



IN THE COURT OF ADDITIONAL CHIEF METROPOLITAN

MAGISTRATE, DELHI

CC NO: 81/OF 2004

CC. 29/09
6/8/09

5/1/10

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.

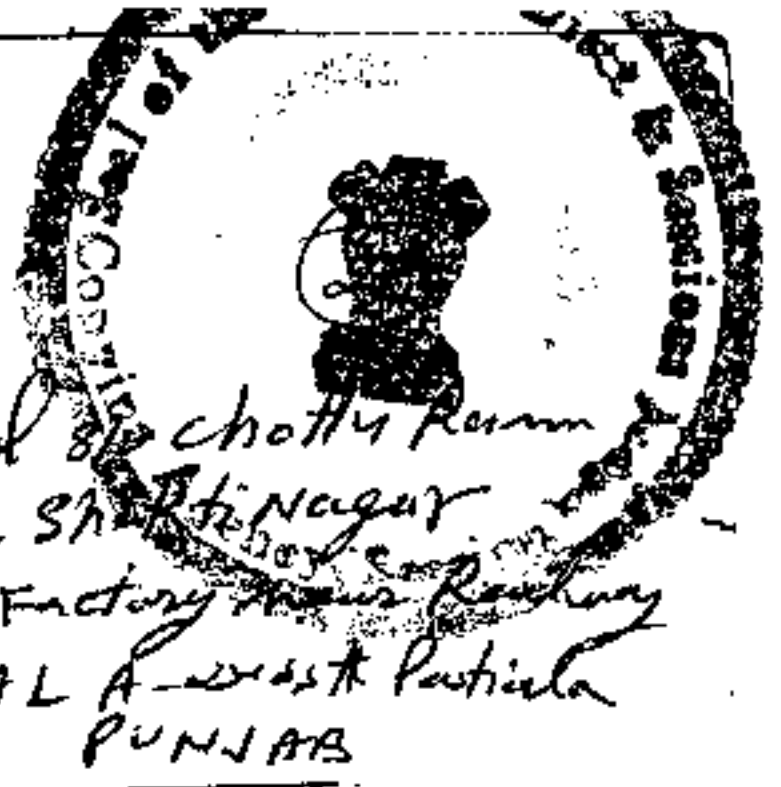
...Complainant

VERSUS .

1. Akash Jyoti Forests (I) Ltd., a Company incorporated Under the Companies Act, 1956, having its Regd. Office at : House No. 31, Gurunanak Nagar, Gurubux Colony, 1A/%, Patiala, Punjab and having Head Office at : SCF 340, New Motor Market, Manimajra, Chandigarh.
2. Shri Chotu Ram Rohilla, Director of Accused No.1, R/o: House No. 637, Ward No. 13, Jind, Haryana.
3. Ms Jyoti Rohilla, Director of Accused No.1, R/o: House No. 637, Ward No. 13, Jind, Haryana.
4. Shri Krishan Gopal Rohilla, Director of

Chotu Ram s/o Lachand
R/o H.No 69, Shaktinagar
Behind wire Factory near
Railway Line - PATIALA
Distt Patiala - Punjab.





Heripm Gopal 8/2 chetty Ramm
R/o H.No 69, SHRI Nagar
Behind wire Factory near Railway
Line - PATIALA - District Patiala
PUNJAB

Accused No.1, R/o: House No. 637,
Ward No. 13, Jind, Haryana.

5. Ms. Jyoti Bhalla, Director of Accused
No.1, R/o: House No. 637, Ward No.
13, Jind, Haryana.

6. Shri Satish Rana S/o Shri Madan Lal,
Director of Accused No.1, R/o: House
No. 589/3, Hari Nagar Colony, Safidon
Gate, Jind, Haryana.

7. Shri Ashok Kumar, Director of Accused
No.1, R/o: House No. 135, Ward No.
10, Jind.

8. Shri Ram Raj. Director of accused No.
1, R/a: 35 A, Village : Mandoo Khen,
Tehsil & Distt. Jind.

9. Shri Mahesh Kaushik, Director of
accused No.1, R/a: 89/6, Mohalla
Rampura, Hansi, Haryana.

10. Shri Ramesh Kumar Saini, Director of
accused No.1, R/a: 577/11, New Saini
Basti, Safidon Road, Jind.

11. Shri Rajbir Singh, Director of accused
No.1, R/a: 590/16, Bhiwani Road, Jind,

.....Accused

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





CC No. 51/10

Item no. 11

26.07.2011

Present: Sh. Sanjay Mann, Advocate for the SEBI
Accused No.5 is deleted from the array of accused
Accused No.6 is PO vide order dated 14.12.2006.
Accused No.1 is company
Sh. Mahender Singh, Advocate, Counsel for accused
Nos.2, 4, 7, 10 & 11.
Sh. Rajesh Kumar Sharma, Advocate, Counsel for
Accused no. 3, 8 & 9.

Vide separate judgment dated 26.07.2011, A1 i.e. Company accused, A7 to A11 have been held guilty for the offence punishable under Section 24 (1) read with Section 27 of the SEBI Act while A2 to A4 have been acquitted from all the charges.

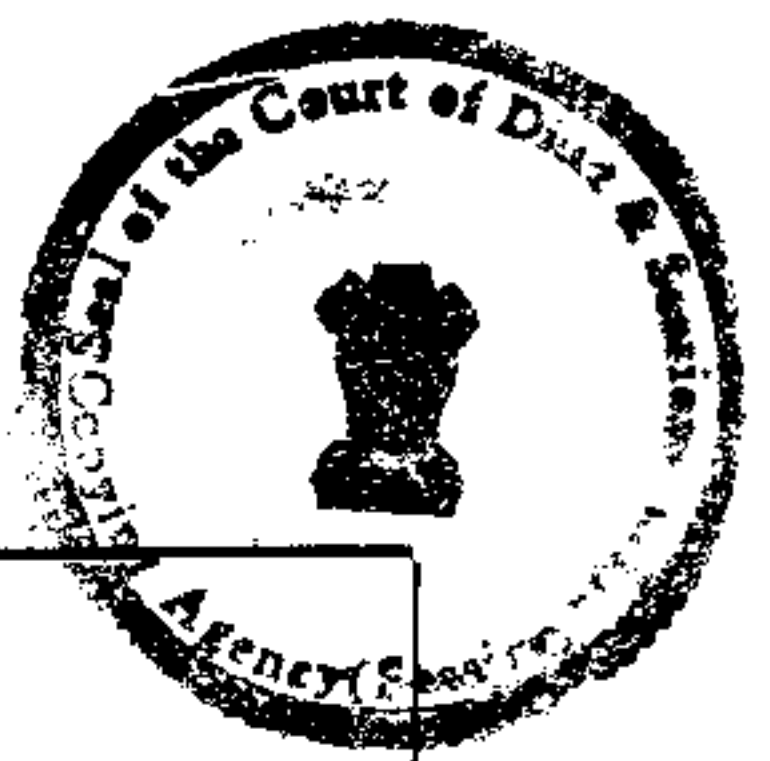
Arguments heard advanced by Counsels for both parties on the point of Sentence, perused the record carefully and gave my thoughtful consideration to their submissions.

Vide separate order on the point of Sentence, a fine of ₹ 5000/- is imposed upon each of convicts i.e Convict No.1 to 6 in default Convict nos. 2 to 6 shall undergo one month simple imprisonment for the offence punishable under Section 24 (1) read with Section 27 of the SEBI Act.

Fine amount paid.

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Bail Bond and Surety bond of convicts stand cancelled. Their sureties stand discharged. Original documents, if any, be returned to the sureties.

Copy of judgment alongwith order on the point of sentence be given to the convicts/their counsels free of cost.

Since, A6 Satish Rana is proclaimed offender, file be consigned to record room with direction that same be revived as an when A6 is arrested.

[PAWAN KUMAR JAIN]

ASJ-01/CENTRAL/DELHI

26.07.2011



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SEBI Vs. Akash Jyoti Forest (I) Ltd. & others.

IN THE COURT OF SH. PAWAN KUMAR JAIN,
ADDL. SESSIONS JUDGE-01(CENTRAL):DELHI

Complaint Case No. 51/10
ID No: 02401R5170492004

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 Court, B- Wing, 224 Nariman Point, Mumbai 400 021 and represented by its Manager Ms. Versha Aggarwal, SEBI.

.....Complainant

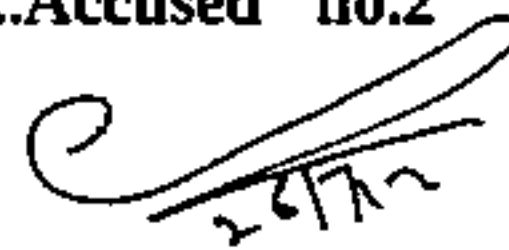
Versus

1. M/S Akash Jyoti Forests (I) Ltd., a Company incorporated under the Companies Act, 1956, having its Regd. Office at: House No.31, Gurunanak Nagar, Gurubux Colony, 1A%, Patiala, Punjab and having Head Office at: SCF 340, New Motor Market, Manimajra, Chandigarh.

.....Accused no.1

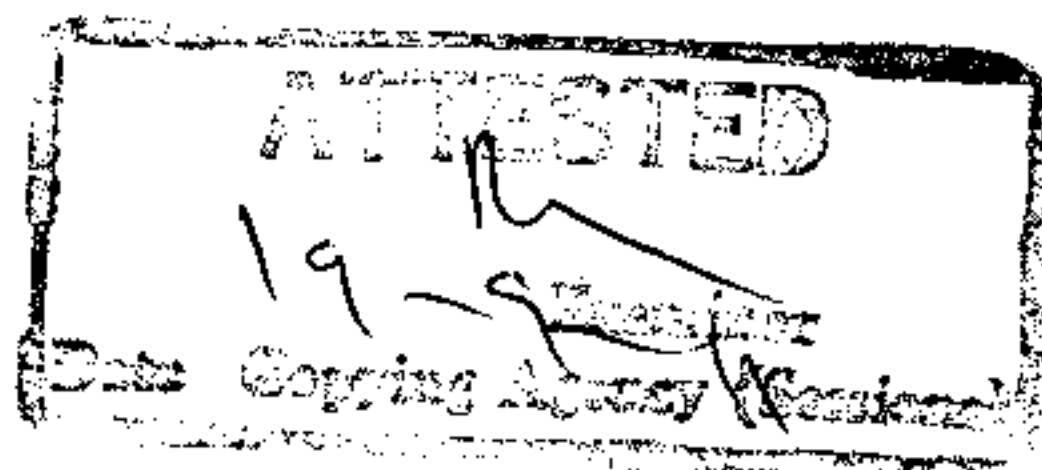
2. Sh. Chotu Ram Rohilla, S/o Lal Chand, Director of Accused No.1, R/o House No. 637, Ward No. 13, Jind, Haryana.

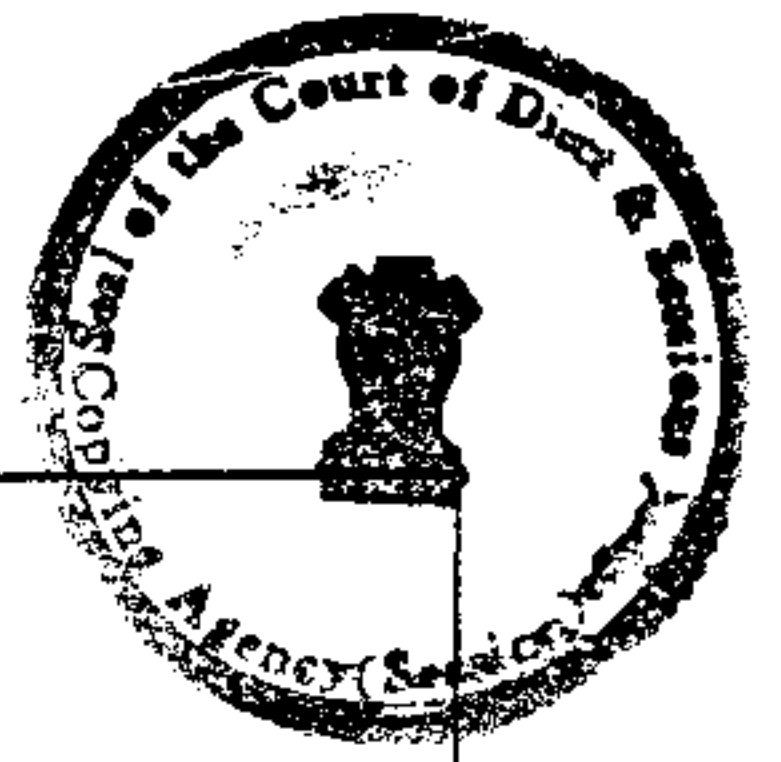
.....Accused no.2



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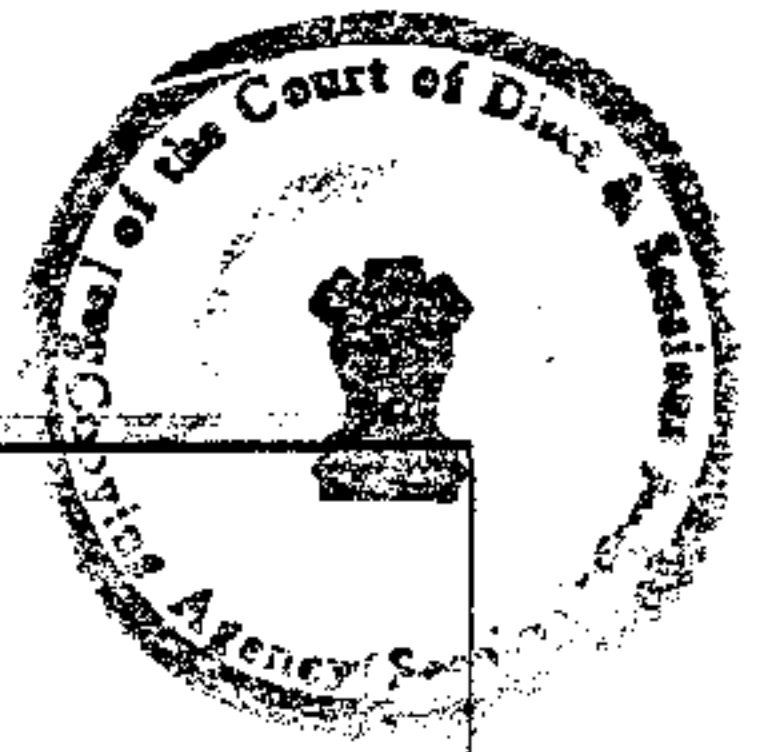
SEBI Vs. Akash Jyoti Forest (I) Ltd. & others.

3. **Ms. Jyoti Rohilla**, Director of Accused No.1, R/o House No. 637, Ward No. 13, Jind, Haryana.
.....Accused no.3
4. **Sh. Krishan Gopal Rohilla**, Director of Accused No.1, R/o House No. 637, Ward No. 13, Jind, Haryana.
.....Accused no.4
5. **Ms. Jyoti Bhalla**, Director of Accused No.1, R/o House No. 637, Ward No. 13, Jind, Haryana. (since deleted from the array of accused being A3.)
.....Accused no.5
6. **Sh. Satish Rana**, S/o Sh. Madan Lal, Director of Accused No. 1, R/o House No. 589/3, Hari Nagar Colony, Safidon Gate, Jind Haryana. (since proclaimed offender)
.....Accused no.6
7. **Sh. Ashok Kumar**, Director of Accused No.1, R/o House No. 135, Ward No. 10, Jind, Haryana.
.....Accused no.7
8. **Sh. Ram Raj**, Director of Accused No.1, R/o House No. 35 A, village Mandoo khien, Tehsil and District Jind, Haryana
.....Accused no.8
9. **Sh. Mahesh Kaushik**, Director of Accused No.1, R/o House No. 89/6, Mohalla Rampura, Hansi, Haryana.
.....Accused no.9
10. **Sh. Ramesh Kumar Saini**, Director of Accused No.1, R/o 577/11, New Saini Basti, Safidon Road, Jind, Haryana.

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.....Accused no.10

11. Sh. Rajbir Singh, Director of Accused No.1, R/o 590/16,
Bhiwani Road, Jind, Haryana.

.....Accused no.11

Date of Institution : 14.01.2004
Date of committal of case from Sessions Court : 16.04.2005
Date of Judgment reserved on : 19.07.2011
Date of pronouncing the judgment : 26.07.2011

Present: Sh. Sanjay Mann, Advocate for the SEBI
Accused No.5 is deleted from the array of accused
Accused No.6 is PO vide order dated 14.12.2006.
Accused No.1 is company and represented by
accused No.3.
Sh. Mahender Singh, Advocate, Counsel for accused
Nos.2, 4, 7, 10 & 11.
Sh. Rajesh Kumar Sharma, Advocate, Counsel for
Accused no. 3 & 8.
Sh. Deepak Vohra, Advocate, Counsel for accused no.
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JUDGMENT:

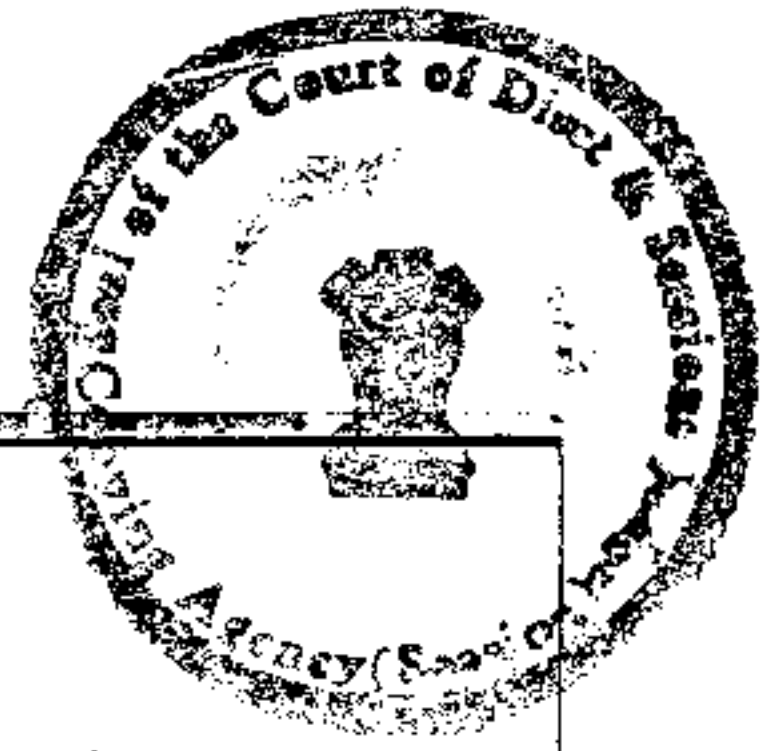
1. This criminal complaint was preferred by the Securities &
Exchange Board of India (hereinafter referred to as "SEBI" or "the

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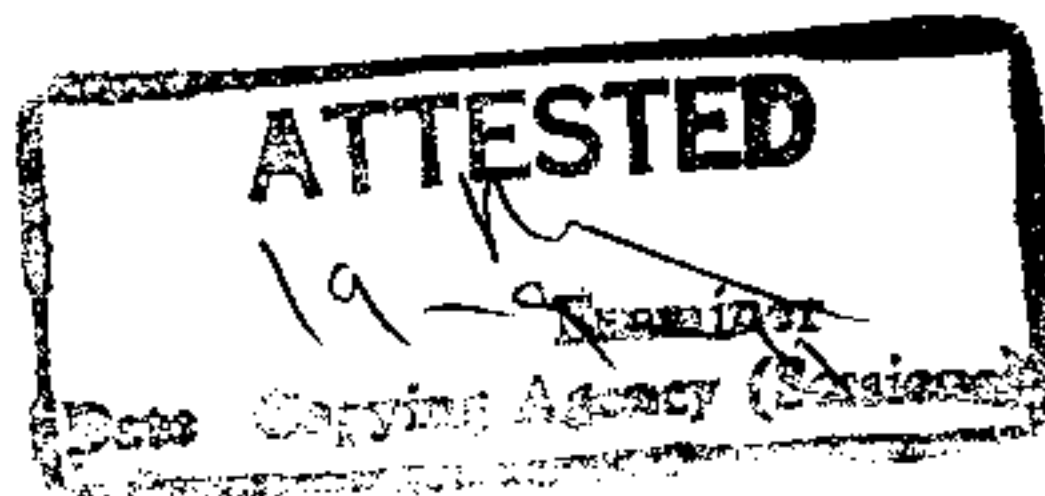
complainant"), on January 14, 2004 in the Court of Additional Chief Metropolitan Magistrate (ACMM), alleging violation of the provisions of Section 12 (1B) of Securities & Exchange Board of India Act, 1992 (hereinafter, "the SEBI Act") and Regulation Nos. 5(1) read with 68(1), 68(2), 73 and 74 of the Securities & Exchange Board of India (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as "the CIS Regulations" or "the said Regulations"), constituting offence punishable under Section 24(1) read with Section 27 of the SEBI Act.

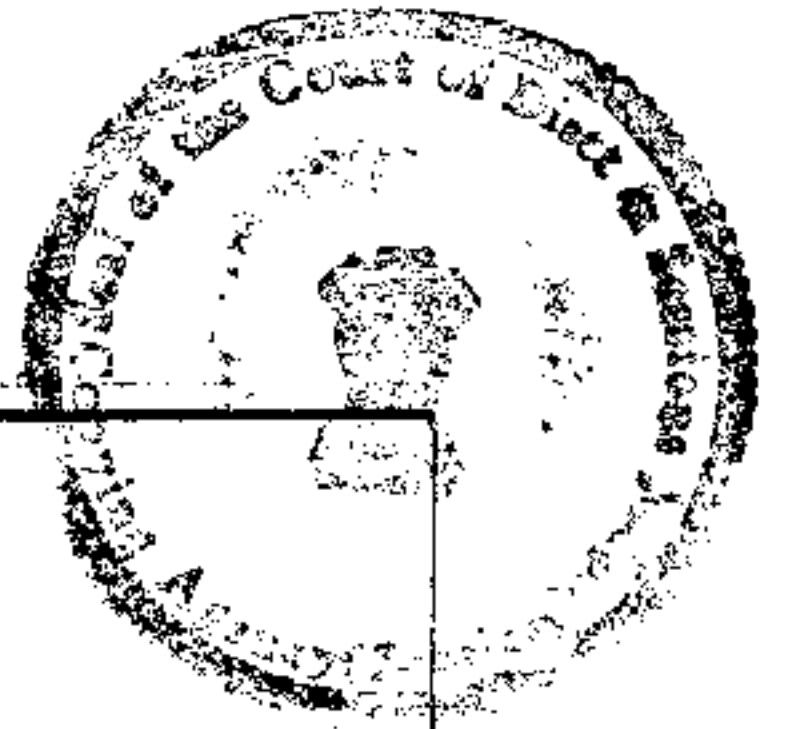
2. Eleven persons were arrayed as accused in the criminal complaint preferred under Section 200 Cr.P.C., they being M/S Akash Jyoti Forests Ltd. Company (hereinafter, "A1" or "the Company Accused"), accused No.2 Sh. Chotu Ram Rohilla ("A2"), accused No. 3 Sh. Jyoti Rohilla ("A3"), accused No.4 Sh. Krishan Gopal Rohilla ("A4") & accused No.5 Ms. Jyoti Bhalla, ("A5" since deleted from the array of accused person being A3), accused No.6 Sh. Satish Rana, ("A6"), accused No.7 Sh. Ashok Kumar, ("A7"), accused No.8 Sh. Ram Raj, ("A8"), accused No.9 Sh. Mahesh Kaushik, ("A9"), accused No.10 Sh. Ramesh Kumar Singh, ("A10") accused No.11 Sh. Rajbir Singh, ("A11"). It is alleged that A2 to A11 were Directors/promoters of the company accused and as such persons were in charge of, and responsible to,

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A1 for the conduct of its business within the meaning of the provision contained in Section 27 of the SEBI Act.

3. It is alleged in the complaint that A1 had floated the Collective Investment Scheme (CIS) and raised substantial amount from general public, in violation of the provisions contained in Section 12 (1B) of the SEBI Act. It is also alleged that after coming into force of the CIS Regulations and in spite of public notice dated December 18, 1997, the accused persons had failed to get the Collective Investment Scheme registered with SEBI or to wind up the said scheme or repay the amount collected from the investors in terms of the CIS Regulations, thus constituting violation of the law and regulations framed thereunder and thereby committing the offence alleged as above.

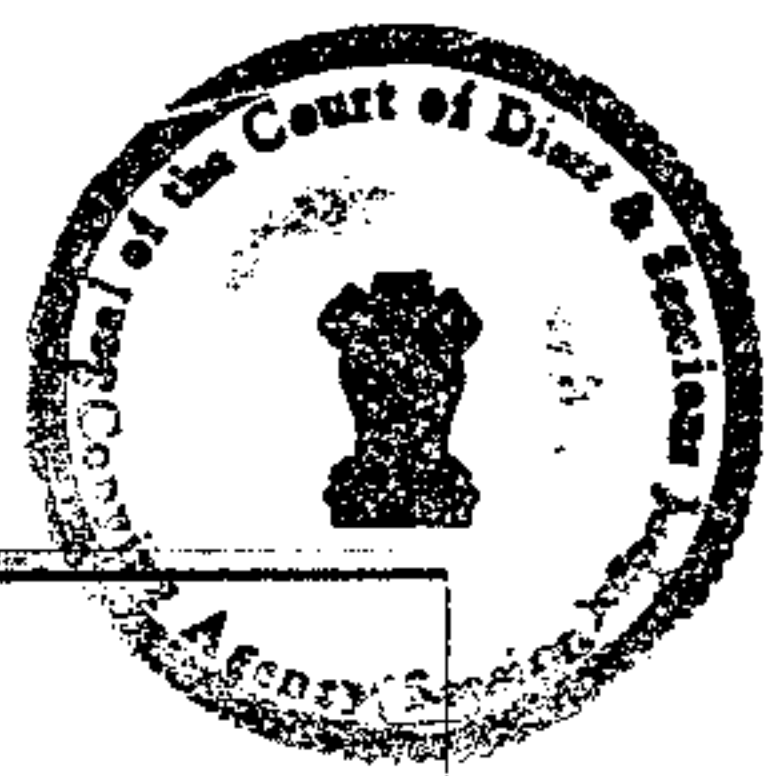
4. Cognizance on the complaint was taken by the learned ACMM vide order dated January 14, 2004 whereby process was issued under Section 204 Cr.P.C. against all the accused persons.

5. On account of the amendment, particularly in Sections 24 and 26 of the SEBI Act, through Amendment Act which came into force w.e.f. November 24, 2002, pursuant to Administrative Directions of Hon'ble High Court, under orders of the Ld. Distt. &

[Signature]

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Sessions Judge, this case was transferred on April 16, 2005 from the Court of Ld. ACMM to the Court of Sessions, then presided over by Ms. Asha Menon, the then Addl. Sessions Judge, Delhi.

6. Vide order dated December 14, 2006, A6 was declared proclaimed offender while A5 was deleted from the array of accused being A3. Thereafter, vide order dated December 14, 2006, a notice for the offence punishable under Section 24 read with section 27 of the SEBI Act was served upon the A1 i.e. company accused & A2 to A11 except A5 (deleted) & A6 (PO). Since A3 represented A1 company accused, she also responded to the notice on behalf of company. All accused pleaded not guilty and claimed trial.

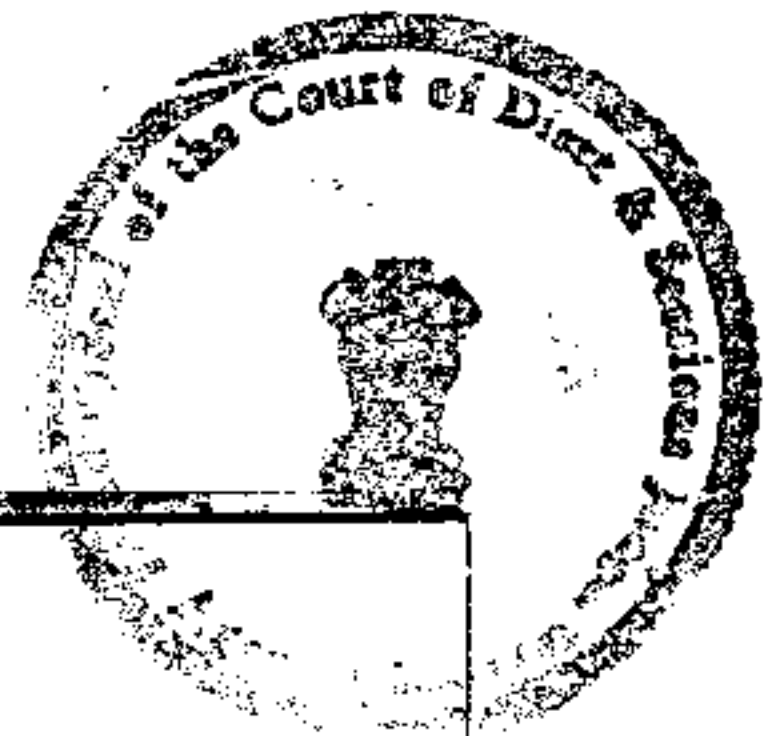
7. To prove its case, complainant has examined three witnesses namely Ms. Versha Aggarwal, Manager, SEBI as CW1, Ms. Jyoti Jindgar, DGM, SEBI as CW2 & Ms. Ruchi Aggasya, AGM, SEBI as CW3. Thereafter, A2, A7, A8, A9, A10 & A11 were examined under Section 313 Code of Criminal Procedure on January 6, 2011 while A1 i.e. company accused, A3 & A4 were examined under Section 313 Code of Criminal Procedure on January 20, 2011 wherein A2, A3 & A4 admitted that they were directors of the company accused but took the plea in their defence that they had resigned from the company accused as A3 & 4 submitted that they

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had resigned from the company accused on December 9, 1997 and were not in-charge of, and responsible to, the A1 for the conduct of its business. Similarly, A8 also took the same defence that he had resigned from the directorship of company accused on January 19, 1998 while A9 and A11 took the defence that they do not know any thing about the company and they were not holding any position in the company accused. Similarly, A7 & A9 submitted that they had no concern with the company accused. However, no accused except A2 adduced evidence in his defence. A2 examined himself as DW1.

8. I have heard arguments advanced by Sh. Sanjay Mann, Advocate, counsel for complainant, SEBI and Sh. Mahender Singh, Sh. Rajesh Kumar Sharma & Sh. Deepak Vohra, Advocates, Counsels for accused persons, perused the record carefully.

9. Learned counsels appearing for the accused submit that there is no evidence on record to show that A2 to A4 were holding any position in the company accused. It is further argued that there is no evidence on record to establish that company accused had mobilized any fund through Collective Investment Scheme. It is argued that company accused was floated only on paper fund was mobilized by the company accused. On the

ATTESTED
19-11-2010



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counsel for complainant refuted the said contentions by arguing that A2 to A11 (except A5 & A6) were in charge of, and responsible to, the company accused for the conduct of its business and company accused had floated CIS but fairly conceded that complainant failed to produce any evidence to prove the quantum of fund mobilized by the company accused through CIS.

10. Perusal of the record reveals that complainant's case is based on the letter which is Ex. CW1/1. The said letter was sent by company accused to the SEBI wherein company accused had disclosed the name of persons being promoters/sponsors of the company accused. According to the said letter, only A7 to A11 were the promoters/sponsors of the company accused. No doubt CW1 in her testimony deposed that A2 to A4 were also in-charge of, and responsible to, the company accused for the conduct of its business, but in her cross examination, she admitted that their name have not been mentioned in the letter Ex. CW1/1. During the trial, complainant failed to produce any other document on record to establish that A2 to A4 were holding any position in the company accused. In the absence of any evidence on record, I am of the opinion that complainant miserably failed to establish that A2 to A4 were holding any position in the company accused. Since they were not holding any position in the company accused,

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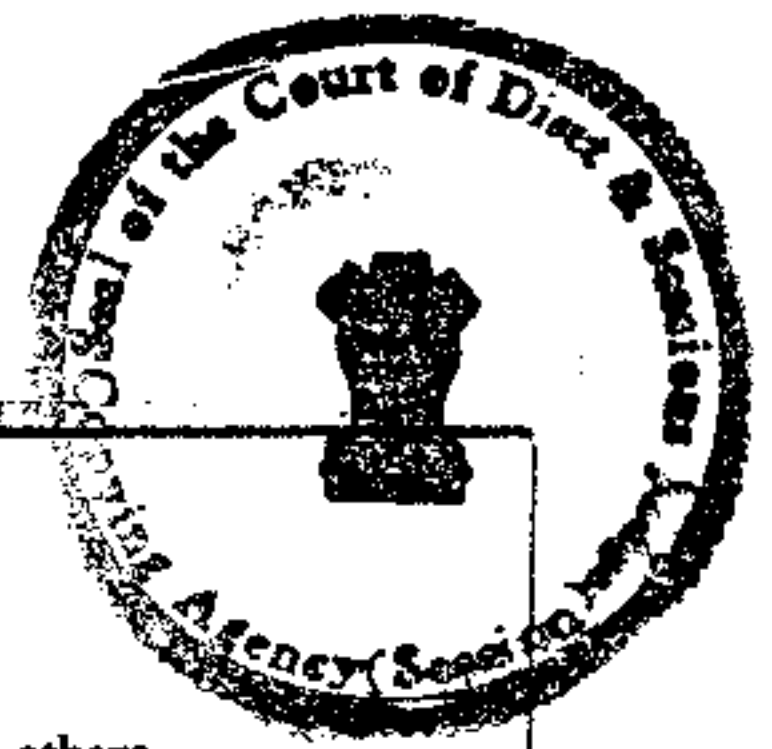


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complainant miserably failed to establish that A2 to A4 were in-charge of, and responsible to, the company accused for the conduct of its business.

11. As per document Ex. CW1/1, A7 to A11 were promoters/sponsors of the company accused and it is also clear that the company accused had launched Collective Investment Scheme as company accused had furnished the application form along with the said letter. No doubt during the trial, complainant failed to establish the quantum of fund mobilized by the company accused. But by virtue of Section 12(1B) of SEBI Act, no person could sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations. Since, in the instant case, company accused had launched the Collective Investment Scheme, merely fact that no investor came forward to invest in the scheme does not mean that company accused had not sponsored or cause to be sponsored or carried on or caused to be carried on the CIS. Admittedly, when the scheme was launched by the company accused in 1997, company accused had not obtained any certificate of registration from the Board, thus company accused had violated the Section 12(1B) in the year 1997 itself by launching the CIS without obtaining certificate of





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registration from the SEBI.

12. It is also undisputed fact that CIS regulations were notified on October 15, 1999. As per Regulation 5(1), any person who was immediately prior to the commencement of these Regulations was operating any scheme, shall make an application to the Board for the grant of certificate within two months from the date of regulations. Admittedly, company accused had not made an application in accordance with regulation 5 of the CIS Regulation. According to Regulation 73, if the company failed to make any such application, company shall wind up the existing scheme and send the information to the SEBI relating to the scheme and the amount repayable to each investor and the manner in which amount is determined and was returned to the investor and shall also file winding up and repayment report with the SEBI on the prescribed format. Admittedly, the company accused had also not complied with the provisions of Regulation 73 of the CIS Regulations, thus company accused had not only violated Regulation 5 but also violated Regulation 73 of the CIS which amounts violation of Section 24(1) of the Act.

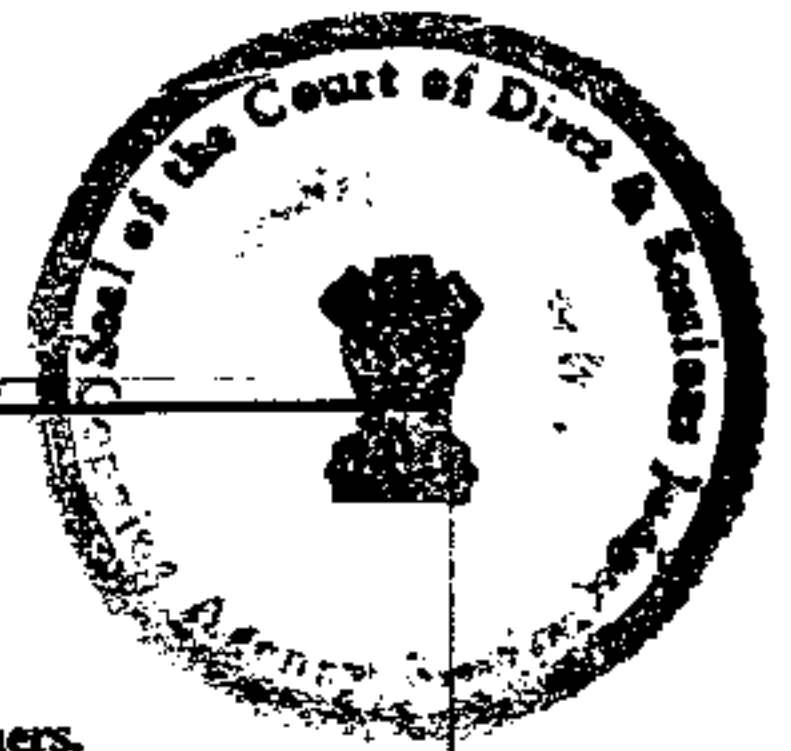
13. Though in their statement, accused persons took the plea that either they had resigned from the company accused or they were not connected with the company accused, yet during the

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26/7/21

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course of trial, counsel appearing for accused persons did not press for the same. Even during the trial, accused persons failed to adduce any evidence in support of plea taken by them in their respective statement recorded under Section 313 Code of Criminal Procedure. In the absence of any evidence on record, I do not find any substance in the plea taken by them in their statement.

14. From the on going discussion, I am of the considered opinion that complainant has succeeded to prove that company accused (A1) had floated the Collective Investment Scheme in violation of Section 12 (1B) of the SEBI Act as well as in contravention of Regulation 5 & Regulation 73 of CIS Regulations which is punishable under Section 24 (1) of the SEBI Act. Complainant has also succeeded to prove that A7 to A11 being promoters of company accused (A1) were in-charge of, and responsible to, the company accused for the conduct of its business at the time of above violations. Accordingly, I hereby hold them i.e. A1 M/s Akash Jyoti Forests (I) Ltd., A7 Sh. Ashok Kumar, A8 Sh. Ram Raj, A9 Sh. Mahesh Kaushik, A10 Sh. Ramesh Kumar Saini & A11 Sh. Rajbir Singh guilty for the offence punishable under Section 24 (1) read with section 27 of the SEBI Act.

15. Since complainant has failed to prove that A2 to A4 were

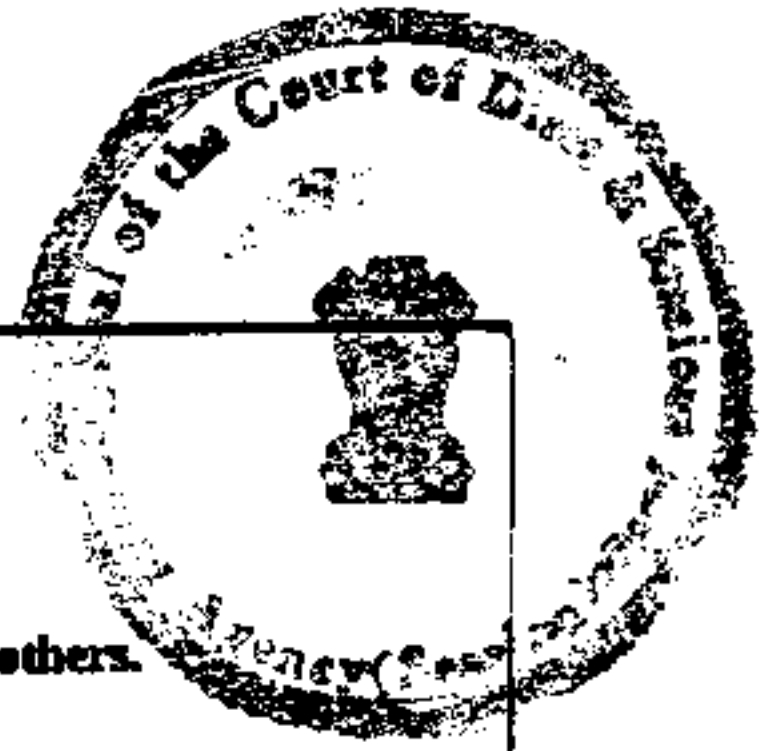
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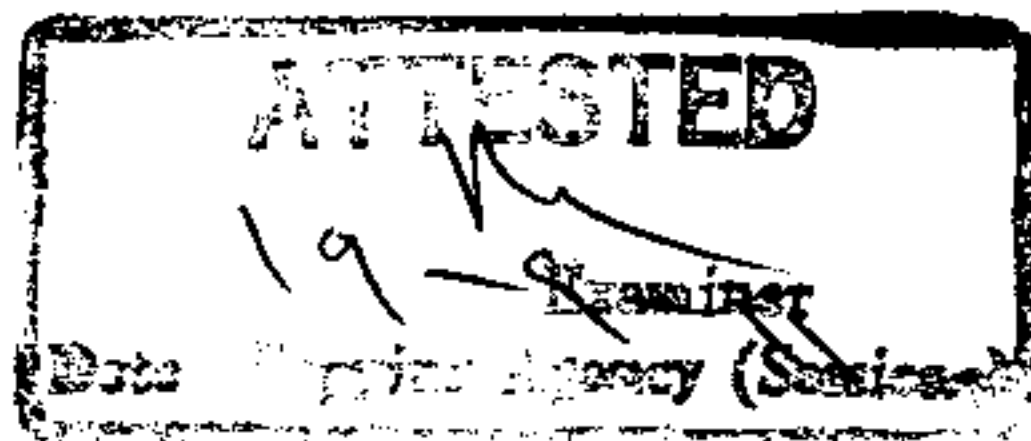


in-charge of, and responsible to, the company accused for the conduct of its business, I accordingly acquit A2 Sh. Chutu Ram Rohilla, A3 Ms. Jyoti Rohilla & A4 Sh. Krishan Gopal Rohilla from all the charges. A3 & A5 are the same person.

*Announced in the open Court
on this 26th day of July, 2011.*


(PAWAN KUMAR JAIN)

ADDITIONAL SESSIONS JUDGE-01
CENTRAL/THC/DELHI



SEBI Vs. Akash Jyoti Forest (I) Ltd. & others.

**IN THE COURT OF SH. PAWAN KUMAR JAIN,
ADDL. SESSIONS JUDGE-01(CENTRAL):DELHI**

**Complaint Case No. 51/10
ID No: 02401R5170492004**

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 Court, B- Wing, 224 Nariman Point, Mumbai 400 021 and represented by its Manager Ms. Versha Aggarwal, SEBI.

.....Complainant

Versus

1. **M/S Akash Jyoti Forests (I) Ltd.**, a Company incorporated under the Companies Act, 1956, having its Regd. Office at: House No.31, Gurunanak Nagar, Gurubux Colony, 1A%, Patiala, Punjab and having Head Office at: SCF 340, New Motor Market, Manimajra, Chandigarh.

.....Convict no.1

2. **Sh. Ashok Kumar**, Director of Accused No.1, R/o House No. 135, Ward No. 10, Jind, Haryana.

.....Convict no.2

3. **Sh. Ram Raj**, Director of Accused No.1, R/o House No. 35 A, village Mandoo khen, Tehsil and District Jind, Haryana

.....Convict no.3

[Signature]
26/7/11

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4. **Sh. Mahesh Kaushik**, Director of Accused No.1, R/o House No. 89/6, Mohalla Rampura, Hansi, Haryana.

.....Convict no.4

5. **Sh. Ramesh Kumar Saini**, Director of Accused No.1, R/o 577/11, New Saini Basti, Safidon Road, Jind, Haryana.

.....Convict no.5

6. **Sh. Rajbir Singh**, Director of Accused No.1, R/o 590/16, Bhiwanit Road, Jind, Haryana.

.....Convict no.6

Present: **Sh. Sanjay Mann**, Advocate for the SEBI
Convict No.1 is company
Sh. Mahender Singh, Advocate, Counsel for convict
Nos.2, 5 & 6
Sh. Rajesh Kumar Sharma, Advocate, Counsel for
convict no. 3, 4

ORDER ON THE POINT OF SENTENCE

1. Vide separate judgment dated 26.07.2011, A1 i.e. Company accused, A7 to A11 have been held guilty for the offence punishable under Section 24 (1) read with Section 27 of the SEBI Act.

[Signature]
26/7/11

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2. Learned counsel appearing for convicts requested for a lenient view on the ground that company accused (convict No.1) had not mobilized any fund through Collective Investment Scheme and the convicts have not been involved in any criminal matter previously. Learned counsel for complainant fairly conceded that in the present case, company accused (convict No.1) had not mobilized any fund. However, counsel for SEBI submits that convicts should be burdened with substantial fine amount.
3. I have heard Counsels for both parties, perused the record carefully and gave my thoughtful consideration to their submissions.
4. Considering their submissions and the fact that company accused (convict no.1) had not mobilized any fund through CIS, I am of the opinion that ends of justice will be met if a token fine is imposed upon the convicts. Accordingly, I hereby impose a fine of ₹ 5000/- upon each of convicts i.e Convict No.1 to 6 in default Convict nos. 2 to 6 shall undergo one month simple imprisonment for the offence punishable under Section 24 (1) read with Section 27 of the SEBI Act.
5. Fine amount paid.

[Signature]
26/7/11

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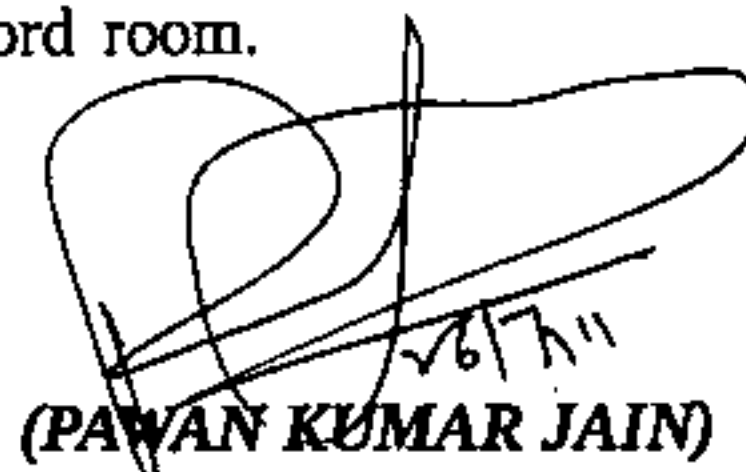




SEBI Vs. Akash Jyoti Forest (I) Ltd. & others.

6. Bail Bond and Surety bond of convicts stand cancelled. Their sureties stand discharged. Original documents, if any, be returned to the sureties.
7. Copy of judgment alongwith order on the point of sentence be given to the convicts/their counsels free of cost.
8. File be consigned to record room.

*Announced in the open Court
on this 26th day of July, 2011.*


(PAWAN KUMAR JAIN)

ADDITIONAL SESSIONS JUDGE-01
CENTRAL/THC/DELHI

