

IN THE COURT OF THE ADDL. CHIEF METROPOLITAN  
MAGISTRATE,  
TEES HAZARI, DELHI



CC NO:

Securities and Exchange Board of India, a  
statutory body established under the  
provisions of Securities and Exchange  
Board of India Act, 1992, having its Head  
Office at Mittal Court, B - Wing, 224  
Nariman Point, Mumbai - 400 021  
represented by its Legal Officer, Shri  
Sharad Bansode.

...Complainant

Vs.

- 17
1. SJM Agro Ltd. a company incorporated  
under the provisions of Companies Act,  
1956 and having its Office at 11/393, Lalita  
Park, Laxmi Nagar, Delhi 110 092.
  2. Sh. Ajay Singh, S/o Ramchandra Lal  
Srivastava; Occupation Director of the  
Accused No.1; resident of 14/550, West  
Guru Angad Nagar, Laxmi Nagar, Delhi -  
110 092.
  3. Sh. Rama Kant Singh, S/o not known to the  
complainant; Occupation Director of the

P.O.

12/11/20



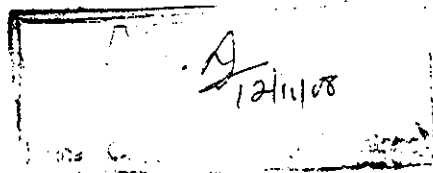
Accused No.1: resident of Vill. Sadipur, PO  
Goriakothi, Distt. Siwan, Bihar.

4. Smt. Usha Singh, w/o Ramchandra Lal  
Srivastava; Occupation Director of the  
Accused No.1; resident of 14/550, West  
Guru Angad Nagar, Laxmi Nagar, Delhi -  
110 092.

P.O.

...Accused

COMPLAINT UNDER SECTION 190 and 200 OF THE CODE OF  
CRIMINAL PROCEDURE, 1973 READ WITH SEC. 24(1)  
AND 27 OF SECURITIES AND EXCHANGE BOARD  
OF INDIA ACT, 1992



No.91/2005

23.10.2008

Present: Sh. Anil Dutt, proxy for Sh. Sanjay Maan, Advocate for SEBI.

Convict no. 3 is present in person with Sh. T.D. Shukla, Advocate.

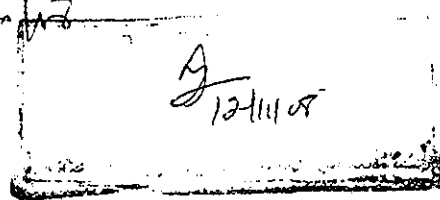
Arguments on the point of sentence have been heard.

Vide separate order of date, dictated and announced, convict no.3 is ordered to undergo rigorous imprisonment for 6 months under unamended Section 24 of Securities and Exchange Board of India Act, 1992. In addition, convict nos. 1 and 3, shall also pay a fine of Rs.1.00 lac each and in default of payment of fine by convict no.3, he shall undergo simple imprisonment for 3 months. It is further directed that convict no.1 shall file Winding up and Repayment Report as per provisions of the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999 within two months and SEBI would be at liberty to get it audited and then initiate appropriate action as per law. Convict no. 3 would also be entitled to benefit of Section 428 of the Criminal Procedure Code, 1973.

At this stage an application under Section 389 of the Criminal Procedure Code, 1973 has been moved on behalf of convict no. 3 by Sh. T.D. Shukla, advocate for suspension of



*[Handwritten signature]*



IN THE COURT OF Sh. PADAM KANT SAXENA,  
ADDITIONAL SESSIONS JUDGE: DELHI.



CC 91/05 (New)

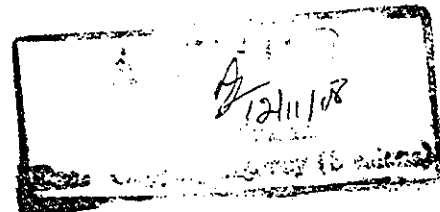
SEBI VS. SJM Agro and others

**ORDER ON SENTENCE**

1. Vide judgment dated 22.10.2008 accused nos. 1 and 3 had been held guilty and therefore convicted under Section 24 of Securities and Exchange Board of India Act, 1992 (for short referred to as 'the Act') read with Section 27 thereof.

2. I have heard arguments of Sh. Anil Dutt, proxy for Sh. Sanjay Maan, advocate for SEBI and Sh. T.D. Shukla, Advocate for convict no. 3 on the point of sentence and have gone through the records carefully.

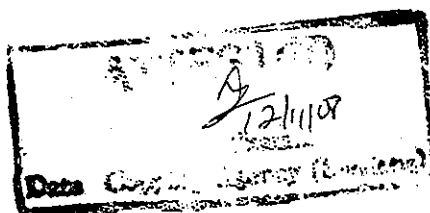
3. Ld. Defence Counsel has prayed for a lenient view in the matter on the ground that accused no.3 is a senior citizen and he was merely a sleeping director who had already resigned. Further according to him, the money of the investors stood refunded and accused no.1 stood closed.





It would be useful to remember that the Act had been enacted with a view to provide for establishment of a Board i.e. Securities and Exchange Board of India (for short referred to as 'SEBI') to protect the interests of investors in Securities and to promote the development of, and to regulate the Securities market and for matters connected therewith or incidental thereto. Thereafter SEBI in exercise of its powers conferred by Section 30 of the Act read with Sections 11 and 19 thereof, made Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999 (for short referred to as 'the Regulations'), which came into force w.e.f. 15.10.1999.

5. Now as already held in the judgment dated 22.10.2008 accused no.1 through its Collective Investment Schemes had collected more than Rs.26.00 lacs from the investors. It had further been held that, as per provisions of 'the Regulations' accused no.1 neither got the schemes registered nor wound up the same. Accused no.1 also did not repay money of the investors nor filed Winding up and Repayment Report as per the provisions of the Regulations. It is also important to note that accused no.2, a proclaimed offender, who was Managing Director of accused no.1, is none else than, son of accused no.3 who has been facing trial.





In the case of Ravji Vs. State, AIR 1996 S.C. 787, Hon'ble Supreme Court has inter-alia held that it is the nature and gravity of the crime but not the criminal which are germane considerations for appropriate punishment in a criminal trial. It was also held that the Court would be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victims but also against the society to which accused and the victim belong.

7. In view of the aforesaid facts and the legal position, I am of the firm view that interests of justice would be fully met if convict no.3 is ordered to undergo rigorous imprisonment for 6 months under unamended Section 24 of the Act. In addition, convict nos. 1 and 3, shall also pay a fine of Rs.1.00 lac each and in default of payment of fine by convict no.3, he shall undergo simple imprisonment for 3 months. It is further directed that convict no.1 shall file Winding up and Repayment Report as per provisions of the Regulations within two months and SEBI would be at liberty to get it audited and then initiate appropriate action as per law. Convict no. 3 would also be entitled to benefit of Section 428 of the Criminal Procedure Code, 1973.

*[Signature]*  
(PADAM KANT SAXENA)

ADDITIONAL SESSIONS JUDGE:  
DELHI.

*Copy given to the  
convict at open court  
at 10:00 on 24/1/88  
[Signature] 24/1/88  
TBW*

Office of the District & Sessions Judge 3 Of 3  
D. this  
Certified to be a true Copy  
Date 12/1/88  
Copying Agency  
Authorised under section  
Indian Evidence