) Ltd, as per the Board displayed on the wall.
- 2 Staircases over the loft level was converted into office.

Mark PW29/A-1 to A-16 is file Sanction Plans

Ex.PW29/B is annual inspection report of cinema dated **07.3.1980** from PWD in which it is pointed out that some part of building has been let out to commercial establishments.

Ex.PW29/C is annual inspection report of cinema dated **22.3.1978** from PWD in which it is pointed out that some part of building has been let out to commercial establishment and no side gangway is provided in balcony due to new seating arrangements .

Ex.PW29/D is annual inspection report of cinema dated

30.12.77 from PWD in which it is pointed out that some part of building has been let out to commercial establishment and no side gangway is provided in balcony due to new seating arrangements .

Ex.PW29/E is annual inspection report of cinema dated **28.3.1979** from PWD in which it is pointed out that some part of building has been let out for commercial establishment and no side gangway is provided in balcony due to new seating arrangements sanctioned by Delhi Admnst.

Ex.PW29/DA is file 12 (62)/PWDII/UPhaar regarding sanction of installation of 14 seater box and sanction of letting out the top floor.

Ex.PW29/DC is notification dated 30.9.76 as per this Notification, hundred seats were allowed. In the balcony, 43 seats were allowed to be added by adding seats in two vertical gangways and introducing new gangway in the middle in lieu of this, in the right wing of the balcony, in the hall, 57 seats were to be added by reducing the existing vertical gangway from four to three and re-shuffling of the seats.

Ex.PW29/DF is letter dated 02.11.74 from Executive Engineer PWD to Entertainment Tax Officer pertaining to 14 additional seats in Uphaar Cinema.

Ex.PW29/DG is letter from Entertainment Tax Officer to Executive Engineer, PWD dated 21.8.74 regarding additional seats.

Ex.PW29/DH is second floor drawing

Ex.PW29/DJ is placement of 43 seats in balcony

Ex.PW29/DK is letter dated 19.6.78 from Entertainment Tax Officer to EE , PWD regarding sanction of additional Box.

Ex.PW29/DL is letter dated 28.6.78 from S.N. Dandona , Executive Engineer , PWD to The Entertainment Tax Officer for sanction of additional box at Uphaar cinema in reference of letter Ex.PW29/DK dated 19.6.78 . According to this letter plans was approved pertaining to 8 seater box.

Ex.PW29/DM is letter dated 02.9.78 from Licensing Department seeking clarification pertaining to 8 seater box .

Ex.PW29/DN is letter dated 20.9.78 from S.N. Dandona , Executive Engineer to the Entertainment Tax Officer according to which the installation of 8 seater box in the proprietor box at Uphaar Cinema are within clause 6 of the first schedule of Delhi Cinematograph Rules 1953.

Ex.PW29/DP is notification dated 27.7.79 with regard to withdrawal of additional seats allowed vide notification Ex. PW29/DC of 1976.

Ex.PW29/DQ is plan in file D-93 which is the sanction plan of eight seater box.

Ex.PW29/DR is letter of Sh.Amod Kanth , DCP (Licence) dated 24.12.79 allowing seats in balcony. In this letter it is mentioned at para no.2 that

" in this connection the writ petition filed by you to the Hon'ble Delhi High Court was disposed off on 29.11.79 and the notification granting relaxation in the first schedule of Delhi Cinematograph Rules stood cancelled. The hon'ble High Court , however, observed that each case examined on merit and such seats which do not fall within the specification laid down under Delhi Cinematogrph

Rules may be removed after giving you due opportunity to be heard. To examine whether these additional seats fall within the specification of the First Scheme of Delhi Cinematograph Rules ,your hall was inspected by the joint inspection team consisting of undersigned , Executive Engineer,PWD and chief Fire officer on 5.10.79 and again on 19.12.79 and your representative was also heard. Further your representation dated 13.12.79 was also carefully examine and you were given another opportunity to be heard before 20.12.79 vide this office letter no.15925/DCP/Lic dated 17.12.79."

"In para no.3 where as you have content in your representation that all the 100 additional seats are in conformity with the DCR , it was explained to you during the inspection and personal meeting that the additional seats may be retained/removed in the following manner:-

Of the 43 additional seats sanctioned in balcony , 6 additional seats (i.e seat no.9 in rows at 'A' to 'F')and all the 66 additional seats in hall are blocking vertical gangways causing obstruction to free egress or patrons . These 63 additional seats are in gross contravention of paras 7(1) and 8 (1) of the First schedule of DCR 1953 and must therefore, be removed. The original number of vertical gangway in the hall must be restored.

The remaining 37 additional seats in balcony were found to be substantial compliance of the rules and may, therefore, retained. Similarly one additional seat on the back row in hall (i.e seat no.A-33) has also been found to be in substantial compliance of the rules and may, therefore be retained."

Ex.PW29/DS is letter dated 20.8.80 written by Virender Rai, DCP (Lic) to The Executive Engineer PWD Division-II sanctioning of 15 additional seats in balcony i.e one seat each in rows 'A' to 'F', three seats each in five rows at left hand side of the balcony which was to be examined with reference to

paras 6,7,8, 10,12,14,15 & 16 of First Scheme of DCR 1953.

Ex.PW29/DT is plan for installation of 15 additional seats.

Ex.PW29/DU is letter dated 03.9.80 of Sh. S.N. Dandona , Executive Engineer , PWD to The DCP , Licensing informing that the proposal for installation of 15 additional seats in the balcony submitted by the Licencee is not in accordance with the first schedule of DCR 1953 and also states that :

- 1 The addition of one seat each in row A to F makes the total number of seats in a row as 9 numbers i.e from 9 to 17, therefore it requires aisles on both sides against one aisle shown on the plan and as well as at site.**
- 2 After installation of three numbers of propose rows with three seats each i.e 38 to 40, the space left between the last row and the exit will be less than 44" which is required under the rules.**
- 3 The position of the exit shown between seat no.37 & 58 to row 'I' in the back wall of balcony is not correct as per its original position at site.**

The above observations were also brought to the notice of License's representative Sh. Malhotra during the site inspection on 02.9.80 and who also agreed for the same and informed that he would submit the revised plans with his new proposals keeping in view the first schedule of DCR 1953."

Ex.PW29/DV is letter dated 05.9.80 written to the

Executive Engineer , CPWD by Director , Green Park Theater Associated Pvt. Ltd. submitting revised plan for installation of 15 additional seats.

Ex.PW29/DX is letter no.12(62)UPhaar/4848 dated 10.9.80 written by S.N. Dandona, Executive Engineer, PWD to The DCP, MBO building(lic.)New Delhi regarding sanction of re-adjustment of seats. It is mentioned in the letter as under:

"The total no. of seats at present in the Balcony are 287 and by adding these 15 seats the total Nos. of seats in the Balcony would be 302. The no. of exits at site at present are 3Nos. As per first schedule of DCR 1953, the No. of exits should be 1 per 100 seats and on account of which seats would be in excess, but at the time of removal of additional seats in Oct.79 during a meeting held in your room where DCP and Chief Fire officer were also present, it was decided that keeping in view the High Court's orders for substantial compliance 1% excess no. of seats over the required no. of exits should be allowed accordingly so many cinemas were allowed to retain 1% excess no. of seats than the permissible limit to retain 1 % excess no. of seats than the permissible limit of one exit for 100 Nos. Keeping that decision in view these 2Nos. Excess seats can also be allowed and the proposal of 15 Nos. additional seats will be in conformity of DCR 1953 and therefore, it is approved."

Ex.PW29/DY is letter bearing no.15408/DCP/Lic. dated

04.10.80 to The Licensee , Uphaar Cinema by A.K. Sinha, ACP/lic. for DCP ,licensing permitting installation of 15 additional seats and readjustment of seats. It is mentioned in the letter that :

" Permission is hereby accorded for the installation of 15 additional seats in the Uphaar Cinema, New Delhi i.e. two additional rows each of 3 seats in front of exit in the balcony , one seat against back wall adjacent to seat no.3 and 8 additional seats in the balcony by adding one seat in row 'A' to 'H' by making re-adjustment of seats in these rows. The permission is provisional subject to the final inspection by the PWD. The seats may be installed strictly in accordance with the plans approved and these should be in conformity with First Scheme of D.C.R."

Ex.PW29/DZ is letter dated 08.9.80 from Chief Fire Officer to DCP Licensing regarding installation of 15 additional seats. It is mentioned in the letter that

" with reference to letter no.13811/DCP/lic. dated 27.8.80 regarding installation of proposed 15 additional seats, as per revised plans received from cinema management . They have proposed two additional rows, each of three seats in front of the exit in the balcony. one seat is proposed against back wall adjacent to seat no.37. They have also proposed 8 additional seats in the balcony by adding one seat in row A to H this will be done by making readjustment of the seats in these rows.

The proposed additional 15 seats are in conformity of First Scheme of DCR 1953 therefore this department has no objection tot he grant of proposed additional seats. "

Ex.PW29/DAA is letter no.12(62)/Uphaar/5409 dated 09.10.80 from S.N. Dandona, Executive Engineer to DCP, Licensing intimating that licensee had installed additional seats in the balcony as per approved plan of 10.9.80.

Ex.PW31/A is occurrence book of Delhi Fire Service

Ex.PW31/B is entry at page no.64 in the occurrence book of DFS regarding departure of HS Panwar on 12.5.97.

Ex.PW31/DA note-sheet of Delhi Fire Service 12.5.97 pertaining to inspection of Uphaar Cinema

Ex.PW31/DB is inspection proforma dt. 12.5.97

Ex.PW31/DC is inspection report dt 15.5.97 . The 'No Objection Certificate' is given from fire safety and means of escape point of view.

On 9.4.96 inspection was carried out by H S Panwar and Surender Dutt in the presence of K L Malhotra and as per the inspection proforma Ex. PW 32/A, everything was provided and accordingly, 'No Objection Certificate' Ex. PW 32/B was issued by H S Panwar.

Ex.PW32/C is note sheet of Delhi Fire Service dt.05.11.96 giving the shortcomings at Uphaar Cinema.

Ex.PW32/D is letter from DFS to Manager Uphaar pointing out the shortcomings during their inspection on 04.11.1996.

Ex.PW32/E is note sheet written under the dictation of HS

Panwar and Surender Dutt both of them had signed it with date 12.5.97

Ex.PW33/A is letter dated 17.4.95 fro DFS to DCP (lic) regarding inspection of the cinema

Ex.PW33/B is annual inspection report 4.5.95 of Delhi Fire Service.

Ex.PW33/C is letter dt. 18.11.1996 issued by H. S. Panwar to Manager Uphaar cinema indicating shortcomings in the cinema hall.

Ex.PW33/D is letter dt. 24.12.96 issued by HS Panwar to DCP (license) . This letter is in respect of No objection for renewal of license of Uphaar cinema from fire safety and means escape point of view.

Ex.PW33/E is inspection proforma dt. 22.12.96

Ex.PW33/F is letter dt. 28.11.1996 from Ansal Properties & Industries Ltd. received by DFS on 10.12.96 under diary no.8840/0 intimating that the defects pointed out by DFS in Uphaar cinema has been rectified.

On 14.4.94 inspection was carried out of Uphaar cinema by H S Panwar and Surender Dutt in presence of K L Malhotra and thereafter 'No Objection Certificate' was issued. Inspection

Proforma is Ex. PW 33/H and 'No Objection Certificate' is Ex. PW 33/G.

On 01.7.97, Inspector Ranbir Singh, Crime Branch seized documents from Shri M M Dass, Executive Engineer, Building Head Quarter, Town Hall, Delhi vide seizure memo Ex. PW 34/A in presence of one witness Shri M L Chauhan, AE, Building HQ, Town Hall, Delhi.

Ex. PW 34/B is document related to Municipal Corporation of Delhi dated 1.3.73 vide which documents in respect of proof of ownership and existing structure at site in the plan were required from M/Green Park Theaters Associated Pvt. Ltd.

Ex. PW 34/C is letter written by M M Dass, Executive Engineer (Bldg), Head Quarters to Inspector Ranbir Singh as he was asked to compare the two building plans i.e one sanctioned Municipal Corporation of Delhi plan vide File No. 117/B/HQ/73 and copy of addition/alteration plan bearing the stamp of Executive Engineer, PWD and after comparison, he found certain differences in both the plan which were informed by him vide this letter.

Ex.PW35/A is report EE (Electrical) PWD dt. 29.06.1997.

The report is as follows :-

It was found that the transformer etc are installed on the ground floor level where the vehicle (car) parking is also in the same floor. It was noticed that HT panel installed in the sub-station consist of 4 panels of which 2 panels were incoming panels and 2 panels were outgoing panels. 11 KV supply was further connected with two different transformers installed in two separate adjacent rooms. One transformer capacity is 500 KVA which belongs to Uphaar Cinema Management & Caters to their Electricity needs. The other transformer is of 1000KVA and connected from second outgoing panel of the above said HT panel . This 1000KVA transformer belongs to DVB and it was feeding electricity to nearby area from LT panel installed in adjacent room which is same as HT room.

On the visual inspection it was found that 500 KVA transformer which belongs to Uphaar Cinema was undamaged. It is felt that the transformer was not cause of fire at least.

On inspection of 1000KVA transformer, it was seen that the LT terminal box of the transformer was having two bushings on each phase. These two bushings were connected through copper bus bar. From the each phase 3 single core cables of the size 630 Sq. mm was connected. The bus bar of the B-phase was not available and it was seen that one of the cable leads alongwith the socket was also not available . It was told that bus bar and part of cable lead was taken away alongwith

radiator for further enquiry. It was noticed that the transformer tank inside was clean and as such there were no sign of smoking inside. There was no oil except a little bit of oil at bottom in the transformer tank . Apparently, it was no electrical fault inside the transformer. It was also seen that all the cable connected to the LT terminal box of the transformer were damaged and insulation of cables was heavily burnt up to the wall of LT room . The transformer room was fully dark with black smoke particle deposited on its all walls and roof.

It was noticed that earth strips were lying in the transformer room but the joint in the earth stripped was not proper. It was also noticed that the earth connection to the neutral was also broken.

INSPECTION OF HT & LT PANELS

The cubical LT was heavily burnt. The main incoming switch to the LT panel was in the form of 1600 ampere air circuit breaker. It was noticed that all the out going switches from the LT panel were without fuses. There was no sign of HRC fuses. It was not correct to use wire in place of proper use. The HT panel as has already been described above that HT panel consist of 2 incoming oil circuit breakers and two out going oil circuit breaker . Out of the two incoming circuit breakers one is connected to receive HT supply from nearby Ashirwad building sub station. The other incoming feeder was only for making use of standby/duplicate HT supply in case of failure of one HT supply connection. It was seen that all these four oil circuits breaker were without any kind of protection

against earth fault and over current. It was also found that potential transformer was in disconnected condition of OCB operation mechanism which includes the battery charger etc appeared to be defective and they were heavily damaged due to the fire. There was one metering cubical was also available.

POSSIBLE CAUSE OF FIRE

As we have seen in the photographs that one of the LT cables got disconnected from the cables from 'B' phase. It was evident from the photographs that the cable was touching the radiator fin. There was a hole in the radiator fin. There was also mark of sparking on the other fins. It is apparent after seeing the various photographs of the transformer room, cable leads and cable sockets, that one of the cable sockets got away from the nut & bolts after getting melted due to severe heat. When it disconnected from the bus bar terminal it came sliding from the fins of the radiator and caused sparking marks on the radiator fins and finally it struck one radiator fin, since heavy current was flowing due to earth fault and the temperature of the lead was very high. The radiator sheet got damaged and the hole was created in the fin because of continued arc. The transformer oil coming out from this hole must have caught fire either from the existing arc which was there due to touching of the current carrying conductor with the body of the transformer possible burning of PVC cable insulation. This arc must have continue for some time as there was no immediate in tripping system available in the HT panel. Once the oil got fire and oil continued to come out from the

radiator it must have caused spread of fire. When oil was spreading it must have taken the fire outside the transformer room also. The fire was aggravated further by the presence of the petrol/diesel carrying vehicles parked in front of transformer room. It is concluded that this unfortunate incident of fire occurred due to possible over heating of one of the LT connections which may be due to loose connections or over current. It was further aggravated because there were no protection system was available in the HT panels installed at Uphaar cinema. It was ultimately found that the only tripping took place at 33 KV and sub station at behind AIIMS.

The fire could have been controlled, had there been any fire fighting equipment installed inside the car parking area and sub-station building.

POSSIBILITY OF SPREAD OF FIRE/SMOKE THROUGH AIR CONDITIONING SYSTEM

On the preliminary inspection at the site, it was evident that most of the fire took place only in the parking area and sub station area of Uphaar cinema and the question of possibility of spread of fire/smoke through air conditioning conduct was examined. We were told that electric supply to the Uphaar sub station was not there from 3.55 p.m. to 4.55 p.m. . Electric supply to Uphaar Cinema sub station was restored at 4.55 p.m.. As per the information, the tripping in the 33 KV grid at AIIMS took place at 5.05 p.m. which means that main power supply was available for a period of 10 minutes between

4.55p.m. to 5.05 p.m. .

On inspection of AC plant room it was noticed that switches of the AC blower were in 'ON' position . It was also quite possible during these 10 minutes the blowers were started. To check this possibility the AHU room was inspected . The wire mesh filters of the one of the AHU installed near the door were covered with black smoke. When the filters were removed the sign of smoke were also seen on the cooling coil face. Therefore, it can be said that blower might be working during those 10 minutes. The possibility of working of the blower after the tripping of supply was also examined . It was found that the main switch from generator supply which was going to the blower was without fuses and fuses of that particular switch were found inside the body of switch. The condition of fuses was such that it looked as if that the particular switch was not being used for quite a long time as fuses were covered with the dust. Hence, it can be said that blower did not work on generator supply.

Ex.PW36/A is report of Professor ML Kothari IIT Delhi dt.02.7.1997 which is as follows :-

The comments given by PW36 in ExPW36/A is as follows:

1. My observations fully match with the observations recorded by Sh. K.V Singh .
2. A line to ground fault has occurred on LT side due to one of the lead having fallen on the radiator fin. This fault has been

cleared by the protection relays located at grid sub-station at AIIMS. During the conversation I came to know that the plug setting of the relays were 5 A and time multiplier setting (TMS) = 0.05. With these settings the fault must have been cleared in a very short time of the order of a fraction of a second. During this period the heavy short-circuit current must have caused damaged to the radiator fin leading to creation of a hole. The oil leaked out through this hole. Since there was no damage to the winding of the transformer, one can confidently say that the duration of the fault must have been very short.

3. The leaking oil must have caught fire either due to the arcing or due to some other unknown cause.

4. It was seen that there was no protection provide on the transformer as per the norms of the electricity Act.

5. It was also seen that the terminals on the LT side were not enclosed in a box as was seen on another adjacent box as was seen on another adjacent transformer (Uphaar cinema transformer). It is felt that had there been a terminal box on the LT side covering the live terminal, the fault could have confined to the terminal box, and possibly avoiding the unfortunate disaster.

On 18.2.82, ACP(Licensing) wrote a letter Ex. PW37/A to Chief Fire Officer to inspect the Uphaar cinema for renewal of license for the period 24.4.82 to 23.4.83.

On 1.3.1983, DCP(Licensing) wrote a letter Ex. PW 37/B

to Chief Fire Officer to inspect Uphaar cinema for renewal of license for the period 24.4.83 to 23.4.84.

On 27.2.1984, DCP(Licensing) wrote a letter Ex. PW 37/C to Chief Fire Officer to inspect Uphaar cinema for renewal of license for the period 24.4.84 to 23.4.85. Uphaar cinema was inspected and certain deficiencies were observed which were intimated to Uphaar cinema, the same were rectified and then on 31.5.84, Uphaar cinema was re-inspected by Dy. Chief Fire Officer as per inspection report Ex. PW 37/D the cinema hall comprises of 1075 seats including box and balcony.

On 16.4.1985, DCP(Licensing) wrote a letter Ex. PW 37/E to Chief Fire Officer to inspect Uphaar cinema for renewal of license for the period 24.4.85 to 23.4.86.

On 25.6.1986, DCP(Licensing) wrote a letter Ex. PW 37/F to Chief Fire Officer to inspect Uphaar cinema for renewal of license for the period 24.4.86 to 23.4.87. On 17.9.86, inspection was carried out by fire officials in presence of K L Malhotra, the fire fighting equipments were found satisfactory.

On 23.4.1987, DCP(Licensing) wrote a letter Ex. PW 37/G to Chief Fire Officer to inspect Uphaar cinema for renewal of

license for the period 24.4.87 to 23.4.88.

On receipt of letter from Deputy Commissioner of Police (Licensing) for inspection of Uphaar cinema for renewal of license for the period 24.4.88 to 23.4.89, inspection was carried out by Divisional Officer, Asst. Divisional Officer and STO of Delhi Fire Service in presence of K L Malhotra on 10.8.88 and as per the Inspection Proforma Ex. PW 37/J, PA System, First Aid Box, Asbesto blanket, ruber mat, exit lights, gangway lights, Water static tank and trained fireman have been provided. As per the proforma, the name of licensee is Sushil Ansal.

On 2.5.88, after the suspension of license of 13 cinema halls including Uphaar Cinema in June, 1983, a letter Ex. PW 37/K was written to Chief Fire officer and in this letter, Chief Fire Officer was requested to physically inspect the cinemas including Uphaar cinema to ensure that there were no fire hazards, lack of fire fighting equipments or any serious irregularities including those which were noticed in June, 1983. In response to this letter, inspection was carried out and report was submitted before ACP(L) on 12.8.94 with respect of seven cinema halls including Uphaar cinema and as per this report,

objections raised were still in existence and does not relate to Delhi Fire Service. Regarding objections at Sl. No. 3 & 9 in r/o change of occupancies, the offices of various agencies are still existing and have fire hazard. On top floor an office has been created forming part of the staircase and a loft, the same poses hindrance in the staircase and have fire hazard being wooden construction.

On 29.3.88 Deputy Commissioner of Police (Licensing) wrote a letter Ex. PW 37/L to Chief Fire Officer to inspect Uphaar cinema for renewal of license for the period 24.4.89 to 23.4.90. Accordingly, inspection was carried out on 20.5.89 and as per the inspection proforma Ex. PW 37/M, the name of licensee is Sushil Ansal and everything was provided as per the proforma.

On 7.7.89, a letter was written by Chief Fire Officer to M/s Green Park Theaters Associated (P) Ltd confirming therein that the building has not been sealed after the fire incident on 6.7.89 and the said letter is Ex. PW 37/N.

On 25.4.90 letter Ex. PW 37/O was written to Chief Fire Officer to inspect Uphaar cinema for renewal of license for the

period 24.4.90 to 23.4.91. Accordingly, on 14.6.90, inspection was carried out by DO N K Bhawakar and STO S p.m.ago and everything was provided as per the inspection proforma Ex PW 37/P and name of licensee is Sushil Ansal.

On receipt of letter Ex. PW 37/Q, inspection was carried out on 28.4.91 vide inspection proforma a Ex. PW 37/R and certain deficiencies were pointed out vide letter Ex. PW 37/S to DCP(L) which are as follows:-

- 1 The nozzle's of both hose reels found broken, shall be replaced immediately. Similarly adequate pressure in both the hose reels be ensured.
- 2 Two foam type fire extinguishers were found installed in the main hall instead of water gas pressure type fire extinguisher. The same shall be removed and replaced with two number of water gas pressure type fire extinguishers of 9 litres capacity with ISI mark.
- 3 All the water gas type fire extinguishers installed in the main hall and balcony must be got refilled alongwith hydraulic pressure test because most of the fire extinguishers failed to operate. The proto type fire certificate for hydraulic test may

also be sent to this office.

- 4 Rubber mats shall be laid down underneath the electrical switch gear in R/F room.
- 5 Proper distribution of fire extinguishers shall be made in accordance with the cinematographic act i.e one fire extinguisher per 100 seats and part thereof.
- 6 In parking area only two foam type fire extinguishers were found installed. At least two more foam type fire extinguishers of 9 litres capacity with ISI mark shall be installed alongwith one CO2 type of 4.5 Kg. Capacity.
- 7 One CO2 type fire extinguisher of 4.5 kg capacity shall be installed in the main hall as well as in the balcony.

These short-comings were intimated to All these short-comings were rectified and again on 27.5.91, the cinema was inspected and thereafter, No Objection Certificate was issued for renewal of license vide Ex. PW 37/T for renewal of license for the period 1.4.91 to 31.3.92.

On receipt of letter Ex. PW 37/V, the inspection was carried out as per inspection proforma Ex PW 37/W and No Objection Certificate Ex. PW 37/X was issued for renewal of

license for the period 1.4.92 to 31.3.93.

On receipt of letter Ex. PW 37/Y for renewal of license for the period 1.4.93 to 31.3.94, inspection was carried out on 29.4.93 in presence of K L Malhotra and as per inspection proforma Ex. PW 37/Z, everything was provided.

On 15.3.94 a letter was written by DCP(L) to Chief Fire Officer for renewal of license for the year 1.4.94 to 31.3.95. Accordingly, inspection was carried out and certain deficiencies were pointed out that an office has been erected forming part of the stair case on the top floor is still in existence. At least three offices on the top floor having wooden partition are still in existence and there is no fire extinguisher except one DCP of non ISI mark found kept and these facts were intimated to Vimal Nagpal of M/s Green Park Theaters & Associated Pvt. Ltd. vide letter Ex. PW 37/AC, AD and directions were given to rectify the shortcomings, letter Ex. PW 37/AE of DCP(L) was also sent to Licensee of Uphaar cinema in this regard. Vide letter Ex. PW 37/AF dated 31.3.95 it was intimated by Vimal Nagpal of M/s Green Park Theaters Associated Pvt. Ltd that

they have treated the wooden partition in the offices with fire retardant paint to increase the fire rating of wood and these partitions are in existence for the last 20 years as per the normal practice and thereafter, as per the directions, cinema was re-inspected on 29.4.95 and everything was found satisfactory vide inspection proforma Ex. PW 37/AH.

On 1.3.1996, Dy. Chief Fire Officer forwarded the directions vide Ex. PW 37/AK to all concerned fire officials to inspect seven cinema houses including Uphaar cinema and report.

On 11.3.1996, a letter Ex. PW 37/AJ was written by DCP(L) to Chief Fire Officer to inspect and issue 'No Objection Certificate' for renewal of license for the year 1.4.96 to 31.3.97. On 9.4.96 inspection was carried out by H S Panwar and Surender Dutt in the presence of K L Malhotra and as per the inspection proforma Ex. PW 32/A, everything was provided and accordingly, 'No Objection Certificate' Ex. PW 32/B was issued by H S Panwar. Reminder in this regard was also sent vide letter Ex. PW 37/AL dated 20.9.96 for which reply Ex. PW 32/D was sent by H S Panwar Divisional Officer that Uphaar

cinema has been inspected and certain deficiencies were observed which are as follows:-

1.The sprinkler system is not operating neither the gauging has been provided. Advised to make it worthwhile. The system should be modified.

2.The combustible material i.e. Old furniture, wooden partition in the basement shall be removed immediately.

3.All the fire extinguishers are required to be recharged after hydraulic pressure test.

4.First aid box shall always be kept in Manager room as well as in the Projector Room.

5.The defective foot light in the balcony shall be rectified.

The fire safety arrangements shall be extended in all the area such as ground floor, car parking, visitor lounge on each floor, Director office and Guest room etc.

Ex. PW 37/DA is No Objection Certificate of Chief Fire Officer addressed to Deputy Commissioner dated 6.3.80 stating therein that they have no objection to the renewal of license from fire safety point of view and fire fighting and means of escape arrangements were found satisfactory.

Ex. PW 37/DB is letter dated 27.8.80 addressed to Chief Fire Officer by Virender Rai, DCP Licensing and is in respect installation of additional 15 seats in the balcony and Ex. PW 37/DC is the No Objection of Chief Fire Officer dated 8.9.80 in respect of installation of additional 15 seats in the balcony.

Ex. PW 37/DD dated 10.3.1981 is letter addressed to Chief Fire Officer by ACP (Licensing) for renewal of license for the period 24.4.81 to 23.4.82 and on 2.4.1981, No Objection Certificate was issued by Chief Fire Officer on 2.4.81 which is Ex. PW 37/DE.

Ex. PW 38/B is seizure memo prepared by DSP Kishore Kumar, CBI vide which one file titled as “ M/s Green Park Theaters Associated (P) Ltd. Of Uphaar Cinema, Municipal Corporation of Delhi General Branch” containing original note-sheet 1N to 5N(Last date noting is 23.9.96) and correspondences 1C to 37C” was seized from Shri Sanjay Kumar Pahuja, Steno/Typist, Building Department, South Zone, Green Park.

Ex. PW 39/A is report giving deviations and alterations found during inspection dated 25.6.97 by R.K. Bhattacharya EE

Municipal Corporation of Delhi

Ex.PW39/B is annexure to the report containing eight points of various major internal changes made by the owner /builder of Uphaar Cinema, which is as follows :-

- 1.Four number partition walls exists in basement upto ceiling height.
- 2.Provision of additional floor in stilt portion by providing RS Joists.
- 3.An additional space for Homeopathic dispensary has been created behind LT room above ramp on stilt floor.
- 4.Stairs around lift well from stilt portion to basement converted into office of Sehgal Carpets.
- 5.The space marked for Restaurant on stilt floor converted into a bank and another office.
- 6.Manager room and attached WC on stilt floor converted into verandah with glazed door and a loft above.
- 7.Seating capacity of Balcony at second floor increased from 250 seats to 302 seats by providing additional seats in gangways, converting Inspection Room to 18 seater box, blocking one exit near toilet by creating 8 seater box.

8. Staircase portion around lift well and a part of toilet on third floor converted into office space.

Ex. PW 39/D is letter dated 2.7.97 addressed to Karnal Singh Dy. Commissioner of Police, Crime & Railways, (PHQ) written by Executive Engineer (Building) South Zone. In this letter, details of major internal changes were mentioned as noticed by them during inspection carried out on 24.6.97. Another letter Ex. PW 39/E was sent to Inspector Ranbir Singh by Executive Engineer (Bldg.) South Zone intimating these internal changes. Ex. PW 39/F is letter of Insp. Ranbir Singh to Executive Engineer to inspect the cinema hall and to intimate about the addition/alterations in seating arrangement of Uphaar Cinema.

Ex. PW 39/G is seizure memo prepared by DSP Kishore Kumar of CBI vide which file titled as " Report regarding Uphaar cinema on fire " containing 13 sheets in respect of detailed inspection of the Uphaar Cinema on 24.6.97 regarding irregularities/alterations/additions in Uphaar Cinema and this file was seized from Shri R K Bhattacharya, Executive Engineer (Bldg.), South Zone.

Ex.PW39/DA earlier mark Ex.PW22/A is requisition letter of DCP (License) dt. 20.4.1995 to Municipal Corporation of Delhi pertaining to issuance of 'No Objection Certificate'

Ex. PW 40/DA-1 is the entry made in General Diary Register . As per entry Ex. PW 40/DA-1 dated 22.1.97, two transformers were drawn for Zone 1603 for NDSE and May Fair Garden. The entry Ex. PW 40/B dated 22.1.97 in General Diary Register is regarding maintenance of Uphaar Cinema. Ex. PW 40/C is entry dated 13.6.97 regarding the repair work done in the morning of 13.6.97.

Ex. PW 40/D is letter dated 17.9.97 written by P C Bhardwaj, AE, S/Stn R K Puram to CBI vide which photocopy of report dated 14.6.97 jointly signed by Bir Singh, A K Gera and B M Satija regarding attending of complaint at Uphaar Cinema on the morning of 13.6.97, was handed over to DSP, CBI.

Ex. PW 40/DX1 is Maintenance Schedule of S/Stn. R K Puram for the month of November, 1995.

Ex. PW 40/DX3 is statement of Shri P C Bhardwaj, Asst. Engineer, Dist. R K Puram, DVB recorded by Delhi Police U/s 161 Cr P C.

Ex. PW 41/A is entry dated 13.6.97 at about 6.55 am

regarding Uphaar cinema which was attended by the officials of S/Stn. R K Puram.

Ex. PW 41/DA to DE are the entries made in the No Current Complaint Register.

Ex. PW 43/DA,DB and DC are the note-sheets dated 17.6.97 of DVB in respect of A K Gera whether he was deputed to look after the maintenance work at S/stn. Uphaar Cinema on 13.6.97

Mark PW 43/DF1 and DF2 are the photographs of cable and socket.

Ex. PW 45/DX and DY is the Log-sheet of DESU for dated 13.6.97 and 14.6.97.

Ex. PW 48/A is letter dated 2.7.97 of Shri S K Behl, Addl. Chief Engineer, South Circle addressed to IPS Karnail Singh giving query wise reply of the questionnaire bearing signatures of Gian Singh, Executive Engineer, Circle Control and A K Gupta, Executive Engineer (D) R K Puram. The reply is as follows :-

Installation of Transformer :

1 There is an agreement with Green Park Theaters Associated Pvt. Ltd. For providing the space for installation of a S/stn. By the then DESU. The original file is presently with Deputy

Commissioner, South District.

- 2** As per our understanding and information obtained so far, none of the transformers actually caught fire. However, there appears to have been sparking, earthing of LT leads at the terminals of the transformer owned by DVB. This transformer was installed on 9.7.89.
- 3** As per the records, on 9.7.1989 i.e the date of installation of the concerned transformer, Sh. S K Choudhary was the Executive Engineer S/Stn R K Puram.
- 4** As per the record available, on the night of 6.7.89 and morning of 7.7.89, both the transformers i.e one placed by Green Park Theaters Associated Pvt. Ltd (500 KVA) and by DESU (750 KVA) were burnt due to short-circuiting. The DESU transformer was replaced by another new transformer of 1000 KVA. The other transformer belonging to Green Park Theaters Associated Pvt. Ltd was also replaced during July, 1989. The officers mentioned above were concerned only with the installation of DESU transformer (1000 KVA).
- 5** There are two transformers in Uphaar Cinema complex: (i) 1000 KVA maintained by DVB (ii) 500 KVA maintained by Green Park Theatre Associated Pvt. Ltd.

The supply from DVB transformer is being fed to some offices in Uphaar cinema, areas of Green park Extension and the shopping complex outside Uphaar cinema. The 500 KVA transformer is meant for HT 11 KV connection which supplies electricity to the cinema hall, air-conditioning plant and other electrical appliances and fittings in the Uphaar cinema

building.

- 6** The transformer installed by DESU/DVB did not actually catch fire as the core, windings and remaining oil in the tank are unburnt and intact. It is clarified that as indicated above, supply to some of the offices/rooms in Uphaar cinema was being fed through DESU transformer.
- 7** The safety measures in such premises are decided by a number of agencies :
 - (a) Building by laws enforcing agency :Municipal Corporation of Delhi/DDA
 - (b) Fire clearance to be obtained regularly.
 - (c) Police Deptt. Which issues license to the cinema halls.
 - (d) Installations of this kind are checked by Electrical Inspector, Delhi Administration, before energisation.
- 8** The transformer is installed within the built up portion of the space offered by the party where clearance are required to be maintained as per provision of Indian Electricity Rules/Act. At the time of installation of the transformer, the provision of sand in trenches, Fire extinguisher, Rubber mat and proper ventilation etc were provided.
- 9** The circuit breakers were installed for controlling the supply to both the transformers.
- 10** As per the agreement executed by Green Park Theaters Associated Pvt. Ltd., the relevant provision of electricity Act, 1948, the Indian Electricity Act, 1910 and Rules and Regulations made thereunder or any subsequent amendment or modification thereof have to be adhered.

- 11** There was provision of earthing in the DVB transformer. The present Executive Engineer (Circle Control, South) who is looking after the work of Executive Engineer S/Stn (South) consequent upon suspension of Shri Deepak Kapoor is unable to trace the records pertaining to contractor.
- 12** The following items are required for controlling the fire at DVB S/Stn. i.e sand, fire buckets and fire extinguishers. As per record, last maintenance was carried out on 22.1.97. No deficiency/shortage is mentioned therein.

Maintenance :-

- 1** The coolant used in two transformers is transformer oil which provides the insulation medium.
- 2** As per record, maintenance has been carried out on 22.1.97, when coolant level had also been checked.
- 3** There is no provision for checking the specific gravity of the coolant in maintenance.
- 4** As per record, Hari Babu, Foreman S/Stn. R K Puram alongwith staff had carried out the maintenance and also checked the coolant.
- 5** A shutter had been provided for the transformer room which is kept closed. The floor outside the S/stn is approx. 1/2" higher which may also prevent flow of oil to the parking area. The trenches are filled up with sand so that in the event of drainage of oil, it gets soaked. The oil could be seen on the transformer room floor and trenches on 14.6.97 when the transformer room was got opened with the help of police and security staff in the morning.

- 6** While loose connections of wirings are not permissible in transformers, nothing is available on record to substantiate that there were loose connections. However the officials who attended the transformer on 13.6.97 at about 11.30 am according to our record, are Shri B M Satija, Inspector, Shri A K Gera, Inspector, Veer Singh, Senior Electrical Fitter.
- 7** As the capacity of DVB transformer was 1000 KVA, 3 leads of 630 sq mm size had been provided per phase to cater to the requirement of load as per its capacity. The loading capacity of 1000 KVA is 1333 ampere which can be safely taken care of by three leads of 630 sq. mm size.

Repairs :-

As per record available in No Current Complaint Centre at Green Park Extn and also confirmed by Zonal Area Inspection Vide IR No. 295577 dt. 19.6.97 placed as Annexure V, it is indicated that a complaint regarding fire at Uphaar cinema premises was received from centralised Complaint Centre/PCR at 6.55 am by Shri Deep Chand, S/Stn Attendant, Shri Munna Lal, Junior Lineman was deputed to attend the complaint. He disconnected the supply after observing burning of the cable/leads on LT side. This information was subsequently conveyed by Shri Deep Chand to break-down cell, Circle Control and XEN (D) R K Puram at about 7.30 am. Shri C J Singh, Suptd., Break Down also visited the site and handed over the complaint to AE (S/Stn), AE (Zone 1601) and Circle Control South. As per information available in S/Stn. Sub-division at RBI colony, R K Puram Sector VI, Shri B M

Satija, Inspector accompanied by Inspector Shri A K Gera went to site at Uphaar cinema alongwith Sr. Electric Fitter Veer Singh as per entry in General Diary Register of S/stn. R K Puram, two number of Aluminium sockets of 630 sq. mm size cable were replaced at site. No further complaint was received after repair works were carried out around 11.30 am.

As per record of Grid S/stn at AIIMS, load shedding of 11 KV Green Park feeder supplying power to Uphaar cinema and other connected areas resorted to for the period from 3.55 p.m. to 4.55 p.m.. Under the circumstances, it is evidence that DVB supply was not available at 4.36 p.m. or 4.45 p.m. on 13.6.97.

Ex. PW 48/B is letter dated 9.7.97 of Shri S K Behl, Addl. Chief Engineer, South Circle addressed to IPS Karnail Singh giving query wise reply of the questionnaire bearing signatures of Gian Singh, Executive Engineer, Circle Control and A k Gupta, Executive Engineer (D) R K Puram. The reply is as follows :-

- 1 One ventilation on western side of the transformer room had been provided alongwith an exhaust fan on the eastern side. Apart from this, the shutter of the transformer room was also having grills thereby allowing dissipation of heat.
- 2 As per Indian Standard Part II 1981 amended upto 1991 Para 7.3.1.5, minimum recommended spacing between the walls

and transformer periphery has to be one meter in respect of transformer room having three sides. Measurements were taken on 5.7.97 when Uphaar complex was jointly inspected with officers of Crime Branch and the clearance was found to be three feet from three walls of the transformer room.

In this connection, it may also be worthwhile to mention that earlier a transformer of 750 KVA capacity was installed in this room which was replaced by a 1000 KVA transformer on 9.7.89. Needless to mention that the dimensions of 750 KVA transformer are less than those of a 1000 KVA transformer .

3.As per record, the following connections with sanctioned load given against each were found being fed from DVB transformer :-

Name	Sanctioned Load
Syndicate Bank	5 KW
M/s Republic Const. Co.	1 KW
Shri Vinod Kumar, Paan Shop(GF)	2 KW
Shri Ashok Gandhi, 1st Floor	
Canteen, Uphaar cinema	5.96 KW
M/s Sarin Associates	3 KW

4 As per practice, preventive maintenance is carried out by DVB at least once in a year.

Ex. PW 48/ C is letter dated 16.7.97 of Shri S K Behl, Addl. Chief Engineer, South Circle addressed to IPS Karnail Singh giving query wise reply of the questionnaire bearing

signatures of Gian Singh, Executive Engineer, Circle Control and A K Gupta, Executive Engineer (D) R K Puram. The reply is as follows :-

Circuit Breaker for DVB transformer at Uphaar Cinema S/Stn was installed. Although, HT circuit breakers for both the transformers i.e DVB and Uphaar were functional manually, yet tripping was not taking place because of non-availability of the relays at the S/stn. However, back up protection was available at AIIMS grid from where supply to S/stn at uPhaar cinema and other areas emanates. It may be worthwhile to mention that relays in HT switchgears installed at various S/stns all over Delhi have been getting stolen, reports of which were being lodged by DVB officials from time to time with the police. It is difficult for DVB to have control on unattended S/stns like the one at Uphaar cinema where relays were found missing.

2. Periodical inspection schedule by different categories of officials/officers as per DVB norms has already been given. The maintenance work is carried out by Sr./Asst. Electric fitters under the supervision of Inspector/Foreman/Suptd. It has already been indicated above that the DVB transformer of 1000 KVA at Uphaar cinema had been inspected by Shri Hari Babu, the then foreman, S/Stn. R K Puram alongwith Ram Kumar,

Asst. Electric Fitter and Shri Shiv Bahadur and Shri Sathei, R/Mazdoors.

Ex. PW 48/ D is letter dated 30.7.97 of Shri S K Behl, Addl. Chief Engineer, South Circle addressed to IPS Karnail Singh giving query wise reply of the questionnaire. The reply is as follows :-

It is a fact that during joint inspection on 5.7.97 at Uphaar cinema S/stn., no fire fighting material viz. Fire buckets or fire extinguishers were found placed inside the transformer room. It may be worthwhile to mention that as per our normal practice, such type of equipments are placed in HT switchgear room. It is a different matter that these equipments were found missing even from the HT switchgear room. The staff carrying out maintenance on 22.1.97 had not pointed out about these deficiencies but adequate sand was available at the S/stn which could help in extinguishing the fire. It may also be pertinent to add that such equipments are getting stolen from unattended S/stn all over Delhi like the one at Uphaar cinema S/stn. It has already been confirmed that as per record maintenance of the S/Stn was carried out on 22.1.97 by shri Hari Babu, the then Foreman alongwith Shri Ram Kumar, Asstt. Electrical Fitter and Shri Shiv Bahadur and Shri Sathei, Regular Mazdoor.

Reply must have been provided at the time of installation of Circuit Breaker. It is wrong to allege that fire could have been prevented with relays at the HT Circuit Breakers. It has

already been confirmed that back protection was available at AIIMS Grid S/Stn from where the supply had tripped at 5.05 p.m. on occurrence of fault in the electrical system at Uphaar cinema S/stn. It has already been mentioned that Uphaar Cinema S/stn is an unattended S/stn where DVB could not have control over the theft of such equipments. However, it would have been desirable if the staff carrying out the maintenance on 22.1.97 would have pointed this out and appropriate action taken by the concerned officials.

It has already been indicated that height of the flooring on the parking area was more than the floor of the transformer room by about 1 1/2". It is felt that this would have resulted in preventing the flow of oil to some extent unless the pressure was too high for covering this level of this height. It may also be indicated that adequate sand was available in trenches which could soak up the oil to a great extent.

Ex. PW 48/E is letter written by S K Behl, Addl. Chief Engineer (T&D) South addressed to the Suptd. Of Police, CBI which is dated 30.7.97 and in this letter query wise reply was given by him. In his reply, he has stated that although there is no circular regarding distribution of work amongst Inspectors at Sub-station, yet as per statement of Shri P C Bhardwaj, AE (S/Stn.) R K Puram(now under suspension), Shri A K Gera Inspector was assigned the job of S/Stn pertaining to Zone

1603 District R K Puram and Shri B M Satija, Inspector was entrusted the work of S/Stn Zone 1601 Dist. R K Puram. Uphaar cinema S/stn falls in the jurisdiction of Zone No. 1601 Distt. R K Puram.

Ex. PW 48/F is another letter dated 30.7.97 of Shri S K Behl, Addl. Chief Engineer (T&D) South addressed to SP, CBI giving query wise reply.

Ex. PW 48/G is another letter dated 4.9.97 of Shri S K Behl, Addl. Chief Engineer (T&D) South addressed to M. Narayanan, SP, CBI giving query wise reply to the questionnaire. In his reply, he has stated that a perusal of old record indicates that the relays provided initially in the HT panels got damaged on 6/7.7.89 when fire occurred at the sub-station. However, back-up protection was available both at K-84, Green Park S/Stn and also at Grid S/Stn at AIIMS. No record is available regarding replacement of relays after the above date. It has already been indicated above that the relays existing in HT panels at Uphaar cinema got damaged on 6/7.7.89. Needless to mention that relays from unattended S/stn have been getting stolen from different sub-stations all

over Delhi and this activity by unscrupulous elements is causing a dent on the maintenance of the S/Stn. Equipment.

Shri R C Khar, Addl. Chief Engineer (Stores) also gave reply to Shri M Narayanan, SP,CBI vide letter Ex. PW 48/H dated 3.9.97.

Ex. PW 48/DA is request of accused A K Gera dated 16.6.97 for withdrawal of suspension.

Ex. PW 48/DE is order dated 17.7.97 of Shri Navin Chawla, Chairman, DVB vide which suspension order of A K Gera was revoked.

Ex. PW 48/DJ is note-sheet in respect of suspension of accused A K Gera.

Ex. PW 48/DF dated 19.9.97 vide which clarifications regarding duties of accused A K Gera were mentioned at the request of accused himself and these clarifications are given by Shri R C Upadhyay, Executive Engineer (S/Stn) South.

Ex. PW 48/DG is notesheet in respect of above mentioned clarifications.

Ex.PW48/DJ is internal note of DVB pertaining to AK Gera and Mark PW48/DK is letter dated 03.10.1997 addressed

to CBI by Delhi Vidyut Board Ex.PW49/A is note-sheet of Delhi Fire service 10.4.1995 at page 23 N.

Ex.PW49/B is letter dt.28.11.96 from Ansal Properties & Industries Ltd intimation to Delhi Fire Service stating that they have carried out the defects pointed out.

Ex.PW49/C is note-sheet bears the signatures of Surender Dutt dt. 22.12.96 at point "A" and signatures of HS Panwar dt. 24.12.96 at point "B"

Ex.PW49/D is register of occurrence book of Delhi Fire service.

Ex. PW 49/E is the report of the Chief fire officer about the fire which occurred on 13/6/97 at 1710 hours at Uphaar Cinema. The report is as follows :-

“On 13.6.97 at 17.10 hours, a call of fire was received in Delhi Fire Service Control room through Mr. Malhotra from PCO that a fire had broken out in the transformer in the premises of Uphaar Cinema, Green Park, New Delhi. On receipt of fire call, four water tenders and one ambulance were responded from nearby fire stations i.e Bhikaji Cama Place and Safdarjung fire stations at 17.11 hours with Station Officer as Incharge, on

receipt of several calls, one motor pump, one water bouser, one ambulance alongwith Asstt. Divisional Officer were responded to the fire scene at 17.16 hours. The 1st unit reached at about 17.21 hours and started fire fighting operations. Keeping inview the state of fire and spread of smoke, heat in the cinema ;hall, the Incharge of the fire scene informed Control Room to "Make Water Tender Four" at 17.25 hours. On receiving the message, five Water Tenders, two motor pumps, two ambulance and two hydraulic platform alongwith the Divisional Officer (BCP) were responded to the fire scene at 17.26 hours. The Dy Chief Fire Officer-IV also rushed to the fire incident at 17.27 hours. The fire was declared of " Medium Category " in view of large number of personnel trapped in the cinema hall at 17:31 hours by the officer Incharge of the scene(Asst. Divisional Officer-CC). The fire fighting operation were strengthened by responding seven water tenders, two water bousers, light van, control van, hose tender, motor pump and two mini buses with manual power at 17.32 hours. Dy. Chief Fire Officer-I, Dy. Chief Fire Officer-III, Divisional Officer (S.Rd.) and Asst. Divisional Officer (P.N) also

rushed to the fire scene at the same time. The fire was declared of " serious category " at 17:50 hours by the Officer Incharge of the scene. The fire fighting operations again strengthen by responding eight fire tenders, one bronto, one ambulance, two motor pump and one hose tender at 17.51 hours separately. The Chief Fire Officer Sh. S K Dheri sustained injuries i.e multiple fracture in coaler bone/right shoulder and compression in the back bone in this incident. Four other fire officials got injuries during the operation. The fire was brought under control at about 18:20 hrs and rescue of the last person conducted approximately around 18:45 hours. The stop message was given at 19:15 hours after the complete search of the building. The fire was in the cinema hall comprising of ground floor, car parking and electric transformer etc. Upper floors in the stair case lobby leading to gallery were affected by heat and smoke. The lobby behind the screen was also affected by heat and smoke. During the fire fighting operation, 160 casualties were rescued among them about 100 casualties were conscious and about 60 casualties were unconscious. Among them 57 were declared dead in hospital, some were

admitted in hospital and others were discharged by giving first aid. Most of the casualties were removed from balcony of the cinema hall, toilets, lobby and adjoining offices. There was heavy traffic on roads at the time of fire call and this caused considerable delay in reaching the fire engines to the fire scene. The surroundings of Uphaar Cinema was also very congested due to traffic coming at stand still. The situation improved only after traffic police reached the site for which Delhi Fire Service control made several requests. Loss due to fire and cause of fire is under investigation by Dy. Commissioner (South) as per the enquiry ordered by the Government. The water supply was maintained from the nearby Under Ground Water Static tank located at Yusuf Sarai, Aurbindo Place, Green Park and Indian Oil Bhawan. NO water shortage was observed during fire fighting operations. About 150 personnel of Delhi Fire Service including officers with 48 fire units were deputed to control the fire. The last unit returned at 04.40 hours on 14.6.97 from the fire scene.”

Ex.PW49/E is the seizure memo prepared on 12.7.97 .

Ex.PW49/F is letter dated 30.8.94 from Uphaar Cinema signed by Vimal Nagpal to Chief Fire Officer , Delhi Fire Service intimating about the rectifications of shortcomings with regard to fire fighting.

PW 49 /G is the report of Municipal Corporation Delhi with reference to the letter of Uphaar cinema dated 30.8.94 in respect of the fire fighting arrangements.

Ex.PW50/A is file (D-99) relating to issue of license to Uphaar cinema Green Park, New Delhi.

Ex.PW50/B is file (D-100) pertaining to Uphaar cinema for the year 1992-93 . In this exhibit there is an application supported by an affidavit of Sushil Ansal for renewal of Annual License for Uphaar cinema for the period 24th April 1992 to 23rd April 1993. In the affidavit dt. 03.3.1992 Sushil Ansal has mentioned himself as Chairman of Green Park Theaters & Associated (P) Ltd.

Ex.PW50/C 1 to 15 is the correspondence file of Deputy Commissioner of Police License office with regards to renewal of license to Uphaar cinema.

Ex.PW55/AA (earlier mark PW55/A) is the lease deed

between Green Park Theatre Associated (P) Ltd and M/s Republic Construction Co. dated 4.12.75.

Ex.PW56/A is the letter dated 1.4.88 written by Gopal Ansal, Director, Green Park Theatares Associated (P) Ltd to Shri RK Sethi regarding the contract with RK Sethi for parking of the cycle, scooter stand and car parking at Uphaar cinema.

Ex.PW56/B is the details of tokens issued showing the parking of the vehicles on the ground floor on 13/6/97 from 9.30am to 9.30p.m..

Ex.PW56/C is the seizure memo prepared by Insp. Central Bureau of Investigation Sat Singh on 31/7/97 vide which following articles were seized.

- 1 Photocopy of letter issued by Director Gopal Ansal on dated April 21, 1977 in connection of parking contract.
- 2 Original copy of letter issued by Director, Gopal Ansal on dated 1st April 1988 in connection with parking contract.
- 3 Collection chart of parking vehicle parked in the Uphaar parking on dated 13.6.97.

Ex.PW100/P3, P4,P5 is the file (D-51,52 and D-53) regarding electricity connection to Uphaar cinema.

Ex.PW100/P1 and P6 is the file (D-49 and D-54) regarding electricity connection to Uphaar tenants.

Ex.PW62/A is the report of Forensic Science Experts (Dr. T.D. Dogra). The same was prepared regarding the fire incident at Uphaar Cinema. Questionnaire was annexed with

this document. The report is as follows :-

“After considering the post-mortem examination report of Capt. M S Bhinder, CFSL report and report of scene of occurrence, their opinion, the gases produced in such a fire shall depend upon the nature of items burnt. The possible items which may have been burnt were likely to be made of rubber, polyurethane, polyvinylchloride, acrylonitrile-butadiene styrene, petrol, diesel and nylon. The product of combustion of such items may contain carbon soot, hydrocarbons, carbon monoxide, carbon dioxide, sulphur dioxide, hydrogen sulphide, nitrous oxide, hydrocyanic acid, hydrochloride, phosgene, ammonia, aldehydes etc. All these are toxic gases having either systemic toxic effect and/or pulmonary irritant effect. Among them, the most common cause of smoke inhalation related deaths is carbon monoxide which is a systemic toxin with no irritant properties. In the post-mortem report of deceased M S Bhinder, lungs are described to be exuding pinkish fluid on sectioning and compressing of lungs. Such a finding can be seen in Carbon Monoxide poisoning. The effect of high temperature/hot gases could be external burns and heat effects in the oral and respiratory passages but there is no such finding suggestive of heat effect in the post-mortem report of Capt. M S Bhinder. There were no burn injuries or evidence of stampede or cause other than the suffocation.

They have further mentioned that some of the victims who have died on the way during transportation may have survived if immediate treatment was provided and/or proper ambulances fitted with oxygen cylinders with trained paramedical staff were available. The effect of these gases is rapid as the fatal period for carbon monoxide with ten percent concentration is within 20-30 min. and fatal period of hydrocyanic acid is 2 to 10 minutes, sometimes immediately. Therefore, combined effect of various toxic gases produced during combustion of the above-said material could have caused rapid death of the victims. The immediate well-organized intensive rescue operation in such circumstances could have saved many lives."

Ex.PW62/D1 to D41 is the death certificates in respect to brought dead persons to AIIMS in the evening of 13.6.97. The name of deceased were Ms. Kirti Dang, Mr. Mukesh Dang, Suman Dang, Harish Dang, Raman Sidhu, Malika Mann, Medha Mann, Geeta, Tarni Mann, Dhruv Mann, Ujjwal, JS Bhalla, Ravi Kumar, Abhishek, Madanlal Sharma, Parul Sharma, Yamini Sharma, Vipin Sharma, Archana, Jiten, Unnati, Prema Wangyal, Ajay Gupta, Capt. MS Bhinder, Rashim, Rubi Kapoor, Tarika Sahni, Kishanlal, Mrs. Geeta Kochar, Narender

Kochar, Aman, Monika, Baby Monika, Mrs. Kanika Kumar, Kushal Kumar, KK Malhotra, Prem Chand Gupta, Kathu, Sumesh Makkar, Dr. Yashpal, Mohd. Mammood Siddiqui. Ex.PW62/E and Ex.PW62/F are the Medical certificates of deceased Amar Pal and Shristi

Mark X1 to X65 are the MLCs

Ex.PW63/A is the statement Sudhir Kumar on which endorsement was made vide Ex.PW69/A on the basis of which FIR was registered.

Ex.PW63/B is the seizure memo dated 13.6.97 prepared by Addl. SHO PS Hauz Khas vide which articles were seized from site.

Ex.PW64/B is the report dated 27.6.97 prepared by Dr. Rajinder Singh on 27/6/97 sent to Station House Officer, Hauz Khas by Central Bureau of Investigation. The report is as follows :-

1 “1. The physical inspection of the scene of fire revealed two transformers in two rooms in one of the corner of the hall in the ground floor of the cinema complex. The smaller transformer situated at once of the corner room stated to be of Uphaar cinema was found intact. The other bigger transformer of 1000KV installed in the adjacent room stated to be of DVB have maximum burning effect of fire. The one electric phase cable of LT side mounted on bus-bar of this transformer has been

found to be detached and fallen on ground due to constant sparking as electric sparking effects were detected on the nut and bolts bus-bar and fastener end. In the process of falling down of the detached phase cable the same has apparently come in contact with fins of radiator at many places leading to intense sparking and creating U Shape hole in one end fin of the radiator resulting in oil spill. This U-shape hole is of same dimensions as that of cable fastener. Approximately 10-12 liters of transformer oil was found in transformer.

“On the basis of the fact stated above and laboratory findings it is concluded that the constant intense sparking between detached phase cable and radiator has initiated the fire and thus spreading along the oil spill.

- 1 The flash point of transformer oil (minimum temperature at which transformer oil catches fire) marked exhibit 1 is 158 degree Celsius.
- 2 The aluminium cable marked exhibit 5 reveal signs of short-circuiting.

Facilities do not exist to find out the contents of transformer oil (exhibit 1) in control earth sample marked exhibit 4.”

Ex.PW64/D is the report prepared by Dr. Rajinder Singh dated 11.8.97 giving results of Central Bureau of Investigation examination sent to Superintendent of Police, Central Bureau of Investigation . The report reads as follows:

“The fire had started from DVB transformer which is situated in western portion of the car parking hall situated in ground floor of cinema complex. The shutter of the transformer room opens towards the car parking lot. Thereafter, the smoke appeared to have traveled in two directions i.e northward and southward. The northward bound smoke encountered collapsible gate and a staircase adjacent to it. The smoke has gushed through stairwell due to chimney effect . The doors next to the screen on either side had severe smoke effect. The doors on either side of screen are two plank doors. Both portions shown effect of smoke. One door opposite to this staircase was closed at the time of incident as smoke effect was observed only staircase side of the door. Another door was to the right of the above door and one plank of the door was open at the time of fire. This way the smoke had entered the auditorium through right door as one plank of the door was opened at the time of fire incident.

The southward bound smoke traveled through ariel route was exhibited by the fact that the concrete pillars of the building did not show any signs of smoke at the bottom portion and cable hanging overhead of Uphaar Cinema complex showed signs of heat and smoke. The smoke gushed through stairwell due to chimney effect. The rear stall foyer canteen was not effected by smoke as well as fire as the connecting door from this staircase was closed.

This connecting door had strong blisters i.e effect of smoke and temperature (heat) on staircase side of door. Hence, the smoke had gone further up the stair case and reached the foot/lower portion of balcony of auditorium. The balcony had three entrances, there were one entrance next to this particular stairwell and one entrance was through foyer/canteen lobby and third entrance was one floor above. The smoke effect had been seen on the outside as well inside of one plank portion of door next to this stairwell leading to foot of the balcony. The smoke had entered the balcony through this half open door. The connecting door to the foyer/canteen from this staircase was closed. This door had effect of smoke and heat on outside portion. Further the smoke had gone up and effect of smoke was detected on entry door to the rear portion of balcony. The doors from the foyer canteen side to the auditorium and balcony were closed at the time of incident . Out of four doors from rear stall side. Three doors of double planks had been forcibly opened from the inner side of cinema hall.

The transformer in question i.e DVB transformer did not have following safety measures at the time of inspection.

- 1 The LT side cables from the bus bar did not have clamping system or any support to the cables.
- 2 The earth cable of the transformer has been found

temporarily fitted with the earth strip i.e twisting of earth cable.

- 3 There was no cable trench to conceal the cable.
- 4 HT panel board of transformer did not had any relay system to trip the transformer in case of any fault.
- 5 The Buchholtz relay system was not fitted on the transformer
- 6 Temperature meter was not found fitted on the transformer

The inspection of scene of occurrence i.e Uphaar cinema Complex reveal that the ground floor basement i.e car parking lot had been effected by fire and rest of the cinema complex was effected by smoke.

No emergency light system could be detected in the auditorium and balcony of cinema hall at the time of inspection.

The physical examination of DVB transformer reveal that the cables on bus bars on LT side did not have checked nuts. Except one lower terminal of phase Y and neutral terminal. The check nut of neutral terminal was found in loose condition. The blue phase single cable at the top alongwith cable end socket (detached cable) fell down on radiator fin due to constant arching/sparking at nut bolt portion on bus bar , decoiling effect of cable and weight of cable. All coupled together led to eating away of metal of cable end socket resulting in U-shape cable

socket end.

The

Laboratory examination of fire extinguishers reveals that
...

<i>Sl. No.</i>	<i>Type</i>	<i>Qty</i>	<i>Ex No.</i>	<i>Condition</i>
1	Water Type	8	6(a)-6(c) 6(f)(g) (h)	Empty Not in working order, working order
2	CO2 type	6	6(i) to(n)	Working Order
3	Foam Type	3	6(o)to(q)	Empty
4	Dry Powder	3	6(r)-(s) (t)	Not in working order Empty
5	Soda acid	2	6(u) 6(v)	Leakage at top Empty

Ex.PW64/D-1 to D-77 are the photographs produced by
Dr. Rajinder Singh

Ex.PW64/DA is the seizure memo dated 16.6.97
pertaining to seizure of transformer oil copper bus bar etc.,.

Ex.PW64/DE is the hand made sketch of transformer view
prepared by Central Bureau of Investigation showing LT and
HT Side.

Ex.PW64/DY2 is letter from Central Bureau of
Investigation to GM Indian Oil with a request to use the
laboratory to check the flash point of the transformer oil.

Ex. PW 66/A vide which MLCs were seized by the
investigating team/Central Bureau of Investigation .

Ex. PW 67/A1 to A23 are the specimen hand-writing of

accused Anand Kumar Gera taken on 18.9.1997 by Investigating Officer Shri R S Khatri, Deputy Superintendent of Police , Central Bureau of Investigation in presence of two witnesses, namely, Shri Y K Luthra, Assistant Engineer, Sub-station R K Puram and Inspt. Nagendra Shekhar, Sub-station R K Puram.

Ex. PW 67/A24 to 33 are the specimen signatures of accused Anand Kumar Gera taken on 18.9.97 by Investigating Officer Shri R S Khatri, Deputy Superintendent of Police , Central Bureau of Investigation in presence of two witnesses, namely, Shri Y K Luthra, Assistant Engineer, Sub-station R K Puram and Inspt. Nagendra Shekhar, Sub-station R K Puram.

Ex. PW 67/A-34 to A37 are the specimen signatures of accused Veer Singh taken on 8.10.97 by Investigating Officer Shri R S Khatri, Deputy Superintendent of Police , Central Bureau of Investigation in presence of two witnesses, namely, Shri Y K Luthra, AE, S/Stn R K Puram and D R Thukral, AE Zone 1603, Distt. R K Puram.

Ex. PW 67/A38 to A41 are the specimen signatures of accused B M Satija taken on 8.10.97 by Investigating Officer

Shri R S Khatri, Deputy Superintendent of Police , Central Bureau of Investigation in presence of two witnesses, namely, Shri Y K Luthra, AE, S/Stn R K Puram and D R Thukral, AE, Zone 1603, Distt. R K Puram.

Ex. PW 67/A-42 is admitted hand writing of accused A K Gera.

Ex. PW 67/DA is list of Inspectors, Superintendents, Maintenance Officers, Assistant Engineers, Foreman posted in Sub-station South Distt. R K Puram.

Ex.PW68/A is leave application of A.K. Gera

Ex. PW 68/B is seizure memo dated 8.10.97 vide which IO R S Khatri seized Four Days Casual Leave Application dated 20.6.1996 of accused A K Gera/Inspector from D R Thukral, Assistant Engineer Zone 1603 Dist. R K Puram.

Ex. PW 69/A is seizure memo dated 13.7.97 prepared by Insp. Data Ram of Crime Branch vide which documents pertaining to Uphaar Cinema were seized from SI Tilak Raj of Licensing Branch.

Ex. PW 69/B is seizure memo dated 1.8.97 prepared by Inspt. Malkiat Singh vide which files pertaining to the

correspondence for issue of license to Uphaar Cinema were seized from Insp. Tula Ram, Licensing Branch, Delhi.

Ex. PW 69/E is seizure memo prepared by Insp. Malkiat Singh vide which file regarding correspondence for issue of license to Uphaar Cinema was seized on 2.8.97 from Inspector Tula Ram of Licensing Branch, Delhi.

Ex. PW 70/B is site plan of place of incident which is dated 13.6.97 prepared by Addl. SHO of P S Hauz Khas.

Mark PW 70/X is seizure memo dated 27.7.97 prepared by SI M S Phartyal vide which soil samples were taken from different places at Uphaar cinema.

Ex. PW 71/A dated 17.12.97 is Sanction order of accused H S Panwar and Surender Dutt passed by C B Verma, Deputy Secretary.

Ex. PW 71/X is document relating to sanction of accused H S Panwar containing note-sheets.

Ex. PW 72/A is Sanction Order of accused S N Dandona, Executive Engineer, PWD (Now expired) which is dated 9.1.1998 accorded by V Sreekumar, Assistant Vigilance Officer.

Ex. PW 72/DA1, DA2 are noting in respect of accused A

K Gera regarding his duty on 13.6.97.

Ex. PW 72/DA4 is primary report in respect of fire incident on 13.6.97 which is signed by Y P Singh, Member(Technical) Delhi Vidyut Board and in the said report, Insp. B M Satija and A K Gera were suspended on 14.6.97 alongwith other Delhi Vidyut Board officials.

Ex. PW 73/A is Sanction Order of Inspectors/accused A K Gera, B M Satija and Bir Singh, Sr. Electric Fitter accorded by Navin Chawla, Chairman, Delhi Vidyut Board and is dated 2.1.1998 and was forwarded to SP, Central Bureau of Investigation vide forwarding letter Ex. PW 73/B.

Ex. PW 74/A is seizure memo dated 19.6.97 vide which attendance register alongwith 21 duty slips was seized, which was handed over by Insp. Balbir Singh, Crime Branch to Deputy Superintendent of Police Prithvi Singh of Central Bureau of Investigation on 27.7.97.

Mark PW 75/1 to 7 are the documents relating to issue of Completion Certificate and are of the year 1973.

Mark PW 75/8 and 9 are letter dated 2.3.1973 and 5.3.73 addressed to Executive Engineer (Bldg) and are signed by

Sushil Ansal and are in respect of proposed addition and alteration to cinema building at Green Park.

Mark PW76/1 to 9 (later exhibits by order dated 23.12.04 Ex.PW76/AA-1 to AA-9) file pertaining to correspondence between Green Park Theaters Associated (P) Ltd. and Municipal Corporation of Delhi .

Ex.PW77/A is autopsy report of M.S. Binder dated 25.6.97 . Ex.PW77/B is seizure memo of autopsy report in original bearing no.A/20/97 signed by Lt. Col. S. Satyanarayan classified Specialist (Path.) , Command Pathology Laboratory (western command), Delhi Cantt. dated 25.6.97 in respect of deceased IC-50428 Capt. M.S. Binder .

Ex.PW78/A seizure memo pertaining to seizure of 22 Fire extinguishers seized by Inspector R.S. Jakhar, Crime Branch dated 18.7.97. Ex.78/1 to 22 are articles of fire extinguishers.

Ex.PW78/B (later exhibit as Ex.PW81/A) is seizure memo dt 18.7.97 vide which the documents from Ansal properties and Industries Ltd. were seized from S.S. Gupta, Company Secretary/General Manager . Four registers seized vide seizure memo Ex.PW78/B were exhibited as Ex.PW78/AA-1, Ex.PW78/AA-2, Ex.PW78/ZZ-3 and Ex.PW78/AA-4 (Registers D-16,17,18 and 19) .

Ex.PW78/C is seizure memo dated 07.07.97 pertaining to seizure of cars, scooters and cycles from Uphaar Cinema parking.

Ex.PW78/D is seizure memo dated 30.6.97 pertaining to the seizure of one diary for the year 1997 seized from Sr. General Manager T.S Mokha, Ansal Properties & Industries Ltd. Ex.P-9 is diary for the year 1997 seized vide seizure memo dated 30.6.97.

Diary Ex.P-9 shows that Gopal Ansal was Managing Director of Ansal Properties and Industries Ltd.

Ex.PW78/E is seizure memo dated 27.7.97 pertaining to documents related to 59 dead persons, MLC & treatment documents of 54 injured , 34 photographs along with their negatives and video cassette.

Ex.PW79/A (earlier mark PW74/A) is seizure memo dated 19.6.97 pertaining to the seizure of attendance register along-with the 21 duty slips Ex.PW79/B-1 to B-21(later on Exhibited as Ex.PW97/A, Ex.PW97/B-1 to B-20)

Ex.PW81/B is the intact photocopy of the second page , which was torn and the first page is the same which was seized vide seizure memo Ex.PW81/A.

Ex.PW81/C seizure memo of 11.7.97 with regards to seizure of document D-21 and D-22 minutes Board of Directors (vol. 1to4) and minutes of AGM (Vol 1 & 2)

Ex.PW82/A is carbon copy of FIR dated 13.6.97.

Ex.PW83/A is report of Central Bureau of Investigation giving description of articles contained in the parcel dated 21.8.97.

Ex.PW84/A is sanction u/s 197 Cr.PC dated 28.11.97 prosecuting Sh. Shyam Sunder Sharma, Assistant Assessor

and Collector , Municipal Corporation of Delhi, R.K. Puram , N. Delhi and Sh. Naryan Dutt Tiwari , Administrative Officer , Municipal Corporation of Delhi.

Ex.PW86/A (earlier exhibited as Ex.PW74/B) is seizure memo dated 20.7.97 for seizure of documents i.e Ex.PW42/A (D-39), Ex.PW40/A (D-37) & Ex.PW43/A (D-38) pertaining to DVB. Ex.PW40/A is general diary register for the period of 14.5.96 to 1.6.97. Ex.PW42/A is register pertaining to break down from 24.4.97 to 26.6.97. Ex.PW43/A is 'No Complaint Register'.

Ex.PW87/A is letter dated 1.8.97 addressed to Central Bureau of Investigation SIC-IV written by Samir Biswas , Registrar of Companies enclosing copies of memorandum of Articles , Articles of Association , Incorporation Certificate, Annual Returns, Form 32, Balance-Sheet & Form 23 filed by Ansal Theater & Clubotels (P) Ltd.

Ex.PW87/1 to 72 are the details of the documents as annexed to the above letter dated 01.8.97

Ex.PW87/A-1 is certificate of incorporation of M/S Green park Theater Association (P) Ltd. dated 03.02.1972.

Ex.PW87/A-2 is memorandum of Association dated 11.3.96 of Ansal Theater & Clubotels (P) Ltd. which was initially registered as Green Park Theater Associated (P) Ltd.

Ex.PW87/A-3 is Article of Association of Ansal Theater & Clubotels (P) Ltd.

Ex.PW87/A-4 is photocopy of fresh certificate of incorporation consequent to the change of name.

Ex. PW87/A-5 is Memorandum of Association of Ansal Theater & Clubotels (P) Ltd.

Ex.PW87/A-6 is Article of Association of Ansal Theater & Clubotels (P) Ltd.

Ex.PW87/B is Form no.32 dated 17.11.1988 showing that Sushil Ansal and Gopal Ansal ceased to be Director on 17.10.1988.

Ex.PW87/C is Form no.32 showing appointment of Gopal Ansal as Director w.e.f 24.12.94.

Ex.PW87/D is Form no.32 dated 22.3.95

Ex.PW87/DA is information from ROC on documents diarized by a company.

Ex.PW87/47A is Annual Returns of Green Park Theater Associated (P) Ltd. for the year 29.9.1989.

Ex.PW87/53A is Annual Returns of Green Park Theater Associated (P) Ltd. for the year 30.9.1995.

Ex.PW87/54A is Annual Returns of Ansal Theater & Clubotel Ltd. for the year 30.9.1996.

Ex.PW87/E is Form no.32 dated 11.4.96

Ex.PW87/F is Form no.32 dated 16.6.97

Ex.PW87/G is Form no.32 dated 29.8.97

Ex.PW88/A is note-sheet pertaining to year 1989 fire at Uphaar Cinema.

Ex.PW88/B is letter dated 7th July 1989 written by Dy. General Manager, Uphaar Cinema addressed to Chief Fire Officer, Delhi Fire Service intimating about the fire in the cinema .

Ex.PW88/C is report dated 13.7.89 sent to Uphaar cinema from Chief Fire Officer , DFS giving information regarding fire on 06.7.89 at 11.40 hours involving transformer of Uphaar cinema at ground floor. Transformer of DESU , LT, HT panel board, tripping DC battery of DESU , Cable shaft and AC duct of cinema , smoke and hot gases effected main hall, balcony , projection room , rewinding room , screen , furniture and various offices located in the cinema complex.

Ex.PW88/D is report dated 07.7.89 regarding " Serious Fire " occurred 23.40 on 6th July 1989 at Uphaar cinema.

Ex.PW88/E is report dated 06.7.89 of Chief Fire Officer S.K. Dheri DFS giving the details of the fire and the value of loss. In this report it is mentioned that fire was in Uphaar cinema building at ground floor involving transformer of cinema, transformer . LT , HT panel board, tripping DC battery of DESU, cable shaft of AC duct of cinema. Smoke and hot gases effected main hall, balcony, projection room, rewinding room screen, furniture and various offices located in the cinema complex.

Ex.PW88/F is seizure memo pertaining to seizure of file containing papers in respect of serious fire at Uphaar cinema dated 06.7.89.

Ex.PW88/G is seizure memo pertaining to seizure of one Casual leave register showing leaves of H.S. Panwar.

Ex.PW88/H is register (D-92) leave register maintained in normal course.

Ex.PW88/J is page 50 of leave register pertaining to H.S

Panwar DO ,DFS.

Ex.PW89/A is (D-91) is seizure memo dated 02.8.97 of occurrence book of Delhi Fire Service.

Mark PW89/A (D-91) is occurrence book of Bhikaji Cama Place Fire station , New Delhi dated 13.12.96 to 18.1.97 . Same is later on Exhibited PW101/A.

Ex.PW90/A is seizure memo of two cheques dated 12.02.97 and 30.11.96 of Rs.2,96,550/- and Rs.1,50,000/- issued by Gopal Ansal.

Ex.PW90/B and C are the photocopy of two cheques for a sum of Rs.1,50,000/- and Rs.2,96,550/- issued by Gopal Ansal .

Ex.PW91/A is the seizure memo of cheque no.955725 dated 26.6.95 issued by Sushil Ansal.

Ex.PW91/B is the photocopy of the cheque signed by Sushil Ansal for Rs.50,00,000/- in his favour from the amount of Green Park Theater Associated pvt. ltd.

Ex.PW92/B is opinion of Dr. S.C Mittal dated 28.10.97 with respect to specimen signature/handwriting of A.K. Gera , B.M Satiza and Bir Singh which is as follows :

On 9.10.97, Shri M Naryanan, SP, CBI letter Ex. PW 92/A sent **questioned documents** i.e original General Diary Register of DVB S/Stn. R K Puram for the period 14.5.96 to 13.6.97 containing written pages marked 1 to 201 with relevant questioned entries encircled and marked Q1 at Page No. 200, photocopy of report dated 14.6.97 signed by S/Stn. Bir Singh, Sr. Fitter, A K Gera and B M Satija submitted to AE(S/Stn. R K

Puram) regarding repair at Uphaar Cinema on 13.6.97 encircled and marked Q2 to Q5. **Admitted documents** were also sent consisting of Casual Leave application of A K Gera dated 20.6.96 for four days [w.e.f 22.6.96 to 26.6.96](#) which is marked A1 and A2. Casual Leave application of A K Gera for 7 seven days [w.e.f 23.5.97 to 30.5.97](#) marked A3 and A4. **Specimen hand writing** of A K Gera on 23 sheets marked S-1 to S-23, specimen signatures of A K Gera on ten sheets marked S-24 to S-33, specimen signatures of Bir Singh on four sheets marked S-34 to S-37 and specimen signatures of B M Satija on four sheets marked S-38 to S-41 were also sent for comparison. Hand writing evidence points to the writer of the standard English writings marked S1 to S23 and A1, A3 attributed to Anand Kumar Gera being the person responsible for writing the questioned English writings marked Q1 and Q2. There are similarities in the execution of all the questioned Hindi signatures marked Q3 in comparison with the specimen Hindi signature from S-34 to S-37; questioned English signature marked Q-4 in comparison with the specimen English signatures marked S-24 to S-33 and A-2 and A4 and questioned English signature Q5 and specimen signatures from S-38 to S-41. Further the questioned English signatures are Xerox copies of the original signatures and the line quality is poor with broken lines. Since the line quality of the Xerox copies questioned signature from Q3 to Q5 could not be studied thoroughly. As such he is enable to express any definite opinion regarding their authorship in comparison with

the available specimen signatures. For opinion on the questioned signature marked Q-3 to Q5, the questioned document bearing the original signatures of Q3 to Q5 are required. Same may please be procured and sent to this laboratory for further examination and opinion in this case. At the end of his report, he has also put a note that opinion on the writing marked Q-2 has been expressed considering that Q-2 is the true reproduction of the original writings as I have not observed any evidence of tempering or defective line quality in them. Further this opinion is subject to the conformation from the original document of Q-2.

Ex.PW93/A is seizure memo pertaining to cheque no.183618 dated 23.5.1996 for Rs.9711/- signed by Gopal Ansal.

Ex.PW93/B is photocopy of original cheque no.183618 dt.23.5.1996 for Rs.9711/- signed by Gopal Ansal for Green Park Theater Associated (P) Ltd.

Ex.PW95/A is letter dated 27.8.97 forwarding letter to R.S Khatri Central Bureau of Investigation enclosing the coloured seating plan (four numbers).

Ex.PW95/B-1 to B-4 and Ex.PW29/J are attested copies of four sheets regarding seating plan.

Ex.PW96/A is seizure memo of occurrence register seized from DFS dated 06/5/97 to 11/6/97 .

Ex.96/B (D-89) register making entries regarding fire incident and officers going for outdoor duty.

Ex.96/C is register (D-89) containing information about

occurrence of fire and the officer who attended the same and their arrival back.

Ex.96/D is seizure memo of occurrence book with effect from 11.6.97 to 18.7.97.

Ex.PW96/E is the entry in Ex.PW96/C

Ex.PW97/A is the duty roaster of gate staff for 13.6.97 morning shift of Uphaar cinema

Ex.PW97/A , Ex.PW97/B-1 to B-20 are duty slips of Uphaar Cinema gate staff (earlier marked 79/B-1 to B-21)

Ex.PW97/C is register (D-10) Manmohan Uniyal is shown on duty as gatekeeper in the balcony from 09.00 hrs to 17.30 hrs.

Ex.PW98/A is documents seized from Malhotra Dy. General Manager.

Ex.98/B is register (D-27) attendance register of Managers Uphaar Cinema .

Ex.PW98/C is file consisting of minutes of the MD's meeting and their correspondence .

Ex.PW98/X-1 to X-6 are the photocopies of missing pages . Ex.PW98/X-4 is covering letter dated 03.3.97 of M. D conference signed by Ajit Chaudhary, Manager, Admn. (Uphaar Grand) alongwith minutes of M.D Conference held on 27.9.97 . **In minutes dated 27.9.97 Ex.PW98/C at point 9 it is mentioned that M.D desired that not even a nail will be put in the cinema premises without his prior permission.**

Ex.PW98/X-2 is covering letter dated 14.4.97 of M. D conference signed by Ajit Chaudhary, Manager, Admn.

(Uphaar Grand) alongwith minutes of M.D Conference held on 02.4.97 in which following were present :

- 1 Mr. Gopal Ansal (MD) : In chair
- 2 Mr. R.M puri (Director)
- 3 Mr. K.L. Malhotra (DGM)
- 4 Mr. Ajit Cuaudhary (Manager-ADM)
- 5 Mr. Rohit Sharma (AM Mktg.)

Ex.PW98/X-3 is covering letter dated 02.05.97 of M. D conference signed by Ajit Chaudhary, Manager, Admn. (Uphaar Grand) alongwith minutes of M.D Conference held on 01.5.97 in which following were present:

- 1 Mr. Gopal Ansal (MD) : In Chair
- 2 Mr. RM Puri Director (Uphaar Grand)
- 3 Mr. K.L. Malhotra :DGM (Uphaar Grand)
- 4 Mr. Rohit Sharma : AM (mktg & PR)
- 5 Mr. DD Sharma : Accountant (Uphaar Grand)

In minutes of MD conference Ex.PW98/C held on 01.5.97 at point 1 to 4 it is mentioned that MD (API)

Ex.PW98/X-1 is covering letter dated 09.5.97 of M. D conference signed by Ajit Chaudhary, Manager, Admn. (Uphaar Grand) alongwith minutes of M.D Conference held on 07.05.97 in which following were present.:

- 1 Mr. Gopal Ansal : M.D IN chair
- 2 Mr. RM Puri : D.E.
- 3 Mr. Subash Verma : ED (BD)
- 4 Mr. K.L Malhotra : DGM (Uphaar Grand)
- 5 Mr. Manoj : AGM (mktg.)

6 Mr. Ajit Chaudhary : Manager (Admn.) (uphaar Grand)

7 Mr. Rohit Sharma : AM (mktg.)

The diary Ex.P-9 of the Ansal Group for the year 1997 shows that Gopal Ansal was Managing Director of Ansal Properties and Industries Ltd.

Ex.PW99/A is seizure memo pertaining to seizure of occurrence book of control room head quarter , Delhi Fire service.

Ex.PW99/B is register (D-84) is occurrence register.

Ex.PW99/C is the photocopy of page 379 of the register(D-89)

Ex.PW100F/A (D-41) is seizure memo of General Diary Register of Sub Station R.K. Puram containing pages 1-200 for the period January 1989 to Dec 1989.

Ex.PW100/B is register (D-43) General diary register of sub-station R.K Puram

Ex.PW100/C is seizure the MAS Register DESU sub station R.K. Puram

Ex.PW100/D is register (D-43) : MAS register of DVB R.K Puram.

Ex.PW100/E (D-44) file marked L-1 (524) HT supply to Uphaar Cinema at Green Park , New Delhi.

Ex.PW100/F is register (D-44) containing file marked L-1 (524) HT supply to Uphaar Cinema

Ex.PW100/G is seizure memo dated 06.8.97 of log sheet of AIIMS grid station dated 13.6.97 in original

Ex.PW100/H is seizure memo dated 20.8.97 of the

carbon copy of sheet INA 32 showing details of attendance of supervisory staff of sub-station R.K. Puram (DESU)

Ex.PW100/J is attendance register of supervisory staff as seized vide memo Ex.PW100/H.

Ex.PW100/K is seizure memo dated 29/7/97 of agreement of DESU with Green Park Theater Associated (P) Ltd.

Ex.PW100/L is register (D-47) agreement of DESU with Green Park Theater Associated (P) Ltd.

Ex.PW100/M (D-46) file pertaining to Green Park Theater (P) Ltd. bearing BS- 2 286

Ex.PW100/N is seizure memo of 6 documents pertaining to Electricity connections to the the tenants of Uphaar cinema.

Ex.PW100/P-1 to P-6 earlier these files are mark PW58/X, Y ,Z and mark PW58/Z-1 to Z-3 are files (D-49 to D-54) these are documents pertaining to Electricity connections to the tenants of Uphaar Cinema.

Ex.PW100/P-2 is file D-50 with regards to electricity connection to Pan Bhandar Uphaar Cinema.

Ex.PW101/A (earlier mark PW89/A-1) are register D-91 regarding occurrence book of Bikaji Cama Place Fire station , New Delhi dt.13.12.96 to 18.1.97

Ex.PW101/A-1 to A-11 are photocopies of the missing pages and those papers on which the ink is spread.

Ex.PW102/A is the seizure memo dated 1.9.97 regarding file pertaining to extract of board of directors M/s Green Park Theaters Associated (P) Ltd and other papers containing 18

sheets (1 to 19), file containing original sanction plan in respect of Uphaar cinema released to M/s RC Sood & Co. containing 01 to 16 plans and one set of loose sheets containing 01 to 62 pages-correspondence in respect of Uphaar cinema.

Ex.PW102/B is the letter dated 25.8.80 from Sushil Ansal Director to RM Puri Managing Director is regarding the decisions taken after discussion with Mr. Madan Rais .

Ex.PW102/D1 is the letter dated 12.7.74 of Shri JC Rawal, Entertainment Tax Officer to The Licensee Uphaar Cinema regarding permission to let out the cinema portion i.e. Top floor and ground floor to Commercial organisations.

Ex.PW102/D2 is the letter dated 21.3.79 of Green Park Theaters Associated (P) Ltd signed by Sushil Ansal to Shri [A.K.Kanth](#), Dy, Commissioner of Police (Licensing) regarding annual license u/s10 of the Cinematograph Act, 1952.

Ex.PW102/D3 is the letter of Gopal Ansal on behalf of Green Park Theaters Associated (P) Ltd dated 28.5.80 .

Ex.PW102/D9 is the minutes of meeting of board of Directors of Green Park Theaters Associated Pvt. Ltd held on 2nd September 1995 in which Shri RM Puri was authorised as whole time director of the company to do all the acts, relating to the management of Uphaar cinema.

Ex.PW102/D27 is the letter dated 13.10.96 written by Shri KL Malhotra to DCP Licensing regarding intimation of change of admission rates of their cinema in respect of rear stall and balcony [w.e.f.](#) 24.10.96.

Ex.PW102/D36 is the letter dated 6/8/80 sent by Gopal Ansal Director to The Deputy Commissioner of Police Licensing

regarding revision in admission rates along with the statement indicating the existing and revised rates of admission at Uphaar cinema [w.e.f.](#) 15.8.80.

Ex.PW102/D-38 is the letter sent by KL Malhotra to the Deputy Commissioner of Police Licensing regarding allotment of seats. It is mentioned that additional space for car parking is required as the seats being installed less than 20 and that they have sufficient space for parking of all types of vehicles.

Ex.PW102/D-41 is the letter dated 29.7.80 sent by Gopal Ansal, Director to The DCP Licensing regarding sanction of 15 additional seats at Uphaar Cinema.

Ex.PW102/D-42 is the temporary permit given to Sushil Ansal, MD Uphaar Cinema for the period of two months [w.e.f.](#) 24.4.80 to 23.6.80

Ex.PW102/D47 is the order of DCP Licensing passed on 26.6.82 relating to free drinking water.

Ex.PW102/D-51 is the memorandum issued on 10.6.80 by DCP Licensing to TheLicensee Uphaar Cinema.

Ex.PW102/D52 is also another memorandum issued on 6.6.80 by DCP Licensing to TheLicensee Uphaar Cinema regarding showing of slide in case of power failure showing regret about the inconvenience caused to the patrons.

Ex.PW102/D53 is the letter dated 23..4.80 of GopalAnsal, Managing Director, Uphaar Cinema to DCP Licensing regarding inspection of Uphaar Cinema showing removal of deficiencies found at Uphaar Cinema during inspection.

Ex.PW102/D61 is the letter dated 14.9.96 sent by

Rajinder Pal Singh to Manager Uphaar Cinema referring his written representation dated 30.8.96 regarding the violation of Municipal Corporation Act, 1957 and Delhi Building Bye-laws, 1983.

Ex.PW102/D61 dated 13.12.79 is the undertaking signed by Gopal Ansal , Director, Green P ark Theaters Associated (P) Ltd regarding payment of salaries to the employees.

Ex.PW103/A is the seizure memo dated 1.7.97

Ex.PW103/B1 to B5 is the minutes of the meeting of the board of directors of the company held on 1.12.93 .

Ex.PW103/B7 to B11 is the minutes of the meeting of the Board of Directors of the company held on 1.3.94.

Ex.PW103/B13 to B16 is the minutes of the meeting of the Board of Directors of the company held on 5.4.94.

Ex.PW103/B17 to B18 is the minutes of the meeting of the Board of Directors of the company held on 30.6.94.

Ex.PW103/B25 to B26 is the minutes of the meeting of the Board of Directors of the company held on 25.10.94.

Ex.PW103/B27 to B30 is the minutes of the meeting of the Board of Directors of the company held on 15.11.94.

Ex.PW103/B1 to B33 is the minutes of the meeting of the Board of Directors of the company held on 28.11.94.

Ex.PW103/B35 to B38 is the minutes of the meeting of the Board of Directors of the company held on 5.12.94.

Ex.PW103/X6 to X8 is the minutes of the meeting of the Board of Directors of the company held on 24.12.94.

Ex.PW103/X9 to X11 is the minutes of the meeting of the Board of Directors of the company held on 5.1.95.

Ex.PW106/A is the seizure memo dated 29.7.97 regarding seizure of file titled as Letters received from DCP Licensing in building (HQ) Municipal Corporation of Delhi.

Ex.PW106/B is the seizure memo dated 30.7.97 regarding seizure of file titled as Report of the Physical survey of various cinema halls.

Ex.PW106/C is the seizure memo dated 4.8.97 regarding seizure of one original DO Letter no.6304 dated 15.4.96 of Mrs.Vimla Mehra, ACP (Licensing), copy of office order no.56/SE(B)HQ/97/UDC-II dated 2.6.97 of Municipal Corporation of Delhi Delhi Engineering Department. Town hall, Delhi-6 and Copy of LGs orders dated 24.3.84.

Ex.PW108/A is the FIR registered on 26.7.97 by Central Bureau of Investigation vide no.SP/Central Bureau of Investigation /SPE/SIC.IV/New Delhi regarding the fire incident which took place at Uphaar Cinema on 13.6.97.

Ex.PW108/B consisting of 4 sheets showing sketch of ground floor and parking Uphaar Cinema, first floor/Auditorium of Uphaar Cinema, Balcony of Uphaar Cinema and sketch of projection room on 3rd floor of Uphaar Cinema.

Ex.PW108/Z1 is the DDno.39A dated 13.6.97 .

Ex.PW108/Z2 is the DD no.40A dated 13.6.97 recorded at PS Hauz Khas at 7.50am. This is the entry of arrival of HC in the police station where he has mentioned that after receiving DD no.39 he went to Uphaar Cinema and met watchman Surat

Singh who has informed him that in the main switch fire circuit the DESU transformation has caught fire and the Fire brigade arrived has extinguished the fire.

Ex.PW108/Z3 is the letter dated 21.4.77 of Gopal Ansal, Director, Green Park Theaters Associated (P) Ltd to RK Sethi regarding allotment of the contract of car parking to him mentioning the charges to be paid by him.

Ex.PW108/C is the seizure memo dated 8.10.97 of casual leave application of Shri Anand Kumar Gera.

Ex.PW108/D & D-1 is questionnaire sent to Central Bureau of Investigation pertaining to handwriting expert enclosed with Ex.PW92/A.

Ex.PW108/ZZ4 is letter dated 04.7.97 sent by crime branch to DVB for deputing two engineers for site inspection.

Ex.PW108/ZZ9 is letter from Crime Branch to Addl. Chief Engineer Delhi Vidyut Board regarding some queries.

Ex.PW108/ZZ6 is letter from crime branch dt.25.7.97 pertaining queries from Delhi Vidyut board

Ex.PW108/F is letter dated 28.7.97 from SP Central Bureau of Investigation to Chairman Delhi Vidyut Board regarding documents

Ex.PW108/G is letter dated 26.7.97 from SP, Central Bureau of Investigation to Delhi Vidyut Board requesting for documents

Ex.PW108/H is letter dated 28.8.97 from SP, Central Bureau of Investigation to Delhi Vidyut Board seeking information with regard to the investigation.

Ex.PW108/J is letter dated 18.8.97 from SP , Central Bureau of Investigation to Delhi Vidyut Board seeking information with regard to the investigation.

Ex.PW108/K is letter dated 28.8.97 from SP Central Bureau of Investigation to Delhi Vidyut Board requesting for documents pertaining to Duties and responsibilities of the officers.

Ex.PW108/L is letter dated 11.9.97 from Delhi Vidyut Board to SP , Central Bureau of Investigation giving the duties and responsibilities of the officers.

Ex.PW108/L-1 to L-7 is office order of Delhi Vidyut Board with regard to duties and responsibilities of the officers.

Ex.PW108/M (D-113) is the letter dated 10.10.1997 of M.Narayanan SP Central Bureau of Investigation to the Director, Central Power Research Institute requesting for testing of transformer oil in the present case and the questionnaire for opinion is also annexed with the same .

Ex.PW108/N is test report dt.29.10.97 of transformer oil form Central Power Research Institute

Ex.PW108/O is the letter dated 5/9/97 of M. Narayanan SP Central Bureau of Investigation to The Director AIIMS requesting for Forensic Science Experts.

Ex.PW108/P(D-121) is the letter dated 29/8/97 of Shri M.Narayanan, SP Central Bureau of Investigation addressed to the Medical Superintendent, Safdarjung hospital regarding investigation of Central Bureau of Investigation case relating to fire incident at Uphaar Cinema on 13.6.97.

Ex.PW108/S is the letter dated 13.10.97 mentioning the inspection report of Uphaar Cinema conducted by Shri S.P. Batra and addressed to RS Khatri, DY.SP Central Bureau of Investigation .

Ex.PW108/Z is notification dated 24.1.77

Ex. 108/Z-1 notification dated 04.8.97

Ex.108/Z-2,3 and 4 are Delhi Gazette notification dated 28.12.77,13.4.78 and 29.3.78

Ex.PW108/AA is the report of the repair conducted on 13.6.97 morning at the Sub Station at Uphaar Cinema attended at 10.230a.m.. The following work was carried out on 1000KVA DVB transformer.

630 mm² AC Socket-2 nos. were replaced. The local transformer was put 'ON' at about 11.30a.m. on 'No load'.

The LT main was put 'ON' by zonal lineman.

The report was signed by Vir Singh(Sr. Fitter), AK Gera and BM Satija mentioning the date [as14.6.97](#) under their signatures.

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Ex.PW108/BB is the chargesheet prepared by Shri RS Khatri Dy. Supdt. Police, Central Bureau of Investigation on 15.11.97 and list of witnesses and then additional list of witnesses was filed vide Ex.PW108/BB1 to BB9.

Ex.PW108/BB4 is the letter dated 19/1/98 of DY.SP Central Bureau of Investigation requesting for filing the additional list of witnesses/documents.

Ex.PW108/BB5 and Ex.PW108/BB6 are the Additional List of witnesses filed on 7.5.2003.

Ex.PW108/CC is the affidavit of Shri Rai Singh Khatri, Insp. Police Station Anti Corruption , GNCT of Delhi dated 6.2.2003 mentioning the seizing memo dated 18.7.97.

Ex.PW108/DX is letter dated 23.9.97 to SK Behl Delhi Vidyut Board from SP , Central Bureau of Investigation

Ex.PW108/DB-I is attendance details of NS Chopra

Ex.PW108/DB-II is attendance details of Ajit Chaudhary

Ex.PW108/D-1 is letter dated 4.9.97 from Central Bureau of Investigation to RC Upaday pertaining to Gera inspector Delhi Vidyut Board

Ex.PW108/D-2 is letter dated 1.10.97 from Delhi Vidyut Board to SP Central Bureau of Investigation pertaining to Gera.

Ex.PW108/X is the handing over document prepared on 27.7.97 by SI/Central Bureau of Investigation .

Ex. PW110/AA and Ex.PW110/AA1 are letter dated 18.4.79 and 23.4.79 from Uphaar Cinema to DCP (Lic)

Ex.PW110/AA2 and AA3 are letter dated 13.12.79 and 27.12.79 from Gopal Ansal to Deputy Commissioner of Police (Licensing) with regard to withdrawal of additional seats.

Ex.PW110/AA4 and AA5 and AA6 are letter from Uphaar to DCP (Lic) signed by Gopal Ansal in a the capacity of Director.

Ex.PW110/AA7 , AA8 , AA9 amd AA40 are letter dt. 29.7.80 and 5.9.80 from Gopal Ansal Uphaar Cinema to

Deputy Commissioner of Police (License & EE Public Work Department)with regard to 15 additional seats at Uphaar

Ex.PW110/AA-10,12,13,14,15,16 and 17 are correspondence of Uphaar Cinema with Deputy Commissioner of Police (Licensing) Entertainment Tax Officer etc.

Ex.PW110/AA-18, 20 are letter dt. 24.5.78 from Gopal Ansal Uphaar Cinema to Entertainment Tax Officer regarding sanction of 8 seater box

Ex.PW110/AA-19, 21 are letter dt. 16.10.78 from Uphaar cinema to Entertainment Tax Officer

Installation of Transformer :-

It is submitted by Ld. Special PP that the plot of land under neath the Uphaar Cinema initially sold/leased was meant for construction of Cinema hall including space meant for parking of the vehicles and passage for people. No provision for installation of additional transformer of 1000KVA was there. Ld. Special PP submitted that installation of 1000 KVA was against the sanction plan and against the Building Bye laws and against the Municipal Corporation of Delhi rules which permitted for installation of transformer in the building of Uphaar Cinema. Even at the time of installation of 1000KVA transformer no intimation was sent to Municipal Corporation of Delhi.

Repelling the arguments of Special PP it is submitted by Id.

counsel on behalf of accused Sushil Ansal and Gopal Ansal that they were compelled by the DESU authorities to permit the DESU authorities to install their transformer. DESU authorities had threatened that they will not release the required electricity power if their transformer is not permitted to be installed in the stilt/ground floor of Uphaar Cinema. It is submitted that transformer was installed under compulsion. They cannot be blamed for installation of second transformer and no criminal liability on account of installation of second transformer be fastened on them.

It is apparent from the submission of the parties that they do not dispute the installation of 750 KV and subsequent installation of DESU transformer in Uphaar Cinema building of 1000 KVA.

The first question therefore arises for this court to decide is :

(i) Was the installation of transformer in accordance with the Building Bye Laws and other rules?

In order to decide this aspect of the matter it will be appropriate to refer to the plan which was sanctioned by Municipal Corporation of Delhi of Uphaar cinema building in consultation with other authorities. 16 plans have been produced which are

Ex.PW15/Y1 to Y/16. Relevant plan relating to the transformer is Ex.PW15-Y/3 which tells the position in the stilt portion as follows:-

As per this plan there were three rooms side by side for installation of transformer, LT room and HT room. First room is of the size of 20 x 10 feet , this is the LT room and middle room is of 20 x 10feet , this is for installation of transformer. And third room of 20 x 10 feet which is HT room. These rooms have been described as HT room, LT room and transformer.

The transformer room was in the middle. On one side there was LT room and on other side there was HT room.

According to the sanction plan Ex.PW15-Y/3 HT wires were to receive the electric energy in HT rooms and after conversion from high potential to low potential it was to be received in LT room. From there it was to be supplied to Uphaar Cinema building. The power in the HT room were being supplied from the grid station situated at AIIMS or near AIIMS.

Thus as per the sanction plan E.xPW15-Y/3 one room of 20 x 10 feet is meant for HT room where the power is received and one room of size of 20 x 10 feet was meant for transformer

which was to step down the high density current into low density current. This third room was meant for low density current wire

s from which the powers were to be supplied to other portion of Uphaar Cinema building,. While installing the transformer the position of electric installation has been changed without obtaining the sanction of the building department of Municipal Corporation of Delhi, Even Municipal Corporation of Delhi has not even notified of the same resultantly instead of HT wires in HT room and LT wires in LT room and transformer in the middle there was installation of second transformer of DESU authorities where the LT wires were to be there. The transformer of Uphaar Cinema was installed and additional transformer of DESU which was to supply electric power to other area of Green park was installed and LT, HT of both the transformer was installed in the room meant for LT room. This was not in consonance with the plan Ex.PW15-Y/3 which was sanctioned by Municipal Corporation of Delhi.

In fact while installing more than one transformer in the Uphaar Cinema Building the rules as provided were to be adhered to

which was not adhered to. The rules laid down in Electricity Rules and Bureau of Indian Standard 10028 Part II 1981 for installation of transformer are as under :-

3.3 Compliance with Indian Electricity Rules and Other Regulations.

3.3.1 All electrical installations shall comply with the requirements of the Indian Electricity Act and Rules made thereunder and with any other regulations that may be applicable, such as those made under Factories Act, 1948 and Fire Insurance Act. The following rules of Indian Electricity Rules, 1956, are particularly applicable: 35, 45, 50, 51, 59, 61, 62, 63, 64, 65, 67, 68, 69, 114.

3.6.2. If two or more transformers are installed side by side, they shall be separated by fire-separation walls. Fire separation walls are deemed to be adequate from fire-safety point of view, even if oil capacity of individual transformers do not exceed 2,000 litres, and total capacity of all transformers installed side by side exceeds 2,000 litres.

3.6.3. The capacity of the oil soak pit shall be such that to soak the entire oil content of the transformer, it is intended for individual soak pits for each transformer (wherever necessary) with capacity as above or a common soak pit to contain the entire oil content of the biggest of the transformers shall be adequate.

3.6.4. Soak pits shall be designed in such a way to provide for safe draining of liquids to soak pits.

4.5 Isolation of Equipment.

4.5.1. Means should be provided for the complete isolation

of every transformer from the supply and these should be so placed as to be readily accessible from the position in which danger may arise to enable the supply to such transformers to be cut off immediately. In making provision for isolation, due regard should be paid to the necessity for isolating all control, pilot and interlocking circuits, whether these are derived from the main source of supply or independently. If it is not practicable to carry out complete isolation with a single device, clear and concise instructions should be affixed to the apparatus in a permanent manner setting out the procedure to be adopted to secure complete isolation.

7.3.1. Indoor Sites.

7.3.1.1 The most important thing to be ensured with transformer installed indoors is proper ventilation that is, free movement of air round all the four sides. The level of the transformer base should be higher than the highest floor and storm water level of that area.

7.3.1.2 The transformers should be kept well away from the wall. The minimum recommended spacing between the walls of the transformer periphery from the point of proper ventilation have been shown in Figure 2. However, the actual spacing may be different than those given in Figure 2, depending on the circumstances, such as access to the accessories.

7.3.1.4. For indoor installations the air inlets and outlets shall be of adequate sizes and so placed as to ensure proper air circulation for the efficient cooling of the transformers. The inlets should preferably be as near the floor as possible and the outlets as high as the building allows to enable the heated air to escape readily and be replaced by cool air.

7.6 Cabling

7.6.1 Cable trenches inside sub-stations and switch stations containing cables shall be filled with sand, pebbles or similar non-inflammable materials, or completely covered with non-inflammable slabs. In many installations, it may be advisable, for reasons of ease of maintenance to locate equipment centrally with cable galleries serving the purpose of cable galleries serving the purpose of cable trenches.

7.6.2 Cables may also be carried alongwith the walls clamped on the vertical supports at suitable intervals depending on the cable sizes. The cables, when arranged in a verticle plane, should run clear off the walls. Many types of special clamps for this purpose are now available. Where a large number of cables have to be carried and it is not desirable for some reason to have a portion of the wall face covered with cables, these may be run in cable trays or racks and the spacing between them should be 150mm or more depending on the cable sizes. The cables should be laid in a single layer and the routings should be preplanned so that cross-overs are kept to minimum. The trays may be made from suitable materials such as galvanized iron or aluminium sheets or expanded metal. The expanded metal affords better ventilation for the cable. In view of economy and compactness, control and power cables are laid in the same trench; care shall be taken to segregate them in separate racks, with the control cables effectively screened. DC control cables, ac power circuits and instrument transformer circuits shall be segregated from one another.

7.6.3 The cables should not be exposed to heat from other equipment. The cable trenches should be suitably sloped and arrangements should be made for draining them or preventing them from getting filled with water.

7.9 Precautions against Risk of Fire :

7.9.1 In order to limit the spread of fire in the event of

ignition, insulating oil, oil filled switchgear and transformer units should be segregated in groups of moderate capacity; where the size and importance of the plant warrants it, this may be achieved by segregation in separate enclosures. Alternatively fire resisting barriers may be provided between transformers or sections of switchgear.

Other essential condition is laid down in clause K-8.4

(b) Building Bye Laws 1983 which is as follows:-

The transformer shall be protected by an automatic high pressure water spray or a foam sprinkler system. When housed at ground floor level it/they shall be cut off from the other portion of premises by Fire Resisting walls of 4 hours fire resistance. They shall not be housed on upper floors.

It is apparent from the above said rules that if two or more transformer are installed side by side, they shall be separated by fire separation wall. Not only this the capacity of oil soak pit which is to be in the room where transformer is/are installed shall be such as may soak the entire content of oil. Even the soak pit shall be designed in such a manner as may provide for safe draining of liquid to soak pit.

It is also clear from the above said rules that it was essentially to be ensured that there is proper ventilation of transformer free movement of air around all the four sides of transformer and that there should be proper air inlets and outlets of adequate

size to ensure for efficient cooling of transformer. It is suggested in the rules that probably inlet should be as near the floor as possible and outlet as high as the building allow and to enable the hot air to escape readily and replaced by cool air.

In the present case the position/installation of transformer was not in accordance with Bureau of Indian Standard/sanction plan. It was also not in accordance with Electricity rules and other laws of Bureau of Indian Standard and Electricity Rules were violated by keeping HT and LT wires in the same room while installing transformer side by side. No provision was made for separating two transformer installed side by side. No soil pit was provided to soak oil. There was no provision of complete isolation of each transformer including control pilot and interlocking circuits Proper ventilation that is free circulation of air on all the sides were not adhered to. Due spacing of walls of transformer was not there. Moreover, position of transformer at the site also indicate there was no provision for efficient cooling inlets of air was not near the floor. Instead it was not less than 3 ' high from floor. The outlet provide to enable the heated air to escape readily and replace cool air was lacking.

Thus the installation of transformer was against Electricity Rules and sanction plan Ex.PW15-Y/3.

The report of Electrical Inspector has also the observation to this effect. The detailed discussion of the same will be taken up when cause of fire will be considered.

STRUCTURAL DEVIATIONS

Regarding structural deviations, it was argued by Ld. Special Public Prosecutor that building plan of Uphaar cinema on the plot in question was sanctioned for cinema and cinema related commercial establishment. Learned Special Public Prosecutor submitted that instead of using the plot as per the sanction plan, various illegal structural deviations were carried out in the premises which have been used for other purposes than for which the building plan was sanctioned. Learned Special Public Prosecutor submitted that that inspection of building was carried out on different dates and reports were submitted which clearly depicts that there were large scale deviations which existed in the building. The structural deviations have contributed to the fire hazard and blocked the means of escape of cine viewers resulting into death of 59

patrons.

On the other hand, learned counsel for accused persons submitted that structural deviations are not to be seen separately. The structural deviations have to be seen from fire safety angle. The Learned counsel for accused persons drew my attention to Ex. PW 17/B which is an inspection report with regard to the inspection carried out in June 1983 i.e fourteen years ago before incident. The inspection was carried out by the officials of Deputy Commissioner of Police (Licensing), officials of Municipal Corporation of Delhi and officials of Delhi Fire Service which clearly depicts that the alleged deviations related to fire had been removed. Learned counsel for accused persons drew my attention to the file of Delhi Fire Service consisting of page C-1 to C128 which was seized vide seizure memo Ex. PW 49/E. It is submitted that the structural deviations which may be described as fire hazard and it be said to be against the rules, have been removed. During the course of arguments, learned counsel for accused persons referred to the statement of PW 17 Sh. Ram Kumar Gupta, Jr. Engineer, Building , Municipal Corporation of Delhi, Head

Quarters, and submitted that the said witness has admitted, subject to ventilation that a partition wall was in the basement as per rules. PW 17 has also stated that RS Joists did not cause any hindrance in the movement of public/patrons. These RS Joists are fixed at the height of 7-8 feet and does not cause any hindrance. Learned counsel for accused persons further argued that letting out of some portion of the building to various commercial establishments was not a fire hazard. In any case, the permission was granted by Entertainment Tax Officer to let out the same to commercial offices. Learned counsel for accused persons submitted that deviations in the structure from the point of view of the fire hazard has to be seen and there were no deviations from that point of view.

Learned counsel for accused persons further drew my attention to Ex. PW 17/D which is a report dated 30.4.96 prepared by the officials of Municipal Corporation of Delhi disclosing the deviations prior to the occurrence. This report also shows that objections which were raised regarding the office of East Coast Braveries and regarding wooden planks from R S Joists had been removed. Learned counsel for

accused persons further submitted that some structural deviations which were existing never affected nor hindered the ingress and egress of patrons from time to time. It is further submitted that structural deviations which existed never caused any hindrance to the patrons.

Learned counsel for accused referred to report Ex. PW 39/B dated 24.6.97 prepared by Shri R K Bhattacharya, Executive Engineer, Building.

Learned counsel for accused persons submitted that report Ex. PW 39/B should be read alongwith the deposition of PW 39 R K Bhattacharya, Executive Engineer, Building. While referring to the report and statement of PW 39, he submitted that RS Joists in the ground floor does not cause any hindrance. It is admitted by PW 39 that it does not cause any hindrance in egress of the patrons. Homeopathy dispensary does not affect the passage and office of M/s Sehgal Carpets in the basement is non-consequential as it does not obstruct the free movement of the patrons/public. Conversion of restaurant does not aggravate the fire possibility. It is harmless activity in relation to public safety and fire. The Manager room and

attached W.C and the verandah did not affect the movement of the public. Increase of seats in the balcony was as per the orders of licensing authority in accordance with the rules. Offices on the top floor do not affect the free movement of the patrons in the auditorium as well as in the balcony.

Learned counsel for accused further submitted that deviations stand removed or deviations pointed out or otherwise were non-consequential.

Questioning the report Ex. PW 29/A dated 2.8.97 which is a Panchnama, it is submitted by learned counsel for accused that it was not signed by the police officers present on the spot. The report was not forwarded to SDM. PW 29 B S Randhawa ASW, Div. II, LNJP Hospital, ND admitted that this report was not prepared at the spot i.e Uphaar cinema. Learned counsel further submitted that PW 81 Prithvi Singh, Deputy SP, CBI does not remember that as to how B S Randhawa and Dalip Singh were called at Uphaar Cinema. Finally, learned counsel for accused persons submitted that Ex. PW 29/A which is a Panchnama discloses that although it was signed by five persons but out of those five persons, only one person has

been produced. Even this report is also in conflict with report dated 30.6.97 in the matter of wooden planks. PW 27 Bansi Ram Meena of Delhi Fire Service has not noticed any coal, ash, burnt wood on the spot. Thus it is submitted that report Ex. PW 29/A cannot be relied upon and has to be rejected.

Questioning the report Ex. PW 2/A dated 11.8.97 prepared and submitted by Shri R N Gupta, Executive Engineer, Building, counsel for accused pointed out as follows :-

- 1 That it is based on inadmissible evidence. The witness has admitted that photocopy of plans were given to him for comparison while inspection. In the photocopy, the colour scheme was not discernible.
- 2 That PW 2 R N Gupta has not explained the deviations. The signatures of witnesses/officials other than PW 2 have not been given.
- 3 PW2 R N Gupta on oath before the court does not state the deviations observed on each floor. As a result, Ex. PW 2/A does not stand to be proved and cannot be taken as a proof.

The report does not state about compoundable deviations. How the deviations affected the free movement of the public. The grounds as contemplated under Section 51 of Indian Evidence Act have not been given in the report.

Learned counsel for accused submitted that report cannot be taken on record.

In 1983, due to fire incident in LPG godown at Shakur Basti and Gopala Tower, Lt. Governor ordered for inspection of all cinema houses. A Joint Team of officials of competent authorities inspected Uphaar Cinema and observed structural and fire safety deviations in Uphaar Cinema which are as follows :-

- 1 The basement meant for parking of vehicles was covered and let out to M/S East Coast Braveries and Distilleries .
- 2 Creation of additional floor between stilt floor and floor of auditorium by providing wooden plank . A part of it let out to M/S Nariers in violation of sanction plan
- 3 Third floor let out to various organizations.
- 4 Wooden plank removed as noticed at the time of second inspection but steel post and RS joist are still intact.
- 5 A homeopathic dispensary between stilt floor and floor of auditorium created by providing wooden plank flooring which unauthorized and fire hazard.

- 6 This part of the basement made inaccessible from the basement level and having access from ground floor and same was used for printing press which is not only violation of building bye laws but also a fire hazard.
- 7 Part of basement is used for storage of combustible material which is a fire hazard.
- 8 On the top floor an office has been created forming part of the stair-case plus a loft over it and extending to the portion above the toilet shown in the sanction plan.
- 9 One room at second floor mentioned as store in the completion certificate is being used as office of M/S Anil Chopra and Company .
- 10 Many offices on the top floor for which no permission seems to have been taken as required under condition 17 of the license.
11. The space marked for restaurant has been let out to bank.

Joint team of three Engineers PW17 Sh. Ram Kumar Gupta Jr. Engineer, Building , Municipal Corporation of Delhi, Heard Quarters, PW18 Ram Kumar, JE Municipal Corporation of Delhi and PW20 Vinod Kumar JE, Municipal Corporation of Delhi constituted inspection team and they submitted their inspection report which is Ex.PW17/D dated 30.4.96 in which Uphaar Cinema which is as follows :-

From the basement, office of M/s East Coast Braveries &

Distilleries Ltd. has been removed and provision of car parking has been made, but several partition walls are in existence , needs rectification.

2. Since wooden planks have been removed from the loft/mezzaine such the office accommodation automatically removed but RS joist , structure is still existing which needs removal.

Points 3,4, 5,8,10 and 11 are yet to be removed and remaining points have been rectified.

After incident following inspections were carried out :-

On 2.8.97,inspecting team consisting of Prithvi Singh, DSP, CBI, Dalip Singh Executive Engineer, PWD and Shri B S Randhawa, ASW, PWD while inspecting the scene of occurrence noted the deviations in the building as compared to sanction building plan of 1973 and described the deviations in report Ex. PW 29/A.

Basement :-

1.A room 12' X20' adjoining to the staircase has been found constructed.

2.Another room extensions was found to be made which is 26'

X20' adjoining to blower room.

3.A wooden store constructed with wooden partitions in the basement was used as store.

4.Three brick walls have been found constructed of 40' length and another wall was 20' in length and the enclosures between them were partially full of old seats.

Ground Floor/Stilt Floor :-

1 The portion above ramp was constructed and was being used as Homeopathy Dispensary of size 20' X 9' behind the transformer room.

2 The outer wall behind HT & LT room, transformer room was constructed upto the first floor height instead of 3' height.

3 The outer size of the LT room, transformer room and HT room was as per the sanction plan but the positioning of the partitioning have been shifted resulting in alterations in internal sizes of these rooms. (site plan Ex. PW 39/AA)

4 A room of the size of 14' X 7' was adjoining HT room and was used as ticket counter.

5 A portion of ticket foyer measuring 20' X 20' was converted into Syndicate Bank. The restaurant on the front side was

converted into Sanjay Press Office.

6 Mezzanine floor was constructed with R S Joists of timber flooring, which were completely burnt, reported to have been used as offices. The height of this floor was 8' above the stilt floor and with total covered area of 40' X 33' plus 40' X 39'-3" = 2890 Sq. ft.

7 Another small portion with RCC slab was constructed at mid landing of the staircase case at 8' height above the stilt floor and used as offices.

8 There was partition of the staircase around lift well which was leading to basement and was occupied by M/s Sehgal Carpets.

Foyer/First Floor :-

1 Refreshment counter was constructed between the staircase door and expansion joint.

2 Another refreshment counter was constructed towards rear exit gate at the distance of 10'-9" from the auditorium exit gate.

3 In the back row of the auditorium, ten seats were provided instead of nine seats which was restricting the exit door

passage. Total seats in the auditorium were 751 instead of 750 seats. (Seating arrangement)

Balcony :-

- 1 The gangway on right side was closed by providing extra seats
- 2 The gangway on the right of the middle entrance gate was 1'-9" instead of 3'-8" which was restricting the passage.
- 3 On the right side, a eight seater box was provided by covering the exit passage.
- 4 The inspection room between staircase and Projection Room was converted into 18 seater box.
- 5 Sweeper room and adjoining toilets were converted into office room, operator rest room was converted into office cum bar room where drink counter was provided.
- 6 In between the second floor (i.e Projection room floor) and loft floor, a full width door on right side of stair case landing was provided which created obstruction for going to terrace.
- 7 One reception counter of Sarin Associates was in the staircase leading to terrace which was obstructing the stair case passage.

Top Floor :-

- 1 The big hall of the loft level was converted in office cabins by providing wooden partition and was used by Sarin Associates, Supreme Builders, Supreme Promoters, Supreme Marketing(P) Ltd and Vikky Arin Impex (P) Ltd, as per the Board displayed on the wall.
- 2 Staircases over the loft level was converted into office.

On 2.8.97, as per the directions of Vigilance Department and inspection team was prepared consisting of Shri R N Gupta, XEN, Arun Kumar, Asstt. Engineer under EE Shah. North, Anand Parkash Asstt. Engineer EE Rohini I, Sunil Taneja, Junior Engineer, Arun Goel Junior Engineer under CE (Central). The photocopies of the sanction building plans alongwith the existing building plans pertaining to Uphaar Cinema were handed over to the team for making comparison and to prepare factual report. This inspecting team gave floor-wise report which is Ex. PW 2/A and corroborated the existence of following deviations :-

Ground Floor :-

- 1 One Manager room alongwith toilet in front was converted

into a glazed verandah with loft by removing front wall and toilet.

- 2** The size of the ticket foyer was reduced thereby amalgamating a part of its area to the adjoining portion.
- 3** The portion adjoining the ticket foyer was divided into two portions which was used as Syndicate Bank and some other private office reported to be a printing press.
- 4** The portion of the staircase around liftwell and leading to basement was occupied by M/s Sehgal Carpets which was blocking the egress and ingress to the basement through this staircase.
- 5** There was one ticket booth on the side portion near the ramp.
- 6** The outer size of HT & LT room and transformer room was same but the positioning of the partitions have been shifted resulting in alterations in internal sizes of these rooms.
- 7** There was dispensary behind the transformer block in some portion over ramp.
- 8** There was one toilet adjoining AC duct.
- 9** The staircase in the sanction building plan is shown enclosed

on all its four sides but it was found without any enclosure on its two sides on stilt floor.

10 R S Joists have been provided in a large portion of stilt at a height of 8' from the stilt floor.

11 An office over R S Joists was found erected in the portion near rear staircase and also an opening was existing on the front staircase at the R S Joists level.

12 In the rear a pucca wall was constructed in full height of building whereas this wall has been shown in sanction plan upto a height of 12' i.e without any enclosure except some portion which was provided with parapet/railing etc for safety reasons (Imp.)

13 In parking layout plan, the parking of vehicles/15 cars have been shown towards the side of ticket foyer and on both sides of rear staircase, leaving the middle portion of 16' width (passage) in front of transformer block. But vehicles were parked in this area which had affected the free and smooth movement of vehicles.

First Floor :-

1. Two snack bar counters in the foyer by the side of rear stair

hall were causing obstruction in the free movement of visitors.

2. There were 751 seats in the auditorium instead of 750 seats.

Second Floor/Balcony :-

1 The total number of seats in the balcony are 302 instead of 250 seats.

2 Inspection room was converted into 18 seater box.

3 Eight seater box was provided by closing exit way of balcony adjoining the front staircase.

4 Four gangways of 3'-8" width each was sanctioned across the rows of balcony, out of which, one gangway, near Central exit/entrance, was reduced to 1'-10 ½ ", the other gangway has not been provided near the wall but this gangway has been shifted and provided in the middle of rows, reducing the width of the gangway.

5 To meet the numerological requirement, one exit/entrance was provided on the other side of the balcony but proper care was not taken. Six seats were arranged in front of the new exit/entrance which caused obstruction.

6 A toilet block was converted into office.

7 Operator rest room and a single room tenement with toilet for

sweeper was converted into a retiring room alongwith office and attached toilet cum dress.

8 Four exhaust fans in the second floor are opening in the front staircase hall instead of opening into a direct open space.

Top floor :-

1 In this floor, by providing several wooden partitions, number of offices have been provided in various names as under :-

- 2 a. M/s Sarin & Associates
- b. M/s Kamal Construction Co.
- c. M/s Bassi Builders
- d. M/s Vicky Sarin Impex, etc.

Few offices have been provided around the lift well in the staircase hall by providing wooden floor at different levels. One more office was provided by converting part of the sanctioned toilet block. Besides this, two exhaust fans are opening in the rear stair hall instead of opening in the direct open space. These offices do not have proper ventilation and sanitation requirement.

It is apparent from all the reports that the structural deviations were noted down in 1983 except for the changes

that in the basement the office of East Coast Braveries & Distilleries was removed and provision of car parking was made, some wooden planks have been removed and no other rectification was done.

On 2.8.97 while inspection the structural deviations which were there on the date of incident in addition to the structural deviations found in the year 1983 are as follows :-

Basement :-

- 1.A room 12' X20' adjoining to the staircase has been found constructed.
- 2.Another room extensions was found to be made which is 26' X20' adjoining to blower room.
- 3.A wooden store constructed with wooden partitions in the basement was used as store.
- 4.Three brick walls have been found constructed of 40' length and another wall was 20' in length and the enclosures between them were partially full of old seats.

Following deviations were found in Ground Floor/Stilt Floor :-

1. The portion above ramp was constructed and was being

used as Homeopathy Dispensary of size 20' X 9' behind the transformer room.

2. The outer wall behind HT & LT room and transformer room was raised upto the first floor height instead of 3' height.

3. The internal sizes of the transformer room, High Tension and Low Tension room have been reduced by shifting the internal sizes.

4. A room of the size of 14' X 7' was adjoining HT room and was used as ticket counter.

5. A portion of ticket foyer measuring 20' X 20' was converted into Syndicate Bank.

6. The restaurant on the front side was converted into Sanjay Press Office.

7. Mezzanine floor was constructed with R S Joists of timber flooring was completely burnt and this portion was used as offices.

8. Another small portion with RCC slab was constructed at mid landing of the staircase case at 8' height above the stilt floor and used as offices.

9 There was partition of the staircase around lift well which

was leading to basement and was occupied by M/s Sehgal Carpets.

Foyer/First Floor :-

1. Refreshment counter was constructed between the staircase door and expansion joint.
2. In the back row of the auditorium, ten seats were provided instead of nine seats which was restricting the exit door passage. Total seats in the auditorium were 751 instead of 750 seats. (Seating arrangement)

Now I consider the changes in the structure of the balcony and top floor :-

- 1 The gangway on right side was closed by providing extra seats.
- 2 The gangway on the right of the middle entrance gate was 1'-9" instead of 3'-8" which was restricting the passage.
- 3 On the right side, one eight seater box was provided by covering the exit passage.
- 4 The inspection room between staircase and Projection Room was converted into 18 seater box.
- 5 In between the second floor (i.e Projection room floor) and loft floor, a full width door on right side of stair case landing

was provided which created obstruction for going to terrace.

- 6 One reception counter of Sarin Associates was in the staircase leading to terrace which was obstructing the staircase passage.

Top Floor :-

- 1 The big hall of the loft level was converted into office cabins by providing wooden partition and was used by Sarin Associates, Supreme Builders, Supreme Promoters, Supreme Marketing(P) Ltd and Vikky Arin Impex (P) Ltd, as was reflected from the Board displayed there.

- 2 Staircases over the loft level was converted into office.

The position of seating arrangement in the balcony on the date of incident was as follows :-

- 1 One 14 seater box was provided by converting the Inspection Room but instead of 14 seats, 18 seats were installed.**
- 2 37 seats out of 43 seats were ordered to be retained in the balcony as per the orders dated 24.12.79 of Shri A K Kanth, Deputy Commissioner of Police (Licensing).**
- 3 On 6.10.78, one eight seater box was provided on the top**

right side of the balcony by closing the right side exit.

4 On 4.10.1980, additional 15 seats were allowed to be installed in the balcony.

I have noted the position of seating arrangement in the balcony and also the changes effected from time to time. Now the question arises that **Is there any violation in the structure and seating arrangement in the balcony ?**

In this connection the relevant rules as prescribed in Delhi Cinematograph Rule 1953 are as follows :-

Every public portion of the building shall be provided with adequate number of clearly indicated exit placed in such positions and so maintained as to afford the audience ample means of safe and speedy egress.(RULE 10(1) FIRST SCHEDULE DCR –1953

In the auditorium there shall be at least one exit from every tier, floor or gallery for every 100 persons. (RULE 10(2) FIRST SCHEDULE DCR –1953)

Exit from the auditorium to be " suitably placed" along both sides and along back thereof and shall deliver into two or more different thoroughfare or open space from

which there is at all times free means of rapid dispersal.(RULE 10(4) FIRST SCHEDULE OF DCR –1953

All exit doors and doors through which the public have to pass on the way to the open air shall be available for exit during the whole time that the public are in the building and during such time shall not be locked or bolted.(RULE 10(8) FIRST SCHEDULE DCR –1953

Gangways not less than 44" wide shall be provided in the building as follows:-

- (a) Down each side of the auditorium
- (b) Down the centre of the seating accommodation at intervals of not more than 25 feet.
- (c) Parallel to the line of the seating so as to provide direct access to exits. Provided that not more than one gangway for every ten rows shall be required. (RULE 8(1) OF FIRST SCHEDULE OF DCR, 1953)

The exits and gangways and passages leading to exits shall be kept clear of obstructions.(RULE 8 (4) FIRST SCHEDULE OF DCR –1953)

There shall be at least two stairways each not less

than 4ft wide to provide access to any gallery or upper floor in the building which is intended for use by the public. (RULE 9(1) FIRST SCHEDULE OF DCR –1953)

I find it appropriate to take note of Delhi Cinematograph Rules 1981 which are in supercession of Delhi Cinematograph Rules, 1953.

RULE 12(1) DCR,1981 stipulates that every public portion of the building shall be provided with adequate number of clearly indicated exit placed in such positions and so maintained as to afford the audience ample means of safe and speedy egress.

In the auditorium there shall be at least one exit from every tier, floor or gallery for every 150 persons. (RULE 12(2) (Exit) SCH- I DCR –1981)

Rule 12(4) FIRST SCHEDULE DCR 1981,Exit from the auditorium to be " suitably placed" along both sides and along back thereof and shall deliver into two or more different thoroughfare or open space from which there is at all times free means of rapid dispersal.

Rule 12(8)FIRST SCHEDULE DCR 1981,All exit doors and doors through which the public have to pass on the way to the open air shall be available for exit during the whole time that the public are in the building and during such time shall not be locked or bolted.

Clear passage or longitudinal gangway shall be formed at the side and down center of the seating(seating between sides)in every part of the auditorium in such manner that no seat shall be more than 7 seats away from the gangway.(RULE 9 (1) FIRST SCHEDULE OF DCR- 1981)

At least two longitudinal gangway shall directly be connected to exit door. For this purpose if the side longitudinal gangways are connected to the exit doors the width of the same shall be less than less than 120cm (4ft).(RULE 9(1-b) FIRST SCHEDULE OF DCR- 1981)

The exits and gangways and passages leading to exits shall be kept clear of obstructions.(RULE 9 (5) (Gangway) FIRST SCHEDULE OF DCR- 1981)

There shall be at least two staircases of width not less than 1.50m (5ft) to provide access to any gallery or

upper floor in the building which is intended for use by the public. (RULE 10(2) FIRST SCHEDULE OF DCR-1981)

PWD :-

Annual Inspections were carried out in the year 1977, 1978, 1979. In inspections, they observed the deviations that some portion of the building was let out for commercial establishment and in the balcony, no side gangways were provided due to new seating arrangement.

In the year 1980, the deviation noted was that some portion of the building was let out for commercial establishment.

In the year 1982, some deviations were observed that some portion of the building was let out for commercial purpose. There were no fire resisting separating walls. The distance between front row of seats and screen was less than 9.00 meter which should not be less than 9.00 Meter. The width of main longitudinal gangway was 1.12 meter which should not be less than 1.20M.

In 1983, due to fire incident in LPG godown at Shakur

Basti and Gopala Tower, Lt. Governor ordered for inspection of all cinema houses. Accordingly, Joint Team of competent authorities inspected Uphaar Cinema and during inspection, structural and fire safety deviations were observed in Uphaar Cinema which are as follows :-

- 1 The basement meant for parking of vehicles was covered and let out to M/S East Coast Braveries and Distillaries .**
- 2 Creation of additional floor between stilt floor and floor of auditorium by providing wooden plank . A part of it let out to M/S Nariers in violation of sanction plan**
- 3 Third floor let out to various organization**
- 4 Wooden plank removed as noticed at the time of second inspection but steel post and RS joist are still intact.**
- 5 A homeopathic dispensary between stilt floor and floor of auditorium created by providing wooden plank flooring which unauthorized and fire hazard.**
- 6 This part of the basement made inaccessible from the basement level and having access from ground floor and same was used for printing press which is not only violation of building bye laws but also a fire hazard.**
- 7 Part of basement is used for storage of combustible material which is a fire hazard.**
- 8 On the top floor an office has been created forming part**

of the stair-case plus a loft over it and extending to the portion above the toilet shown in the sanction plan.

9 One room at second floor mentioned as store in the completion certificate is being used as office of M/S Anil Chopra and Company .

10 Many offices on the top floor for which no permission seems to have been taken as required under condition 17 of the licence.

11The space marked for restaurant has been let out to bank.

On 26.4.85, 20.5.87, 9.6.89, 19.5.90, 16.4.1991, 9.4.92, 9.6.93, 29.3.94 inspection was carried out, same deviations were pointed out by the department. (in Ex. PW 69/AA).

In the year 1994, on 3.5.1994 vide notification No.F.18/II/94 the local authority for Inspection of Cinema Halls for renewal of license was changed from Public Works Department to the Municipal Corporation of Delhi.

For the year 1995-1996 and 1996-1997, no annual inspections were carried out by Municipal Corporation of Delhi/ concerned department.

Letting out of the top floor and ground floor of the cinema premises for commercial establishments :-

In this regard, as per the completion Certificate Ex PW 17/DA, there was provision for one store, one administrative office of the size of 40'.5"X53'.6"and two stair cases only which was sanctioned as per the sanction building plan Ex. PW 15/Y4.

A letter was written by M/s Green Park Theaters Associated Pvt. Ltd. (in File Ex. PW 69/BB) seeking permission to let out ground floor of the cinema premises to commercial establishments. Accordingly, Shri J C Rawal, Entertainment Tax Officer accorded the permission to let out top floor and ground floor of the cinema building to commercial establishments under Rule 45(xi) of Delhi Cinematograph Rules, 1953 vide letter Ex. PW 102/D1.

BALCONY :-

The Completion Certificate Ex. PW 17/DA was obtained on 10.4.1973. As per Completion Certificate Ex. PW 17/DA, the approved plans provided for one auditorium having 750 seats, in second floor, in balcony, there was provision of 250 seats.

After Completion Certificate, M/s Green Park Theaters Associated (P) Ltd was sanctioned annual license bearing No.

51 for running Uphaar Cinema w.e.f 24.4.1973 to 23.4.1974 from Licensing Authority/District Magistrate. License was granted subject to condition that all buildings or other regulations for observance at of public amusement imposed by municipal bye-laws or by any other law or by rules under any other law for the time being in force, shall be strictly complied with. The licensed building/place was to be maintained in all respects in strict conformity with the rules contained in the First Schedule Part IV of the Delhi Cinematograph Rules, 1953 i.e Rule 10(1) of Delhi Cinematograph Rules, 1953 (Part IV) as per which licensee shall be responsible for compliance with the provisions of the rules and with the conditions of license for the maintenance of the licensed premises at all times and in all respects in conformity with the standards prescribed by rules and for taking all necessary measures before any cinematograph exhibition is commenced to ensure the safety of the public and employees against fire and other accident.

In the year 1974, a request was made by accused Sushil Ansal for installation of 14 seats in the room which was sanctioned as "Inspection Room " in the original building plan

by Municipal Corporation of Delhi. With the permission of the licensing authority, the Inspection Room was converted into 14 seater box.

On 30.9.76, Notification No. F.2/45/75-Fin.(G) was issued by Lieutenant Governor in pursuance of the proviso to sub-rule (3) of rule 3 of the Delhi Cinematograph Rules, 1953 relating to accommodation/gangways/seatings subject to the conditions mentioned which are as follows :-

" Balcony - addition of 43 seats by adding seats in two vertical gangways and introducing new gangway provided in the middle in lieu of this. This addition is to be carried out in the right wing of the balcony.

Hall - 57 seats are to be added by reducing the existing vertical gangway from 4 to 3 and re-shuffling of the seats. "

On 30.9.1976, the installation of 100 additional seats was duly approved as per the seating plan Ex. PW 95/B-2.

On 24.5.1978, accused Gopal Ansal, Director, M/s Green Park Theaters Associated (P) Ltd. wrote an application Ex. PW 110/AA20 to Entertainment Tax Officer

for installation of eight seater box stating therein as follows :-

" We are grateful to you for having sanctioned a family box for 14 persons at Uphaar Cinema quite some time back. You will appreciate that with the passage of time, the family is growing; we would , therefore, be grateful if you could kindly sanction us an additional private box comprising of eight seats.

We wish to assure you that the same would be strictly for personal use. The necessary drawings for the same are enclosed herewith.

Hope you would consider the case sympathetically and accord the necessary sanction. "

On 19.6.1978, Entertainment Tax Officer Shri V K Aggarwala wrote a letter Ex. PW 29/DK to Executive Engineer, PWD to see whether the installation of eight seater box was in accordance with the Cinematograph Rules or not. The letter is as follows :-

" The licensee of Uphaar Cinema, Green Park, New Delhi has approached this office for the installation of eight seats as additional private box. I would , therefore, request you to kindly intimate this office whether the installation of additional box shall be in accordance with

the Cinematograph Rules or not.

Three copies of plans, showing the arrangement of the seating in the Box are enclosed herewith for your kind perusal. "

On 28.6.78, Shri S N Dandona, Executive Engineer, PWD replied to Entertainment Tax Officer vide letter Ex. PW 29/DL stating therein as follows :-

" The site has been inspected on 27.6.78 and the additional eight number seats as a Private Box are in accordance with the Cinematograph Rules.

The plan received with your above referred letter showing the proposed additional box is enclosed herewith in duplicate duly approved. "

On 2.9.1978, Entertainment Tax officer again wrote a letter Ex. PW 29/DM to Executive Engineer, PWD to confirm the report submitted by Executive Engineer, PWD by stating therein as follows :-

" Please refer to your inspection note dated 28.6.1978 regarding installation of 8 seats in the Proprietor Box at UPhaar Cinema. In this regard, your attention is drawn to Clause 6 of the 1st Schedule of Delhi

Cinematograph Rules, 1953 which requires that the total number of spectators accommodated in the building shall not exceed twenty per hundred Sq. Ft. of the area available for sitting and standing or twenty per 133 1/2 sq. ft. of the over all area of the floor space in the auditorium. You are requested to confirm that the report submitted earlier is in accordance with the above said provisions. "

On 20.9.78, Shri S N Dandona sent his reply Ex. PW 29/DN stating therein that the installation of 8 seats in the Proprietor Box at Uphaar cinema are within Clause 6 of the 1st Schedule of Delhi Cinematograph Rules. 1953.

On 6.10.78, Entertainment Tax Officer allowed the installation of eight seater box vide letter in file Ex. PW 69/AA stating therein as follows :-

" You are hereby allowed to install the eight seats in the Box and use the same subject to the following conditions :-

- 1. No tickets will be sold against these 8 seats and only complementaries will be issued.**
- 2 On said complimentary, Entertainment Tax at the highest rate of admission in cinema is payable.**

On 27.7.79, a notification of Lieutenant Governor was issued

which reads as follows :-

No.F.2/45/75/PPI - The Lt. Governor is pleased to cancel with immediate effect the following notifications issued by the Delhi Administration under Sub-rule (3) of Rule 3 of the Delhi Cinematograph Rules, 1953 :-

- 1. F.2/45/75/Fin.(G) dated 30.9.76**
- 2. F.2/45/75/Fin.(G) dated 24.1.77**
- 3. F.2/45/75/Fin.(G) dated 22.7.77**
- 4. F.2/45/75/Fin.(G) dated 28.12.77**
- 5. F.2/45/75/Fin.(G) dated 29.3.78**

Against this notification, M/s Green Park Theaters & Associated Pvt. Ltd filed Writ Petition in Hon'ble High Court and obtained stay order. The order of Hon'ble High Court in this regard is as follows :

" Such of the additional seats which comply substantially with the requirements of the Rules must be allowed to stay and it is only those seats which infringe upon the Rules which may have to be ordered to be removed by the Administration ".

On 6.12.79, a Show Cause Notice (in file Ex. PW 69/AA) was issued for removal of all 100 additional seats. On

13.12.1979 accused Gopal Ansal, Director of M/s Green Park Theaters Associated (P) Ltd. filed reply Ex. PW 100/AA2 stating therein as follows :

" It is surprising to note that the Administration without applying tis mind as directed by the Hon'ble High Court seems to have formed its view on the basis of some earlier inspection that all the additional seats installed by us would require removal. We will request you to please consider the case of our additional seats on merits. If the guidelines furnished by the Cinematograph Act, 1952 and reiterated by the Hon'ble Delhi High Court are kept in view, you will appreciate that the additional seats installed by us are within the Rules and accordingly not liable to be removed merely because the relaxation has been withdrawn.

Without prejudice to the aforesaid contention, in any event, we submit that all the 85 number of additional seats in the Balcony and Auditorium are clearly within the Rules and cannot be said to be violative of any of the rules.

We would request that after due intimation to us, you may kindly inspect the Cinema in the light of the High Court's order. We request you to give us a personal hearing before you take any final decision in the matter ".

As per the directions of the Hon'ble High Court, Shri

Amod Kanth, DCP(L) alongwith Shri S N Dandona, Executive Engineer, Public Works Department, Chief Fire Officer and Executive Engineer inspected Uphaar Cinema and submitted the report Ex. PW 29/DR stating therein as follows :

" Of the 43 additional seats sanctioned in balcony, 6 additional seats (i.e Seat No. 9 in rows A to F) and all the 56 additional seats in hall are blocking vertical gangways causing obstruction to free egress of patrons from the hall. These 62 additional seats are in gross contravention of Paras 7(1) and 8(1) of the First Schedule of Delhi Cinematograph Rules. 1953 and must, therefore, be removed. The original number of vertical gangways in the hall must be restored.

The remaining 37 additional seats in the balcony were found to be in substantial compliance of the rules and may, therefore, be retained. Similarly, one additional seat on the back row in hall (i.e Seat No. A-33) has also been found to be in substantial compliance of the rules and may, therefore, be retained. This case has been examined in the light of the observations made in the Judgment of Hon'ble High Court and it has been seen to that the specifications laid down under the First Schedule of Delhi Cinematograph Rules have been substantially complied with keeping in view the safety requirements in the cinema hall ".

Thereafter, on 24.12.79 , 37 seats were allowed to be retained in the balcony as per the orders of Shri A K Kanth, Deputy Commissioner of Police (Licensing) which is Ex. PW 29/DR.

On 29.7.1980, Gopal Ansal, Director, M/s Green Park Theaters Associated Pvt. Ltd. wrote a letter Ex. PW 110/AA7 to Deputy Commissioner of Police (Licensing) for installation of 15 additional seats in the balcony stating therein as follows :-

" We now wish to bring to your kind notice that Seats No. 9 (Rows A to F), i.e., a total of six seats are causing lot of inconvenience to the patrons because of the fact that the gangway after two rows i.e H and G, suddenly widens up to an irregular size of about 64 ". The said six seats (A9 to G9) were removed under protest, although the same can be sanctioned under the heading of 'Substantial Compliance' of Cinematograph Rules. Keeping in view the inconvenience caused to the public due to the sudden break in the gangway, we would request if the same could kindly be approved.

In addition to the above, we wish to apply for an additional nine seats marked G-36 to G-38, H-36 to H-38, and I-38 to I-40, since the corner as shown in red is lying vacant in the Balcony of our above-mentioned Theatre.

Hope you would find the above in order and oblige us

by giving the necessary sanction for a total of 15 additional seats ".

On 20.8.1980, Deputy Commissioner of Police (Licensing) wrote a letter Ex. PW 29/DS to Executive Engineer stating there as follows :-

The Licensee, Uphaar Cinema Green Park, New Delhi has submitted revised plan to this office for the grant of permission to install 15 additional seats in the Balcony i.e one seat each in rows A to F, three seats each in three rows at left hand side of the Balcony, as shown in the enclosed plan which may please be examined with reference to para 6,7,8,10,12,14,16 of First Scheme of Delhi Cinematograph Rules, 1953 and a detailed report may be sent to this office, at an early date with recommendations to consider the case ".

On 3.9.1980, Shri S N Dandona, Executive Engineer filed reply Ex PW 29/DU stating therein as follows :-

" The proposal for installation of 15 additional seats in the balcony submitted by the Licensee is not in accordance with the Ist Schedule of DCR, 1953. A copy of the plan received vide your above referred letter duly rejected is enclosed herewith with the following observations :

1. The addition of one seat each in row A to F makes the total number of seats in a row as 9 Nos i.e from 9 to 17, therefore, it requires aisles on both sides against one aisle shown on the plan and as well as at site.
2. After installation of three Nos of proposed rows with three seats each i.e 38 to 40, the space left between the last row and the exit will be less than 44 " which is required under the rules.
3. The position of the exit shown between seat No. 37 and 38 to row I in the back wall of balcony is not correct as per its original position at site.

The above observations were also brought to the notice of Licensee's representative Shri Malhotra during the site inspection on 2.9.80 and who also agreed for the same.

The Licensee's representative after discussion has informed that he would submit the revised plans with his new proposals keeping in view the 1st Schedule of DCR 1953.

On 5.9.80, accused Gopal Ansal, Director, M/s Green Park Theaters Associated Pvt. Ltd submitted revised plans for installation of 15 additional seats in the balcony vide letter Ex. PW 29/DV.

On 10.9.80, Shri S N Dandona, Executive Engineer,

PWD submitted his report Ex. PW 29/DX stating therein as follows:

" The total number of seats at present in the balcony are 287 and by adding these 15 seats the total number of seats in the balcony would be 302. The number of exits at site at present are three in number. As per First Schedule of DCR, 1953, the number of exits should be one per 100 seats and on account of which seats would be in excess, but at the time of removal of additional seats in October, 1979 during a meeting held in your room where D.C.P and Chief Fire Officer were also present, it was decided that keeping in view the High Courts' orders for substantial compliance 1% excess number of seats over the required number of exits should be allowed and accordingly so many cinemas were allowed to retain one per cent excess number of seats than the permissible limit of one exit per 100 number of seats. Keeping that decision in view these two number of excess seats can also be allowed and the proposal of 15 additional seats will be in confirmity of Delhi Cinematograph Rules, 1953 and therefore, it is approved.

The approval is subject to the final inspection after the completion of work ".

On 4.10.1980, Shri A K Sinha, Deputy Commissioner of Police (Licensing) allowed the installation of 15 additional seats in the balcony stating therein as follows :-

" Permission is hereby accorded for the installation of 15 additional seats in the Uphaar Cinema i.e two additional rows each of three seats in front of exit in the balcony, one seat against back wall adjacent to Seat No. 37 and 8 additional seats in the balcony by adding one seat in row A to H by making re-adjustment of seats in these rows. The permission is provisional subject to the final inspection by Public Works Department. The seats may be installed strictly in accordance with the plans approved and these should be in conformity with the First Scheme of Delhi Cinematograph Rules. "

Accordingly, 15 additional seats were installed as per the seating plan Ex. PW 95/B4.

In 1983, due to fire incident in LPG godown at Shakur Basti and Gopala Tower, Lt. Governor ordered for inspection of all cinema houses. A Joint Team of officials of competent authorities inspected Uphaar Cinema and observed structural and fire safety deviations in Uphaar Cinema which are as follows :-

- 1 The basement meant for parking of vehicles was covered and let out to M/S East Coast Braveries and Distillaries .**
- 2 Creation of additional floor between stilt floor and floor of auditorium by providing wooden plank . A part of it let**

out to M/S Nariers in violation of sanction plan

- 3 Third floor let out to various organizations.
- 4 Wooden plank removed as noticed at the time of second inspection but steel post and RS joist are still intact.
- 5 A homeopathic dispensary between stilt floor and floor of auditorium created by providing wooden plank flooring which unauthorized and fire hazard.
- 6 This part of the basement made inaccessible from the basement level and having access from ground floor and same was used for printing press which is not only violation of building bye laws but also a fire hazard.
- 7 Part of basement is used for storage of combustible material which is a fire hazard.
- 8 On the top floor an office has been created forming part of the stair-case plus a loft over it and extending to the portion above the toilet shown in the sanction plan.
- 9 One room at second floor mentioned as store in the completion certificate is being used as office of M/S Anil Chopra and Company .
- 10 Many offices on the top floor for which no permission seems to have been taken as required under condition 17 of the license.
- 11 The space marked for restaurant has been let out to bank.

On 27.6.1983, the license of Uphaar Cinema was suspended

for a period of four days by the orders of Deputy Commissioner of Police (Licensing) and further ordered that the deviations should be removed within four days otherwise the license of cinema would be revoked. Against this order, the licensee of Uphaar cinema along with ten other cinemas of Delhi filed a Writ Petition and obtained stay order on 28.6.1983 by the orders of Hon'ble High Court.

I have noted the position of the balcony as well as the seating arrangement in the balcony and the changes affected from time to time. **Now the question is :**

Q: Is there any violation in the structure and seating arrangement of balcony ?

A: In this connection, the relevant rules as prescribed in Delhi Cinematograph Rules, 1953 are as follows :-

Every public portion of the building shall be provided with adequate number of clearly indicated exit placed in such positions and so maintained as to afford the audience ample means of safe and speedy egress.(RULE 10(1) FIRST SCHEDULE DCR –1953

In the auditorium there shall be at least one exit from

every tier, floor or gallery for every 100 persons. (RULE 10(2) FIRST SCHEDULE DCR –1953)

Exit from the auditorium to be " suitably placed" along both sides and along back thereof and shall deliver into two or more different thoroughfare or open space from which there is at all times free means of rapid dispersal.(RULE 10(4) FIRST SCHEDULE OF DCR –1953

All exit doors and doors through which the public have to pass on the way to the open air shall be available for exit during the whole time that the public are in the building and during such time shall not be locked or bolted.(RULE 10(8) FIRST SCHEDULE DCR –1953)

Gangways not less than 44" wide shall be provided in the building as follows:-

- (a) Down each side of the auditorium**
- (b) Down the centre of the seating accommodation at intervals of not more than 25 feet.**
- (c) Parallel to the line of the seating so as to provide direct access to exits. Provided that not more than one gangway for every ten rows shall be required. (RULE 8(1)**

OF FIRST SCHEDULE OF DCR, 1953)

The exits and gangways and passages leading to exits shall be kept clear of obstructions.(RULE 8 (4) FIRST SCHEDULE OF DCR –1953)

There shall be at least two stairways each not less than 4ft wide to provide access to any gallery or upper floor in the building which is intended for use by the public. (RULE 9(1) FIRST SCHEDULE OF DCR –1953)

One eight seater box was installed on the right hand side of the balcony, as per the orders of Deputy Commissioner of Police (Licensing). 15 additional seats were also installed in the balcony as per the orders of Shri A K Sinha, Deputy Commissioner of Police (Licensing) dated 4.10.1980 Ex. PW 29/DY. The applications in this regard were moved by Gopal Ansal, Director of M/s Green Park Theaters & Associated Pvt. Ltd. and the said applications are Ex. PW 110/AA20 and Ex PW 110/AA7.

I have noted the rules prescribed in Delhi Cinematograph Rules, 1953. I find it appropriate to take note of Delhi

Cinematograph Rules 1981 which are in supercession of Delhi Cinematograph Rules, 1953.

RULE 12(1) DCR –1981, every public portion of the building shall be provided with adequate number of clearly indicated exit placed in such positions and so maintained as to afford the audience ample means of safe and speedy egress.

In the auditorium there shall be at least one exit from every tier, floor or gallery for every 150 persons. (RULE 12(2) (Exit) SCH- I DCR –1981)

Rule 12(4) FIRST SCHEDULE DCR 1981, Exit from the auditorium to be " suitably placed" along both sides and along back thereof and shall deliver into two or more different thoroughfare or open space from which there is at all times free means of rapid dispersal.

Rule 12(8) FIRST SCHEDULE DCR 1981, All exit doors and doors through which the public have to pass on the way to the open air shall be available for exit during the whole time that the public are in the building and during

such time shall not be locked or bolted.

Clear passage or longitudinal gangway shall be formed at the side and down center of the seating(seating between sides)in every part of the auditorium in such manner that no seat shall be more than 7 seats away from the gangway.(RULE 9 (1) FIRST SCHEDULE OF DCR- 1981)

At least two longitudinal gangway shall directly be connected to exit door. For this purpose if the side longitudinal gangways are connected to the exit doors the width of the same shall be less than less than 120cm (4ft).(RULE 9(1-b) FIRST SCHEDULE OF DCR- 1981)

The exits and gangways and passages leading to exits shall be kept clear of obstructions.(RULE 9 (5) (Gangway) FIRST SCHEDULE OF DCR- 1981)

There shall be at least two staircases of width not less than 1.50m (5ft) to provide access to any gallery or upper floor in the building which is intended for use by the public. (RULE 10(2) FIRST SCHEDULE OF DCR-1981)

The position that emerges from the position of the balcony and Delhi Cinematograph Rules that there were 328 seats in

the balcony on the day of incident which were against the sanctioned seating of 324 seats.

The aforesaid discussion brings the following position which is unquestioned :-

1. 250 seats were sanctioned in the balcony as per the Completion Certificate Ex. PW 17/DA dated 10.4.73.

2. In the year 1974, installation of 14 seater box by converting the Inspection Room.

3. On 30.9.76 Notification No. F.2/45/75-Fin.(G) was issued by Lieutenant Governor Ex. PW 29/DC as per which 100 seats were to be added in the Uphaar Cinema hall and out of which 43 seats were ordered to be added in two vertical gangways and to introduce new gangway in the middle in lieu of this.

4. On 24.5.1978, accused Gopal Ansal, Director, M/s Green Park Theaters Associated (P) Ltd. wrote an application Ex. PW 110/AA20 to Entertainment Tax Officer for installation of eight seater box which was duly sanctioned by Deputy Commissioner of Police (Licensing) on 6.10.1978 vide letter in file Ex. PW 69/AA.

5 On 27.7.79 Notification No. F.2/45/75/PPI Ex. PW 29/DP

was issued and by this notification, notification dated 30.9.1976 was withdrawn.

6 As per the orders of Hon'ble High Court, Shri Amod Kanth, DCP(L) alongwith Shri S N Dandona, Executive Engineer, PWD, Chief Fire officer and Executive Engineer inspected Uphaar cinema and 37 additional seats were allowed to be retained in the balcony out of 43 seats, as per orders dated 24.12.1979 Ex. PW 29/DR.

7 On 29.7.1980, accused Gopal Ansal wrote a letter Ex. PW 110/AA7 to Deputy Commissioner of Police (Licensing) for installation of 15 additional seats which was duly allowed on 4.10.1980 as per the orders of Shri A K Sinha, Deputy Commissioner of Police(Licensing) Ex. PW 29/DS.

At this stage, it will be appropriate to take note of seating plans of balcony at Uphaar cinema as the patrons sitting in the balcony have died. There are four seating plans on record in respect of balcony as has been shown in Ex. PW 95/B1 to B4 which are dated 10.4.1973, 30.9.1976, 24.12.1979 and 4.10.80. I reproduced the seating plans and which are as

follows :-

The first seating plan dated 10.4.1973 shows that seating plan was in accordance with Delhi Cinematograph Act and Rules, 1953, since, it provides for Exits on both sides and along back thereof. It also provided the minimum space of gangways of 44" and the plan reflects that the gangways have been provided at the interval of not more than 25'.

The second plan is dated 30.9.1976 shows that the right side gangway was closed and 16 seats were added by closing the right side gangway. The second gangway near the middle entrance gate was also closed and 16 seats were added in place of this second gangway over and above the middle entrance/exit. On the top back row, 11 seats were added i.e one seat on right side, eight in the middle and two seats on the left side. By closing two right side vertical gangways, one middle gangway was provided. The exit was provided on the top without providing gangway of minimum width of 44". This was not in consonance with the rules. The patrons who were sitting on the right side could not reach to the exit easily. Such a seating plan to my mind is not in consonance with Delhi

Cinematograph Rules which insisted for gangway of 44" and exits on both side of the balcony and in the middle and providing for two or more thoroughfares or open space from where there is free means of access for rapid dispersal.

The third seating plan is dated 24.12.1979 which shows that right side exit was closed and on its place, one eight seater box was provided which resulted in closure of exit on the right hand side. Although, there were three exits i.e one in centre, one on top left side and one exit from below on the left hand side. The effect of closure of right side exit was that the patrons/spectators who were sitting on the right hand side i.e in seat No. 1 and 2, the exit gate was away from them for more than 25'. Thus, even this plan violated the Delhi Cinematograph Rules as the seating capacity is more than 300 seats. No doubt, one exit from top was made on left hand side but such an exit was not in consonance with the Delhi Cinematograph Rules as Rules clarified exit on left side to be at equal distance. It is not in consonance of the patrons sitting on the right hand side of the balcony.

It appears that the Lt. Governor also felt that earlier

increase in seats was not in consonance with the Rules and as such, Lt. Governor withdrew the relaxation given vide Notification No. F.2/45/75-Fin.(G) dated 30.9.1976 by issuing another Notification bearing No. F.2/45/75/PPI dated 27.7.79. But Uphaar cinema authorities insisted for seating arrangement as provided in Notification dated 30.9.1976. Against this notification, they filed a Writ Petition and obtained a stay order from the Hon'ble High Court. After hearing the parties, the Hon'ble High Court ordered that only those seats be retained which are in substantial compliance of the Rules. The order of Hon'ble High Court reads as follows :-

" Such of the additional seats which comply substantially with the requirements of the Rules must be allowed to stay and it is only those seats which infringe upon the Rules which may have to be ordered to be removed by the Administration ".

In compliance with the orders of Hon'ble High Court, 37 seats were ordered to be retained and six additional seats from Row A to F(Seat No. 9) removed as shown in seating plan Ex. PW 95/B3 dated 24.12.79.

The fourth plan dated 4.10.1980 shows that additional 15 seats were added in the left side of the balcony. This seating plan too is not in consonance with the Delhi Cinematograph Rules which clarified exits on both side and gangways were not provided vertically resulting in little space for patrons sitting on the top of right side. There is no exit on the right hand side of the balcony.

Thus, all the plans shows that the authority responsible for enforcement of rules were in connivance with proprietors which are accused Sushil Ansal and Gopal Ansal. Accused Sushil Ansal and Gopal Ansal and concerned authorities responsible for enforcement of rules and their subordinates who were to inspect the cinema hall before grant of annual license, they all acted in connivance with each other with a view to gain unlawfully at the cost of the public/ patrons.

OTHER DEVIATIONS :-

In view of the above discussions, I hold that there were violations in the structure of the building and in seating arrangement in balcony. The following observations are writ large :-

1.Two vertical gangways were provided on the right side, one exit on the right side was closed and in the middle, entrance/exit was provided due to this change. The Central exit was catering much more people than the norms of the people for middle exit.

2.The inspection room was converted into 14 seater box against the sanction building plan.

3.The right hand exit was totally closed and one gangway was reduced to 1'9" instead of 3'8" as required under the rules.

4.Virtually no place was left to immediately exit out for the patrons sitting on the top of the right hand side. The facts reveals hereinafter stated the mode of sitting of those who were seating on such seats could not exit out and died in the incident.

I have reproduced all the relevant correspondence made between accused Sushil Ansal or Gopal Ansal and licensing authority with regard to seating arrangement. Such correspondence clearly reveals that accused Gopal ansal and Sushil Ansal were directly responsible alongwith the Executive

Engineer, PWD Shri S N Dandona and Shri K L Malhotra, Deputy General Manager (since deceased) by their acts and omissions. Their act of commission and omission were equally responsible for such violation of Rules. Even the team consisting of Shri Amod Kanth, the then Deputy Commissioner of Police (Licensing) alongwith Shri S N Dandona, Executive Engineer, PWD, Chief Fire Officer and Executive Engineer are equally responsible for not noticing the non-provision of exit on the right side of the balcony. Gangways were not provided as per the rules. Such violations resulted in death of 59 patrons and injuries to 100 people.

After considering the deviations in the balcony, I consider the other structural deviations. In this regard, I again take note of various reports placed by State on record, particularly, the reports of joint team consisting of officials of Authorities who inspected the Uphaar Cinema after the fire incident in LPG Godown Shakur Basti in June, 1983. The report dated 2.8.97 got conducted by Central Bureau of Investigation and the report dated 2.8.97 of Vigilance Department noted the following deviations and were noted in report Ex. PW 17/B and Ex. W

2/A and Ex. PW 29/A.

Report Dated June, 1983 :-

- 1 The basement meant for parking of vehicles was covered and let out to M/S East Coast Braveries and Distillaries .**
- 2 Creation of additional floor between stilt floor and floor of auditorium by providing wooden plank . A part of it let out to M/S Nariers in violation of sanction plan**
- 3 Third floor let out to various organization.**
- 4 Wooden plank removed as noticed at the time of second inspection but steel post and RS joist are still intact.**
- 5 A homeopathic dispensary between stilt floor and floor of auditorium created by providing wooden plank flooring which unauthorized and fire hazard.**
- 6 This part of the basement made inaccessible from the basement level and having access from ground floor and same was used for printing press which is not only violation of building bye laws but also a fire hazard.**
- 7 Part of basement is used for storage of combustible material which is a fire hazard.**
- 8 On the top floor an office has been created forming part of the stair-case plus a loft over it and extending to the portion above the toilet shown in the sanction plan.**
- 9 One room at second floor mentioned as store in the completion certificate is being used as office of M/S Anil Chopra and Company .**
- 10 Many offices on the top floor for which no permission**

seems to have been taken as required under condition 17 of the licence.

11.The space marked for restaurant has been let out to bank.

On 2.8.97, inspecting team consisting of Prithvi Singh, DSP, CBI, Dalip Singh Executive Engineer, PWD and Shri B S Randhawa, ASW, PWD while inspecting the scene of occurrence noted the deviations in the building as compared to sanction building plan of 1973 and described the deviations in report Ex. PW 29/A.

Basement :-

1.A room 12' X20' adjoining to the staircase has been found constructed.

2.Another room extensions was found to be made which is 26' X20' adjoining to blower room.

3.A wooden store constructed with wooden partitions in the basement was used as store.

4.Three brick walls have been found constructed of 40' length and another wall was 20' in length and the enclosures between them were partially full of old seats.

Ground Floor/Stilt Floor :-

- 1 The portion above ramp was constructed and was being used as Homeopathy Dispensary of size 20' X 9' behind the transformer room.**
- 2 The outer wall behind HT & LT room, transformer room was constructed upto the first floor height instead of 3' height.**
- 3 The outer size of the LT room, transformer room and HT room was as per the sanction plan but the positioning of the partitioning have been shifted resulting in alterations in internal sizes of these rooms. (site plan Ex. PW 39/AA)**
- 4 A room of the size of 14' X 7' was adjoining HT room and was used as ticket counter.**
- 5 A portion of ticket foyer measuring 20' X 20' was converted into Syndicate Bank. The restaurant on the front side was converted into Sanjay Press Office.**
- 6 Mezzanine floor was constructed with R S Joists of timber flooring, which were completely burnt, reported to have been used as offices. The height of this floor was 8'**

above the stilt floor and with total covered area of 40' X 33' plus 40' X 39'-3" = 2890 Sq. ft.

7 Another small portion with RCC slab was constructed at mid landing of the staircase case at 8' height above the stilt floor and used as offices.

8 There was partition of the staircase around lift well which was leading to basement and was occupied by M/s Sehgal Carpets.

Foyer/First Floor :-

1 Refreshment counter was constructed between the staircase door and expansion joint.

2 Another refreshment counter was constructed towards rear exit gate at the distance of 10'-9" from the auditorium exit gate.

3 In the back row of the auditorium, ten seats were provided instead of nine seats which was restricting the exit door passage. Total seats in the auditorium were 751 instead of 750 seats. (Seating arrangement)

Top Floor :-

1 The big hall of the loft level was converted in office

cabins by providing wooden partition and was used by Sarin Associated, Supreme Builders, Supreme Promoters, Supreme Marketing(P) Ltd and Vikky Arin Impex (P) Ltd, as per the Board displayed on the wall.

2 Staircases over the loft level was converted into office.

Report Ex. PW 2/A dated 2.8.97 :- As per the directions of Vigilance Department, inspection was conducted and Report Ex. PW 2/A was prepared which is as follows :-

Ground Floor :-

- 1 One Manager room alongwith toilet in front was converted into a glazed verandah with loft by removing front wall and toilet.
- 2 The size of the ticket foyer was reduced thereby amalgamating a part of its area to the adjoining portion.
- 3 The portion adjoining the ticket foyer was divided into two portions which was used as Syndicate Bank and some other private office reported to be a printing press.
- 4 The portion of the staircase around liftwell and leading to basement was occupied by M/s Sehgal Carpets which

was blocking the egress and ingress to the basement through this staircase.

5 There was one ticket booth on the side portion near the ramp.

6 The outer size of HT & LT room and transformer room was same but the positioning of the partitions have been shifted resulting in alterations in internal sizes of these rooms.

7 There was dispensary behind the transformer block in some portion over ramp.

8 There was one toilet adjoining AC duct.

9 The staircase in the sanction building plan is shown enclosed on all its four sides but it was found without any enclosure on its two sides on stilt floor.

10R S Joists have been provided in a large portion of stilt at a height of 8' from the stilt floor.

11An office over R S Joists was found erected in the portion near rear staircase and also an opening was existing on the front staircase at the R S Joists level.

12In the rear a pucca wall was constructed in full height of

building whereas this wall has been shown in sanction plan upto a height of 12' i.e without any enclosure except some portion which was provided with parapet/railing etc for safety reasons (Imp.)

13 In parking layout plan, the parking of vehicles/15 cars have been shown towards the side of ticket foyer and on both sides of rear staircase, leaving the middle portion of 16' width (passage) in front of transformer block. But vehicles were parked in this area which had affected the free and smooth movement of vehicles.

First Floor :-

1. Two snack bar counters in the foyer by the side of rear stair hall were causing obstruction in the free movement of visitors.

2. There were 751 seats in the auditorium instead of 750 seats.

Second Floor/Balcony :-

1 The total number of seats in the balcony are 302 instead of 250 seats.

2 Inspection room was converted into 18 seater box.

- 3 Eight seater box was provided by closing exit way of balcony adjoining the front staircase.**
- 4 Four gangways of 3'-8" width each was sanctioned across the rows of balcony, out of which, one gangway, near Central exit/entrance, was reduced to 1'-10.5 ", the other gangway has not been provided near the wall but this gangway has been shifted and provided in the middle of rows, reducing the width of the gangway.**
- 5 To meet the numerological requirement, one exit/entrance was provided on the other side of the balcony but proper care was not taken. Six seats were arranged in front of the new exit/entrance which caused obstruction.**
- 6 A toilet block was converted into office.**
- 7 Operator rest room and a single room tenement with toilet for sweeper was converted into a retiring room alongwith office and attached toilet cum dress.**
- 8 Four exhaust fans in the second floor are opening in the front staircase hall instead of opening into a direct open space.**

Top floor :-

1 In this floor, by providing several wooden partitions, number of offices have been provided in various names as under :-

2 a. M/s Sarin & Associates

b. M/s Kamal Construction Co.

c. M/s Bassi Builders

d. M/s Vicky Sarin Impex, etc.

Few offices have been provided around the lift well in the staircase hall by providing wooden floor at different levels. One more office was provided by converting part of the sanctioned toilet block. Besides this, two exhaust fans are opening in the rear stair hall instead of opening in the direct open space. These offices do not have proper ventilation and sanitation requirement.

On 24.6.97, Shri R K Bhattacharya, Executive Engineer(Building) South Zone inspected Uphaar cinema complex and gave list of deviations from structural point of view in Ex. PW 39/B which are as follows:-

- 1.Four number partition walls exists in basement upto ceiling height.
- 2.Provision of additional floor in stilt portion by providing RS Joists.
- 3.An additional space for Homeopathic dispensary has been created behind LT room above ramp on stilt floor.
- 4.Stairs around lift well from stilt portion to basement converted into office of Sehgal Carpets.
- 5.The space marked for Restaurant on stilt floor converted into a bank and another office.
- 6.Manager room and attached WC on stilt floor converted into verandah with glazed door and a loft above.
- 7.Seating capacity of Balcony at second floor increased from 250 seats to 302 seats by providing additional seats in gangways, converting Inspection Room to 18 seater box, blocking one exit near toilet by creating 8 seater box.
- 8.Staircase portion around lift well and a part of toilet on third floor converted into office space.

PW 2 Shri R N Gupta deposed that on 2.8.97, after

comparing the drawings of sanction building plan, Completion Certificate which was provided by Kishore Kumar, Deputy Superintendent of Police/CBI, he alongwith other members inspected the whole building , they noted down all the discrepancies. Shri S S Bhatia, Architect prepared eight drawings for existing structure. The report Ex. PW 2/A bears the signatures of all the members of the Joint Team. The witness has further stated that this report contains floor-wise deviations and that the exhaust fans should have been towards permanent open space but these four exhaust fans were provided in the stairs.

PW 29 Shri B S Randhawa has deposed that on 2.8.1997 he alongwith Dalip Singh Executive Engineer inspected Uphaar Cinema alongwith CBI officials and prepared report Ex. PW 29/A.

During inspection on 2.8.1997, he found various additions and alterations in the basement, ground floor, first floor, balcony and loft level and top floor in the building of Uphaar Cinema. The said additions are mentioned in his report/ Panchnama Ex. PW 29/A dated 2.8.1997.

He has deposed that CBI officials had shown the drawing of building, reports contained in file which are dated 7.3.1980 Ex. PW 29/B, dated 22.3.1978 Ex. PW 29/C, dated 30.12.77 Ex. PW 29/D, dated 28.3.1979 Ex. PW 29/E, all signed by Shri S N Dandona and also sixteen drawing of sanction building plan of Uphaar Cinema. He has deposed that he had inspected the site and found that in the balcony on the right side, the gangway was found closed by providing extra seats (right and left side while facing the screen). The gangway on the right side of the middle entrance gate has been found 1'10" instead of 3'8", thus, restricting the passage. Total seats have been found in the balcony 302. On the right hand side, a box with eight seats was provided by covering the exit passage. Inspection Room between staircase and projection room has been found converted into 18 seater box. Total seats including the seats in two boxes comes to 328 seats. Sweeper room and adjoining toilets are found converted into office room, operator rest room has also been converted into office cum bar room in which drink counter has been provided at the corner. In between the second floor i.e projection room floor

and loft floor a full width door on right side of stair case lending has been found provided which has created obstruction for going to terrace and one reception counter of Sareen Associated has also been found in staircase leading to terrace and thus obstructing stair case passage.

In the ground floor/stilt floor, the portion above ramp for basement has been found constructed and was used as homeopathy dispensary of the size of 20 X 9 behind the transformer room. Outer wall behind High Tension room and Low Tension room was found constructed upto the first floor height instead of three feet height. The outer side of LT room, transformer room and HT room as shown in the sanction plan are same but the positioning of the partitioning have been shifted resulting in alteration in internal sizes of these rooms. A room 14 X 7 feet adjoining to High Tension room has been found constructed and used as a ticket counter. A portion of ticket foyer measuring 20 X 20 feet was found converted into Syndicate Bank, the restaurant on the front side of hall was converted into Sanjay Press Office. A mezannine floor was constructed with RS Joists and probably timber flooring found

completely burnt over the first floor which was said to have been used as offices. The height of this floor is 8' above the stilt floor level and with total covered of 2890 Sq. feet. Another portion with RCC slab was found constructed at mid landing of the staircase at 8' height above the stilt floor and used as office. The portion of the staircase around lift well and leading to basement has been found occupied by M/s Sehgal Carpets by converting the same into an office.

The refreshment counter was found constructed between the staircase and expansion joint and another refreshment counter has been found towards rear exit gate at the distance of 10feet nine inches from the auditorium exit gate. In the back room of auditorium 10 seats had been found provided instead of nine seats thereby restricting the exit door passage. Total seats in the auditorium was found 751 instead of approved 750 seats.

In the loft level, the big hall of the loft level has been found converted into office cabins by providing the wooden partition and were used by Sareen Associates, Supreme Builders, Supreme Promoters, Supreme Marketing Pvt. Ltd and

Vicky Arin Impacts (P) Ltd. as per the board displayed on the wall. The staircase over the loft level has been found converted into an office.

In basement, a room 12' X 20' adjoining to staircase has been found constructed. Another room extension was found to be made which is 20' X 20' adjoining the blower room. Wooden store was constructed with wooden partition in the basement was used as a store. Three brick wall have been found constructed of 40 feet length and another hall was 20 feet in length and the enclosures between them were partially full of old seats.

PW 39 Rajat Kanti Bhattacharya has deposed that on 24.6.97, he inspected Uphaar cinema alongwith Shri C B Sanghi, Deputy Commissioner under the directions of Shri Naresh Kumar, Deputy Commissioner, South. At the time of inspection, , he was given copy of sanction plan of Uphaar cinema building and the completion certificate. Whatever deviations or alterations were found during the inspection, he has reported the same in Ex. PW 39/A. He annexed the enclosure containing eight points. Various internal changes

were made by the owner/builder of Uphaar cinema. The said enclosure is Ex. PW 39/B. On inspection, he found following deviations/alterations :-

- 1.Four number partition walls exists in basement upto ceiling height.
- 2.Provision of additional floor in stilt portion by providing RS Joists.
- 3.An additional space for Homeopathic dispensary has been created behind LT room above ramp on stilt floor.
- 4.Stairs around lift well from stilt portion to basement converted into office of Sehgal Carpets.
- 5.The space marked for Restaurant on stilt floor converted into a bank and another office.
- 6.Manager room and attached WC on stilt floor converted into verandah with glazed door and a loft above.
- 7.Seating capacity of Balcony at second floor increased from 250 seats to 302 seats by providing additional seats in gangways, converting Inspection Room to 18 seater box, blocking one exit near toilet by creating 8 seater box.
- 8.Staircase portion around lift well and a part of toilet on third

floor converted into office space.

PW 17 is Ram Kumar Gupta, Junior Engineer, Municipal Corporation of Delhi and in his testimony, he has deposed that on 30.4.1996 he alongwith R.K.Sharma, Junior Engineer, Building Head Quarters,(PW 18) and Vinod Sharma, Junior Engineer Building (PW 20) inspected the cinema hall pertaining to jurisdictions of Central Zone and South Zone including Uphaar Cinema and prepared report Ex. PW 17/D.

PW 18 is Ram Kumar Sharma, Junior Engineer (Building) and he had accompanied PW 17 Ram Kumar Gupta and PW 20 Vinod Sharma while carrying out inspection of Uphaar cinema and has proved the report as Ex. PW 17/D.

PW 20 is Vinod Kumar, Junior Engineer and he has also corroborated the testimony of PW 17 Ram Kumar Gupta and PW 18 Ram Kumar Sharma.

I have heard and considered the submissions of counsel for accused Sushil Ansal and Gopal Ansal and gone through the inspection reports before and after the incident :-

Learned counsel for accused Sushil Ansal and Gopal Ansal have drawn my attention to Report Ex PW 17/B and D.

These inspections were carried out in the year 1983 and in 1996. Their submission was that these deviations as pointed out in these inspection reports were already removed and were not existing on the day when fire incident took place on 13.6.97. They further submitted that no reliance can be placed on these reports. The deviations pointed out in these reports were not causing any hindrance in the means of escape. Hence, these deviations should not be considered.

The report Ex. PW 17/B is related to the year June, 1983. In this report, eleven objections, as referred above, were raised but no action appears to have been taken to remove those deviations. There is no report on record showing about the removal/rectification of these deviations as pointed out in the inspection report.

On 23.2.1996, Smt. Vimla Mehra, Additional Commissioner of Police (Licensing) wrote a letter Ex. PW 17/A to inspect thirteen cinema halls including Uphaar Cinema. Accordingly, a joint team of three Engineers PW17 Sh. Ram Kumar Gupta Jr. Engineer, Building , Municipal Corporation of Delhi, Heard Quarters, PW18 Ram Kumar, JE Municipal

Corporation of Delhi and PW20 Vinod Kumar JE, Municipal Corporation of Delhi constituted inspection team and they submitted their inspection report which is Ex.PW17/D dated 30.4.96 which is as follows :-

" (1) From the basement, office of East Coast Breveries Ltd have been removed and provision of car parking have been made, but several partition walls are in existence , needs rectification.

2. Since wooden planks have been removed from the loft/mezzaine such the office accommodation automatically removed but RS joist , structure is still existing which needs removal.

Remaining points have been rectified except Points 3,4, 5,8,10 and 11 are yet to be removed "

These points are as follows :-

3 Third floor let out to various organizations.

4 Wooden plan removed as noticed at the time of second inspection but steel post and R S Joist are still intact.

5 A Homeopathic dispensary between stilt floor and floor of auditorium created by providing wooden plan flooring which is unauthorized and fire hazard.

10.Many offices on the top floor for which no permission seem to have been taken as required under Condition 17 of the

License.

11.The space marked for restaurant has been let out to bank.

There is report of Delhi Fire Service dated 12.8.1994 and as per this report, Uphaar Cinema was inspected and the report is as follows :-

“ UPHAAR : The objections raised at Sl. No. 3,8,9 & 11 are still in existence and does not relate to Delhi Fire Service. Regarding objections at Sl. No. 3 and 9 in respect of change of occupancies, the offices of various agencies are still existing and have fire hazard. On top floor an office has been created forming part of the staircase and a loft, the same poses hindrance in the staircase and have fire hazard being wooden construction ”.

Thereafter, inspections were carried out after the incident as noted above.

I have reproduced the report of 30.4.1996 above which falsified the arguments of learned counsel for accused that deviations were removed and were not existing on the day of incident except that office of M/s East Coast Braveries had been removed and provision for car parking was made. Nothing else was done. It is for this reason that in the

inspection report Ex. PW 29/A and Ex. PW 2/A got conducted by Central Bureau of Investigation and Vigilance Department, various deviations were found. The accused persons have produced on record the alleged sanction letter Ex. PW 102/D1 dated 12.7.1974 which is addressed to Licensee, Uphaar Cinema and is signed by Shri J C Rawal, Entertainment Tax Officer and this letter reads as follows :-

“ With reference to your letter dated 19.6.74 on the subject noted above, you are allowed to let out the portion of the cinema building i.e top floor and ground floor to commercial establishments u/r 45 (xi) of the Delhi Cinematograph Rules, 1953.”

The learned counsel for accused persons submitted that there was valid sanction for letting out the top floor and ground floor to commercial establishments and for conversion of restaurant into bank on the ground floor.

From the perusal of this letter/permission, it is clear that permission has been given to let out top floor and ground floor to commercial establishments. This permission relates to the area in the approved constructed area in the sanction plan and nothing more and they permitted commercial establishments

relating to Uphaar Cinema and not to other commercial establishments and to ensure that by such letting out, there was no obstruction to the patrons visiting the cinema hall. NO harm is caused to any patron, if any incident like incident of 13.6.1997 happens. The blanket letter of the patrons of cinema , allowing them to let out top and ground floor was not permitted against the rules. It is for this reason that the experts in their reports have described such commercial activities as deviations. The most relevant deviations for the purpose of the present case are as follows :-

Basement :-

- 1.A room 12' X20' adjoining to the staircase has been found constructed.**
- 2.Another room extensions of size 26' X20' adjoining to blower room.**
- 3.A wooden store constructed with wooden partitions in the basement was used as store.**
- 4.Three brick walls have been found constructed of 40' length and another wall was 20' in length and the enclosures between them were partially full of old seats.**

Ground Floor/Stilt Floor :-

5.The portion above ramp was constructed and was being used as Homeopathy Dispensary of size 20' X 9' behind the transformer room.

6.The outer wall behind HT & LT room, transformer room was constructed upto the first floor height instead of 3' height.

7.The outer size of the LT room, transformer room and HT room was as per the sanction plan but the positioning of the partitioning have been shifted resulting in alterations in internal sizes of these rooms. (site plan Ex. PW 39/AA)

8.A room of the size of 14' X 7' was adjoining HT room and was used as ticket counter.

9.A portion of ticket foyer measuring 20' X 20' was converted into Syndicate Bank. The restaurant on the front side was converted into Sanjay Press Office.

10. Mezzanine floor was constructed with R S Joists of timber flooring, which were completely burnt, reported to have been used as offices. The height of this floor was 8' above the stilt floor

11. Another small portion with RCC slab was constructed at mid landing of the staircase case at 8' height above the stilt floor and used as offices.

12. There was partition of the staircase around lift well which was leading to basement and was occupied by M/s Sehgal Carpets.

Foyer/First Floor :-

13. Refreshment counter was constructed between the staircase door and expansion joint.

14. Another refreshment counter was constructed towards rear exit gate at the distance of 10'-9" from the auditorium exit gate.

Mezannine Floor/Balcony :-

15. Refreshment counter between toilet door and staircase door with covered area of 21 X 9 feet.

16. Sweeper room and adjoining toilets converted into office room.

17. Operator rest room converted into office cum bar room.

18. In between the second floor i.e. Projection Room floor and loft floor, a full width door on right side of stair case

landing has been provided which has created obstruction for going to terrace.

19One reception counter of Sarin Associates in the stair case leading to terrace which obstructed the stair case passage.

Top Floor :-

20.The big hall of the loft level was converted in office cabins by providing wooden partition and was used by Sarin Associates, Supreme Builders, Supreme Promoters, Supreme Marketing(P) Ltd and Vikky Arin Impex (P) Ltd, as per the Board displayed on the wall.

21.Staircases over the loft level was converted into office.

The way for going to the top floor in one stair case was totally blocked by giving accommodation at top and by constructing unauthorized offices at the top in the stair case over the loft (Report Ex. PW 29/A of Shri B S Randhawa). Consequence of this unauthorized construction was that the patrons could not go to top in open space to save their lives.

When Entertainment Tax Officer granted permitted, it did not mean that unauthorized structure was to be raised and

commercial activities at the cost of patrons was to be allowed. The submissions of counsel for accused persons cannot be accepted.

The report Ex. PW 2/A tells that the offices were provided in the liftwell as well as in the stair case by wooden partitions on different levels and it was in the occupancy of M/s Sarin & Associates and its allies.

The letter of Entertainment Tax Officer did not allow to provide wooden partitions and to let them out for commercial activities. The permission on which the reliance is based is of no assistance to the accused persons. It was also submitted by learned counsel for accused No. 1 Sushil Ansal and Accused No. 2 Gopal Ansal that the existence of Homeopathic Dispensary on the ground floor had not caused any hindrance in the free movement of the patrons. It was further submitted that as per the report of fire department, wooden plans have been removed. The report of Delhi Fire Service is not correct, as per the position of spot and as per reports Ex. PW 2/A, Ex. PW 29/A and Ex. PW 39/A.

I also inspected Uphaar Cinema on 19.8.2006 as per the directions of Hon'ble High Court. The Inspection Note is on record and it reads as follows :-

Basement :-

In the basement, there was water upto the level of 1/1.5 inches. There were four partition walls in the basement upto the roof height and in the basement, seat covers, foams, junk material, broken wooden almirahs, one bike, some iron pieces, broken wooden furniture were lying there. The AC plant installed there was covered with the help of wooden ply as informed by the IO. AC plant was visible from the side of broken window. There was one Generator room where machinery was lying. Besides that, there was other room having Switchboards with broken meters.

Ground Floor :-

While inspecting Ground floor, there were 12 R S Joists (Pillars), near the iron collapsible channel gate having lock inside, 14 iron pipes, rusted cycle, wooden box having mark of car parking, dustbin, iron table were lying.

Two wooden charlies used for construction purpose were also lying on the floor, six light bulbs were also affixed on the wall at the height of approximately eight feet from the ground. Electricity wires were exposed underneath the extreme corner of this area, broken pieces of ceiling of cardboard were lying on the floor and it was broken at places and this ceiling was covered upto the roof. Conduced pipes were also affixed. In the ground floor, towards the end of this hall, there was one meter box of 7 X 7 feet approximately having two planks in which six electricity meters ere affixed, lot of wires were coming out of the meters, one meter was half detached and both the doors were found open at the time of inspection. In one corner, there is switchboard and in other almirah, there was Summer Sibel Starter. There was iron collapsible channel gate of the height of 9 feet approximately on back side of this hall in the ground floor. IN one side, there were four letter boxes of Track Pump Sales, Kamal Construction & Co., Sarin & Associates and Bassi Builders.

Then, there were stairs leading to balcony, in the

ground floor. There was blackness on the walls, the roof was at a height of 16 feet approximately. There was main switchboard, the roof was broken from one side, thick wires as well as pipes were coming out, chairs etc were lying scattered. There was one small room which was bath room and was found locked. There was one channel door of 19 X 5.25 feet approximately which was tied with a rubber pipe, at the end of it. There was a room of Charanjiv Homeopathy Dispensary and inside that room of approximately 9 X 10 feet, burnt sofas, broken chairs, tables and partition wall was there which was made of wood, in other room, one bed was found lying there, some medicines were also lying there in that room. The roof of these rooms was of plywood having height of approximately seven feet and the roof was also half burnt. Then, there were stairs which seems to be passage to basement. The roof of that area was also found burnt and that roof was at a height of 10 feet approximately, wooden pieces were lying on the ground. There were electricity points and thick cables, four in number, have also come

out and these cables were also in burnt condition and have been exposed due to fire. There was blackness on the roof appears to be due to smoke.

Transformer room :-

In the parking area, there was one room having shutters of the size of approximately 10 X 8.5 feet which was half open and on entering the room of the size of approximately 13.5 X 11.6 feet, one iron almirah was found. IO informs that it was Switchboard box and on the left side of that room, transformer was affixed on one side and IO informed that this transformer belonged to the owners of Uphaar Cinema. One exhaust fan was affixed above the shutter and other was affixed in the center of the room. There was another transformer room of size 11.5 X 14 feet in which DVB transformer was installed as informed by the IO, the iron shutters of this room were folded, one wooden plank is affixed in between to hold this shutter. The roof of this room was at a height of approximately 14 feet. There were walls all around except the window at the back, there was round opening towards the back, there was one small

round hole, the walls of entire room were having burnt signs, there were black soot signs on the walls, sand was also lying on the floor, this DVB transformer room was just parallel to the parking area. Then, there was a room of 33 X 10 feet approximately adjacent to DVB transformer room, it was informed by the IO that this room was HT/LT panel room, the main door of this room was pressed upto three feet, iron gate was lying on the ground except the lower part which was found locked, one big car of 15 X 4 feet was lying at a distance of $2\frac{1}{2}$ X 1 foot from the gate of HT/LT panel room. Thereafter, there was small ticket room having ticket counters, one high chair was found lying there, besides one box, wooden almirah, two scooter tyres were also lying there and many ticket booklets were also lying there. Five cycles, one scooter and four burnt cars were lying in the parking area and pieces of affixtures were also lying in burnt condition. There were AC ducts, after this HT/LT room which was also in burnt condition and these AC ducts were leading to east side where there was bank and as informed by the IO, the name of the bank was

Syndicate Bank. Chairs, almirah were lying there, books were also lying on the almirah, the roof of this room was also burnt and had come down.

First Floor :-

Then there were stairs leading towards the first floor, wooden pieces were lying on the stairs. Then, we entered the main auditorium and then, the lobby of balcony was there where glass affixed on the windows were broken, chairs were also lying there. There was small refreshment counter also, broken door planks, chairs were lying in front of the door.

Balcony/Second floor :-

In the balcony, there were eight rows having eight seats in each row. Seats were joining the side wall, there was no passage on the right hand side and there was a vertical gangway/passageway of 3'8" in the middle and at the end. In the last row which is the last row which is ninth row, there were 38 seats in total. After these eight rows, there was a gangway of 3'8", then, eight rows having eight seats in each row. Then, there was vertical passage of 1

feet 9 inches after third row from the top upto bottom and was not extended upto last row or wall. There was a passage of 5'6" which is the main gallery for entering into the hall and it is also used as Exit as per the Sign Board placed on the door. The bolt/kundi of that door was half detached with the door. There were stairs on the left side having width of 8'10" constructed upto last one row. There were nine rows i.e eight rows having 16 seats each and ninth row is upto the end and then, there was a gangway of 3'8", then, there was an Exit gate. There were two rows separately having six chairs in total, wooden plank was lying blocking the half of the way. Then, there was one box consisting of eighteen seats, there was a gangway on the right hand side of size approx 3'8". The IO informed that earlier it was Inspection Room which was later on converted into eighteen seater box. At the back of this box, there was one room where furniture was lying on the floor having sofas, tables, counter, one bathroom was also there adjoining that room, there were other rooms where broken furniture was lying. It was informed by the IO that

these were the offices of Ansals. IN the balcony, the space provided for exhaust fans on the walls were found blocked with the help of cardboard. One plank of the door was found blackish and it is informed by the IO that it was due to smoke. There was one eight seater box in the balcony where one spare chair was also lying,

the roof this box was in broken condition. There was blackness on the roof and walls of balcony.

Then, we entered the Projection room in which some electric installations, broken furniture, reels were lying on the floor, then, there were stairs, there was one room which appears to be office where broken furniture, almirahs were lying and important numbers were also written on the wall.

Third Floor :-

As informed by the IO that there were offices and we noticed that there was broken furniture, file covers and there were two big halls divided by wooden partition. Toilet was also there in this floor.

The Inspection Note shows that Homeopathic Dispensary was in existence on the day of incident also in the ground floor, the roof of which was made of plywood.

R S Joists :-

In the report of inspecting team Ex. PW 29/A dated 2.8.97, at the ground floor, it was noted that R S Joists have been provided at last portion of the stilt floor at the height of 8 feet from the floor. The office over R S Joists was found erected near the rear structure and also an opening was existing on the front staircase at the R S Joists level. In the report of June, 1983, wooden planks were noted but it was pointed out that at the time of second inspection, the wooden planks have been removed but steel posts remained intact. In report Ex. PW 29/A, Mezannine floor (which was constructed by R S Joists with timber flooring and which was completely burnt) was reported to have been used as office. The height of this floor was 8' above the stilt floor and have total covered area if 2890 Sq. Feet.

In the inspection of Uphaar cinema, the following observations have been recorded by me in this regard :-

" There were 12 R S Joists near the iron collapsible channel gate having lock inside, 14 iron pipes, rusted cycle, wooden box having mark of car parking, dustbin, iron table were lying. Two wooden charlies used for construction purpose were also lying on the floor, six light bulbs were also affixed on the wall at right

hand side. Seventy ganders were also affixed on the wall at the height of approximately eight feet from the ground. "

It is clearly established from the above Inspection Note and from the observations made that with the help of R S Joists, wooden floor was in existence covering area of 2890 Sq. Feet and offices were there. The wooden planks increased the fire that broke out in Uphaar cinema resulting in the smoke which caused the death of the patrons. Learned counsel for accused has not given any explanation in this regard. The observations of experts are supported by the spot inspection at site. Learned counsel submitted that such R S Joists and wooden structure upon the same, even for the sake of

arguments were existing, did not cause any hindrance in the egress and ingress of the patrons.

Learned counsel's submission is based upon the aspect of exiting out of the patrons at the time of fire. What has to be seen is that "**Has the structure contributed to the fire and also has the structure caused obstruction in the passage of the patrons**"?

Learned counsel is correct while making submissions that wooden structure (Although, he denies wooden structure) did not cause any obstruction in the egress and ingress of patrons, I find, smoke caused by wooden structure did cause obstruction to the patrons in the balcony by aiding fire that broke out in Uphaar Cinema.

The submission of counsel for accused that wooden planks have already been removed as has been noted in the report of June, 1983 is not correct in face of the report Ex. PW 29/A and Ex. PW 2/A and also the inspection carried out by the Court on 19.8.2006. The accused persons in order to cheat the authorities and to get the favour of the authorities,

removed the wooden planks and inspection was carried out second time and re-installed the same after the report of June, 1983 and after second inspection was procured. The authorities of Uphaar Cinema had malafide intention in not removing the R S Joists simultaneously alongwith the wooden planks. I find, the wooden planks either remained there at the time of second inspection was conducted or if the report is true and not maneuvered , the wooden planks were re-installed. It is as such a definite finding has been arrived at in the report Ex. PW 29/A and also Ex. PW 2/A as well as the inspection of the court.

The arguments of learned counsel for accused that there was no wooden structure at the ground floor and that such a structure did not cause any obstruction in the egress and ingress of the patrons, has no merit and the same are rejected.

It is submitted in the written submissions that inspection report Ex. PW 2/A prepared by PW 2 Shri R N Gupta cannot be given any importance since R S Joists, Homeopathic Dispensary, Office of Sehgal Carpets, conversion of Restaurant into Syndicate Bank, Manager

room,were not causing any hindrance in the ingress and egress of the patrons, have already been dealt with this aspect of the matter.

It is submitted in the written submissions that Report Ex. PW 29/A has been titled as Panchnama, is an inquest report and pertains to the cause of death. It has not been properly proved. It is submitted that in fact it is a fabricated document. It is submitted that Dalip Singh has not been produced as a witness and PW 29 Shri B S Randhawa himself admitted that this document was not prepared at Uphaar cinema. Credibility of the document is suspected and document has to be rejected.

Indian Evidence Act does not demand the quantity, it requires the satisfaction of the court regarding the proof of the report. Even one witness can establish and prove the document if witness is independent and has no partisan attitude/approach. PW 29 Shri B S Randhawa is independent witness and has nothing to do with the victims of Uphaar Tragedy, CBI or any other investigating agency. The observations noted in Ex. PW 29/A are supported by the

observations made in Ex. PW 2/A and Ex. PW 17/B and other material on record and have been found to be correct in the inspection carried out by the court. I, therefore, reject the arguments with regard to the technical side of the report Ex. PW 29/A.

In written submissions, it has further been submitted that PW 27 Shri A K Aggarwal, Assistant Electrical Inspector had not found any ash, coal or burnt wood on the spot. As per the case of CBI and reports produced, it was a covered area of 2890 Sq. Feet, lot of coal and ash would have been there but no such observations are there in the testimony of any witness and in the reports. It is submitted that story of CBI is to be rejected. I find, no merit in this submission when at the site, wooden planks have been found.

Lastly, it is submitted that deposition of PW 29 Shri B S Randhawa, PW 81 DSP Prithvi Singh is completely contradictory about the nature of the document, place of its preparation and person who prepared it. Ex. PW 29/A is a document prepared after due deliberation and is concocted document. For the reasons stated herein before, I find, this

argument finds no merit.

Rear Side Wall :-

Ex. PW 29/A describes this wall as unauthorized wall. This is an outer wall existing behind High Tension/ Low Tension room. According to the report, it was upto the height of 12 feet which should have been a parapet wall of three feet. PW 29 Shri B S Randhawa supported this fact and stated that this wall should not have been that of full height, on account of the fact it being of full height, ventilation was affected and smoke was obstructed. Questioning the deposition, learned counsel for accused submitted that in report Ex. PW 29/A, no observation was made about the obstruction of smoke. It has also been submitted that this witness has been tutored. It has been submitted that what has been stated by the witness in examination in chief cannot be reconciled with the cross-examination of this witness. He made statement on 21.9.2002 and stated that wall at the back of High Tension/Low Tension room was sanctioned upto first floor level. He read the statement and signed it. It is only after cross-examination was

complete on 24.9.2002, the witness submitted the court that the height of the outer wall behind HT/LT room has been raised upto first floor height. The submission of this witness remained a submission. Not only this, he has deposed about the correctness of the statement on the previous day. It is submitted that witness was pressurised to re-treat from the statement made on the previous day. PW 29 Shri B S Randhawa has made a contradictory statement about the sanctioning of the wall upto first floor level and CBI having failed to re-examine him or declaring him hostile, cannot submit that the wall was against the rules when it was brought upto the height of first floor.

Learned counsel for accused persons relied upon JJ 2000(7)SC 549 Raja Ram Vs. State of Rajasthan. AIR 1989 SC 135 Sukh Ram Vs. State of Madhya Pradesh. He submitted that Hon'ble Supreme Court has held that when a prosecution witness is stating something which is contrary to the prosecution case and he is not declared hostile. His version becomes the case of the prosecution and is binding upon the prosecution. It is as per his deposition, the wall was

sanctioned upto first floor level i.e 12 feet. The wall is, thus, not proved to be unauthorized. I have checked the sanction plan. The sanction plan discloses a parapet wall only. Admittedly, the outer wall in existence is upto the height of 12 feet. Merely that the objection has not been raised in any other report and the wall has been described as sanctioned upto first floor, as deposed by the witness, I find, is of no consequence on the face of sanction plan Ex. PW 15/Y3 and actually wall existing on the site is 12 feet. The witness has pointed out what was not correctly recorded in his deposition. Therefore, no advantage of the Judgment cited above is available to the accused. The accused also cannot take advantage of the arguments based on oral evidence which are against the documentary evidence. Accordingly, I hold that there was violation of sanction plan in raising the height of the rear wall upto the first floor height behind the transformer room.

From the above discussion made so far, there were following deviations in structure, seating arrangement, balcony and other violations which are as follows :-

Balcony

1. Two vertical gangways were provided on the right side, one exit on the right side was closed and in the middle, entrance/exit was provided due to this change. The Central exit was catering much more people than the norms of the people for middle exit.

2. The inspection room was converted into 14 seater box against the sanction building plan.

3. There were 302 seats in the balcony instead of 250 seats.

4. The right hand exit was totally closed after installing eight seater box and one gangway was reduced to 1'9" instead of 3'8" as required under the rules.

5. Virtually no place was left to immediately exit out for the patrons sitting on the top of the right hand side. The facts reveals hereinafter stated the mode of sitting of those who were seating on such seats could not exit out and died in the incident.

Basement :-

6. A room 12' X 20' adjoining to the staircase has been found constructed.

7. Another room extensions of size 26' X 20' adjoining to blower room.

8. A wooden store constructed with wooden partitions in the basement was used as store.

9. Three brick walls have been found constructed of 40' length and another wall was 20' in length and the enclosures between them were partially full of old seats.

Ground Floor/Stilt Floor :-

10. The portion above ramp was constructed and was being used as Homeopathy Dispensary of size 20' X 9' behind the transformer room.

11. The outer wall behind HT & LT room, transformer room was constructed upto the first floor height instead of 3' height.

12. The outer size of the LT room, transformer room and HT room was as per the sanction plan but the positioning of the partitioning have been shifted resulting in alterations in internal sizes of these rooms. (site plan Ex. PW 39/AA)

13. A room of the size of 14' X 7' was adjoining HT room and was used as ticket counter.

14.A portion of ticket foyer measuring 20' X 20' was converted into Syndicate Bank. The restaurant on the front side was converted into Sanjay Press Office.

15.Mezzanine floor was constructed with R S Joists of timber flooring, which were completely burnt, reported to have been used as offices. The height of this floor was 8' above the stilt floor

16.Another small portion with RCC slab was constructed at mid landing of the staircase case at 8' height above the stilt floor and used as offices.

17.There was partition of the staircase around lift well which was leading to basement and was occupied by M/s Sehgal Carpets.

Foyer/First Floor :-

18.Refreshment counter was constructed between the staircase door and expansion joint.

19.Another refreshment counter was constructed towards rear exit gate at the distance of 10'-9" from the auditorium exit gate.

Mezannine Floor/Balcony :-

20.Refreshment counter between toilet door and staircase door with covered area of 21 X 9 feet.

21.Sweeper room and adjoining toilets converted into office room.

22.Operator rest room converted into office cum-bar room.

23.In between the second floor i.e. Projection Room floor and loft floor, a full width door on right side of stair case landing has been provided which has created obstruction for going to terrace.

24.One reception counter of Sarin Associates in the stair case leading to terrace which obstructed the stair case passage.

Top Floor :-

25.The big hall of the loft level was converted in office cabins by providing wooden partition and was used by Sarin Associates, Supreme Builders, Supreme Promoters, Supreme Marketing(P) Ltd and Vikky Arin Impex (P) Ltd, as per the Board displayed on the wall.

26.Staircases over the loft level was converted into office.

The reports have suggested the other deviations which I do not

consider it necessary to deal with it.

CAUSE OF INCIDENT

MORNING OF 13.6.97

On 13.6.97 in the morning hours at about 7.05 am fire took place at Delhi Vidyut Board transformer installed at Uphaar Cinema. Complaint was lodged at Green Park complaint center. On receipt of this complaint line man Munna Lal and Jiya Lal labour of Delhi Electric Supply Undertaking were sent to attend the complaint . They reported after attending the complaint that one lead in LT side in the transformer of Delhi Vidyut Board had burnt. Hence, supply of electricity had been switched off . This information was passed on to Sh. C.J Singh Superintendent and XEN "D" RKP Vyash C. South at about 7.30am. The entry of this complaint alongwith report of lineman is Ex.PW41/A reads as follows:-

".....

13.6.97

(3) Uphaar Cinema (PCR) Sakti Sadan Munnalal

6.55

7.25

6.55

LINEMAN KA PRATIVEDAN**SEAL AADESH PAARIT**

Attended by S/Stn Deptt. RK Puram Transformer LT
side lead burnt and suppl disconnected.

Informed to B/D RK Puram

Mr. C J Singh Suptd. E.

Informed XEN "D" RKP Vyash

C. South at 7.30am....."

PW 42 CJ Singh, Junior Engineer after getting the information went to Uphaar Cinema along with his team and attended the Delhi Vidyut Board transformer installed there and reported in " **General Diary Register of Break Down R K Puram D-39 Ex. PW 42/A "** as follows:-

"...7.20hours message received from GP Ext. that LT leads of the local transformer installed at Uphaar Cinema has burnt. Seen the same. It required to be replaced. [H.T.Supply](#) was already put off of this local transformer.

Information Given to AE Zone 1601.

AE S/Stn/CCS..... "

The information was passed on to PW40 Shri PC Bhardwaj , Assistant Engineer. He sent accused Brij Mohan Sathija , accused Anand Kumar Gera, Inspector Delhi Vidyut Board and accused Bir Singh, Senior Fitter to attend the complaint. An entry Ex. PW 40/A in the General diary register of Delhi Electric Supply Undertaking was made.

Accused Anand Kumar Gera submitted his report Ex.PW108/AA in this regard which reads as under :-

"....AE(S.Stn. RKP)

As per the complaint received from AE (SA) circle South on 13.6.97 morning the S.Stn at Uphaar Cinema was attended at about 10.30am. The following work was carried out on 1000KVA Delhi Vidyut Board transformer.

630 mm(2) AC Socket – 2nos were replaced. The local transformer was put on at about 11.30am on 'No load'.

The LT main was put “ON” by Zonal Lineman Staff."

(Beer Singh) ([A.K.Gera](#)) ([B.M.Sathija](#))

(Sr. Electric Fitter) 14.6.97....."

Supply of electricity was restored at 11.30 a.m. at Uphaar Cinema. Shri PC Bhardwaj PW40 made inquiry from [A.K.Gera](#) on telephone about the repairs and he informed that the above complaint has been rectified.

EVENING OF 13.6.1997

The fire was noticed in Delhi Vidyut Board transformer by Sudhir Kumar PW63. He saw smoke coming out from the transformer room at 5 p.m.. He also heard a blast sound and reported the same to Late K.L. Malhotra accused to pass on the information to authorities for taking care of fire. The information was also sent to police. Thereafter, the fire brigade vehicles reached there and extinguished the fire. The fire was noticed in the parking area. On account of the fire there was smoke which spread in the whole of the Uphaar Cinema.

AFTER THE INCIDENT

After the fire incident the spot was inspected by expert namely PW24 Sh. K.L Grover , Electrical Inspector, PW25 Sh. TP Sharma, Expert from CBRI , PW35 Sh. K.V Singh , PW36 Sh.

M.L Kothari , PW64 Dr. Rajinder Singh. It will be relevant to take note of the observations and the reasons given by the experts.

The relevant portion of report of PW24 Sh. K.L Grover, Electrical inspector is as follows:-

".....On detailed examination of 1000 KVA transformer and HT/LT Panel Boards of DESU, it was found that :

1.Two HT Bushings of the transformer were broken and the third one was cracked. There were no flash marks on HT supply leads and HT bushings of the transformer.

2.One of the LT supply cable end socket of B phase through which the LT supply from transformer to LT ACB had been taken, was found detached from the transformer LT Bus-bar

(Blue Phase) and was lying by the side of the transformer radiator.

3.There was a cavity in the B-Phase Bus-bar (around the hole from where cable got detached) of the transformer and the upper portion of the cable-end-socket which was lying by the side of the radiator also melted/burnt in a way that the center hole of the socket took a U-shape.

4.The earth conductors connected to neutral terminal of the transformer were found disconnected near the neutral terminal. There were short-circuit marks on these earth conductors indicating beads formation at the end of these earth conductors.

5.The neutral Bus-bar was loose and the check nut used for tightening the Bus-bar was also loose.

6.The PVC insulation of the LT cables connected to the transformer Bus-bar were found damaged/burnt. The insulation of the cable which was lying by the side of the radiator was also found almost burnt out from transformer upto LT switch room.

7.Battery charger & KT Panel Board were found almost

damaged with fire.

8.No protection relays/system were found installed on any of the HT Breakers of the said HT Four Panel Board from where the HT supply to 1000 KVA transformer in question was fed....."

As far as violation of Electricity Rules are concerned the report noted down that the following provisions of Indian Electricity Act had not been complied with :

"

- 1 No protection relay system against over-current, Earth fault and excessive Gas pressure had been found provided for the said 1000 KVA transformer of Delhi Vidyut Board installed at Uphaar Cinema complex, so as automatically disconnect the supply under normal conditions as required under the provisions of Rule 64A(2) of the said rules.**
- 2 The cable-end-socket of B-phase of LT supply cables had not been fixed properly as the same appeared to have been fixed by hammering and not by the crimping machine or any other proper system. Necessary tests such as testing of protection system etc as specified in the specification No.13.3(Table-2) of IS Code No. 1886-1967 had not been carried out from time to time and as such the said transformer had not been found maintained in healthy condition as required under the provisions of Rules 65 (5) of the said rules....."**

Sh. K.L Grover in this report Ex.PW24/A further observed as follows:-

".....The effect of short circuiting of LT supply cable with the transformer and subsequently catching of fire by the transformer's oil, could have been avoided, had the fault (may be loose connection etc) in the transformer which was detected in the morning of 13.6.1997 been repaired properly and also the protection relays/system which

were missing, been there (on the H.T. Breaker controlling the supply to transformer in question) to protect the transformer against Over-current, Earth fault and excessive gas pressure(Buchholts Relay)...."

Sh. K.L Grover PW24 in his deposition has confirmed the report Ex.PW24/A. He has been subjected to cross-examination by the counsel for the accused but nothing concrete come out of the same. The deposition has already been mentioned herein above.

Sh. KV Singh PW35, Executive Engineer, Electrical,PWD also inspected, after the incident, the Uphaar cinema on 19.6.97. He was asked to comment on the possible cause of fire due to any electrical fault in the Uphaar cinema . He was shown the parking on the ground floor of Uphaar cinema, LT panel room etc . He inspected the site on 19.6.97 and he made the following observations:

"..... INSPECTION OF LT & LT PANELS

The cubical LT panel was heavily burnt. The main incoming switch to the LT panel was in the form of 1600 ampere air circuit breaker. It was noticed that all the out going switches from the LT panel were without fuses. There was no sign of HRC fuses. It was not correct to use wire in place of proper fuse. The HT panel as has already been described above that HT panel consist of 2 incoming oil circuit breakers and two out going oil circuit breaker . Out

of the two incoming circuit breakers one is connected to receive HT supply from nearby Ashirvad building sub station. The other incoming feeder was only for making use of standby/duplicate HT supply in case of failure of one HT supply connection. It was seen that all these four oil circuits breaker were without any kind of protection against earth fault and over current. It was also found that potential transformer was in disconnected condition of OCB operation mechanism which includes the battery charger etc appeared to be defective and they were heavily damaged due to the fire. There was one metering cubical was also available.

POSSIBLE CAUSE OF FIRE

As we have seen in the photographs one of the LT cables got disconnected from the cables from 'B' phase. It was evident from the photographs that the cable was touching the radiator fin. There was a hole in the radiator fin. There was also mark of sparking on the other fins. As per report it is apparent after seeing the various photographs of the transformer room, cable leads and cable sockets, that one of the cable sockets got away from the nut & bolts after getting melted due to severe heat. When it disconnected from the bus bar terminal it came sliding from the fins of the radiator and caused sparking marks on the radiator fins and finally it struck one radiator fin, since heavy current was flowing due to earth fault and the temperature of the lead was very high. The radiator sheet got damaged and the hole was created in the fin because of continued arc. The transformer oil coming out from this hole must have caught fire either from the existing arc which was there due to touching of the current carrying conductor with the body of the transformer possible burning of PVC cable insulation. This arc must have continue for some time as there was no immediate in tripping system available in the HT panel. Once the oil got fire and oil continued to come out from the radiator it was must have caused spread of fire. When oil was spreading it must have taken the fire outside the transformer room

also. The fire was aggravated further by the presence of the petrol/diesel carrying vehicles parked in front of transformer room. It is concluded that this unfortunate incident of fire occurred due to possible over heating of one of the LT connections which may be due to loose connections or over current. It was further aggravated because there were no protection system available in the HT panels installed at Uphaar cinema. It was ultimately found that the only tripping took place at 33 KV and sub station at behind AIIMS.

The fire could have been controlled , had there been any fire fighting equipment installed inside the car parking area and sub-station building itself.

Regarding possible cause of spread of fire/smoke through air conditioning system following observations were made:

POSSIBILITY OF SPREAD OF FIRE/SMOKE THROUGH AIR CONDITIONING SYSTEM

On preliminary inspection at the site it was evident that most the fire took place only in the parking area and sub station area of Uphaar Cinema and the question of possibility of spread of fire/smoke through air conditioning conduct was examined. We were told that electric supply to the Uphaar sub station was not there from 3.55 p.m. to 4.55 p.m. . Electric supply to Uphaar Cinema sub station was restored at 4.55 p.m. As per this report the tripping in the 33 KV grid at AIIMS took place at 5.05 p.m. which means that main power supply was available for a period of 10 minutes between 4.55p.m. to 5.05 p.m. .

On inspection of AC plant room it was noticed that switches of the AC blower were in 'ON' position . It was also quite possible during these 10 minutes the blowers were started. To check this possibility the AHU room was inspected . The wire mesh filters of the one of the AHU installed near the door were covered with black smoke. When the filters were removed the sign of smoke were also seen on the cooling coil face. Therefore, it can be said that

blower might be working during those 10 minutes. The possibility of working of the blower after the tripping of supply was also examined . It was found that the main switch from generator supply which was going to the blower was without fuses and fuses of that particular switch were found inside the body of switch. The condition of fuses was such that it looked as if that the particular switch was not being used for quite a long time as fuses were covered with the dust. Hence, it can be said that blower did not work on generator supply....."

Sh. K.V Singh PW35 has supported the report in his testimony and proved his report . He was also cross-examined by counsel for accused. The deposition has already been mentioned herein above.

The site was also inspected by Professor M L Kothari PW36 . He agreed with findings of Sh. K.V Singh PW35 . His comments are as follows:

"....1. My observations fully match with the observations recorded by Sh. K.V Singh .

2. A line to ground fault has occurred on LT side due to one of the lead having fallen on the radiator fin. This fault has been cleared by the protection relays located at grid sub-station at AIIMS. During the conversation I came to know that the plug setting of the relays were 5 A and time multiplier setting (TMS) = 0.05. With these settings the fault must have been cleared in a very short time of the order of a fraction of a second. During this period the heavy short-circuit current must have caused damaged to the radiator fin leading to creation of a hole. The oil leaked out through this hole. Since there was no damage to the winding of the transformer , one can confidently say that the duration of the fault must have been very short.

3. The leaking oil must have caught fire either due to the arcing or due to some other unknown cause.

4. It was seen that there was no protection provided on the transformer as per the norms of the electricity Act.

5. It was also seen that the terminals on the LT side were not enclosed in a box as was seen on another adjacent box as was seen on another adjacent transformer (Uphaar cinema transformer). It is felt that had there been a terminal box on the LT side covering the live terminal , the fault could have confined to the terminal box, and possibly avoiding the unfortunate disaster....."

PW36 ML Kothari has been cross-examined by counsel for accused. His deposition has already been mentioned herein above.

The site was also inspected by Dr. Rajinder Singh PW64 of CFSL, New Delhi . In his report he observed as follows:

"..... The transformer in question i.e DVB transformer did not have following safety measures at the time of inspection.

- 1 The LT side cables from the bus bar did not have clamping system or any support to the cables.**
- 2 The earth cable of the transformer has been found temporarily fitted with the earth strip i.e twisting of earth cable.**
- 3 There was no cable trench to conceal the cable.**
- 4 HT panel board of transformer did not had any relay system to trip the transformer in case of any fault.**
- 5 The Buchholtz relay system was not fitted on the transformer**
- 6 Temperature meter was not found fitted on the transformer.**

Ground floor, basement and car parking area had been affected by fire and rest of the cinema complex had affected by smoke . No emergency lights system could be detected in the balcony at the time of inspection. The physical inspection of transformer reveals that :

The cables on bus bars on LT side did not have checked nuts. Except one lower terminal of phase Y and neutral terminal. The check nut of neutral terminal was found in loose condition. The blue phase single cable at the top alongwith cable end socket (detached cable) fell down on radiator fin due to constant arching/sparking at nut bolt portion on bus bar , decoiling effect of cable and weight of cable. All coupled together led to eating away of metal of cable end socket resulting in U-shape cable socket end.

The Laboratory examination of fire extinguishers reveals that

Sl. No.	Type	Qty	Ex No.	Condition
1	Water Type	8	6(a)-6(c) 6(f)(g) (h)	Empty Not in working order, working order
2	CO2 type	6	6(i) to(n)	Working Order
3	Foam Type	3	6(o)to(q)	Empty
4	Dry Powder	3	6(r)-(s) (t)	Not in working order Empty
5	Soda acid	2	6(u) 6(v)	Leakage at top Empty

Before considering the report it will also be necessary to refer to provisions of IS Code which are as follows:

IS Code 1255 of 1983 read with sub rule 2 of 29 of rule 1956
which reads as follows.:

Clause 12.6 Aluminum Conductor Connection

Clause **12.6.1**: “There are number of methods of jointing Aluminum Conductors. Four Standard methods which are

commonly used are:

- a) Fluxless Friction solder method
- b) Soft Soldering method using organic fluxes
- c) Welding method
- d Crimped or compressed connection

12.6.2 Fluxless Friction Solder Method – In this method each strand of the conductor is carefully cleared and scraped with scraper tongs to remove oxide film. Then all the strands are tinned by rubbing a special friction solder stick over the heated strands. This is known as metalizing. Aluminium conductor thus prepared may be soldered on to copper cable lugs, ferrule, terminal studs using 60 percent solder. No flux is used in any of the operation. This method is not recommended for jointing conductors in XLPE cables.

12.6.3 Soldering Method using organic Flux

12.6.4 Welding Method – Welding Method gives the best possible results. Welded conductor joints have lesser resistance and equal or better mechanical strength than the conductor itself. Welding, therefore, should be given preference for all larger cross sections. For smaller cross section welding may not always be feasible or economical. In this method the end of the stranded conductor are first welded to the cable lug, terminal stud or to each other, in open or closed mould using aluminium welding rods or strands taken from conductor. After cooling welded connections are filed smoothened and cleaned.

12.6.5 Crimped or Compressed Connections- In this method conductor and lug ferrules are pressed together firmly by

means of tools and dies to form a joint. The methods normally used are indent compression, hexagonal compression or circular compression. Tools and accessories should meet the requirement of relevant Indian Standards where available. (Lug Ferrules are used to connect two cables).

None of the counsel for accused have questioned the report of expert witnesses and their deposition as noted herein above.

It is observed by the Experts in their report that cause of fire was loose connection in B-phase of the cable end socket bus bar of the transformer. Consequently there was sparking when transformer was on load and main supply was passed through bus bar. Due to magnitude of current supplied excessive heating of transformer B-phase bus bar and socket end cable took place. Excessive heating and sparking formed cavity on B-phase bus bar. Weight of cable and decoiling affect of cable on the transformer had heated transformer radiator's fin. Over-heating of cable gave way to the insulation of cable thus the conductor became naked. The live conductor heated the radiator fin and short-circuited the radiator fin from where transformer oil gushed out and spilled over the floor which ultimately spread the fire. It is because of following reasons:-

- 1 Blower did not work on generator supply
- 2 2 HT busing of transformer broken and 3rd was cracked , one of the LT supply of cable end socket of B-phase was detached from the transformer
- 3 The earth conductor connected to neutral were disconnected.
Etc.

Not only this even the Indian Electricity Rules have not been complied with as noted herein above in the reports of Experts.

It is submitted by the counsel for accused BM Satija that the cable end socket was repaired in Y-phase and not on B-phase .

The accused has failed to establish this fact either from the reports of experts or by extracting any admission from the expert when they appeared in the witness box . The accused has also not taken courage to depose on oath and produce himself as witness subject to cross-examination. In the absence of that on the basis of the expert opinion on transformer which corroborate each other and is independent , the arguments of the accused cannot be accepted.

It is also submitted by the accused that the loosening in the connection of socket end cable is not because of fault or negligence on the part of accused as no crimping machine had been provided. In this regard Sh. YP Singh , Member ,

Technical has explained in his deposition that the crimping machine is available whenever it is requisitioned. On the basis of the deposition of the YP Singh , member , Technical the submissions of accused cannot be accepted.

It is submitted by the accused that they had repaired the fault with the aid of hammer and dye since there was pressure of public . Accused had the knowledge that the transformer has been installed at Uphaar cinema building where huge crowd visited to witness and view the movie. There is always risk of fire, if some incident take place. No such excuse taken by the accused can be permitted. An act which is likely to endanger the life of others is not excusable where the act is not perfect or is not allowed by Electricity Rules. The arguments of the accused is rejected.

It has been further submitted that there was no necessity of the crimping machine as cable were duly insulated with PVC . Even assuming what the accused submits is correct the joints of the aluminium conductor were required to be perfect and not loose ,due soldering was required. It was not found in expert report , in such circumstances no benefit is available to

the accused.

Accused has also demonstrated the socket end cable with the U-shape structure and stated that in such a situation joint cannot be loose. Such demonstration should have been made before expert witness to establish what is claimed by them is correct. The court is not an expert. The accused should have produced expert with authority of text to support their contention. In absence of that mere demonstration before the court by bringing the material of demonstration off the record is of no consequence.

A question arises for consideration is whether sanction Ex.PW73/A granted by Shri Naveen Chawla Chairman of Delhi Vidyut Board u/s 190 Cr.P.C was required for prosecution of accused A.K.Gera, B.M.Satija and Bir Singh, the employees of Delhi Vidyut Board.

On 13.6.1997 all the three accused persons carried out the repairs of transformer in Uphaar Cinema Building. They replaced to sockets of 630 mm at B-Phase without use of crimping machine against the rules. The same led to loose connection and consequently the fire took place in the Uphaar

Cinema and DVB transformer of Uphaar Cinema caught fire and led to the present incident. The repair which was carried out on 13.6.1997 has already been dealt and it was held to be defective against the rules.

Their action was illegal and against the provisions of law hence no sanction has contemplated u/s 197 Cr.P.C was required.

Assuming for the sake of arguments that the sanction was required it has been duly accorded after considering all the facts by Shri Naveen Chawla Chairman of Delhi Vidyut Board vide Ex.PW73/A. The relevant portion reads as follows:-

"G. That Sh Anand Kumar Gera, Shri Brij Mohan Satija, both Inspectors and Sh. Bir Singh, Sr. Electric Fitter carelessly repaired the Delhi Vidyut Board transformer of Uphar Cinema in the morning of 13.6.97 without using the crimping machine with the knowledge that loose connections of the cable end socket replaced by them can lead into a fire incident and consequently resulting into death of and injury to the occupants of the cinema theatre.

4 And whereas I, Navin Chawla being the Competent Authority to remove Shri Anand Kumar Gera, Sh. Brij Mohan Satija, both inspectors, Delhi Vidyut Board and Sh. Bir Singh. Sr. Electric Fitter, Delhi Vidyut board from office after fully and carefully examining the material placed before, consider that the said Sh. Anand Kumar Gera, Sh. Brij Mohan Satija, Both Inspectors, Delhi Vidyut Board and Sh. Bir Singh.

Sr. Electric Fitter, Delhi Vidyut Board should be prosecuted in the Court of Law for the said offences."

In support of his contention learned counsel for accused has cited **2000(1) JCC(Delhi) 223 Mr. M Shafi Goroo Vs. State. (Para 2). 2006(2)JCC 1118 Amanullah Khan Vs. State. 1997(2) Supreme 379 State of Tamil Nadu Vs Sivarasan @ [Raghu@Sivarasa](#) & Ors. (Para VII). 1984 CLJ 1038 Benoy Chandra Dey Vs. The State and another. 1976 Supreme Court Cases(Cri) 211 State of Gujrat Vs. Haidarali Kalubhai. 2007 (2) CC Cases (HC) 344 Sunil Kumar Sharma Vs State (CBI).**

It will be relevant to consider the provisions as laid down u/s 197 Cr.P.C . It is re-produced as under:-

"When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction."

I find that Ex.PW73/A is the detailed order passed after considering all the facts and documents by Sh.Naveen Chawla Chairman of Delhi Vidyut Board. Same has been proved by PW 73 Sh. Y.P.Singh Member Technical. All the three

accused are employed in Delhi Vidhyut Board and on the day of occurrence Shri Naveen Chawla Chairman was the competent authority to remove Sh.A.K.Gera, Brij Mohan and Bir Singh. I find the authorities cited by the accused are not applicable in the present case and the sanction has been duly accorded as per provisions of law.

From the above, it is evident that the repair was not conducted properly on B-phase of the DESU transformer. The repair in the morning of 13.6.1997 was conducted by accused B.M.Satija, A.K.Gera, Inspectors and Bir Singh, Senior Electric Fitter between 10.30 a.m. to 11.30 a.m. by replacing two cable end sockets of 630mm without use of crimping machine. The repair by the accused was not carried out with the help of crimping machine which lead to loose connection of the cable end socket of B-phase Bus-bar of transformer, there was sparking. The cable-end-socket of B-phase of LT supply cables had not been fixed properly as the same appeared to have been fixed by hammering and not by the crimping machine or any other proper system. One of the LT cables got disconnected from the cables from 'B' phase.

In view of the above discussion the findings on the cause of fire is as follows:

- 1** Due to loose connection of the cable end socket of B-phase Bus-bar of transformer, there was sparking.
- 2** The cable-end-socket of B-phase of LT supply cables had not been fixed properly as the same appeared to have been fixed by hammering and not by the crimping machine or any other proper system.
- 3** One of the LT cables got disconnected from the cables from 'B' phase.
- 4** The live conductor of this cable after hitting the radiator fin formed an opening in the radiator fin due to short circuiting from where transformer oil gushed out and spilled over the floor. Short circuiting of cable with radiator fin continued for a sufficient time and since there was no protection system provided for the transformer, the transformer oil caught fire due to arcing/sparking caused by short circuiting.
- 5** Switches of the AC blower were in 'ON' position . It was also quite possible during these 10 minutes the blowers were working.

- 6** This arc must have continued for some time as there was no immediate tripping system available in the HT panel.
- 7** It was ultimately found that tripping took place at 33 KV sub station at AIIMS.
- 8** It was found that the main switch from generator supply which was going to the blower was without fuses and fuses of that particular switch were found inside the body of switch.
- 9** The condition of fuses was such that it looked as if that the particular switch was not being used for quite a long time as fuses were covered with the dust.
- 10** It was seen that there was no protection provide on the transformer as per the norms of the electricity Act.
- 11** It was also seen that the terminals on the LT side were not enclosed in a box as was seen on another adjacent box as was seen on another adjacent transformer
- 12**The LT side cables from the bus bar did not have clamping system or any support to the cables.
- 13**HT panel board of transformer did not had any relay system to trip the transformer in case of any fault.
- 14**No emergency light system could be detected in the

auditorium and balcony of cinema hall at the time of inspection.

15on physical examination of DVB transformer reveal that the cables on bus bars on LT side did not have check nuts.

16 The check nut of neutral terminal was found in loose condition.

17Earth strips were lying in the transformer room but the joint in the earth stripped was not proper.

18 The earth connection to the neutral was also broken.

19 All the out going switches from the LT panel were without fuses.

20 There was no sign of HRC fuses. It was not correct to use wire in place of proper fuse.

21 It was seen that all these four oil circuits breaker were without any kind of protection against earth fault and over current.

22It was also found that potential transformer was in disconnected condition of OCB operation mechanism which includes the battery charger etc appeared to be defective and they were heavily damaged due to the fire. There was one

metering cubical was also available.

1 POSITION OF CAR PARKING

Ex.PW15-Y/3 is the sanctioned plan for the stilt floor/ground floor in the Uphaar Cinema building. From the perusal of same it is evident that three rooms for installation of transformer, HT and LT room, transformer room were earmarked after a passage of 16 feet. Provision of parking of 15 cars was provided.

The contract of parking was given to PW56 R.K. Sethi on 01.4.1988 vide Ex.PW56/A signed by accused Gopal Ansal. On the day of incident the fire took place in the transformer, one of the lead in B-phase fell on the transformer fin and created hole, transformer oil was heated and gushed through that hole and split outside the transformer room and vehicle which was parked nearby caught fire.

It will be relevant to refer to the testimony of PW56 R.K. Sethi, car parking contractor.

"..... 30 cars can be parked inside the parking area during day time the transformer is in the parking area besides the token for the parking of the cars mentioned in the sheet; office cars numbering 8-10 were also parked The cars were parked at the distance 3-4 feet from the transformer on the ground floor ... it is correct that one contessa car was parked just touching the transformer room and this was disclosed by my employee.."

" I reached Uphaar Cinema on its back via Kamal and found that premises of Uphaar Cinema was on fire. My employees were taking out scooter and cycles from parking and handed over the same to public. I reached car parking area and I find that there was lot of smoke and I found 8-10 cars were in burnt condition.

In his cross examination he has stated that as per sheet tokens were issued for 18 cars, 92 scooters in the basement and 12 cycles in basement and three autorikshaws were parked in the basement. This was for matinee show being shown from 3 to 6 p.m.. Transformer is in the parking area. Besides the token issued for the parking of car mentioned in sheets, the office cars numbering between 8 to 10 are also parked there in the parking area. Their number keeps on changing as at times the cars are taken for office work by the officials of the concerned office. The cars were parked at the distance of 3-4 feet from the transformer on the ground floor. I might have stated in my statement before the police that the cars were might have parked at the distance of 3-4 feet from the transformer. It is correct that one contessa car was parked just touching transformer room and this was disclosed by my employee that the car was parked touching the transformer room. It is correct that I have stated in my statement before police that 18 cars were parked there with token and 8-10 cars without token....."

It will be also relevant to refer to the report of PW2 Shri RN Gupta, Executive Engineer MCD

"...in the parking plan on the stilt floor parking of 15 cars/vehicles has been shown towards the side of ticket foyer and on both side of the rear staircases leaving the middle portion of 16 feet width in front of the transformer block for maneuvering of vehicles. Parking of vehicles in this place can adversely effect smooth movement of vehicles and may lead to an consequences....."

PW 35 KV Singh Electrical Executive Engineer PWD

submitted his report Ex.PW35/A wherein it has been mentioned that the fire was aggravated further by the presence of petrol/diesel carrying vehicle in front of transformer room. The position which emerges from the documents, reports, inspection and testimonies of witnesses that more than 50 cars were parked there on the day of incident and some cars were parked there nearby. One contessa was found parked at a distance of 3-4 feet outside the transformer room. This fact is further supported from the photographs Ex.PW61/191, Ex.PW61/208& 209 Ex.PW61/211, Ex.PW64/D-71, D-72, D-73, D-74 placed on record. The burnt cars as well as half burnt cars shown in the photographs.

Uphaar Cinema was inspected by me on 19.8.2006 as per the directions of Hon'ble High Court, the relevant portion in the Inspection Note regarding position of car is as follows :-

"..... Transformer room :-

In the parking area, there was one room having shutters of the size of approximately 10 X 8.5 feet which was half open and on entering the room of the size of approximately 13.5 X 11.6 feet, one iron almirah was found. IO informs that it was Switchboard box and on the left side of that room, transformer was affixed on one side and IO informed that this transformer belonged to the owners of Uphaar Cinema. One exhaust fan was affixed above the shutter and other was affixed in the center of the room. There was another transformer room of size 11.5 X 14 feet in which DVB transformer was installed as informed by the IO, the iron shutters of this room were folded, one wooden plank is affixed in between to hold this shutter. The roof of

this room was at a height of approximately 14 feet. There were walls all around except the window at the back, there was round opening towards the back, there was one small round hole, the walls of entire room were having burnt signs, there were black soot signs on the walls, sand was also lying on the floor, this DVB transformer room was just parallel to the parking area. Then, there was a room of 33 X 10 feet approximately adjacent to DVB transformer room, it was informed by the IO that this room was HT/LT panel room, the main door of this room was pressed upto three feet, iron gate was lying on the ground except the lower part which was found locked, one big car of 15 X 4 feet was lying at a distance of 2 ½ X 1 foot from the gate of HT/LT panel room. Thereafter, there was small ticket room having ticket counters, one high chair was found lying there, besides one box, wooden almirah, two scooter tyres were also lying there and many ticket booklets were also lying there. Five cycles, one scooter and four burnt cars were lying in the parking area and pieces of affixtures were also lying in burnt condition. There were AC ducts, after this HT/LT room which was also in burnt condition and these AC ducts were leading to east side where there was bank and as informed by the IO, the name of the bank was Syndicate Bank. Chairs, almirah were lying there, books were also lying on the almirah, the roof of this room was also burnt and had come down..... "

I take judicial notice of the fact that cars contain petrol/diesel tankers and in some cases even CNG gas cylinders are present. In addition to that the upholstery of the car is made up of combustible articles which emit smoke containing particles of carbon monoxide, carbon dioxide and other hydro carbons which cause suffocation. Even the experts in their reports as noted herein before have indicated on this aspect. In view of the above it is apparent that parking of extra

cars and parking of cars close to the transformer contributed to the incident. As per document Ex. PW 56/A the contract was given by Shri Gopal Ansal as director of Uphaar cinema. photocopy of letter issued by Director Gopal Ansal on dated April 21, 1977 in connection of parking contract. It is writ large that the owners and management of Uphaar cinema have blatantly given a go-by to the requirements of law and the sanction plan, thereby putting the lives of the cine goers at risk in the matter of parking of cars.

GRANT/ RENEWAL OF LICENCE

Another area for the purpose of present decision is matter relating to grant/renewal of license to exhibit the films. This aspect assumes importance since it has already been held by me herein before that blatant deviations in building of the Uphaar cinema were there which affected the patrons who had gone to watch the movie on 13.06.97.

In this regard Rule 14 of Delhi Cinematograph Rules, 1981 is relevant. The Rule reads as follows:

(1) Before granting or renewing an annual licence, the licensing authority shall:

(a) call upon the Executive Engineer to examine

the structural features of the building and to report whether the rules thereto have been duly complied with;

(b) Call upon the Electric Inspector to examine the cinematograph and the electrical equipment to be used in the building and to report whether they comply with the requirements both of these rules and of the Indian Electricity Act, 1960 and of such of the Rules made thereunder as are applicable, whether all reasonable precautions have been taken to protect spectators and employees from electric shock and to prevent the introduction of fire into the building through the use of the electrical equipment.

(c) Call upon the Chief Fire Officer or any officer authorized by him in this behalf for the purpose of ensuring the proper means of escape and safety against fire and to report whether the prescribed fire extinguishing appliances have been provided; are fire extinguishers in working

order and are suitable or the purpose for which they are intended.

All defects revealed by such inspections shall be brought to the notice of the applicant or licensee and of the licensing authority, who may refuse to grant or renew the license unless and until they are remedied to his satisfaction.

The above provision makes it clear that Inspection Report/Comments from the competent authorities have to be procured before license could be granted/renewed for running a cinema. According to the said rule:

c a) Executive Engineer has to submit a report after examining the structural features of the building and report about the compliance of the rules.

ci b) Electrical Inspector had to examine the cinematograph and electrical equipments to be used in the building and to report whether it complied with the requirements of these rules and the provisions of Indian Electricity Act, 1960 and rules made thereunder. The Electrical Inspector had also to report whether the

reasonable precautions have been taken to protect spectators and employees from electrical shock and to prevent the introduction of fire into the building through the use of electrical equipment.

cii The report of Chief Fire officer to ensure the proper means of escape and safety against fire and to report whether the prescribed fire extinguisher appliances have been provided and the fire extinguishers are in working order and suitable for the purpose for which they were intended.

ciii The question arises whether the above named authorities inspected the cinema building and gave their reports to the Licensing authority as required by Delhi Cinematograph Rules, 1981 and whether the requirement of law has been complied with. The question also arises whether renewal of license/temporary permits have been procured by due compliance of the relevant Rules.

The Rules noted above provide that the above named authorities have to carry out inspection each year from

structural, electrical and fire safety and means of escape point of view and submit the actual position on site to the licensing authority and in case, any defect is there, the intimation has to be given to the licensee/applicant. The rules stipulate that only after the report received from the said authorities conforms to the statutory requirements, the license should be granted/renewed. The above rules demand that only if the cinema hall is being run in compliance with the said rules, the license should be renewed.

I have already taken note of the report dated June, 1983 which contained the deviations in Uphaar cinema, which deviations continued as noted in various reports subsequent to the incident. For the purposes of ascertaining whether the licenses and "No Objection Certificate"s were granted/renewed in accordance with law, I consider the correspondence for the years 1995-97.

1995-96

Deputy Commissioner of Police (Licensing) vide letter Ex.PW37/AG dated 20.4.95 demanded the inspection report/comments from Chief Fire Officer, Electrical Inspector,

Zonal Engineer Building, Zonal Health Officer, MCD, South Zone, Green Park for renewal of cinema license for the year 01.4.95 to 31.3.96. The relevant portion of the said letter reads as follows:

“.....1. The licensee Uphaar cinema has applied to this office for renewal of their cinematograph license from 31.03.95 to 31.03.96. This is necessary that the license is renewed well in time. Since this office will also need some time to process the reports of various authorities , you are requested to please carry out inspection of the cinema urgently under Delhi Cinematograph Rules, 1981 and send your inspection report/ comments to this office within 30 days from the date of issue of this letter otherwise it will be presumed that you have no objection for the renewal of annual cinematographic license of the above mentioned cinema.

2. You are further requested that the defects if any noticed during your inspection may please be brought to the notice of the licensee of the cinema immediately under intimation to this office to enable him to remove the same in time.....”

It is significant to note here that the letter of Deputy Commissioner of Police (Licensing) requiring inspection reports to renew the license was sent after 20 days of the expiry of their license on 31.3.1995. The said conduct discloses how the safety of the patrons going to cinema hall was being taken in a casual manner.

The responses sent by the various authorities are as follows :

Chief Fire Officer

On receipt of the letter from Deputy Commissioner of Police (Licensing) inspection was carried out on 29.4.95 by Divisional Officer Shri PK Sharma and Station officer accused Surender Dutt (now expired) in the presence of accused KL Malhotra (now expired) vide inspection report Ex.PW37/AH.

Inspection report sent by the Chief Fire officer reads as under :

“.....During the course of inspection , fire fighting arrangements already provided by the cinema management were seen. Some of the fire extinguishers and hose reels were operated to adjudge the performance and the same was found satisfactory at the time of inspection and must always be maintained in similar efficient working condition at all time and atleast two trained persons must be available during exhibition of the films and then in the end , it is very specifically mentioned that in view of the above, the department has no objection to the renewal of license of the above mentioned cinema from fire safety and means of escape point of view.....”

'No Objection Certificate' was sent on 04.05.95 for renewal of the license.

It is evident that the chief fire officer merely completed a formality by sending the above report. This fact is fortified when the report prepared by the Chief Fire officer of the previous year

are seen.

The report of the Chief Fire officer pertaining to the year 1994-95, Ex. PW37/AC had pointed out following shortcomings in the cinema hall building.

**“1) An office has been erected forming part of the staircase on the top floor
2) Atleast three offices on the top floor having wooden partition were in existence and there was no fire extinguisher present except one of non ISI mark.”**

It is significant to note on 08.03.95 vide Ex. PW 37/AD Dy.

Chief Fire Officer wrote to the management of Uphaar cinema:

“.....during the inspection it has been seen that Point 1 has been rectified....”

As already held herein before that the said office existed on the top floor forming part of the staircase on the day of the occurrence of the incident.

It is also very significant to note the reply was sent by the management of Uphaar Cinema to the Chief Fire Officer on 31.03.95 vide Ex. PW 37/AF. The relevant portion of the reply reads as under :

“.....We have treated the wooden partition in the offices with fire retardant paint to increase the fire rating of wood

and these partitions are in existence for the last 20 years as per normal practice to sub-divide larger offices by wooden partition.....”

In the inspection proforma pertaining to year 1995-96, the Chief Fire Officer fails to indicate that the said shortcomings still existed. The said shortcomings were found to exist in the cinema hall building after inspections were conducted after the occurrence of the incident.

The correspondence exchanged between the licensee and the authorities speak for themselves . Evidently combustible material was illegally allowed to remain in the cinema hall building simply because it had been the normal practice of the cinema hall owners. The requirements of safety measures were blatantly given a go-by by the authorities. The reason for the said acts and omissions seems to be that safety of the patrons was put at peril , only to fill in their own coffers. 'No Objection Certificate"s were granted despite the existence of the above shortcomings.

Electrical Inspector

In response to the letter of DCP (Licensing) dated 20.04.95, the Electrical Inspector vide letter dated 19.05.95 Ex. PW 69/C wrote to the Manager, Uphaar Cinema conveying them to deposit Rs. 50/- in the State Bank of India, Old secretariat, Delhi and forward the original treasury receipt to their office to enable the inspector to carry out the annual inspection under Cinematograph Act.

There is no correspondence on record by the licensee of Uphaar cinema replying to the above letter . There is also no communication

by the DCP (Licensing) asking for the inspection report to enable him to renew license/permit for the year 1995-96.

'No Objection Certificate' by accused Shyam Sunder Sharma, Administrative Officer, Municipal Corporation of Delhi for the year 1995-96.

Letter dated 20.04.95 Ex. PW 39/DA from DCP (Licensing) was received in the office of Zonal Engineer (Building), Municipal Corporation of Delhi. The said letter was marked to Mr. Sehrawat, Junior Engineer, Building on 01.05.95. It is mentioned therein that the letter relates to the Licensee and thereafter it was marked to Administrative Officer on 4/5/95.

The following notings are found on the letter dated 20.04.95 received from DCP (Licensing):

“ 8103

27/4/95

Sehrawat

JE(B)

relates to licensee departments

ZE(Bldg)

AO..."

The notings in the file have been placed on record as Ex.PW22/A to issue No Objection Certificate for the above mentioned period. The same is reproduced as follows :-

"Please refer to letter of Deputy Commissioner of Police (Licensing) dated 20.4.95 if agreed we issue NOC for the renewal of license. "

" Issue NOC"

AO

LI-I

Sd. Shyam Sunder Sharma/28/9/95

The said noting bears the signature of accused Shyam Sunder Sharma, Administrative Officer.

The 'No Objection Certificate' was issued on 28.9.95 vide letter Ex.PW2/AA-26 which was addressed to Deputy Commissioner of Police (licensing) .The original 'No Objection Certificate' was signed by accused Shyam Sunder Sharma and was handed over directly to accused K.L. Malhotra (now expired) on 28.09.95.The 'No Objection Certificate' bears the receiving signatures of accused K.L Malhotra. The relevant portion of No Objection Certificate is reproduced as follows :-

“.....Please refer to your letter no.5275-79-DCP(Lic) (Cinema)

Dt.20.4.95 regarding renewal of annual Cinematograph license for Uphaar Cinema for the year 1995-96 in this connection it is to inform you that this office has no objection for the said renewal.....”

It is relevant to note here that though grant of "No Objection Certificate" was not of any relevance, the same was issued by the accused Shyam Sunder Sharma on 28.09.05 , six months after the license of the cinema hall expired on 31.03.95. The conduct simply displays the laid back attitude of the department and accused so far as safety of the patrons is concerned.

It is writ large from the above correspondence that the "No Objection Certificate" was granted by the Administrative Officer, MCD without inspecting the cinema hall . The accused has also failed to give any explanation as to why the the said 'No Objection Certificate' though addressed to DCP (licensing) was handed over to Shri K.L Malhotra. As per the requirement of the statute, he was only to give his inspection report to the DCP (licensing) and was not to grant any 'No Objection Certificate' to the licensee directly. This fact is also corroborated by the testimony of PW 22 Shri Vir Bhan Sethia, the relevant portion of which is reproduced as follows:

“.....It was received in the office of Zonal Engineer Building

MCD on 27.4.1995.... This letter was marked BY Zonal Engineer Building to Shri Sehrawat, Junior Engineer Building who gave a remark on the same paper that relate to licensing department and the same was put before Zonal Engineer Building by Shri Sehrawat. The Zonal Engineer marked this paper to Administrative Officer, South Zone, then, A.O. marked the paper onward to Licensing Department. Accused Shyam Sunder Sharma was our Administrative Officer at that time. He marked this letter to me. One day Mr. Malhotra, Manager of Uphaar Cinema came to our office and met Shyam Sunder Sharma and made a request to him to issue No Objection Certificate... Then, Shyam Sunder Sharma gave oral orders to issue NOC and accordingly NOC was issued by me.... The original was received by K.L.Malhotra personally and signed on the carbon copy at Point C. The initials of accused Shyam Sunder Sharma with date is at Point A and my initials at Point B.....”

The above factual matrix reveals that :

- a) Chief Fire Officer failed to point out the shortcomings in the cinema building and gave the 'No Objection Certificate' as a mere formality
- b) Electrical Inspector failed to give any report whatsoever
- c) Administrative Officer, MCD evidently gave an 'No Objection Certificate' without inspecting the site and acted without authority of law

DCP (Licensing), ignoring the above factual position still granted temporary permits without complying with the

requirements of Rule 14 of Delhi Cinematograph Rules, 1981 and without receiving the inspection reports/comments (as contained in file Ex PW69/AA, Ex.PW69/BB, Ex.PW69/CC and Ex.PW69/DD). The temporary permits were issued for the following periods during 1995-96-

1 1.2.95 to 31.3.95

2 1.4.95 to 31.5.95

3 1.6.95 to 31.7.95

4 1.8.95 to 30.9.95

1996-97

Letter Ex.PW37/AJ dated 11.03.96 was sent by Dy. Commissioner of Police (Licensing) to Chief Fire Officer, Electrical Inspector, Zonal Engineer Building, MCD, Zonal Health officer MCD demanding for the inspection report/comments as per the Delhi Cinematograph Rules, 1981.

Chief Fire Officer

Inspection was carried out on 09.4.96 vide Ex. PW 32/A by Divisional Officer HS Panwar Station officer Surender Dutt

(now expired) and accused H.S.Panwar, Divisional Officer in the presence of KL Malhotra (now expired). After the inspection 'No Objection Certificate' Ex.PW32/B dated 18.4.96 was issued by Divisional officer HS Panwar, Delhi Fire Service. The relevant portion of the said 'No Objection Certificate' reads as under :

“...During the course of inspection , fire fighting arrangements already provided by the cinema management were seen. Some of the fire extinguishers and hose reels were operated to adjudge the performance and the same was found satisfactory at the time of inspection and must always be maintained in similar efficient working condition at all time and atleast two trained persons must be available during exhibition of the films and then in the end , it is very specifically a mentioned that in view of the above, the department has no objection to the renewal of license of the above mentioned cinema from fire safety and means of escape point of view.....”

Thereafter a letter dated 20.09.06 Ex.PW37/AL **was** sent to Chief Fire Officer by Deputy Commissioner of Police (Licensing) demanding inspection report/comments from Chief Fire Officer.

The letter Ex. PW 37/AL of Deputy Commissioner of Police (Licensing) reads as follows:-

".... I am to state that the requisite report has not so far

been received from your officer which may kindly be sent to this office at the earliest possible to enable this office to renew the license of cinema as licensee is pressing hard for the same....."

It can be inferred from the above communications that the earlier 'No Objection Certificate' dated 18.04.96 prepared and sent by the Chief Fire Officer to DCP(licensing) was a mere formality and same was prepared without inspecting the site. Otherwise DCP (licensing) wouldn't have asked for an inspection report again.

H.S. Panwar Divisional officer, Delhi Fire Service and Station Officer Surender Dutt (now expired) inspected the Uphaar Cinema building to check the worthiness of the existing fire safety arrangements. The inspection was carried out in the presence of accused K. L. Malhotra (now expired) and Mr. Sharma, Managers of Uphaar cinema. The following deficiencies were found and same were intimated to Manager, Uphaar Cinema on 18/11/96 vide letter Ex.PW33/C:

“ ”

- 1 The fire extinguisher required refilling i.e water, CO2, DCP and foam type**
- 2 The sprinkler system in the basement is not operating and the gauge bell is not provided**
- 3 The wooden planks are stored in the basement . It**

requires to be totally removed from there.

4 First aid box shall be provided in the projector room which is not available.

5 Fire safety measures shall be provided in the visitor lounge on each floor, director office and guest room and on the ground floor parking

6 Foot lights in the balcony shall be provided

In view of the above 'No Objection Certificate' shall only be considered after compliance of the aforesaid shortcomings and re-inspection by the department...".

On 28.11.96 vide letter Ex.PW33/F information was sent on the letter head of the Ansal Properties & Industries Ltd. by Shri Vimal Nagpal of Uphaar Cinema informing Divisional officer, Delhi Fire service that the short comings pointed out have been rectified and a request was made to issue 'No Objection Certificate'.

On 22.12.96 re-inspection was carried out by accused H. S. Panwar and Station House Officer Surender Dutt and thereafter, inspection report/No Objection Certificate Ex. PW 33/D was sent on 24.12.1996 to Deputy Commissioner of Police (Licensing), which reads as follows:

“.....During the course of inspection , fire fighting arrangements already provided by the cinema management were seen. Some of the fire extinguishers and hose reels were operated to adjudge the performance and the same was found satisfactory at the time of inspection and must always be maintained in similar efficient working condition

at all time and atleast two trained persons must be available during exhibition of the films and then in the end , it is very specifically a mentioned that in view of the above, the department has no objection to the renewal of license of the above mentioned cinema from fire safety and means of escape point of view....”

It is evident that once again there is nothing to show that re-inspection had been carried by the accused HS Panwar. There is no report by the Chief Fire officer or the accused stating whether the shortcomings pointed out in the letter 18.11.1996 were actually rectified or not. The 'No Objection Certificate' was again issued by the accused on the proforma as had been earlier issued.

Electrical Inspector :-

There is no report of Electrical Inspector for the period 1996-97 and no communication by the DCP (licensing) asking for his inspection report

Accused N. D.Tiwari, Administrative Officer, Municipal Corporation of Delhi for the year 1996-97.

On receipt of Letter dated 11.3.96 Ex.PW23/DA by MCD from

Deputy Commissioner of Police (Licensing) ,no record has been produced before this court to show that any reply to this letter or any inspection was carried out thereafter.

On 19.9.1996 letter Ex.PW23/DB was received from Manager of Uphaar Cinema addressed to the Administrative Officer for grant of No Objection Certificate for renewal of License of Uphaar Cinema. The relevant portion of the said letter reads as follows :-

“.....With due respect, I beg to say that the NOC for annual renewal of licence of Uphaar Cinema for the year 1996-97 is required by D.C.P (Lic.). DCP (LIC) has written a letter to your office NO. 4617-19 DCP (Lic)/Cinema) dated 1.3.96 (Photocopy attached)...Kindly issue NOC to DCP (Lic) for renewal of Licence of Uphaar Cinema....”

On the above letter itself , the following notings are present :
“Pt. X N.D.Tiwari

**Pt. B LI “ Issue NOC of Noting Please. The renewal ...
 1.4.96 to 31.3.97”**

Ex.PW23/A dated 23/9/96 is the noting of PW23 Bharat Bhushan Bajaj for issuance of No objection Certificate for renewal of License for the period 1.4.96 to 31.3.97 wherein same has been mentioned at portion A to A which is as follows:-

"...Please refer to Letter no.4617-19/Delhi Commissioner of Police

(Licensing) Cinema dated 11.3.96 regarding renewal of cinematograph license. If approved this department may issue No objection certificate to Deputy Commissioner of Police (Licensing) for renewal of 'Uphaar' cinema license for the year 1.4.96 to 31.3.97.

.....

Point Z Sd ND Tiwari

Sd. Bharat Bhushan

AO/SZ

..M/s Uphaar Cinema Green Park Extension. Renewal of License for signature please.

Y1sd. ND Tiwari

AO/SZ23/9/96

X1 sd.Bharat Bhushan..."

Thereafter No objection certificate Ex.PW2/AA-27 dated 25.9.96 was issued by accused N.D. Tiwari Administrative officer addressed to the Deputy Commissioner of Police (Licensing) for the period 1.4.1996 to 31.3.1997 stating therein that their department has no objection in renewing the license for the above mentioned period. The said 'No Objection Certificate' was handed over directly to accused K. L. Malhotra, Manager Uphaar Cinema and the same bears his signature at Point C.

Following the steps of his pre-decessor, evidently no inspection was carried out by the accused Administrative Officer, N D Tiwari nor any inspection report was prepared as he was required to do in law. The 'No Objection Certificate' was granted in favour of the licensee without ensuring compliance with the provisions of law and for reasons best known to him.

The said fact is corroborated by the testimony of PW 23 Shri Bharat Bhushan Bajaj . The relevant portion of his testimony reads as follows:

" The incharge was ND Tiwari, whose signature is at point X on letter Ex.PW23/DB. Thereafter licensing clerk made the endorsement in my name to issue NOC for renewal of licence from 1.4.96 to 31.3.97. The writing and initials are of Mr. Rajbir Chauhan on this letter at point Y on mark 23A. ...

... After discussing with AO ND Tiwari I had prepared this noting for issue of NOC for renewal of Uphaar Cinema licence for 1.4.96 to 31.3.97. The endorsement with my signature dated 23.9.96 is Ex.Pw23/A. I put up this notice to AO Mr. ND Tiwari, he approved the note, I identify his signature with date at point Z. I have seen him writing and signing during course of my official duty. Then this note was marked to licence Clerk for issue of NOC. Then he put up a note along with a letter of NOC. Then he put up a note along with a letter of NOC. I identify his writings on the endorsement of the note with his initials dated 23.9.96. It is marked X1 on Ex.PW23/A. This note along with the letter was put up to ND Tiwari, AO, who put his signature with date at point Y/1. Mr. Malhotra from Uphaar Cinema came earlier and he had met Administrative Officer ND Tiwari on 23.9.96. The letter dated 25.9.96 was typed in our office. It bears the signatures of Administrative officer South Zone Shri ND Tiwari. This office

copy was initialed by Rajbir Chauhan Clerk with date 23.9.96. The said letter dated 25.9.96 is Ex.PW2/A/27 which I identify." (Ex.PW2/A/27 was later on exhibited as Ex.PW2/AA-27)

"In my presence Mr. KL Malhotra accused present in court had collected original of letter Ex.PW2/A/27 from dispatch clerk. I had not inspected the Uphaar Cinema. In my presence Administrative Officer had not inspected Uphaar Cinema."

Once again without getting the inspections done, temporary permits were issued in violation of Delhi Cinematograph Rules for the period w.e.f 1.4.95 to 31.5.95, 1.6.95 to 31.7.95, 1.8.95 to 30.9.95, 1.10.95 to 30.11.95, 1.12.95 to 31.1.96 and 1.2.1996 to 31.3.1996. (in File Ex. PW 69/AA, Ex. PW 69/BB, Ex. PW 69/CC and Ex. PW 69/DD)

1997-98

On 21.4.1997, after the expiry of the license on 31.03.96, Deputy Commissioner of Police (Licensing) sent letter Ex. PW 37/AM asking for inspection report /comments from Chief Fire Officer, Zonal Engineer (Building) and Electrical Inspector under the provisions of Delhi Cinematograph Rules, 1981 for renewal of annual license for the period 1.4.97 to 31.3.1998.

Chief Fire Officer

Inspection was carried out by Divisional Officer HS

Panwar and Station Officer Surender Dutt (now expired) on 12.5.97 vide Ex.PW31/DB. 'No Objection Certificate' was sent on 15.5.97 vide Ex.PW31/DC which reads as follows :-

“.... During the course of inspection, fire fighting arrangements already provided by the cinema management were seen. Some of the fire extinguishers and hose reels were operated to adjudge the performance and the same was found satisfactory at the time of inspection and must always be maintained in similar efficient working condition at all time and at least two trained persons must be available during exhibition of films and then, in the end, it is very specifically mentioned that in view of the above, the department has no objection to the renewal of license of the above mentioned cinema from fire safety and means of escape point of view...”

Electrical Inspector

There is no report of Electrical Inspector for the period 1996-97 and no communication by the DCP (licensing) asking for his inspection report

Municipal Corporation of Delhi

There is no report on record for the period w.e.f 1.4.1997 to 31.3.1998 of Executive Engineer, Municipal Corporation of Delhi.

DCP(Licensing) continued granting temporary permits

irrespective of the fact that no inspection reports had been received from the authorities as required under law. Temporary permits were issued for the following periods (file Ex.PW69/AA, Ex.PW69/BB, Ex.PW69/CC and Ex.PW69/DD):

1 1.2.97 to 31.3.97

2 1.4.97 to 31.5.97

3 1.6.97 to 31.7.97

The above correspondences pertaining to the years 1995-97 reveal that the authorities in collusion with the licensee/agent of licensee had thrown the provisions of law in the waste-bin. The authorities i.e the Licensing Authority, Chief Fire Officer, Electrical Inspector and MCD and in particular the accused persons were not carrying out their duties as per law but were acting under some other authority .

As discussed above, the various authorities have issued 'No Objection Certificates'. A plain reading of Rule 14 of Delhi Cinematograph Rules, 1981 shows that this practice adopted by the authorities is not in conformity with the mandate of the statute . As per the said provision, what is required is a report ,

which is to be prepared after inspecting the site from structural, electrical and fire safety point of view .The report may be termed as an "No Objection Certificate" , however the contents thereof must disclose that the building has been inspected and whether it is in conformity with requirements of law and the sanction plan .It has to be borne in mind that the said provision has been enacted to ensure the safety of the patrons visiting cinema halls and therefore the compliance thereof is of utmost importance .It also has to be kept in mind that the provisions of law relating to safety norms are to be adhered to and applied more stringently in a public place in distinction to a private place. It is one thing that a mishap takes place , however it is different when by deliberate acts and omissions safety norms and not adhered which results into public suffering the brunt of it.

Accused HS Panwar

So far as the compliance of the safety norms against fire fighting are concerned, it appears from the language of inspection reports that the same were prepared in the office without carrying out the inspection at site . The 'No Objection

Certificate's appears to have been prepared on a stereo type proforma. It is evident from that the the "No Objection Certificate's' issued by the the accused HS Panwar, that he was only fulfilling a formality and the same were being granted without ensuring whether the licensee was adhering to the safety norms . Had the site been inspected he would have noted and pointed out shortcomings in safety norms which came to light after the occurrence of the incident. As already pointed out hereinbefore , the shortcomings pointed out in the year 1994 to the licensee were not removed . They existed even on the day of the occurrence of the incident . However, despite that the 'No Objection Certificate's were being issued by the accused HS Panwar contrary to true factual position in the cinema building, but with the knowledge that the said omission on his part amounts to endangering the lives of the patrons visiting the cinema hall.

It is submitted by learned counsel for accused H. S. Panwar that the building was to be inspected from structural point of view by Municipal Corporation of Delhi and so far as the provisions of all types of fire extinguishers, Hose Reel, Water

Bucket, Public Announcement System, First Aid Box, Asbestos Blanket, Rubber Mat, Exit Lights, Gangway Lights, Emergency Lights, Under ground Water Static Tank, Trained Fireman, that are to be checked by them and reports were sent in this regard.

I find, that the perusal of the report as well as of the provisions of Rule 14 of Delhi Cinematograph Rules, 1981 clearly provide that cinema building has to be inspected keeping in view the fire safety and means of escape besides the minimum fire safety provisions as mentioned in Clause 5 of Fire Prevention and Safety Measures Act. The report has not to be given by Chief Fire Officer regarding the structural features of the cinema building but the report is to be given regarding the sufficient means of safety and means of escape and regarding presence of any material in the building which may be a fire hazard like combustible material. There is no mention of any such thing in the reports. Even when any such shortcomings were pointed out to the licensee, the same were not removed and despite that 'No Objection Certificate' was granted by the accused.

The Proforma report has been sent giving the details of installation of all types of fire extinguishers, Hose Reel, Water Bucket, Public Announcement System, First Aid Box, Asbestos Blanket, Rubber Mat, Exit Lights, Gangway Lights, Emergency Lights, Under ground Water Static Tank, Trained Fireman. In all these Proformas, the word used is " PROVIDED ". It is not mentioned whether they were in working order or not.

On the day of incident i.e. 13.6.1997, the lead of Public Announcement System was found broken, no public announcement could be made. Though, it was provided but it was not in working order. There is no mention in any of the reports whether the appliances provided were in working order.

Accused H. S. Panwar should have brought to the knowledge of the licensing authority about the closure of exits, deviations in seating arrangement and also about the closure of one staircase altogether opening to the top floor since all these changes amounted to endangering the safety of the patrons at the time of fire or any other emergency.

Considering the deviations which have been discussed

above , I hold H.S Panwar responsible for issuing the 'No Objection Certificate which was not in consonance with the provisions relating to Cinematograph Act and Rules and wherein provisions relating to Fire safety and Building bye-laws have been completely disregarded .

Accused Shyam Sunder Sharma and N.D Tiwari

It is the duty of the Municipal corporation of Delhi to ensure that buildings are existing as per the sanction plans . In this case it is writ large that the department and the accused persons have not only failed to do their duty, but have acted contrary to law and have abused their powers for gains, best known to them and one can only imagine. Both accused persons namely, Shyam Sunder Sharma and N.D.Tiwari who have issued No Objection Certificates for the period 1.4.1995 to 31.3.1996 and 1.4.1996 to 31.3.1997, were the Administrative Officers. Without conducting inspection of the cinema hall. Had the cinema building been inspected, the deviations existing in cinema building would have been brought to light. It was the duty of accused to bring the said deviations to the knowledge of

licensing authority in their inspection reports who would have in turn have refrained from issuing even temporary permits to the cinema owners. By not pointing out the deviations, the accused put the safety of patrons at danger, as highlighted herein before and therefore, they are liable for causing death of 59 patrons and injuries to 100 patrons.

It is further relevant to note that 'No Objection Certificates' could not have been given by Administrative Officers. The inspection reports/ comments have to be sent by Executive Engineer, Municipal Corporation of Delhi but in the present case, accused Shyam Sunder Sharma and N.D.Tiwari were the Administrative Officers and they were sending the report by saying that they have no objection in renewal of license. There is nothing on record to show that powers have been delegated to them to issue NO Objection Certificate and that too without conducting any inspection. The No Objection Certificates Ex. PW 2/AA-26 and 27 were directly handed over to accused K. L. Malhotra, Manager of Uphaar Cinema. The said conduct of the accused persons leads to the conclusion that they have committed the said acts and omissions with the

knowledge that they are putting the lives of the patrons visiting the cinema hall at risk by not ensuring compliance with sanction plan . It has already been held by me hereinabove that the structural deviations existed in the cinema hall building and the same caused hinderances in the means of escape for the patrons on the day of the incident and contributed to the death of 59 persons .

With Regard to grant/renewal of license accused N.D Tiwari submitted that he was to report only about the violations in the building and was not say anything about the means of escape of the cine goers. I find no substance in the argument when i notice the structural deviations in the building which are writ large . I have already held herein before how the structural deviations have contributed to the death of patrons in the cinema hall. The accused is raising the said argument oblivious of the fact that when the law provides an act do be done in the certain manner, there is a purpose behind it and it should be done in that manner. The cinema hall is a public place where people come to relax and entertain themselves . Therefore the onus on the authorities to confirm to the sanction plan so as to

ensure the safety of patrons becomes even more important. The argument is baseless and has been raised only to avoid liability and is rejected.

Considering that the incident occurred due to an electrical fault, it is significant to point out that for all these three years no report was ever given by him regarding the electrical equipments present in the cinema hall building . There is no report on record which indicates that any inspection had been done in the past three years before the occurrence of the incident to ensure that no fire is introduced into the building by the use of any electrical equipment.

Therefore it can be concluded that no inspection report was received by the DCP (licensing) atleast during the past three years before the incident . However , the significant part is that , this didn't deter him from still going ahead and issuing temporary permits. DCP (licensing) has the power to issue licenses and in situations where he is unable to do the same , to grant temporary permits . However the sine qua non for

granting both the above is compliance of the conditions stipulated in Rule 14 of the Delhi Cinematograph Rules, 1981. The temporary permit was required to be given subject to the conditions of the license sought to be renewed. Therefore compliance of the requirements of Rule 14 of Delhi Cinematograph Rules, 1981 was necessary. Without compliance of the requirements of Rule 14, the temporary permits were without any authority of law. It is alarming to see how the said provisions have been given a go-by by the licensing authority. Instead of granting licenses, power was purportedly used by the licensing authority under Rule 7 of the Delhi Cinematograph Rules, 1981. At this stage it will be relevant to take into account the provisions of Rule 7 of Delhi Cinematograph Rules, 1981 which are as follows :-

1 If on application for the renewal of an annual license the licensing authority does not for any reason before the date of the expiry of the license either renew & return the license or refuse to renew the same, he may grant a temporary permit in form 'B' in the Second Schedule to these rules.

Such temporary permit shall be subject to the conditions of the license sought to be renewed and shall be valid for such period not exceeding two months at a time as the licensing authority may direct.

The above provision gives the power to the licensing authority to issue temporary permits if the license of the licensee has expired and for some reason the renewal is taking time, then in the intervening period a temporary permit can be granted. From a plain reading of Rules 7 (1) & (2) of Delhi Cinematograph Rules, 1981, it is clear that temporary permits could not have been granted for years and that too, without receiving any inspection report in accordance with the Delhi Cinematograph Rules, 1981. DCP(Licensing) has recklessly issued the said temporary permits for short durations year after year and has apparently used it as a tool to give a go by to the requirements of law stipulated in Rule 14 of the Delhi Cinematograph Rules, 1981. It is apparent that the DCP (licensing) in the present case has misused and abused the said powers and has allowed the cinema hall to run in utter violation of Delhi Cinematograph Rules, 1981, thus

endangering the lives of the patrons. The licensing authority by issuing the temporary permits made the provisions of Rule 14 of the Delhi Cinematograph Rules, 1981 redundant and otiose. The provisions of Delhi Cinematograph Rules have been made for ensuring public safety. By blatantly violating the said provisions , the inspecting authorities as well as the licensing authority in collusion with the owners of the cinema hall put the life of the patrons at peril . The result of the said acts and omissions was brought to light when the incident occurred at the cinema hall and the the deviations and deficiencies were highlighted . As held herein before , the said deviations and deficiencies contributed in causing the death of the patrons inside the cinema hall.

From a perusal of the temporary permits issued in favour of Uphaar Cinema, I also find that these permits are signed by Inspector, though, the licensing authority is Deputy Commissioner of Police (Licensing), who had the only power to renew the same. There is nothing on record to show the delegation of powers to Inspectors to issue permits.

It is writ large that these authorities have acted without any authority of law and have virtually played with the safety of persons who came to the cinema hall . Despite the blatant violations inspection reports were being made in favour of the cinema hall owners and licenses were being renewed year after year for reasons best known to them and one can only imagine . The inspections carried out after the occurrence of the incident have highlighted the deviations in the structures , deficiencies in the electrical equipments and deficiencies in fire safety measures. It is therefore writ large that the said authorities have acted illegally and without authority of law . It is apparent that the licenses have been granted to the owners of the cinema hall were only an eye wash, whereas the actual position on the site was never confirming to the safety standards.

CONTROL AND MANAGEMENT OF UPHAAR CINEMA

Normally, in a trading business, control and management of business vests in a person who deals with the finance/sale and purchase of the commodity in which trading is done. In

case of cinemas where the patrons visit in large numbers, the control and management of cinema vests in the person who holds a supervisory control over the staff and who looks after the various aspects of the cinema business. For carrying out the exhibition of films as already noted, a particular kind of structure of building is required. The plans of such building have to be approved by the local government which is Municipal Corporation of Delhi and other such local authorities in accordance with the bye laws framed by the local bodies and duly approved by the legislature. After the building is constructed in accordance with the sanction plan, license is to be granted by the authorities, who have been empowered by the legislature to deal with entertainment and amusement centers. In this case, this authority vested in Entertainment officer of the Government but after the enactment of Delhi Police Act in 1978, power to grant license vested in Commissioner of Police delegate, Deputy Commissioner of Police (Licensing) . As already noted herein before, in accordance with the Delhi Cinematograph Rules, 1981, the Licensing Authority is to grant the license after obtaining reports

from the building authorities, health authorities, Chief Fire Officer, Electrical Inspector. In the matter of control of the cinema, the control vests in the person who has supervisory control and management of the cinema as well as who have on spot control at the time when the patrons visit to view films. It is the duty of such supervisors and managers, since patrons visit in large numbers, that there is no violation of statutory obligations and if there is anything noted at any time, the same is rectified before the next exhibition of film.

Therefore, the question arises who had the control of Uphaar cinema when the violation of rules and regulations have taken place which had contributed to the incident in question.

In this regard, it will be relevant to take note of the testimony of PW 85 Madhukar Bagde, Projector Operator of Uphaar cinema . He deposed “.....**Sushil Ansal and Gopal Ansal were the owners of Uphaar Cinema and Director was R.M.Puri. K.L.Malhotra, Chopra, Choudhary and one Sharma Ji were Managers of the Cinema.....** There was announcement system in the Operator room but that was not functioning. I had told this fact to Mr. Malhotra and told him to get it rectified but it was not rectified hence it was un-operational. Initially, emergency lights were working but later on they also went out of order and was not working.

When lights used to go off, there was system for announcement. There was intercom for such announcement. Intercoms were operated through battery in case of failure of electricity..... No training was given to me or other Operator for fire fighting. I have no knowledge whether other staff was trained for fire fighting or not. I do not know about the presence of four Managers and the owners at that time when fire took place.....”

PW 63 Sudhir Kumar, Security Guard deposed “.....The Uphaar Cinema is owned by Sushil Ansal and Gopal Ansal. Mr Puri was Director, Mr. Malhotra was Manager, Mr. Chopra was Manager, Mr. Sharma and Ajit Singh Choudhary were the Manager of Uphaar Cinema...”

It will also be relevant to reproduce the documents showing how the cinema worked from the very beginning till the day of occurrence of the incident and who were at the helm of affairs at all times, for all purposes :

a) Resolution of Board of Director's meeting of M/s Green Park Theaters Associated Pvt. Ltd. held on 15.7.1972 Ex. PW 103/XX which reads as follows :-

“.....Resolved unanimously that Shri Gopal Ansal be and is hereby authorised to sign all the document, drawings and other connected papers regarding submission of revised plans, applications for water and electric connections, licences, permission from time to time regarding Uphaar Cinema, Green Park Extension Market, New Delhi to all concerned authorities.....”

b) On **02.02.73** Application was made to Delhi Electric Supply Undertaking for grant of electricity connection for Uphaar cinema hall. The application is contained in File Ex Pw100/M. This application is signed by accused Sushil Ansal.

c) In the matter of grant of electricity connection deliberations took place between accused Sushil Ansal and authorities of electricity. So on **02.02.73** accused Sushil Ansal, as Managing Director wrote to DESU letter contained in Ex. PW 100/M. The relevant portion of the said letter is as follows:

“..... This is to confirm the discussions the undersigned had with you yesterday when we agreed to give you two rooms measuring 10'-6" x 30' and 10'-g" x 15' for your transformer and HT and LT panels. This accommodation we will give you at a nominal rent of Rs. 11 per year. We further undertake to execute the civil maintainence work.....

It is therefore, requested to kindly get the transformer and HT and LT Panels and laying of necessary cables expedited so that the necessary connection can be given in time.

For Green Park Theaters Associated (P) Ltd.

Sd. Sushil Ansal

(Managing Director)..."

d) Vide letter dated **20.02.73** contained in file Ex. PW 100/M, accused Sushil Ansal again wrote to DESU regarding the installation of the transformer in the cinema building. Relevant

portion of the said letter is as follows:

“.....Though we are installing our own transformer for our requirements, but during emergency you will give us current from your transformer on L.T. Supply for the sub-station to be installed at Uphaar cinema. We are giving you the space on the above undertaking.....

**For Green Park Theaters Associated (P)
Ltd.**

**Sd. Sushil Ansal
(Managing Director)...”**

e) License No. 51 Ex. PW 17/DB dated **24.4.1973** was granted by the State through accused Sushil Ansal as Managing Director, which reads as follows :-

“”

FORM-A

The building/place known as Uphaar Cinema situated at Green Park Extension, New Delhi..... is hereby licensed under section 10 of the Cinematograph Act, 1952 as a place where exhibitions by means of a cinematograph may be given.

This license has been granted to M/s Green Park Theaters Associated (Pvt.) Ltd. (Rep. Licensee Shri Sushil Ansal, Managing Director), Green Park, New Delhi. and shall remain in force from 24.4.1973 to 23.4.1974 provided that the said M/s Green Park Theaters Associated (Pvt.) Ltd. (Rep. License, Shri Sushil Ansal, Managing Director) Green Park, New Delhi or any person to whom, with consent of the licensing the license is transferred continues to own or manage the cinematograph used in the said Uphaar Cinema.....”

It is evident from the above document that the license to run the

cinema hall was granted in the name of the above named company with Sushil Ansal as the representative licensee. It is significant to note here that accused, Sushil Ansal is not just described as managing director in the above license , but is a representative licensee. This implies that irrespective of his position in the company, he would continue to be the licensee of Uphaar cinema. It is also clear that the said license could be transferred in the name of another person only with the consent of the licensing authority. Therefore it is implied that till there was a change made with the consent of the licensing authority , Sushil Ansal would continue to be the licensee.

f)Letter dated **19.06.74** was written on behalf of M/s Green Park Theaters Associated Pvt. Ltd by Managing Director, accused Sushil Ansal, which reads as follows:-

“

The Entertainment Officer,

.....

..... **This is to request you to kindly grant the permission to lease out top floor of the premises for office use. The said floor is already sanctioned for office use.**

Permission may also be accorded to lease out the premises on the ground floor of the cinema building for commercial establishments. The space has already

been sanctioned for restaurant etc. We will not be encroaching any additional area except one which has already been sanctioned in the plans.

We trust that you will have no objection to the aforesaid request and shall grant us permission.

For Green Park Theatres Associated Pvt. Ltd.

-Sd/-

Managing Director....”

This letter shows that management of the building at the relevant time when change of user was made, vested with accused Sushil Ansal.

g) Affidavit of Sushil Ansal dated **21.3.1975** for renewal of license for the year 1974-75, contained in file Ex. PW 69/BB.

The affidavit reads as follows :-

“”....I, Sushil Ansal Managing Director, Green Park Theatres Associated (P) Ltd. New Delhi and licensee of Uphaar Cinema, Green Park Extn. Market for the year 1975-76 have not without without the permission transferred the license or the licensed place or the Cinematograph not allowed any other person during the year 1974-75 to exhibit film in the licensed place. I am still the occupier of the licensed premises and owner of cinematograph”.

h) Letter dated **02.04.79** contained in file Ex. PW 69/CC which was addressed to Deputy Commissioner of Police (Licensing) for renewal of annual license is signed by Sushil Ansal. The

letter reads as follows :-

" Our License No. 51 dated 24..1973 for Uphaar Cinema situated at Green Park Extension, New Delhi due for renewal w.e.f 24.4.1979. We have already applied for its renewal. But the said licence has unfortunately been misplaced in transit from the Head Office at Ansal Bhavan to the cinema building in Green Park Extension. We, therefore, request that a duplicate license may kindly be issued duly renewed for one year from 24.4.1979. We shall make necessary payment for the Duplicate License.

.... Sushil Ansal (Sig.)

(MANAGING DIRECTOR)

Sd. Sushil Ansal

LICENSEE...."

It is significant to note once again that in the correspondence by Sushil Ansal , he represents himself as licensee of Uphaar cinema.

i) Letter of Authority Ex. PW 15/I signed by accused Sushil Ansal reads as follows :-

2 "..... LETTER OF AUTHORITY

I/We the undersigned hereby authorize Mr. V K Bedi (Architect) to deal, discuss and explain in connection of Building Plan on Plot/House No:.....Ward No./Block No:

Green Park Theaters situated at New Delhi.

I/We also authorize him to make necessary corrections in the above stated plan as required under the Building Bye Laws and to collect the sanctioned plan on my/our behalf.

For Green Park Theaters Associated Pvt. Ltd.

-Sd Sushil Ansal

Signature of Owner.....”

j) Letter dated **19.06.74** written on behalf of M/s Green Park Theaters Associated Pvt. Ltd by Managing Director which reads as follows:-“.....

The Entertainment Officer,

.....

..... **This is to request you to kindly grant the permission to lease out top floor of the premises for office use. The said floor is already sanctioned for office use.**

Permission may also be accorded to lease out the premises on the ground floor of the cinema building for commercial establishments. The space has already been sanctioned for restaurant etc. We will not be encroaching any additional area except one which has already been sanctioned in the plans.

We trust that you will have no objection to the aforesaid request and shall grant us permission.

For Green Park Theatres Associated Pvt. Ltd.

-Sd/- Sushil Ansal

Managing Director....”

k) On **24.5.1978**, accused Gopal Ansal, Director, M/s Green Park Theaters Associated (P) Ltd. wrote one letter Ex. PW 110/AA20 to Entertainment Tax Officer for installation of eight

seater box which reads as follows :-

".... We are grateful to you for having sanctioned a family box for 14 persons at Uphaar Cinema quite some time back. You will appreciate that with the passage of time, the family is growing; we would , therefore, be grateful if you could kindly sanction us an additional private box comprising of eight seats.

We wish to assure you that the same would be strictly for personal use. The necessary drawings for the same are enclosed herewith.

Hope you would consider the case sympathetically and accord the necessary sanction....."

I) On **06.12.79**, a Show Cause Notice in file Ex. PW 69/AA was issued for removal of all 100 additional seats. On **13.12.79** accused Gopal Ansal, Director of M/s Green Park Theaters Associated (P) Ltd. filed reply Ex. PW 100/AA2 stating therein as follows :

".....It is surprising to note that the Administration without applying it's mind as directed by the Hon'ble High Court seems to have formed its view on the basis of some earlier inspection that all the additional seats installed by us would require removal. We will request you to please consider the case of our additional seats on merits. If the guidelines furnished by the Cinematograph Act, 1952 and reiterated by the Hon'ble Delhi High Court are kept in view, you will appreciate that the additional seats installed by us are within the Rules and accordingly not liable to be removed merely because the relaxation has been withdrawn.

Without prejudice to the aforesaid contention, in any event, we submit that all the 85 number of additional seats

in the Balcony and Auditorium are clearly within the Rules and cannot be said to be violative of any of the rules.

We would request that after due intimation to us, you may kindly inspect the Cinema in the light of the High Court's order. We request you to give us a personal hearing before you take any final decision in the matter"

m) On **29.07.1980**, Gopal Ansal, Director, M/s Green Park Theaters Associated Pvt. Ltd. wrote a letter Ex. PW 110/AA7 to Deputy Commissioner of Police (Licensing) for installation of 15 additional seats in the balcony stating therein as follows :-

".....We now wish to bring to your kind notice that Seats No. 9 (Rows A to F), i.e., a total of six seats are causing lot of inconvenience to the patrons because of the fact that the gangway after two rows i.e H and G, suddenly widens up to an irregular size of about 64 ". The said six seats (A9 to G9) were removed under protest, although the same can be sanctioned under the heading of 'Substantial Compliance' of Cinematograph Rules. Keeping in view the inconvenience caused to the public due to the sudden break in the gangway, we would request if the same could kindly be approved.

In addition to the above, we wish to apply for an additional nine seats marked G-36 to G-38, H-36 to H-38, and I-38 to I-40, since the corner as shown in red is lying vacant in the Balcony of our above-mentioned Theater.

Hope you would find the above in order and oblige us by giving the necessary sanction for a total of 15 additional seats....."

It may be observed here that that the necessary permissions for

additional seats in the balcony which ultimately became a hinderance for the patrons to escape on the day of the incident in question was sought and taken by accused Gopal Ansal.

n) Reply to the Show Cause Notice dated 11.5.1981 issued by the then Deputy Commissioner of Police (Licensing) to the Licensee of Uphaar Cinema was given by accused Sushil Ansal. The said letters dated 20.5.1981, 3.6.1981 and 10.7.1981 were written by Sushil Ansal in the capacity of Licensee of Uphaar Cinema. Letter dated 10.07.81 reads as follows :-

“”.....We have today at 6.30 p.m. been served with Notice dated 10.7.1981 by you suspending of license for one week from tomorrow, the 11th July to 17th July, 1981. However, the seats in advance have already been sold to the public. There is no time even to inform the people of the cancellation of the shows. Thousands of patrons would be visiting the cinema hall tomorrow and day after particularly because of the Holidays and a huge crowd would be likely to create a law and order problem. It would also be difficult to make arrangements for refunding their money at such a short notice.

In view of the above, it is requested that the operation of the suspension order may please be postponed by seven days and may become enforceable from Friday, the 17th July, 1981, beyond which no advance booking has been done nor would be done by us.

As discussed with your, we agree that the order of

suspension is acceptable to us and that we shall not appeal against this to the court of law. We would , however, leave it to you to review the matter.

We shall be grateful for your co-operation at this juncture which will be in the larger interests of the public.

For Green Park Theaters Associated Pvt. Ltd.

(SUSHIL ANSAL)

LICENSEE....."

n1) On 28.5.1982, a Show Cause Notice (Ex. PW 69/AA) was issued by Deputy Commissioner of Police (Licensing) to the Licensee of Uphaar Cinema stating that " on 15.5.82, inspection of Uphaar cinema was carried out in the presence of K L Malhotra, Manager. Five gates were found bolted from inside during exhibition of film which was violation of Rule 12(8) of First schedule of DCR, 1981". On 4.6.1982 reply was given by Gopal Ansal, Director of M/s Green Park Theaters Associated (P) Ltd on 4.6.82(Ex. PW 110/AA-24) stating therein that " **the five gates found bolted inside the cinema could, have been bolted from inside by patrons due to constant opening of these doors or due to the pressure of air-conditioners etc. We, however, assure you that there was no intention to violate Para 12 (8) of the First Schedule of Delhi Cinematograph Rules, 1981.**

We assure you that utmost precaution would be taken in future."

o) On **01.04.88** a Car Parking Contract Ex. PW 56/A was signed by accused Gopal Ansal. The same reads as follows :-

".....Shri R K Sethi

.....

With reference to the discussion had with you, we are pleased to renew and re-allot to you, with effect from 1.4.88, contract for running both the covered car parking and cycle/scooter stand at the abovementioned premises on the following terms and conditions :

1

2

3

Yours faithfully,

– Sd Gopal Ansal

– (Director)....."

p) On **17.10.88**, accused Sushil Ansal resigned from the Directorship of the company vide Board Resolution.

q) Letter dated **22.2.1989** Ex. PW 98/C was written by accused Gopal Ansal, Director, M/s Green Park Theaters Associated Pvt Ltd to the Entertainment Tax Officer regarding nominees for Uphaar Cinema. The relevant portion of the letter reads as follows:

".....Further to our earlier letters giving the names of

our Nominees for Uphaar Cinema, we request you to kindly cancel the nomination of Mr. S.K. Bhatnagar as he is no longer working with us.

Also we would like to have the following person as an additional nominee for Uphaar Cinema

Mr. Krishan Gopal Arora

Booking clerk

The signature of Mr. Krishan Gopal Arora is attested hereunder

Also we already have the following nominees . Their signatures are also attested hereunder for your records:

Mr. KL Malhotra, Dy General Manager

Mr. R.K Sharma, Manager

Mr. NS Chopra , Assistant Manager.....”

r) On **3.3.92**, accused Sushil Ansal wrote letter Ex.PW50/B to Deputy Commissioner of Police (Licensing) for renewal of Annual License for the period 24.4.1992 to 23.4.1993 in the capacity of Licensee, Uphaar Cinema. He also filed an affidavit alongwith this letter. The letter as well as the affidavit reads as follows :-

“.....We wish to apply for renewal of our license under section 10 of the Cinematograph Act 1952 for Uphaar Cinema situated at Green Park Extension , New Delhi, for the period from 24.4.1992 to 23.4.1993.

In this connection we are sending herewith the following documents:

1 Existing License no.51 dated 24.4.1973 (already lying with you)

2 Affidavit

We shall be grateful if you can renew our license for the period 24.4.1992 to 23.4.1993....”

Affidavit :-

“”....I, Sushil Ansal s/o Late Shri Charanji Lal R/o N-148, Panchshila Park, New Delhi Chairman of Green Park Theatres Associated (P) Ltd 115, Ansal Bhawan, 16 Kasturba Gandhi Marg, New Delhi 110001, am applying for renewal of License for the year 1992-93. I have not without permission, transferred the License or the Licensed place or the Cinematograph to any person during the year 1991-92 to exhibit films in the Licensed place. I am still the occupier of the licensed premises and owner of the Cinematograph.....”.

It may be significant to note here that in 1992 after he allegedly resigned, accused Sushil Ansal is representing himself to be the licensee of Uphaar cinema and is requesting for renewal of the license of Uphaar cinema hall.

s) In the Minutes of the Board of Director's Meeting held on **24.12.94**, accused Gopal Ansal was one of the Directors and accused Sushil Ansal was Special Invitee. It was resolved in the said meeting to appoint accused Gopal Ansal as Additional Director of the company and to hold the office till next Annual General Meeting.

t) The Inspection Proformas of the years **1995-97** granted by Delhi Fire Service show name of accused Sushil Ansal as Licensee of Uphaar Cinema. The said inspection Proformas

are Ex. PW 37/M, P,U, W, Z and Ex. PW 33/H, Ex. PW 33/E, Ex. PW 32/A and Ex. PW 31/DB.

There is nothing on record to show that accused Sushil Ansal ever objected to the said inspections proformas being addressed to him as licensee of Uphaar cinema on the ground that he is no more concerned with the affairs of Uphaar cinema after his alleged resignation.

u) On **26.06.95** accused Sushil Ansal issued one self-cheque for a sum of Rupees Fifty Lacs from the account of M/s Green Park Theaters Associated Pvt. Ltd. . The said cheque has been proved as Ex. PW 91/B.

v)As per Resolution on **30.6.1995**, accused Gopal Ansal resigned from the Board of Directors .

w) Vide Board of Director's meeting Ex. PW 103 was held on **25.3.1996** accused Gopal Ansal was appointed Authorized Signatory upto any amount to operate the bank accounts. (Ex. PW 103/XX3)

x) On **23.05.96** accused Gopal Ansal issued one cheque Ex. PW 93/B for a sum of Rs.9711/- from the account of erstwhile M/s

Green Park Theaters Associated Pvt. Ltd. in favour of Chief Engineer (Water).

y) On **4.9.1996**, as per Ex. PW 103/XX3, accused Sushil Ansal and Gopal Ansal were authorized to operate various bank accounts of the company upto any amount. The said resolution reads as follows :-

“....S/Shri R M Puri, Subash Verma, P P Dharwadkar Directors or Sushil Ansal, or Gopal Ansal or Deepak Ansal, or S K Ichhapuniani or Rakesh Malhotra or S S Gupta, Authorized Signatories of the company be and are hereby authorized and empowered severally to deposit the said title Deeds with Punjab National Bank, Tolstoy House, New Delhi with an intent to create equitable mortgage as stated above and to create any other mortgage or charge as may be required in order to secure a term loan of Rs.40 Crores.....”

z) On **4.9.1996**, accused Sushil Ansal and Gopal Ansal were authorized to operate various bank accounts of the company upto any amount. The Board Resolution Ex. PW 103/XX3

reads as follows :-

“.....S/Shri R M Puri, Subash Verma, P P Dharwadkar Directors or Sushil Ansal, or Gopal Ansal or Deepak Ansal, or S K Ichhapuniani or Rakesh Malhotra or S S Gupta, Authorized Signatories of the company be and are hereby authorized and empowered severally to deposit the said title Deeds with Punjab National Bank, Tolstoy House, New Delhi with an intent to create equitable mortgage as stated above and to create any other mortgage or charge as may be required.....”

aa) On 30.11.96 Cheque Ex. PW 90/B was issued by accused Gopal Ansal in the name of Music Shop for a sum of Rs.1,50,000/- from the account of Ansal Theater & Clubotels Pvt. Limited.

bb) Two Office Memos dated **18.12.96** were issued pertaining to the day to day activities of Uphaar Cinema. The copy of the said memos were forwarded to Managing Director, APIL for his information. The said Memos are Ex. PW 102/D-54 and D 56.

The memos read as follows :-

“..... OFFICE MEMO
To,
All the Managers
(Uphaar Cinema)

This is for the information of the Managersthe erring official, which may eventually lead even to his dismissal from his post forthwith.

R M PURI
Director-Uphaar Cinema

CC: 1. Mr K L Malhotra - D.G.M
2.R K Sharma - Senior Manager
3.Major Ajit Chaudhary - Manager (Admn)
4. N S Chopra - Asst. Manager
5. M.D. (APIL) - For his information please

“ OFFICE MEMO
All the Managers
(Uphaar Cinema)

The Management has taken a very serious view of the fact that money even mean his immediate dismissal from service.

R M PURI
Director-Uphaar Cinema

CC: 1. Mr K L Malhotra - D.G.M
2.R K Sharma - Senior Manager
3.Maj Ajit Chaudhary - Manager (Admn)
4. N S Chopra - Asst. Manager
5. M.D. (APIL) - For his information please
6. Ashok Kumar Kalra - Head Booking Clerk.....”

cc)On **31.12.1996**, accused Sushil Ansal and Gopal Ansal were appointed Authorized Signatories upto any amount to operate Current Accounts with various banks vide Ex. PW 103/XX-3.

dd) On **12.02.97**, a cheque Ex. PW 90/C was issued by accused Gopal Ansal for a sum of Rs.2,96,550/- in the name of Chancellor Club and the same was drawn from the account of Ansal Theaters & Clubotels (P) Ltd.

ee) In minutes of M.D. Conference dated **27.2.97** Ex.PW98/X4 following points were discussed:

“.....Point 3) MD asked for a feasibility report and a drawing of the area recommended for advance booking counter.

Point 5) M.D desired that no one will have a private telephone exclusively for himself in the cinema premises. All incoming and outgoing calls will be routed through EPBAX system to be installed in the basement.

Point 9) " M.D desired that not even a nail will be put in the cinema premises without his prior permission. "

Point 12) M.D directed Mr. Rohit Sharma to explore the possibilities of installing an improved version of sound system and its financial implications.

Point 13) a point regarding printing of tickets was discussed by Mr. KL Malhotra and Mr. Rohit Sharma with MD

Point 14) MD directed Mr. KL Malhotra and Mr. Aggarwal to find the estimated amount we can recover by disposing of old sound system.

Point 15) MD directed Manager (Admn) to coordinate Uphaar Grand publicity and advertising campaigning with Mr. Gurumoorthy at the earliest.

Point 16) MD suggested that we should have some audio visual games installed in the auditorium or any other available space in the Cinema premises.

Point 19) Manager (Admn) to ring up Mr. Kwatra EA to MD in case he finds that the work is not progressing as per schedule.

Point 20) MD pointed out that all the empty show windows are covered with PEPSI posters only. He directed Mr. Rohit Sharma to get some posters of Hotel Mariot Ansal Plaza etc and put them in the show window.....”

ff) As per the minutes of M.D meeting Ex.PW98/X-2 held on **2.4.1997**. The following were present :

“.....1.Mr. Gopal Ansal (MD) : In chair
 1 2.Mr. R.M Puri (Director)
 2 3.Mr. K.L. Malhotra (DGM)
 3 4.Mr. Ajit Cuaudhary (Manager-ADM)
 4 5.Mr. Rohit Sharma (AM Mktg.).....”

gg) In minutes dated **02.04.97** Ex.PW98/C following points were discussed:

“.....Point 1) MD desired that a photo log of photographs of Uphaar Grand taken during night should also be maintained.

Point 2) A rope light and ordinary bulbs to be installed on three separate circular columns outside and shown to MD for approval.

Point 3) MD desired that equal emphasis be laid on maintenance and cleanliness of the auditorium from inside.

Point 8) A complete scheme for the installation of EPABX system is to be put up to MD for approval

Point 10) MD decided that daily conference under the chairmanship of Mr RM Puri should take place every day.

Point 11) MD desired that publicity results should be visible....”

hh) In minutes of MD conference Ex.PW98/C held on **01.5.97** following points were discussed:

“”.....Point 2) MD (API) directed Mr. KL Malhotra to handover the copy of agreement between salvos Mktg and Advertising with Anupam and Uphaar to Mr. Rohit Sharma

Point 3) MD (API) directed that the attendance register of Uphaar Cinema employees will be maintained to ensure

that all the employees come in time.

Point 4) MD (API) expressed his annoyance at the mind boggling expenses incurred to run the cinema especially the expenses related to green slips (complementaries) and red slips (Canteen slips).....”

ii)In minutes of MD conference Ex.PW98/C held on **01.5.97** following points were discussed:

“”.....Point 1) It was brought out by MD that till now we have been concentrating on the renovation of Uphaar Grand . Now we should concentrate on making Uphaar Grand a kind of destination for the people to come. One should think and come out with some innovative ideas to popularies Uphaar Grand so that people make it a point to come to Uphaar whenever they find them.

Point 2) MD said that efforts are on to get the bank and Mrs. Mukerjee's premises vacated. Once this is done than a modern restaurant can be opened there. The idea is to provide all the facilities to the clients within the premises of Uphaar Grand.

Point 3) MD desired that Mr. Manoj Marwaha should speak to the screen people as to what all they want to show on TV screen. Some kind of arrangement with them should be worked out on profit sharing basis .

Point 8) MD suggested that once we introduced the new system for projection of slides, there may not be many takers in the beginning . So to cover up the interval time we should project the slides related to the various activities of Ansal Group of Companies.

Point 9) MD wanted that the marketing team should go out looking for business to the latest resorts, entertainment parks, farm houses, modern restaurant etc. They should also contact the people who have entered the market with their latest product to make our cinema advertising media a success.

Point 10) MD desired that Mr. KL Malhotra should arrange meeting between Mr. Ojeph of Salvos with Mr. Manoj

Marwaha and Mr. Rohit Sharma within this week.

Point 11) MD wanted that Cinema shy people should be brought to Uphaar Grand at least for once. They should be treated well and made to feel important so that they are again inclined to come at their free will. Some of the methods to attract such prominent people as suggested by MD are as follows:

.....

MD desired that we should think on such innovative ideas and then put them into practice so that the desired objectives is achieved.

Point 12) MD desired that nicely/coined slogans and caption be displayed on the information display boards in the offices and the auditorium.

Point 14) MD desired that all the old agreements with various agencies occupying space in Uphaar Grand premises to be renewed.

Point 15) MD observed that the service rendered By canteen staff is most unsatisfactory . It requires lot of improvement.

Point 16) MD observed that the chairs in the big box required repairs. The upholstery at the back is torn. The slide back mechanism is not working.

Point 23) It was brought out by MD that morning shown at Uphaar Grand are not picking up in sales.

Point 27) It was suggested by MD to look into the possibility of installation human sensors in the entrance of entrance stairs for automatic lighting and putting off lights installed in the walls of the stairs.

Point 29) MD noticed that a portion of the wall near the exit gate of the auditorium is badly stained by tobacco eaters. That portion of the wall to be covered with tiles....."

jj) Covering letter dated 02.05.97 Ex.PW98/X-3 is by M. D

conference signed by Ajit Chaudhary, Manager, Admn.

(Uphaar Grand) alongwith minutes of M.D Conference held on

01.5.97, letter is as follows;

“.....Minutes of MD conference held at Uphaar Grand on 01.5.1997 and following were present:

- 1 Mr. Gopal Ansal (MD) : In Chair**
- 2 Mr. RM Puri : Director (Uphaar Grand)
- 3 Mr. K.L. Malhotra : DGM (Uphaar Grand)
- 4 Mr. Rohit Sharma : AM (mktg & PR)
- 5 Mr. DD Sharma : Accountant (Uphaar Grand)

Copy of above letter were sent to : **EA to MD....”**

kk) Covering letter dated **09.5.97** Ex.PW98/X-3 is of M. D conference signed by Ajit Chaudhary, Manager, Admn. (Uphaar Grand) alongwith minutes of M.D Conference held on 07.05.97, letter is as follows:

“.....Minutes of MD's conference held at 1.00 p.m. on 7th May 1997 at Uphaar Grand are attached as per appendix 'A' attached for your information please and following were present.:

- 1 Mr. Gopal Ansal : M.D IN chair**
- 2 Mr. RM Puri : D.E.
- 3 Mr. Subash Verma : ED (BD)
- 4 Mr. K.L Malhotra : DGM (Uphaar Grand)
- 5 Mr. Manoj : AGM (mktg.)
- 6 Mr. Ajit Chaudhary : Manager (Admn.) (uphaar Grand)
- 7 Mr. Rohit Sharma : AM (mktg.)

Copy of above letter is sent to **EA to MD....**

The above documents clearly indicate that accused Sushil Ansal and Gopal Ansal at all material times were at the helm of affairs of Uphaar cinema . It is they who were defacto supervising and looking after the management of Uphaar

cinema. It is with their consent and within their knowledge that the deviations in the structure of transformer were affected against the sanction plans and changes in the structure of the cinema were made . It is at the instance of accused Sushil Ansal that the premises of Uphaar cinema was let out to various tenants. The unauthorised structures as noted in the chapter of ' structural deviations' were done at the instance of accused Sushil Ansal and Gopal Ansal. The license to exhibit cinema was violated in the matter of seating arrangement of the balcony and the existence of gangways at the instance of accused Sushil Ansal and Gopal Ansal. No directions were ever given to the parking contractor at the time of entering into contract in 1988 or after that that the vehicles should be parked at a distance of 16' from the transformer room as per the sanction plan.

It is also clear from the documents narrated above that finance of Uphaar cinema was always dealt with by the accused Sushil Ansal and Gopal Ansal, even though they claim to have resigned from the Board of management of Uphaar cinema. They had been signing the cheques which clearly indicate that

management and control of Uphaar cinema always vested in them. Even the minutes of the meetings of the Board of Directors in 1997 shows their active involvement in each and every aspect of the cinema hall which is evident fact when minutes of the meeting disclose the statement of accused, Gopal Ansal 'even a nail can't be put in the cinema hall without his directions'.

Though accused Sushil Ansal alleges that he resigned from the Board of Directors of the company in 1988, he attended meetings of the board as a special invitee in 1994 and otherwise .

The license as has already been stated was granted to the company through accused Sushil Ansal. In the matter of grant/ renewal of license it is Sushil Ansal who has been writing to the various authorities even after the alleged resignation incorporated in the meeting of the Board of Directors.

It is argued on behalf of accused Gopal Ansal and Sushil Ansal that since they were acting on behalf of the company which owned the cinema hall, the liability for the violation if at all was that of the company which has not been made an accused. A

company has no legs and eyes. It acts through the Board of Directors at all material times. When the violations as has been noted in the headings herein before 'Transformer', 'Balcony', 'Structural Deviations', 'Grant/Renewal of License' held herein before had been committed when these accused Sushil Ansal and Gopal Ansal held the position as Managing Directors of the company . In any case, these accused, as is clear from the correspondence narrated above held the control and management of the cinema hall. It is the accused who were directing all the affairs of cinema hall. It is evident from the documents reproduced above that the accused were looking after the day to day affairs of the cinema hall and in respect of matter relating to workers and managers of the cinema hall. It is evident from the minutes of the meeting held in 1997 accused Gopal Ansal was making plans to improvise the look the cinema hall to earn better profits. This being the factual position, the accused can't escape their liability under the corporate cloak of the company as argued. They can't be allowed to use the corporate cloak as a device to circumvent and subvert due course of law. Where the facts are clear as to who is at the

helm of affairs, the court can take such persons to task for the criminal liabilities. The arguments in this behalf are rejected.

I repeat here some of the deviations in structure carried out by accused Sushil Ansal and Gopal Ansal, seating arrangement of the balcony and other violations which resulted into the death of 50 persons and injury to 100 persons as held herein above:

Balcony:

- 1. Two vertical gangways were provided on the right side, one exit on the right side was closed and in the middle, entrance/exit was provided due to this change. The Central exit was catering much more people than the norms of the people for middle exit.**
- 2. The inspection room was converted into 14 seater box against the sanction building plan.**
- 3. The right hand exit was totally closed and one gangway was reduced to 1'9" instead of 3'8" as required under the rules.**
- 4. Virtually no place was left to immediately exit out for the patrons sitting on the top of the right hand side. The facts reveal that those who were sitting on such seats could not exit and died in the incident.**

Basement :-

- 1. A room 12' X 20' adjoining to the staircase has been found constructed.**
- 2. Another room extensions of size 26' X 20' adjoining to blower room.**
- 3. A wooden store constructed with wooden partitions in the basement was used as store.**
- 4. Three brick walls have been found constructed of 40' length and another wall was 20' in length and the enclosures between them were partially full of old seats.**

Ground Floor/Stilt Floor :-

5.The portion above ramp was constructed and was being used as Homeopathy Dispensary of size 20' X 9' behind the transformer room.

6.The outer wall behind HT & LT room, transformer room was constructed upto the first floor height instead of 3' height.

7.The outer size of the LT room, transformer room and HT room was as per the sanction plan but the positioning of the partitioning have been shifted resulting in alterations in internal sizes of these rooms. (site plan Ex. PW 39/AA)

8.A room of the size of 14' X 7' was adjoining HT room and was used as ticket counter.

9.A portion of ticket foyer measuring 20' X 20' was converted into Syndicate Bank. The restaurant on the front side was converted into Sanjay Press Office.

10.Mezzanine floor was constructed with R S Joists of timber flooring, which were completely burnt, reported to have been used as offices. The height of this floor was 8' above the stilt floor

11.Another small portion with RCC slab was constructed at mid landing of the staircase case at 8' height above the stilt floor and used as offices.

12.There was partition of the staircase around lift well which was leading to basement and was occupied by M/s Sehgal Carpets.

Foyer/First Floor :-

13.Refreshment counter was constructed between the staircase door and expansion joint.

14.Another refreshment counter was constructed towards rear exit gate at the distance of 10'-9" from the auditorium exit gate.

Mezannine Floor/Balcony :-

15.Refreshment counter between toilet door and staircase door with covered area of 21 X 9 feet.

16.Sweeper room and adjoining toilets converted into

office room.

17.Operator rest room converted into office cumbar room.

18. In between the second floor i.e. Projection Room floor and loft floor, a full width door on right side of stair case landing has been provided which has created obstruction for going to terrace.

19 .One reception counter of Sarin Associates in the stair case leading to terrace which obstructed the stair case passage.

Top Floor :-

20.The big hall of the loft level was converted in office cabins by providing wooden partition and was used by Sarin Associates, Supreme Builders, Supreme Promoters, Supreme Marketing(P) Ltd and Vikky Arin Impex (P) Ltd, as per the Board displayed on the wall.

21.Staircases over the loft level was converted into office.

For the aforesaid violations I find that the accused Sushil Ansal and accused Gopal Ansal are responsible. The aforesaid deviations are in gross violation of the Cinematographic Rules and the sanction building plan and also the building bye-laws. It is their act of committing such blatant violations of the sanction plan and the building bye-laws which had caused the death of 59 persons and injury to 100 persons in the cinema hall .Such reckless violations are certainly so gross and criminal in nature, that they endanger human life . Such acts on their part can be called gross violation of legal duties enjoined by law while

running a cinema hall where large number of patrons visit ,which amounts to criminal and gross negligence . The said acts on the part of the accused can certainly be called as 'culpably rash' as they knew that the said consequences would ensue as a result of their negligence

I find that the accused Sushil Ansal and Gopal Ansal acted so negligently in the matter of installation of transformer ,in affecting changes in the seating arrangement of the balcony, permitting tenants in the staircase and thereby blocking the passage of patrons, violating the sanction plan and carrying out large scale deviations in the building which became a fire hazard and effected the means of escape as to endanger human life and public safety.

It is also evident from the above correspondence that accused Gopal Ansal was warned in the past in 1982 regarding the bolting of the five gates from inside during the exhibition of film, the same being in violation of Delhi Cinematograph Rules, 1981. The accused assured the licensing authority that precaution would be taken in future. As already held herein before, one of the factors which contributed to the death of

patrons inside the balcony was bolting of the exit doors. It is writ large that the accused recklessly violated the provisions of Delhi Cinematograph Rules, 1981 which resulted in the death of the patrons in the cinema.

In the written submissions filed on behalf of accused Gopal Ansal and Sushil Ansal plea on the basis of section 79 and Section 80 IPC has been raised.

Section 79 of IPC reads as follows :-

“....Act done by a person justified, or by mistake of fact believing himself justified, by law: Nothing is an offence which is done by any person who justified by law or why by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it....”

Section 80 reads as follows:

“...Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution”

It has been submitted that since the permission of the authorities was taken for letting out the ground floor and the top floor for commercial establishment and permission was sought for addition of seating arrangement in the balcony, they were under the impression that they were doing everything in

accordance with law and they have not committed any offence. I have considered the submissions and gone through the provisions of section 79 and section 80 IPC and the facts as discussed above . I find that the permission of the licensing authority for letting out the ground floor can't justify the creating of additional structures which was in deviation of the sanction plan Ex PW 15/ Y3. There is provision for administrative office on the top floor as per sanction plan Ex. PW 15/ Y4 but there is no provision for creation of structure in deviation of the sanction plan , creating a commercial establishment and thereby blocking a staircase passage. Moreover as held above this permission of the licensing authority wasn't meant to allow them to let out the structure which was against the rules . No intimation or permission has been take from MCD in this regard . Moreover blocking of one staircase was against the Cinematograph Rules as held herein before .

Company Law :-

Learned counsel for accused Sushil Ansal and Gopal Ansal have cited the following Judgment :-

1 JT 2000 (1) SC 360 G.Sagar Suri Vs. State of U.P.

- 2 AIR 1955 SC 74 Mrs. Bacha F Guzdar Vs. Commissioner of
Income Tax, Bombay
- 3 AIR 1965 SC 40 Telco Vs. State of Bihar
- 4 (1997) 88 Company Cases 136 Naga Brahma Trust Vs.
Translanka Air Travels Pvt. Ltd.
- 5 AIR 1986 SC 1370 LIC of India Vs. Escorts Limited.
- 6 (1955) 25 Company Cases 341 (Calcutta) Rameshwar
Agarwalla Vs. The State and Anr.
- 7 AIR 1964 SC 1486 A.P. State R T Corpn Vs. I.T. Officer
- 8 AIR 1970 SC 82 HEM Union Vs. State of Bihar
- 9 (1999) 4 SCC 458 Electronic Corpn., of India Ltd. Vs. Secy.
Revenue Department.
- 10(2003) 5 SCC 163 A K Bindal and Anr Vs. Union of India
and Ors.
- 11S.B. Shankar Vs. Amman Steel Corporation (2002) 110
Company Cases
- 12Saumil Dilip Mehta Vs. State of Maharashtra AIR 2002
Bombay 194
- 13Dushyant D Anjari Vs. Wall Street Finance Limited & Anr.
- 14T Murari Vs. State 1976 (46) Company Cases.

The above judgments are not applicable in the present case, in view of the above finding .

Learned counsel for accused Sushil Ansal and Gopal Ansal have taken the plea that they were bound to provide space for DESU S/Stn., as per **Section 42 of The Electricity (Supply) Act 1948 and Section 10 of Telegraph Act** and they had no remedy except to provide for the space.

I have considered the submissions and find that it cannot provide for taking of any place against the provisions of law which require taking due permission before installing a transformer.

The said provisions are not attracted since the permissions as stated above were not taken. The inspection report of the electrical inspector is also on record to show that the required sanction were to be taken from both the departments for installation and required rules which were mandatory were to be followed before and after installation of the transformer. A cinema hall was being run where large number of patrons were to visit . And the public safety was involved. All the precautions

were the duty cast upon the accused by law.

The argument has no merits and is rejected.

It is submitted by the counsel for the accused that so far as the installation of DESU transformer is concerned , they were forced to give them space as DESU authorities on one pretext or the other was avoiding to give them electric supply and DESU was the only source of electric supply. This submission has no merits. Without the permission from MCD the second transformer couldn't have been installed as discussed herein before. Moreover from the correspondence between them and DESU authorities, it cannot be said that they were compelled to provide the space.

In support of their case, learned counsels for accused Sushil Ansal and Gopal Ansal have placed reliance on judgment held in case **Horabin Vs. British Overseas Airways Corporation (1952) 2 All ER 1016** wherein it was held as under:-

“The mere fact that an act was done contrary to a plan or to instructions, or even to the standards of the safe-flying, to the knowledge of the person doing it, does not establish willful misconduct on his part unless it is shown that he knew that he was doing something contrary with the best interest of the passengers and of his

employer or involving them in a greater risk.”

The facts of this case are not applicable to the present case. In the present case it cannot be said that the accused had no knowledge that they were doing something contrary to the life and safety of the patrons who had visited the cinema hall to view the movie.

Ld. counsel for accused persons drew my attention to **AD Bhatt Vs. State of Gujarat, AIR 1972 SC 1150, 1972 Cri.LJ 727** wherein it is held by Their Lordships that,

" The mere fact that an accused contravenes certain rules or regulations in the doing of an act which causes the death of another does not by itself establish that the death was the result of rash or negligent act or that such act was proximate or efficient cause of death. "

Facts of the case are :a chemist Incharge of the injection department of a company along with 5 others had been charged for rashly and negligently manufacturing a solution of glucose which contained more than the permitted quantity of lead nitrate as a result of which, 13 people to whom it was administered, died. The question for consideration before the Hon'ble Supreme court was whether the said chemist, by giving the same batch number to the all the 5 lots of bottles in

contravention of the Drugs Act, 1940 directly contributed to the discovery of lead nitrate in sodium chloride and consequently became the direct cause of the death of the said persons and guilty of offence under section 304A IPC or not. The Hon'ble Supreme was of the view that not giving the batch number to each lot was not the cause of death since even if batch numbers were given to each lot, the presence of the lead nitrate couldn't be detected without conducting other tests and therefore it was the chief analyst who failed to conduct the tests of the raw materials who was guilty of gross negligence under section 304A IPC. The above judgment is of no avail to the accused .In the above, as rightly held, death of persons was directly attributable to the chief analyst and the Drug Inspector who failed to perform his duties. Though the act of the chemist was in violation of the relevant provisions of law, however the violation of the same wasn't the cause of death of the persons unlike in the present case. As held herein before the death of the patrons in the cinema hall was directly attributable to the accused persons. The accused in the above case was also acquitted since he had been carrying out the said practice since

years and the drug inspector didn't point out the same to him ever, which is again not so in the present case . The accused in the present case were warned time and again over a period of years about the shortcomings from the structural and fire safety point of view . Either they ignored or same or obtained the 'No Objection Certificate's in collusion with the local bodies as is held herein above. The accused persons had a sanction plan approved in their favour and are presumed to have known that the said sanction plan is not to be violated. Therefore they can't take aid of the above judgment to support their contention that since the local bodies had been granting them sanction, they were not liable for violation of the laws.

Ld. Counsel for accused persons referred to **Emperor Vs.**

Omkar Rampratap, 4 Bom LR 679 wherein it is held that,

"To impose a criminal liability u/s304A IPC it is necessary that the death should have been direct result of rash and negligent act of accused and that act must have been the proximate and efficient cause without the intervention of another negligence."

In the present case as discussed above the death has been the direct result of rash and negligent act of the accused

by closing the exit, shortening the gangways, blocking the stair case leading to top floor and rendering no help to the patrons which was the proximate and efficient cause without the intervention of others negligence. The duty casted by Delhi Cinematograph Act 1981 was to look after all these aspects and for this different provisions have been laid down which have been contravened as discussed above.

Learned counsel for accused persons referred to **Kurban Hussain Mohem-medali Vs. State of Maharashtra, 1965-2 SCR 622 (AIR 1965 SC 1616)** brief facts of case are that while the license had been issued to the managing firm of a firm for manufacturing dry colour, he started making wet paints which required heating products in burner. On one occasion one of the employees while making the paint acted negligently resulting the death of 7 persons in the factory. The Hon'ble Supreme court was of the view that it was the negligence of the employee which the the direct and proximate cause of death of persons inside the factory and the fact that the burners were allowed to be kept inside the same room as the combustible material by the Managing director was only an indirect cause and therefore offence under section 304A wasn't made out against him.

The fact of the present case are distinct. The Uphaar Cinema Building was a public place. The patrons were visiting the

cinema to view the movie and all the safety measures as provided in the Act were required to be fulfilled which has not been done. In the present case it was not only that the fire had taken place but the duty has been cast upon by the law as laid down in Delhi Cinematograph Act 1952 which provides for taking precautions from all the angles including exists, gangways, opening of the stair case on the top as well as downstairs keeping the doors unbolted. It was the positive duty cast upon the management and the officers in full control of the cinema house. Moreover, in the above case, the nature of the work being carried out in the factory was hazardous and therefore the possibility of someone getting hurt exists unlike in a public entertainment place like a cinema hall..

Learned counsel for the accused persons drew my attention to **Suleman Rahiman Mulani Vs. State of Maharashtra (1968) 2 SCR 515 – (AIR 1968 SC 829)** wherein Accused who was driving a car only with a learner's licence without a trainer by his side, had injured a person. It was held that this fact by itself is not sufficient to warrant a conviction u/s 304 A IPC on the ground that there was no presumption that he didn't know driving simply because he possessed a learner's license. The ratio in the said case is not applicable to the present set of facts. It is one thing to drive on the road and cause an accident and is distinct from a person running a center for entertainment for public at large, where people come with a presumption that they are safe. Accidents due to any cause are an exception. Had the

cinema been running in accordance with the laws and bye-laws applicable to them , it would have been different , but that is unfortunately not the case here.

Learned counsel for accused persons referred to **Balachandra Vs. State of Maharashtra (1968) 3 SCR 766 (AIR 1968 SC 1319)** wherein it was held as follows:-

"...deaths and injuries caused by the contravention of a prohibition in respect of substance which are highly dangerous which are considered to be of a highly hazardous and dangerous nature having sensitive composition were even friction or percussion could cause an explosion, that contravention could be cause casan and not causa sin qui...."

The facts of this case are not applicable to the present case. The duties have been imposed upon the persons who are in full control which have not been done. It is a positive act to be complied with by the accused. It cannot be said that this action was cause causan and not causa sin qui.

In the present case it is not that some sensitive composition which was highly dangerous were kept there. The Delhi Cinematograph Rules 1981 provide for taking precautions mentioned therein, yearly inspections are called from MCD regarding structural deviations, from Electrical

Inspectors regarding electrical installation and from Chief Fire Officer with a view to take care of fire safety and means of escape . As discussed above the reports have been maneuvered for the best reasons known to them. The precautions have not been taken to help the patrons to come out.

Learned counsel for accused persons drew my attention to **Jacob Mathew Vs. State of Punjab and Anr. AIR 2005 SC 3180** wherein it has been held as follows: -

"When the act is in itself innocent, to punish the person who does it because of the bad consequences, which no human wisdom could have foreseen, have followed from it would be the highest degree of barbarous and absurd."

I find in the present case the act cannot be called to be innocent. The efforts have been made as discussed above but no precautions have been taken to take care of the public safety. In the present case a fire in the Delhi Vidyut Board Transformer took place in the year 1989. It was during the night hence no patron sustained injuries and no casualty took place but the entire building was damaged with smoke. Permission was sought by the authorities to close down the

cinema hall for 4 days for getting it renovated. This very fact shows that the danger was not unforeseen by the owners who had full control over the cinema building and no care has been taken by them for the public safety by violating the rules provided in Delhi Cinematograph Act 1981. Reference is also made to **Andrews Vs. Director of Public Prosecution (1937) ALL ER 552; 1937 AC 576** wherein it has been held as under:-

"simple lack of care such as will constitute civil liability, is not enough "for liability under the criminal law" a very high degree of negligence is required to be proved."

Emphasis have been laid that a very high degree of negligence is required to be proved for liability under criminal law. The facts of this case is not applicable to the present case. Moreover, as discussed above, there was violation of rules on each step and lack of taking due care as required by law.

Learned counsel for accused persons has referred to **Standard Chartered Bank and others Vs. Directorate of Enforcement and**

others AIR 2005 SC 2622 wherein it has been held as under:-

"company is not immune from prosecution because it is in respect of offence for which punishment by way of imprisonment is mandatory. Even in such a case the company can be very well prosecuted criminally and sentenced to pay fine."

The submission of the learned counsel for the accused was that for this violation the company should have been prosecuted and not Gopal Ansal or Sushil Ansal. The facts of this case are not applicable to the present case.

Learned counsel for accused Sushil Ansal and Gopal Ansal placed reliance in judgment held in case titled as **SMS Pharmaceuticals Ltd. Vs. Neeta Bhalla and Another AIR 2005 SC 3152** wherein it is held that no one is to be held liable for an act of another.

Learned counsel for accused persons placed reliance in judgment held in case titled as **Murari Lal Jhunjhunwala Vs. State of Bihar & Ors. AIR 1991 SC 315.**

The facts of these cases are different from the facts of the present case. In the present case, as held above, it cannot

be said that the accused persons are being held liable for the act of others.

Ld counsel for the accused has relied upon **S N Hussain vs. State of Andhra Pradesh AIR 1972 SC 685**, facts of case are: a bus driver who found the train crossing open when he was about to cross the same and collided with a goods train was found not guilty of the offence under section 304A IPC . The facts in this case are clearly distinguishable . The bus driver in the case was not violating any rules .His only negligence being that he could have been more careful while crossing the railway track. The accident was attributable to the gateman who didn't close the gate when the train was about to arrive .

Reliance was placed by the accused on **Jacob Mathew Vs. State of Punjab and Anr. AIR 2005 SC 3180**, the Hon'ble Supreme court was considering the question whether medical professionals can be liable for criminal negligence. The Hon'ble Supreme court has taken the view that so long as the medical professional follows a practice acceptable to medical profession of the day, he can't be held liable for simple lack of care, an error of judgment or an accident. The ratio was given with regard to professionals. The point involved was the the

absence of skill in a professional will not amount to criminal negligence so long as he is qualified for the said profession.

The facts of the present case are different and the above ratio is not applicable to the facts of the present case. Unlike the above cited case, the accused persons had not been carrying out their obligations as per law. It is like a medical professional not having a degree but he continues to practice at the cost of lives of persons. Similarly, it can be said that the accused persons weren't equipped to run a cinema hall and as held herein above and did so at the cost of endangering lives of patrons.

In support of his contention, learned counsel for accused Sushil Ansal and Gopal Ansal further cited judgment in case titled as B.S. Sharma Vs. State and Anr. 119 (2005) DLT 509. I find the facts of the above cited case are not applicable in the present case.

Learned counsel for accused have cited the following judgments/citations :

1 1980(2) SCC 175 Raj Kapoor Vs. Laxman.

2 1984 All. L.J. 1254 Nurul Huda & Ors. Vs. Amitabh Bachhan
& Ors.

3 Brahm Singh Vs. Emperor AIR 1926 Lahore 554

4 Emperor Vs. Kassim 1912 BLR (14) 365

5 State Government of MP Vs. Rangaswami AIR 1952 Nagpur
268

6 Jagdish Chandra Tiwari Vs. State 1974 ALJ 604

7 Basant Singh Vs. Emperor AIR 1927 Lahore 880

All the above mentioned Judgments are not applicable in the
present case.

In view of the above discussion it is writ large that the accused
Sushil Ansal and Gopal Ansal have blatantly violated the
provisions governing running of the cinema hall and have done
so at the cost of endangering lives of patrons who visit the
cinema. I , therefore,hold the accused guilty under Section
304A IPC for death of 59 persons, and under Section 338 IPC ,
both individually for causing injuries greivous in nature to
various persons which have been claimed to 100.

I now deal with the written arguments of accused , R.K.

**Sharma, N.S. Chopra and Ajit Choudhary, managers of
Uphaar cinema**

Written arguments have been filed under provisions of section 314 Cr.P.C on behalf of accused R.K.Sharma, N.S.Chopra and Ajit Choudhary.

The learned counsel for accused submitted that the charge has been framed against the accused u/s 304 IPC read with section 36 IPC but the details as to what acts or omissions are being impleaded against them has not been detailed against them.

Learned counsel for accused submitted that the allegation against the accused as mentioned in the charge is having caused fire in the transformer. The transformer was installed by the DESU which was under their control and was to be maintained by them. Learned counsel for accused submitted that the faulty repair has led to this incident for which the accused persons cannot be held guilty.

Learned counsel for accused has referred to the report and testimony of Shri K.L.Grover PW 24 (Electrical Inspector) and submitted that it has been admitted by him that non

providing of protection system at DVB transformer was the main cause of fire. It is also provided in the rule. The perusal of the report very clearly shows that the rules for installation and maintenance of the DVB Transformer has not been followed. The cause of fire was their negligence.

Learned counsel for accused has referred to the testimony and report of PW 64 Dr.Rajender Singh Sr. Scientific Officer, PW 28 Sh.A.K.Aggarwal Asstt. Electrical Inspector and PW 24 Shri K.L.Grover, Executive Engineer, (Elect.)PWD that it has been stated by Shri K.V.Singh Executive Engineer (Elect) PWD that non-providing of the protection relay system and lack of proper fuses in outgoing switches has led to this fire.

The managers being responsible for the entire functioning of the cinema hall were presumed to have knowledge about the safety measures required in respect of the entire cinema building including transformer so as to ensure safety of the patrons visiting the cinema hall. The duties of the managers implied that they should have ensured that there are fire safety measures which would prevent the fire to go inside the cinema building , which they failed to do . As held herein

before, the managers should also have ensured that no fuel material is placed near the transformer room , which again they failed to do by allowing cars to be parked as near as 3'-4' from the transformer room and by storing combustible material in the basement of the cinema building . It is evident from the reports as held herein before that the cause of the death was the smoke which was aggravated due to the present of combustible material in the building .Had these precautions been taken , the fire which started in the transformer room wouldn't have reached the entire cinema building . The submission of the accused has no merit.

Learned counsel for accused submitted that one contessa car was found parked outside the transformer room which spread the fire but no effort has been made to enquire about the ownership of that car.

The said fact is not relevant . The fact remains that the car was parked within the premises of the cinema building and being the managers it was duty of the accused to supervise the parking of vehicles in the cinema hall premises .

Learned counsel for accused submitted that it is provided in

rule 2 (iv) of Delhi Cinematograph Rules, 1981 the "Licensed Premises" means the entire plot of land . Hence it was the duty of the licensee/owner to take care of the building or the electrical inspector, Executive Engineer and Chief Fire Officer to report about the same. The liability cannot be fastened on the Managers.

The submission that the responsibility was of the licensee is of no substance. A manager who acts on behalf of the licensee to run the show is also a licensee for the purposes of the act and is responsible for following the rules under which the license of the cinema is granted. They can't escape the liability on this score.

It is submitted that they had deputed Shri Uniyal at the gate of the balcony. Once they had put a responsible man, they can't be held liable .

The duties of manager implies that the manager is to ensure that the equipments in cinema are in safe working condition , the employees are diligently performing their duties and on their failure it is their duty to ensure that no violation takes place . It is their duty to ensure ensure that the safety

measures are functional and in order before each show starts so that in case of emergency or incident like this the patrons are not stuck inside and are not able to come out. The managers in the present case utterly failed in fulfilling their obligations/duties.

Learned counsel for accused submitted that looking into the provisions of rule 10 (2) the licensee or some responsible person was to be nominated by him in writing for the purpose shall be in general charge of the licensed premises and cinematograph during the whole time when any exhibition is in progress. Hence the responsibility is on the owner/licensee or to the nominated person. The nomination was in favour of accused R.M Puri, General Manager and he was given the powers to deal with the matters of employees to correspond on behalf of the company. He being the whole time director was in full control of the management hence no responsibility can be fastened on the accused.

Once they hold the position of a manager they can't say that power of management vested in other managers. In any case I had perused the powers in favour of R.M Puri. Such powers

don't absolve them from the liability which they had as the manager of the cinema hall .

It is also submitted by them that since the light was off, they can't be held responsible for non working of the emergency lights at the time of the incident inside the auditorium and other instruments inside the cinema.

Argument that since there were no lights and therefore they can't be held responsible is meritless. Emergency light implies that it should be battery operated so that in case of failure of electricity it can be used . The managers should have ensured that the torchmen are available to be utilized in such emergencies to rescue people . They were responsible for making sure that the public announcement system was working before the commencement of each show as per clause 5 of Delhi Fire Prevention and Fire Safety Rules,1987 .Moreover the managers were running the shows inspite of structural, electrical and building deviations as held herein before . They ran the show knowing fully well , if fire takes place it is certainly likely to cause death of the patrons in cinema hall. They therefore can't escape their liability. Their submission is

rejected.

It was submitted by the counsel for accused N S Chopra that his duty was to start at 5.30 so he was not present. The fire had already taken place, when he came, he was not allowed to enter the cinema building, so he could not help the patrons. Hence, he cannot be held responsible for not helping the patrons stuck inside the balcony.

It is submitted that there is no evidence on record to show that the accused were present on the spot. It is clear from the testimony of the witnesses as well as the attendance register.

It was submitted by accused R.K.Sharma that he had left at 4 p.m. , therefore he can't be held responsible for the incident.

As held above all the managers failed to conform to the Fire Safety measures which included ensuring that no fuel material was present in the cinema, cars were parked at a safe distance from the transformer, there were no fire hazards in the building, and all fire safety devices were functioning. The accused R K Sharma was present as manager in the cinema hall till 4 p.m.,

before the starting of the show at 3 p.m. He failed to ensure the working of the fire fighting measures before the starting of the show specifically in view of the fact that a fire had taken place in the morning of the day of the incident.

Moreover the managers were running the shows inspite of structural, electrical and building deviations as held herein before . They ran the show knowing fully well , if fire takes place it is certainly likely to cause death of the patrons in cinema hall. They therefore can't escape their liability. Their submission is rejected.

Learned counsel for accused has cited **Kaliram vs. State of Himachal Pradesh AIR 1973 SC 2773** wherein Hon'ble Supreme Court has held that the burden of proving the guilt is on the prosecution. He has further cited **Kalyan vs. State of Uttar Pradesh 2001 Cri.L.J.4677** wherein it has been held that where two views are possible the benefit should go to the view which is favourable to the accused. On the same point he has cited Ram **Swaroop vs. State of Rajasthan 2004 Cr.L.J 5043 (SC)**.

There is no doubt, with regard to the above legal position . In

view of the findings above , the said judgments are of no support to the accused.

There is no evidence as to what were the duties of the Manager. The prosecution has not produced the witnesses whose name have been mentioned in the list of witnesses hence adverse inference should be taken against them. In support of his contention he has cited **Jamna vs. State of Bihar AIR 1974 SC 1822** wherein it was held that it is the duty of the I.O to produce the entire evidence to enable the court to bring out the real unvarnished truth.

As already held the duties of a manager are implied by their very designation. It is implied that manager is the caretaker of the unit and responsible for the entire functioning as detailed above . The said judgments are not relevant in the present set of facts .

Learned counsel for accused has also cited State of **U.P vs. Daler Singh & Others 1991 Crimes (III) 420** in which it was held that the investigation should be free from suspicion. He has also cited **1991 Cri.L.J 1521 Mohan Lal Shamji Soni vs. UOI** wherein it was held that the best evidence available

should be produced. He has further referred to **1999 Cri.L.J 812 Gayatri Bais vs. State of M.P.** wherein it was held that the Special Public Prosecutors should safeguard the interest of the public. He has further referred to the judgment of **K.V.Shiva Reddy vs. State of Karnataka 2005 Cr.L.J. 3000** wherein it was held that Public Prosecutor should assist the court in coming to the right conclusion.

Learned counsel for accused has further referred to **Prabhu Dayal vs. State** wherein it was held that public prosecutor has to be fair in presentation of the case. He has also referred to **Shiv Kumar vs. Hukum Chand (1999) SCC (Cri.) 1277** wherein it was observed by Hon'ble Supreme Court that the Public Prosecutor should be fair.

Learned counsel for accused has further referred to **Medichetty Ramaistiah vs. State of A.P. (AIR 1959 AP 659)** wherein the Andhra Pradesh High Court has held that the Public Prosecutor should be fair and assist the court in coming to the right conclusion. He has also referred to **2006 Cri.L.J.3873 Dhananjay Kumar Singh vs. State of Rajasthan** wherein it was held that the investigating Agency

should be fair and reasonable.

On going through the above judgments, I find the law laid down in the said judgments is settled law but has no bearing so far as the facts of present as discussed hereinbefore, are concerned.

Learned counsel for accused Ajit Choudhry has submitted that on the day of occurrence he was present on the spot. On learning about the fire he entered the stair case and reached the auditorium and helped the people to come out of the balcony but the people were not listening to him. He took few people from the window which opened to the adjoining roof. The same was 6 to 8 feet below and jumped from there. He became sick and was hospitalized by the police on account of in The accused was inhaling smoke. The accused was not arrested from his house at Gurgaon. He was on the spot and helped the people and did not ran away.

Learned counsel for accused has referred to **Badam Singh vs. State of Madhya Pradesh AIR 2004 SC 26** wherein it was held that simply because the witnesses are

consistent it is not a guarantee of their faithfulness. He has further referred to **Keshub Mahindra vs. State of M.P. (1996) 6 SCC 129** and submitted that the court though initially the charge u/s 304 was framed, but the Supreme Court reduced the charge to section 304-A IPC holding therein that there was no knowledge to cause of death.

The other charge was u/s 36 IPC. The learned counsel for accused has submitted that no act or omission has been alleged against him hence he cannot be convicted under this section. He has referred to the case of **Bhalchandra Waman Pathe vs. State of Maharashtra 1968 ACJ 38**. It is regarding the point of sentence. He has further referred to **Ambalal D.Bhatt vs. The State of Gujrat (1972) 3 SCC 525 ; State vs. Laxman Kumar - AIR 1986 SC 250** wherein the Hon'ble Supreme Court held that it is the obligation of the court to find out the truth and act according to law. He has also referred to **Tula Ram vs. State of Bombay 1954 Cr.,L.J 1333 (SC)** wherein it has been held by the Hon'ble Supreme Court that where two plausible and reasonable constructions can be put upon a penal provision, the court must lean

towards that construction which exempts the subject from penalty rather than the one which imposes penalty. He has further referred to **Standard Chartered Bank and others vs. Directorate of Enforcement and others (2005) 4 SCC 530** wherein it was held that the penal provisions of the statute should be strictly construed.

CAUSE OF DEATH

On 13.06.97 59 people died in Uphaar Cinema hall. Due to the gravity of the incident, sample post mortem was got done of Captain M.S Bhinder in Army Hospital on 14.06.97 by Lt. Col. S Satyanarayana. Detailed Post-Mortem Report Ex. PW 77/A was prepared . Since all the persons in the cinema hall died due to the same cause , the remaining bodies of the deceased patrons were entrusted to the respective relatives. The relevant portion of the post mortem report reads as under :

“ ... 3. Pupils fixed and dilated. Cornea hazy.

C. INTERNAL EXAMINATION

a) ALIMENTARY SYSTEM

Mouth, pharynx and esophagus.

Frothy blood mixed fluid with blacking particles preSent.

Mucosa of pharynx congested

2(a)

...

(d) RESPIRATORY SYSTEM

e1. Nose, nasopharynx, larynx, trachea, and bronchi mucosa of nasopharynx, larynx, trachea and bronchi parched and congested. Frothy blood mixed fluid with black particles present in the lumen.

(F). SALIENT AUTOPSY FINDINGS

- 1 Congestion and oedema of larynx trachea and bronchi**
- 2 Evidence of pulmonary oedema**
- 3 Foreign particles in respiratory tract**

(G). CAUSE OF DEATH

Asphyxia"

Thereafter, PW 62 Dr. T D Dogra received letter dated 5.9.97 Ex 62/B and C addressed to Director, AIIMS from Shri M. Narayanan, SP CBI enclosing a questionnaire for expert opinion and to give appropriate reply to the the questions posed by CBI. A medical board was constituted consisting of Prof. T D Dogra, Dept. of Forensic Medicines, Prof. S K Sharma, Dept. of Medicines, Prof. R K Khazanchi, Dept. of Surgery, Dr. Praveen Aggarwal, Associate Professor, Dept. of Emergency Medicine, Associate Prof. L R Murmu, Dept. of Emergency Medicine, Associate Prof. Dr. Shakti Gupta, Dept.

of Hosp. Admn. Dr. Shakti Gupta, member secretary, Dr. Arun Sahu, the then Deputy Director. The experts arrived at a unanimous opinion and answered the questionnaire .

The relevant questions alongwith reply are given as follow:-

".....Q.No.2 The copy of postmortem examination report enclosed and the report of the CFSL may please be examined and opinion be given about the smoke and the gas which had caused the death be given of the persons who were affected by the fire in Uphaar Cinema on 13.6.97.

Q.No.3. Opinion may please be given on the contents of the smoke and the type of gas which could have emerged from the fire as mentioned above and effect of the same on the human body.

Ans. 2 and 3. After considering the postmortem examination report in respect of deceased MS Bhinder conducted at Army hospital CFSL report and the report of the scene of occurrence, the board is of considered opinion that the gases produced in such a fire shall depend upon the nature of items burned. The possible items which may have been burnt were likely to be made of rubber, polyurethane, polyvinylchloride, acrylonitrile-butadiene styrene, petrol, diesel and nylon. The product of combustion of such items may contain carbon soot, hydrocarbons (saturated + unsaturated, carbon monoxide, carbon dioxide, sulphur dioxide, hydrogen sulphide, nitrous oxide, hydrocyanic acid, hydrochloride, vinylchloride, phosgene, ammonia, aldehydes etc. All these gases are toxic gases having either systemic toxic effect and/or pulmonary irritant effect.

Among them, the most common cause of smoke inhalation related deaths is carbon monoxide, which is a

systemic toxin with no irritant properties. In the postmortem report of deceased Shri MS Bhinder, lungs are described to be exuding 'pinkish fluid' on sectioning and compressing of lungs, Such a finding can be seen in carbon monoxide poisoning.

Q4. Opinion may please be given about the effect of high temperature/heat on the gases so produced by the fire and the effect of such heated gases on the human body, Reference may also be made to the postmortem report and the findings of the doctor in the same as mentioned above.

Ans. The effect of high temperature/hot gases could be external burns and heat effects in the oral and respiratory passages. There is no finding suggestive of heat effect in the postmortem report of deceased Shri MS Bhinder.

Q5. Opinion may please be given as to whether the persons who were brought from "Uphaar cinema" on 13.6.97 due to the fire incident and who died in AIIMS had died because of any burn injuries or stampede or other causes?

Ans. 'There were no burn injuries or evidence of stampede or cause other than the suffocation '.

Q6. Opinion may please be given if immediate treatment with, and, or, by supply of oxygen would have been provided could the victims have been saved? If there would have been ambulances fitted with oxygen cylinders, immediately, could the life of the victims have been saved?

Ans. Some of the victims who have died on the way during transportation may have survived if immediate treatment was provided and/or proper ambulances fitted with oxygen cylinders with trained paramedical staff were available.

Q7. Opinion may please be given as to the time taken by the gas to have effect on the human system/bodies of the

victims and the time taken by the gases to kill the victims. If immediate rescue operation could have been done would they have been saved and if so the details may please be given.

Ans. The effect of these gases is rapid as the fatal period for carbon monoxide with 10% concentration is within 20-30 min. and fatal period of hydrocyanic acid is 2 to 10 min, sometimes produced during combustion of the above – said material could have caused rapid death of the victims. The immediate well-organized intensive rescue operation in such circumstances could have saved many lives....."

It will be relevant to refer to the testimony of the witnesses who were patrons/relatives of deceased :

PW1 Ms. Kanwaljit Kaur deposed "..... the person who was carrying torch showed us seat in 5th row towards right side..... after the interval as soon as movie started there was noise . I heard the noise of bomb blast. After sometime the picture stopped and saw that there was black smoke. There was no light, no announcement, even emergency lights were not on. The smoke was affecting our eyes and I was feeling suffocation..... 'There was commotion (Bhagdar) in the balcony. The people were saying that both the doors of the balcony were closed . I kept on standing on one side of balcony alongwith my husband , daughter and friend. My husband insisted that they will go and find out the way to go out. Thereafter he went away. Thereafter I became unconscious and fell down'....."

"...In her cross-examination on behalf of accused BM Satija she deposed that ".....we followed the public towards the exit gate. The distance of the seat where I was sitting and the exit gate was around 20-25 paces. There was only one exit gate in the balcony. I could not reach the exit gate....."

PW3 Karan Kumar deposed "..... After intermission (10

to 15 minutes) we noticed smoke coming inside through air conditioner duct and from various points..... 'movie continued but the lights went off no exit light was there , no alarm and nobody from management to direct us. People started running helter skelter and trying out the way to go out by this time, the movie also went off and everybody was trying to push the main door as it was locked and because of this situation there was lot of panic.....'we could make our way through the exit gate/doors we were very nearby and even after coming to the open we still felt suffocation of smoke....."

PW4 Ms. Neelam Krishnamurti deposed ".....due to curiosity I had preserved the tickets and when I had the opportunity to visit Uphaar alongwith the Commission, I was shocked to see that my children were sitting on A-4 and A-5 which was the first row in the balcony on right hand side, there was no gangway, no exist on the right hand side . The photocopies of tickets are Ex.PW4/A-1 and Ex.PW4/A-2....."

PW5 Sh. Ajay Mehra deposed ".....my wife told me on phone that there was fire in the cinema hall and they managed to break balcony door and were able to come in the lobby of cinema hall with great difficulty. She also told that there was smoke and gas all around her and there was total darkness inside the Uphaar Cinema building and there was nothing visible . She also told me that she was feeling suffocation and there was no way out. She further told that there was no help..... She mentioned that Vedant collapsed and they were dying..... "

PW7 Rishi Arora deposed "..... after the song I felt some gases in the rear stall, lights went off and there was pitch dark. Myself and my sister tried to come out of balcony but were not able to come out. There was lot of smoke and gases. We felt suffocation and it was difficult to breath. We were stuck in balcony for 10 to 15 minutes, somehow we managed to come out. There was no gate-

keeper, no torch man , no emergency announcement, no emergency light. Somehow, we reached near canteen but there was lot of smoke"

PW8 Amit deposed "..... when we tried come out we found all the doors of auditorium were closed and we were not able to open them . We were able to open one door which was leading to canteen, by breaking the same and then we came out..... "

In his cross-examination on behalf of accused Ajit Chaudhary , RK Sharma and Nirmal Chopra he deposed '.....'there was no announcement . It is incorrect to suggest that there was announcement which we could not hear due to commotion (Bhagdar) . It is incorrect to suggest that the cinema officials had come there and told that there was fire and we should come out..... "

PW11 Hans Raj deposed ".....We did not get any help . There was no announcement , no lights . The public which were near the balcony door and were ahead of him pushed it and opened and then they came out in the lobby....."

I find, from the above post mortem report, medical board opinion and testimony of the witnesses that the cause of death of the persons sitting in the balcony of the cinema hall was asphyxia caused by inhalation of smoke .

The question that now arises is what was the cause of smoke and where did the smoke come from . In this regard report of Dr. T.P. Sharma, Dy. Director, CBRI, Roorkee Ex. PW 25/A is relevant. The portion of the report relevant for the purposes of the present case reads as follows :

“...We were informed that fire started from overheating of the transformer resulting into spillage of the transformer oil which was flown out from the Transformer Room as the room level was higher than that of the floor outside. This has resulted the fire in the car which was parked outside the Transformer Room and subsequently to all the cars in that area caught fire.

Since the fire load, which is responsible to the growth and spread of fire was in the form of cushion seats, tyres, petrol/diesel, transformer oil and cable besides other materials like wood etc. The nature of the flammable material and their amount with low ventilation has resulted in the burning which can be categorised as partial burning or burning as a result of deficient oxygen supply. This has resulted in the high smoke generation evolving the toxic gases (alongwith carbon dioxide gases) like carbon monoxide, hydrochloric, (HCL) gas, cynogen gas (HCN), Sulphur dioxide etc. The later these gases may be in very low concentration but they are highly toxic to cause fatal injury.

The generation of the smoke has resulted in creation of high and low pressure areas which were responsible for the travel of smoke. Thus smoke has traveled mainly through the thorough horizontal opening from bottom to top on the stairways and also through the staircase from this area to ground floor as shown in figures. Since the balcony was naturally at the upper height and there was no opening in the false ceiling hence smoke from all sources tried to enter to the balcony but mainly from the right side. Infact the travel of smoke from left side towards the ladies toilet has resulted later and that is the reason that most of the people though that it was probably a safer place to stay till the fire is extinguished.

".....The smoke, travel through staircase NO. 3, was again responsible for the faster spread in the first floor

auditorium area through the door provided at the base of the podium of the screen. Similarly the small opening of about 45 cm dia at the roof of the ground floor was also responsible for the spread of the smoke at the first floor through A.C. Tunnels....."

9.How did the people die and what could be the effect of the gas/smoke on them. May please see the copy of the post mortem report in respect of Capt. M S Bhinder and please comment on the nature of gas which had caused the death. A:People might have died due to :

- Lack of oxygen
- Carbon monoxide(CO) inhalation in large quantity resulting in impaired cardiovascular function, high COH percentage.
- CO₂ increases respiration rate thus resulting in increased inhalation of toxic products of combustion.
- HCN- due to histotoxic anoxia in which normal cellular metabolism is prevented from occurring due to the enzyme inhibition. Asphyxia results as oxygen is not effectively utilized. (Documented cases in which HCN alone is considered to be primarily toxic in fire are rare)...”
-

In this regard the report of PW 64 Dr. Rajinder is also relevant.

The relevant portion of the report reads as under :

“.....The fire had started from DVB transformer which is situated in western portion of the car parking hall situated in ground floor of cinema complex. The shutter of the transformer room opens towards the car parking lot. Thereafter, the smoke appeared to have traveled in two directions i.e northward and southward. The northward

bound smoke encountered collapsible gate and a staircase adjacent to it. The smoke has gushed through stairwell due to chimney effect . The doors next to the screen on either side had severe smoke effect. The doors on either side of screen are two plank doors. Both portions shown effect of smoke. One door opposite to this staircase was closed at the time of incident as smoke effect was observed only staircase side of the door. Another door was to the right of the above door and one plank of the door was open at the time of fire. This way the smoke had entered the auditorium through right door as one plank of the door was opened at the time of fire incident.

The southward bound smoke traveled through ariel route was exhibited by the fact that the concrete pillars of the building did not show any signs of smoke at the bottom portion and cable hanging overhead of Uphaar Cinema complex showed signs of heat and smoke. The smoke gushed through stairwell due to chimney effect. The rear stall foyer canteen was not effected by smoke as well as fire as the connecting door from this staircase was closed. This connecting door had strong blisters i.e effect of smoke and temperature (heat) on staircase side of door. Hence, the smoke had gone further up the stair case and reached the foot/lower portion of balcony of auditorium. The balcony had three entrances, there were one entrance next to this particular stairwell and one entrance was through foyer/canteen lobby and third entrance was one floor above. The smoke effect had been seen on the outside as well inside of one plank portion of door next to this stairwell leading to foot of the balcony. The smoke had entered the balcony through this half open door. The connecting door to the foyer/canteen from this staircase was closed. This door had effect of smoke and heat on

outside portion. Further the smoke had gone up and effect of smoke was detected on entry door to the rear portion of balcony. The doors from the foyer canteen side to the auditorium and balcony were closed at the time of incident . Out of four door from rear stall side, three doors of double planks had been forcibly opened from the inner side of cinema hall.....”

The report of PW 35 K V Singh, Executive Engineer, CPWD is also relevant in this regard. His report states as under:

“.....The smoke traveled through air conditioning duct but he found air conditioning blowers were not connected through generator supply, therefore, he inferred that after the fault was cleared, air conditioning blowers were not working and smoke did not travel through air conditioning duct, after the fire, the blower should have stopped working but it did not. The supply came between 4.55 to 5.05 P M and during that period, the blowers were on which enhanced the speed of smoke inside the cinema hall.....”

The above reports establish that the cause of the smoke inside the auditorium was burning due to cushion seats, tyres, petrol/deisel, transformer oils and materials like wood etc. lying in the basement and ground floor. It is the nature of such substances and their quantity which resulted into smoke on account of low ventilation in the cinema hall. The smoke consisted of toxic gases like carbon monoxide, HCL gas , sulphur dioxide etc which were highly toxic to cause fatal injury.

The smoke had entered the auditorium through the right door. The high and low pressure areas were responsible for the travel of the smoke. The smoke traveled through horizontal opening from bottom to top through stairwell due to chimney effect. The pressure of smoke was high as it was going upwards since there was no outlet for the smoke to go out at the lower level itself because the rear wall on the stilt floor was constructed at height of 12' as against the height of 3' as per sanction plan Ex PW 15/Y3 . The said fact has been verified by testimonies and experts in their Report Ex. PW 2/A, Ex. PW 29/A and Ex. PW 39/A. The smoke traveled through the staircase from ground floor and it entered the balcony from the right side. Thus I find it is the combustible material which caused the smoke and smoke came from the ground floor to the balcony through the staircase and the horizontal openings on account of raising wall behind the transformer and unauthorised structure in the stilt floor which obstructed the passage of smoke in the atmosphere at the lower level.

The question that further arises is whether such

combustible material should have been there at all .As already observed hereinabove while dealing with the '**structural deviations**' that a mezzanine floor was found constructed with RS Joist and timber flooring was found which was completely burnt over the first floor which was used as an office. The owners of the cinema hall were warned on various occasions by the office of Chief Fire Officer to remove the said wooden planks but nothing was done by owners and the Managers, who were responsible for managing the daily affairs of the cinema hall, thereby putting the lives of the patrons at risk . As already held herein before the various local government bodies, including the office of Chief Fire Officer kept on granting 'No Objection Certificate"s to the owners of the cinema since past over 10 years in utter violation of the provisions relating to fire safety measures and without carrying out inspections of cinema hall. Even the shortcomings were pointed out. The same were ignored by the owners and the 'No Objection Certificate's were somehow procured by them in collusion with office of Chief Fire Officer. Evidently the presence of combustible material, present in the cinema hall building was in violation of the requirements

of law and it is borne out from the inspection reports that the burning of the same emitted smoke which caused the death of the patrons in the cinema hall. Therefore it is held that the owners of the cinema, the managers of Uphaar cinema and the officials from the office of Chief Fire Officer who granted the 'No Objection Certificate' to the cinema hall owners for the period 1996-98 without carrying out the inspection of the premises, as held herein before caused death of 59 persons and injury to 100 persons.

As held above smoke also emitted due to the burning of tyres, upholstery, petrol and diesel . As already held herein before in 'Position of car parking' the cars which were parked at a distance of 3'4" from the transformer room in violation of sanction plan which requires a distance of 16' to be maintained, the fire aggravated due to the cars being parked close to the transformer and it soon spread to the other cars , wooden planks used in mezzanine floor and the combustible material in the forms of cushion and seats in the basement. There is nothing on record to show that accused Gopal Ansal or Sushil Ansal who were responsible for the affairs of the cinema

conveyed the said requirement of law of keeping minimum safe distance between vehicles and transformer room to the parking contractor at the time of entering into contract with him in 1988. The Managers who were responsible for entire day to day functioning of the cinema were under an obligation to ensure that the cinema hall is being run in accordance with applicable rules in every which way. It is evident that the managers also never instructed the Parking contractor that parking cars close to the transformer can be a fire hazard and that he should make sure that vehicles are parked at the required distance from the transformer. The owners of Uphaar cinema and the managers were to make sure that to ensure safety of the patrons inside the cinema hall , the required distance of 16' as per the sanction plan is maintained, keeping in view the safety of public against fire. Having failed to do so they acted with gross negligence which resulted in the death of 59 persons in the cinema hall and injury to 100 persons.

As already held herein before, the incident occurred because of the transformer catching fire .In the present case, as already held hereinabove, the position/installation of transformer was

not in accordance with Bureau of Indian Standard/sanction plan. It was also not in accordance with Electricity rules and other laws of Bureau of Indian Standard. Electricity Rules were violated by keeping HT and LT wires in the same room while installing transformer side by side. No provision was made for separating two transformers installed side by side by fire resistant walls as required under the rules . No soak pit was provided to soak oil. There was no provision for complete isolation of each transformer including control pilot and interlocking circuits. Proper ventilation i.e free circulation of air on all the sides

were not adhered to. Due spacing between walls and transformer was not there. Moreover, position of transformer at the site also indicates there was no provision for efficient cooling, inlets of air was not near the floor. Instead it was not less than 3 ' high from floor. The outlet provided to enable the heated air to escape readily and replace cool air was lacking. Thus the installation of transformer was against Electricity Rules and sanction plan Ex.PW15-Y/3. Since the occurrence of

the incident started from the transformer, it became the direct and proximate cause of death of the patrons sitting in balcony of cinema hall. It is evident from the documents on record, as held herein before that the persons responsible for getting the said transformers installed were the owners of the cinema hall, accused Gopal Ansal and Sushil Ansal in contravention of the applicable rules as discussed above.

When fire took place in the morning of 13.6.1997 and a report was lodged, three persons from DESU namely accused B M Satija, A K Gera and Bir Singh were sent to carry out the repairs. Accordingly repairs were carried out by said accused persons by replacing two cable end sockets on B Phase as held herein without using crimping machine which lead to loose connection of the cable end socket of B-phase Bus-bar of transformer, there was sparking. The cable-end-socket of B-phase of LT supply cables had not been fixed properly as the same had been fixed by hammer and dye method and not by the crimping machine or any other proper system. One of the LT cables got disconnected from the cables from 'B' phase. It is evident from the said facts that gross negligence on the part of

the said accused who were experts in the field of electricity led to the transformer catching fire again , when the incident took place and led to the causing of death of 59 persons and injury to 100 . The positive acts committed by said accused persons, therefore became the direct and proximate cause of death.

It is clear from the above findings that death was caused by inhalation of smoke by the patrons . The presence of smoke in the cinema hall building has not been disputed by the accused and the reports of the experts verify the said fact . Smoke had spread in the entire auditorium . However only patrons sitting in the balcony died.

The question that arises is what were the other factors which were the direct cause of the death of the said patrons.

It is revealed from the testimonies of the witnesses that since the patrons were trapped inside the balcony of auditorium, which was engulfed with smoke, they died due to inhalation of smoke .The patrons sitting in the balcony couldn't escape in time to save themselves since there were no proper means of escape. As per the requirement of the statute , mandatorily four

exit doors were required in the balcony. One exit door on the right side and gangway on the right side had been covered by adding extra seats as has already been detailed herein above . PW 29 B S Randhawa, Assistant Engineer, Public Works Department has deposed that the gangway on the right side of the middle entrance gate has been found 1'.10" instead of 3'.8" which was restricting the passage and on the right side, a box with eight seats was found provided by covering the exit passage. As already held herein before the alterations made in the balcony of the cinema hall by the the owners of Uphaar cinema in contravention of the provisions of law became a hinderance in the egress of persons from the balcony to open air as a result of which patrons couldn't come out of the balcony in time to save their lives.

It is also revealed from the testimonies that the remaining three exit doors of the balcony were bolted. After getting to know about the fire in the building, the gatekeeper, accused Manmohan Uniyal fled from the cinema hall building without unbolting the exit doors . It emerges from the testimonies of the eye-witness that since the doors were bolted , one of the doors

had to be pushed open by the patrons to come out in open space to save themselves, but that took 10-15 minutes time, which was sufficient to cause death of the persons who were inhaling those toxic gases for 10/15 minutes.. It is also revealed from the depositions that after one of the exit doors was broken open , and since there was lot of smoke in the staircase downstairs, people started climbing upstairs towards the terrace to save their lives. The patrons could not reach open air, there was an unauthorized commercial office in the name M/s Sareen Associates constructed on the landing of the staircase on the top floor , which created a bottleneck and facilitated in causing death of more patrons who couldn't reach in open air on the terrace and died due to suffocation. It is also revealed from the inspection reports that the exhaust fans should have been towards permanent open space whereas these four exhaust fans had been provided in the stairs As already held herein before there were structural deviations existed in cinema building which obstructed the egress of patrons from the balcony to the open area and directly contributed to the death of the patrons therein. It is unfortunate

that the the blatant structural deviations which were found in the cinema building after the occurrence of the incident were never objected to by the Municipal corporation of Delhi, a government body which is responsible for ensuring compliance with building plans. It is, therefore, held the owners of Uphaar cinema who carried out the structural deviations, the officers of MCD who granted 'No Objection Certificate' for running the cinema hall for the years 1995-96 and 1996-97 respectively oblivious of and without inspecting the structural deviations existing in cinema building and the managers of Uphaar cinema who turned a blind eye to the said deviations and the threat to public safety caused by them, became the direct cause of death of 59 persons and 100 injured in the cinema hall. The act of the gatekeeper in fleeing from the cinema hall without unbolting the door of balcony was the direct cause of the death of the persons trapped inside.

It further emerges that all the eye-witnesses have unanimously deposed that after they realized the smoke venturing into the hall and a hue and cry was raised, nobody from the management of Uphaar cinema was there to help them to

escape . There was no fire alarm, no emergency lights and no public announcement warning the patrons about the fire in the building . PW 85 Madhukar Bagde, Projector Operator in Uphaar Cinema has deposed that there was announcement system in the Operator Room but that was not functioning. He deposed that he had told this fact to Mr. Malhotra, Manager of Uphaar cinema to get it rectified but it was not rectified and was not operating. This fact has also been verified in the report of PW64 Dr. Rajinder Singh . It has also emerges from the facts that the managers on getting to know about the incident ran away without unbolting the doors of the balcony and without ensuring that all the persons in the auditorium are rescued. The cinema hall being a public place and the managers of the cinema hall being responsible for the entire functioning of cinema had an obligation/duty to ensure the safety of the persons who came there for entertainment. It will have to borne in mind that fire safety measures in every building specially in a public place have to be ensured at all times. It is the managers who are present in the cinema building and are expected to deal with any emergency in the building in a responsible

manner. The managers , being directly responsible for the daily functioning of the cinema utterly failed in their duty to ensure the safety of the patrons inside the cinema hall. The managers failed to take measures to prevent the fire and also failed to ensure safety measures were there against fire. Therefore in that view of the matter it can be certainly held that the managers grossly neglected to perform their duties which caused the death of the patrons trapped inside. It is writ large that the owners and management have violated the provisions relating to fire safety measures stipulated in Delhi Fire Prevention and Fire safety Rules as a result of which the persons who had gone to view the film in the cinema lost their lives and 100 patrons suffered injuries.

It can be held without any doubt that the factors which were the direct and proximate cause of death of 59 persons and injury to 100 persons in Uphaar cinema was installation of transformer in violation of law ,faulty repair of transformer, presence of combustible material in the cinema building,parking of cars near the transformer room, alterations in balcony obstructing egress, structural deviations resulting in closure of escape routes in the building at the time of incident, bolting of the exit doors from outside and absence of fire fighting measures and two trained firemen , during the exhibition of film in the cinema building .

It will be relevant to take note of section 304,304-A,337,338 and section 36 IPC :

Section 304 IPC reads as follows:-

“Whosoever commits culpable homicide not amounting to murder, shall be punished with imprisonment.... of either description for a term which may extend to ten years, or years, or with fine or with both, if the act is done with the knowledge that it is likely to cause death, to cause such bodily injury as is likely to cause death

Section 337 of IPC...”

Section 304A IPC reads as follows:-

" Causing death by negligence - Whoever causes death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

Section 337 reads as follows:-

“Causing hurt by act endangering life or personal safety of others - Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both."

Section 338 of IPC reads as follows:-

“...Causing grievous hurt by act endangering life or personal safety of others - Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both..."

Section 36 of IPC reads as follows:-

“Effect caused partly by act and partly by omission - Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that

effect partly by an act and partly by an omission is the same offence.”

To make out a case u/s 304-A the prosecution has to establish that the act was rash and negligent and directly caused the death of another person. The negligence should be gross. It should be the promixate or efficient cause which resulted into the death.

SUSHIL ANSAL AND GOPAL ANSAL

The accused Sushil Ansal and Gopal Ansal have been charged under Section 304A IPC read with section 36 IPC, which charge has been affirmed by the Hon'ble High court of Delhi vide order 11.09.01 and 13.05.01 respectively dated . They have also been charged under section 337/ 338 IPC read with section 36 IPC . They have also been charged for offence punishable under section 14 of the Cinematograph Act 1952 .

It is already held herein before that accused Sushil Ansal and Gopal Ansal were at the helm of affairs of Uphaar cinema . They were de-facto supervising and looking after the management of Uphaar cinema in all respects at all material times from the beginning till the occurrence in question. The license for running the cinema hall was granted in the name of accused Sushil Ansal as the representative licensee and it

remained in his name at all times.

The occurrence of the incident started from the transformer. It became the direct and proximate cause of death of the patrons sitting in the balcony. Accused Gopal Ansal and Sushil Ansal allowed the installation of the transformer in the premises of Uphaar cinema in order to obtain the electricity connection in the cinema. The accused knew that the position/installation of transformer was not in accordance with Bureau of Indian Standards/sanction plan. It was also not in accordance with Rules of electricity under the Electricity Act and other laws of Bureau of Indian standard . The rules were violated by keeping the HT and LT wires in the same room. Even the transformers were installed side by side and no fire resistant wall was provided. No soil pit was provided to soak the oil flowing from the transformer. There was no provision of complete isolation of each transformer including control pilot and inter locking circuit. The ventilation i.e free circulation of air on all sides of the transformer wasn't there. Even parapet wall was raised upto the ceiling against the rules which obstructed the flow of smoke in the atmosphere and instead went into balcony on the day of

incident. Due passage between the walls and the transformer wasn't there. Consequently efficient cooling from inlets of air near the outlet provided to enable the heated air to escape and be replaced by cool air was lacking. It is the accused Sushil Ansal and Gopal Ansal who were responsible for installation of transformer in aforesaid manner against Electricity Rules framed under the Electricity Act and sanction plan of the building.

It is at the instance of accused Sushil Ansal that the premises of Uphaar cinema was let out to various tenants. The unauthorized structures as noted in the chapter of 'structural deviations' were carried out at the instance of accused Sushil Ansal and Gopal Ansal. The license to exhibit cinema was violated in the matter of seating arrangement of the balcony and in the alteration of gangways at the instance of accused Sushil Ansal and Gopal Ansal. Temporary permits were obtained instead of regular license by the accused Sushil Ansal and Gopal Ansal in connivance with the authorities. No directions by the accused Sushil Ansal and Gopal Ansal were ever given to the Parking contractor at the time of entering into the contract

with him in 1988 or thereafter at any time , that the vehicles should be parked at a distance of 16 ' from the transformer room as per sanction plan. In fact the cars were parked as near as 3'-4' from the transformer which resulted in adding fuel to the fire on the day of the incident. Thus the positive act of structural deviations, change in the gangways and seating arrangements of balcony which obstructed the egress of patrons from the balcony on the day of the incident were done at the instance of accused Sushil Ansal and Gopal Ansal. The positive act of letting the premises of Uphaar cinema and the deviations in the staircase, which blocked the passage for the patrons to reach to the terrace to save themselves, was done by these accused . These accused also committed acts of omission in allowing the fuel material to be collected in the basement and other places in the building. These acts can be described as omission to perform the legal duties as envisaged by the Delhi Cinematograph Act and Delhi Cinematograph Rules.

I therefore hold the accused guilty of offence under section 304A read with section 36 IPC for causing the death of 59

persons by their their gross negligent acts and omissions as stated above . Since on account of act and omissions of accused Sushil Ansal and Gopal Ansal injuries were caused due to the incident , the accused are also held guilty under section 337/338 IPC. I also hold them guilty under section 337/338 IPC for causing injuries to the patrons of the cinema hall who had visited the cinema on the date of incident .

The accused have also been charged for the contravention of provisions of Delhi Cinematograph Rules, 1953 and Delhi Cinematograph Rules 1981. The accused by changing the seating arrangements of the balcony and causing structural deviations and obstructing the flow of the patrons in the stairs have also violated Rule 14 of Delhi Cinematograph Rules , 1981 and thereby also committed offence punishable under section 14 of Delhi Cinematograph Act. The accused are held guilty accordingly for violation of Rule 14 of Delhi Cinematographic Rules, 1981 and are held guilty for the offence punishable under section 14 Cinematographic Act, 1952.

H.S PANWAR AND SURINDER DUTT

The accused H.S Panwar and Surinder Dutt have been charged

under section 304 IPC read with section 36 IPC. Since accused Surinder Dutt died during pendency of the proceedings, the charge against him had abated .

Accused H.S Panwar acted with gross negligence by recommending 'No Objection certificate' without fulfilling requirements of law and without carrying out inspection of the cinema hall building from fire safety point of view , resulting in the issuance of temporary permits and on the basis of the same exhibition of films, which action resulted into the death of the patrons inside the cinema hall on the day of the incident . The accused committed breach of duty by omitting to point out the fire hazards and deficiencies in fire fighting measures in the cinema building, which act amounts to culpable negligence on his part. The act of accused can also be described as 'culpable rashness' since being an officer from the office of Chief Fire officer, he was conscious that the intended consequences would surely ensue. The accused by omitting to do his lawful duties committed gross negligence and rashness which was the direct and proximate cause of the death of 59 persons . Accordingly, the accused H.S Panwar is held guilty for the offence under

section 304A IPC read with section 36 IPC. The accused is also held guilty for the injury to the patrons in the cinema hall for the offence under section 337 and 338 IPC.

SHYAM SUNDER SHARMA AND N.D TIWARI

The accused Shyam Sunder Sharma and N.D Tiwari have been charged under section 304A IPC read with section 36 IPC.

These accused issued 'No Objection certificates' for the periods 01.04.95 to 31.03.97 while functioning as Administrative Officers in Municipal Corporation of Delhi. They issued the said certificates without conducting the inspection of the cinema hall and pointing out the deviations in the cinema building . As held herein before, it was their duty to have noted the deviations in their report and point out the same to the Licensing authority which, in turn would have refrained to issue even temporary permits . By not pointing out the deviations in the cinema hall, these accused acted with gross negligence and endangered the lives of the patrons and ultimately caused death of 59 patrons and injuries to 100 patrons. These accused, therefore are liable for their criminal negligence in causing the death and injuries as

aforesaid. Accordingly accused are held guilty under section 304 A IPC read with section 36 IPC. The accused are also held guilty under section 337/338 IPC.

S. N DANDONA

The accused S.N Dandona was charged for offence under section 304A IPC read with section 36 IPC . The accused was also charged under section 337/338 IPC. Since he died during the pendency , the charge against him has abated .

B.M SATIJA, A.K GERA AND BIR SINGH

The accused B.M Satija, A.K Gera and Bir Singh have been charged for offences punishable under section 304 IPC read with section 36 IPC for causing death of 59 persons.

As already held herein before the fire was caused in the building due to the transformer . On 13.06.97 at about 7.05 a.m. fire took place at Delhi Vidyut Board transformer installed at Uphaar Cinema. On lodging of complaint, complaint line man Munna Lal and Jiya Lal labour of Delhi Electric Supply Undertaking were sent to attend the complaint . They reported after attending the complaint that one lead in LT side in the transformer of Delhi Vidyut Board had burnt. Hence, supply of

electricity had been switched off. The accused Brij Mohan Satija , accused Anand Kumar Gera, Inspector Delhi Vidyut Board and accused Bir Singh, Senior Fitter were sent to attend to the complaint. The repair of the transformer was not carried out with the help of crimping machine which led to loose connection of the cable and socket of the B phase bus bar of transformer and therefore there was sparking. The cable end socket of B phase of LT supply cables had not been fixed properly as the same had been fixed by hammer and dye method and not by the crimping machine or any other proper system.

The accused having not repaired the transformer properly, being experts in the matter of electricity had the knowledge that if fire again takes place, it is likely to cause death of the patrons, in case the cinema show is on. It is on account of the act of the accused, which was not upto the standard that the fire was caused . These accused are directly responsible for the fire and the death of 59 persons in the cinema hall .

It is submitted by accused A.K Gera that he had no duty in this zone. The argument has no merit once he had attended the complaint and made the report .

It is submitted by accused B.M Satija that he didn't attend to the report. The rectification report bears his signature. No evidence to the contrary has established the fact as alleged by him . The argument has no substance. Instead Bhagwan Din PW 44 has deposed against his submissions.

The other arguments raised by the accused have already been dealt with herein before while dealing with 'Transformer'

Accordingly I hold that the accused B.M Satija, A.K Gera and Bir Singh are guilty of the offence of culpable homicide not amounting to murder punishable under section 304 IPC. The accused are held guilty under the said section.

R M PURI, K L MALHOTRA, R K SHARMA, N S CHOPRA, AJIT CHOUDHARY :-

The accused K.L Malhotra (now expired), Ajit Chowdhry, N.K Chopra, R.K Sharma, R.M Puri (now expired) have been charged with offences punishable under section 304 read with section 36 IPC.

The accused K.L Malhotra (now expired), Ajit Chowdhry, N.K Chopra, R.K Sharma, R.M Puri (now expired) were holding the position as managers. Since accused K.L Malhotra and R. M Puri have died during the pendency of the proceedings, the

charge against them is abated.

A person who holds a managerial capacity in a cinema hall has a duty to see that there is no violation of any law, or rule or bye law relating to the Cinematograph Rules or Fire Safety Rules or the provisions of the Delhi Electricity Act. When the show is on, it is their duty to see that all rules and regulations are duly complied with including the safety of the patrons. The managers failed to take measures to prevent the fire and also failed to ensure safety measures were there against fire. As held herein before , the fire was aggravated due to the the presence of fuel material including cars which were parked at a distance of 3' -4' feet from the transformer room. The managers failed to ensure that the cars are parked at a safe distance of 16' from the transformer room and no combustible material is stored in the basement. The managers are presumed to have knowledge of the fact that if anything goes wrong in the transformer room, the presence of the cars near it and presence of combustible material in the building will add fuel to the the fire , which is what happened on the day of the incident. The managers on getting to know about the incident ran away

without making sure that the doors of the balcony are unbolted and without ensuring that all the persons in the auditorium are rescued. These accused didn't care for the safety of the patrons who were in the balcony. The accused while keeping themselves away had the knowledge that the patrons inside the balcony could die if the gates are not open. The managers also had the duty that once fire had broken out in the transformer in the morning, they were to assure whether the show is to be exhibited on that day or not. They were to take extra precautions vis-vis the transformer, which they failed. Since these accused were directly responsible on the date of the incident they are liable for offence under section 304 IPC read with Section 36 IPC.

The managers were also instrumental in procuring the temporary permits instead of the regular licenses to run the cinema and they exhibited the films without rectifying the various violations as have been noted herein before which was the cause of the death of the patrons. Running the show on the face of the violations clearly tells that they had the knowledge that if something untoward happens like death, they would be

liable for culpable homicide not amounting to murder.

The post of a manager of a cinema hall implies that he has to look after the entire functioning of the cinema hall in accordance with Delhi Cinematograph Act, Delhi Cinematograph Rules, Delhi Fire Safety Act and Rules, Indian Electricity Rules, 1986, Bureau of Indian standards, Delhi Building Bye laws 1983 and such rule. The duties of manager implies that the manager is to ensure that the equipments in cinema are in safe working condition , the employees are diligently performing their duties and on their failure it is their duty to ensure that no violation takes place . It is their duty to ensure that the safety measures are functional and are in order before each show starts so that in case of emergency or incident like this, the patrons are not stuck inside and are able to escape . The managers in the present case utterly failed in fulfilling their obligations/duties.

Moreover the managers were running the shows inspite of structural, electrical and building deviations as held herein before . They ran the show knowing fully well , if fire takes place it is certainly likely to cause death of the patrons in

cinema hall.

The position of the managers is different from the owners of cinema, accused Sushil Ansal and Gopal Ansal since the managers had the onerous duty to ensure that show is not to be run if there is any circumstance as may cause death or injury to the patrons.

Since the managers ran the show against the Rules as noted herein before and were persons directly responsible at the site when the show is exhibited they were presumed to have knowledge that their omissions will cause death of the patrons inside the cinema building directly liable for the deaths of the patrons. The exhibition of the films was being carried out by them without rectifying the violations which prohibited the grant of the license with knowledge that if some event happens and death is caused they will be liable for culpable homicide not amounting to murder. Their acts and omissions lead me to hold the accused R K Sharma, N S Chopra are Ajit Choudhary are guilty for offence of culpable homicide not amounting to murder punishable under section 304 IPC read with section 36 IPC.

MANMOHAN UNIYAL

The accused Manmohan Uniyal has been charged for offence punishable under section 304 read with section 36 IPC.

Accused Manmohan Uniyal is directly responsible since he was the gatekeeper on duty at the the time of incident . It was his duty to be at guard and see that there is no bolting of the doors and patrons get out of the cinema hall whenever they desired or in case of any emergency , without hinderance. It is established from the deposition of witnesses that the doors were bolted and one of the doors had to be broken open to get out of the balcony . The bolting of the doors imputes knowledge that, if the event like the one which has occured, is likely to cause death of patrons inside the cinema hall. The act of the accused in running away without unbolting the doors was done by the accused with knowledge that the patrons inside the balcony will not be able to escape and will die. Such a conduct, in the event death is caused amounts to culpable homicide not amounting to murder.

It is submitted by accused Manmohan Uniyal that he had left the cinema hall before the incident took place. He can't escape his liability unless he establishes that the responsibility on his

behalf was undertaken by some other gatekeeper, which the accused has failed to do. It is argued by Mr. Ramesh Gupta on behalf of the accused that there was no such procedure in cinema hall . I can't accept this argument . One who takes the responsibility in a cinema hall where large number of patrons visits , can't escape his liability by saying that there is no such procedure.

It is submitted by Shri Gupta that another gatekeeper Pitamber Jha had come and responsibility was given to him . The accused should have produced Pitamber Jha if that was the case . It is submitted that CBI had cited Pitamber Jha as a witness but he was not produced . If CBI had not produced , the accused should have sought permission from the court and should have produced or established the fact by some other evidence to save his liability. The accused having failed can't take benefit of the same . Moreover I find from the record of the attendance register that the accused was there when the incident took place . Even otherwise the argument has no merit. The accused is directly responsible for death of some of the persons who died in the incident since he bolted the gates . His

act is such which imputes knowledge to him that if fire takes place or smoke enters the cinema hall it is likely to cause death of the persons inside the balcony on account of suffocation / asphyxia as has been held in the post mortem report Ex.PW 77/A. Accordingly I hold accused Manmohan Uniyal guilty for offence of culpable homicide not amounting to murder punishable under section 304 IPC read with section 36 IPC.

For the reasons stated above :

a) I convict accused Sushil Ansal and Gopal Ansal for the offence punishable under section 304A , 337/338 IPC read with section 36 IPC.

b) I also convict accused Sushil Ansal and Gopal Ansal under Section 14 of Delhi Cinematograph Act, 1952.

C) I convict accused H.S Panwar for offence punishable under section 304A IPC read with section 36 IPC.

d) I convict accused Shyam Sunder Sharma and N.D Tiwari for offence punishable under section 304 AIPC read with section 36 IPC.

e) I also convict accused Shyam Sunder Sharma and N.D Tiwari under section 337/338 IPC.

f) I convict accused B.M Satija, A.K Gera and Bir Singh for offence punishable under section 304 IPC read with section 36 IPC.

g) I convict accused Ajit Chowdhry, N.S Chopra, R.K Sharma for offence punishable under section 304 IPC read with section 36 IPC.

h) I convict accused Manmohan Uniyal for offence punishable under section 304 IPC read with section 36 IPC.

Since accused K.L Malhotra, R.M Puri , S.N Dandona and Surinder Dutt, had expired the proceeding against them had abated.

Mamta Sehgal

Announced in open court

**Mamta Sehgal
Additional Sessions judge
20.11.2007**