

## Sanjay Dutt & Ors Vs State Of Haryana & Anr

**Court:** Supreme Court Of India

**Date of Decision:** Jan. 2, 2025

**Acts Referred:** Code of Criminal Procedure, 1973 " Section 156(3), 200, 482

Indian Penal Code, 1860 " Section 34, 192, 199, 406

Punjab Land Preservation Act, 1900 " Section 4, 19

**Hon'ble Judges:** J.B. Pardiwala, J; R. Mahadevan, J

**Bench:** Division Bench

**Advocate:** Meenakshi Arora, Sumesh Malhotra, Vikas Singh, Pawan Bhardwaj, Jayesh Yadav, Yashvi, Russai Sidhu, Chitra Singh, Lokesh Kumar Choudhary, Akshay Amritanshu, Drishti Saraf, Pragya Upadhyay, Swati Mishra

**Final Decision:** Allowed

### Judgement

Forest Division,,Gurugram,,,,,,

Range/Bloc/Beat,,Gurugram/Mullanpur/Jhadsa,,,,,,

Reach/Name of the place,,Sec-113-Gate vida GGM,,,,,,

FOR No. (Date, Day & Time)" ,,079/10495-02/09/2021,,,,,,

NameÃ, Ã, ofÃ, Ã, theÃ, Ã,

reportÃ, Ã, issuing officer" ,,Hansraj,,,,,,

Source of information about the

crime" ,,Self patrolling/informer/complaint,,,,,,

Date/Day/TimeÃ, Ã, Ã, Ã, Ã, Ã, Ã, Ã,

ofÃ, Ã, Ã, Ã, Ã, Ã, Ã, Ã, the

Ã, commission of the crime" ,,,,,,,

NameÃ, Ã, andÃ, Ã, designationÃ, Ã,

ofÃ, Ã, the Investigating Officer" ,,Sh. Virender Kumar Sr. Inspector,,,,,,

DescriptionÃ, Ã, Ã, ofÃ, Ã, Ã, Ã,

the crime/ Ã, incident" ,,No/If yes then No.,,,,,,,

Act violated,,Section,,,,,,

Indian Forest Act, 1927" ,,,,,,,

Wild Life (Protection) Act, 1972" ,,,,,,,

Punjab, Land, Conservation,

Act, 1900", Sec-4,,,,,,

Indian Penal Code,,,,,,

Description of

criminal", Name, "Father's name",

Name", Age, Caste, Address,,,,

, "(1) A, A, A,

Satpal

Singh", "Project

Manager", "Sec-113, Gate Vida Bajgeda Gurugram" ,,,,,,

, "(2) A, A,

Kamal

Sehgal", "General

Manager" ,,,,,,

,,,,,,

,,,,,,

, "(3) A, A, A,

Sanjay

Dutt", "Director",,,,

Description of confiscated articles,,,,,,

Details of

confiscated forest

produce", Type, Type/Size, Numbers, Dead, "Compensation

amount

, "(1) A, Kikkar A, = 7 (iv) (3) A, A, A, A, A, A, A, A, A, A, A, A, A, A, A, A, small

plants = 62" ,,,,,,

, (2) Kikkar = 5 (iv) (4) (iv) = A, 46, ,,,,,,

, "(5) A, A, A, , , A, A, A, A, = A, 72

(v)" ,,,,,,

, (6) Misc. (u/s) = 126, ,,,,,,

Details of

vehicle seized", Type, "Regd.

No.",,Color,,Model,,Manufacture date

,xxxxx,,Total=ABSTRFC,,,,,

,xxxxxx,,U/s,,V,,IV,,Total

,,-,,7,,5,,12

,,,126,,72,,46,,244

,Total,,126,,79,,51,,256

Tools/ Weapons,xxxxxx,,xxxxxx,,xxxxxx,,xxxxx,,xxxxxx

Others, if any",xxxxxx,,xxxxxx,,xxxxxx,,xxxxx,,xxxxxx

Mark the correct,xxxxxx,,xxxxxx,,xxxxxx,,xxxxx,,xxxxxx

HansarajÃ, Ã, Ã, Ã,

Sr.Ã, Ã, Ã, Ã, IÃ, Ã, Ã, Ã,

I/C GurugramÃ, Ã, Ã,

andÃ, Ã, Ã, Jhadsa Beat

VirenderÃ, Ã, Ã, Ã, Ã,

SinghÃ, Ã, Ã, Ã, Ã, I/C

Sultanpur Block

ForestÃ, Ã, Ã, Ã, Ã, Ã,

OfficerÃ, Ã, Ã, Ã, Ã, Ã, I/C

Gurugram Range", "AccordingÃ, Ã, Ã, Ã, Ã, toÃ, Ã, Ã, Ã, Ã, FOR

No.79/495,Ã, theÃ, accused have committed

violation ofÃ, Ã, Ã, SectionÃ, Ã, Ã, 4Ã, Ã, Ã,

ofÃ, Ã, Ã, the PLPA,

Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, 1900Ã, Ã, Ã, Ã, Ã, Ã, Ã,

by

uprootingÃ, Ã, 256Ã, Ã, treesÃ, Ã, of Kikkar-

andÃ, xxxxÃ, andÃ, 62 plants of xxxxx with

JCB fromÃ, Ã, Ã, Ã, Ã, Sec-113,Ã, Ã, Ã, Ã, Ã,

Gate

Vida, Gurugram.", "(1)Ã, Ã, ForestÃ, Ã,

GuardÃ, Ã, will depose

according to FOR

(2)Ã, ForestÃ, InspectorÃ,

will depose according to

FOR

(3)Ã, Ã, ForestÃ, Ã,

OfficerÃ, Ã, will depose

according to FOR" ,,,,,,

No.I Description of case, which is to be written on all" ,,,,,,

Sd/-

Sd/-" ,,,,,,

(a) the clearing or breaking up or cultivating of land not ordinarily under cultivation prior to the publication of the notification under section 3;,,,,,

(b) the quarrying of stone or the burning of lime at places where such stone or lime had not ordinarily been so quarried or burnt prior to the publication of the,,,,,

notification under section 3;,,,,,

(c) the cutting of trees or timber, or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this sub-" ,,,,,,

section of any forest-produce other than grass, save for bonafide domestic or agricultural purposes [of rightholder in such area];" ,,,,,,

(d) the setting on fire of trees, timber or forest produce;" ,,,,,,

(e) the admission, herding, pasturing or retention of sheep,[goats or camels];" ,,,,,,

(f) the examination of forest-produce passing out of any such area; and,,,,,

(g) the granting of permits to the inhabitants of towns and villages situate within the limits or in the vicinity of any such area, to take any tree, timber or forest" ,,,,,,

produce for their own use therefrom, or to pasture sheep, [goats or camels] or to cultivate or erect buildings therein and the production and return of such permits" ,,,,,,

by such persons.Ãçâ,~â€{ ,,,,,,

Section 19 of the Act, 1900 reads thus:-" ,,,,,,

Ã, Ãçâ,~â€"19. Penalty for offences.Ãçâ,~â€" Any person who, within the limits of any area notified under section 3, commits any breach of any regulation" ,,,,,,

made, [restriction or prohibition imposed, order passed or requisition made under sections 4, 5, 5-A, or 7-A] shall be punished with imprisonment for a" ,,,,,,

term which may extend to one month, or with a fine which may extend to one hundred rupees, or with bothÃçâ,~â€{" ,,,,,,

10. We take notice of the fact that having regard to the Scheme of the Act, 1900, there is no vicarious liability that can be attached to any of the" ,,,,,,

directors or any office bearers of the company. It is the individual liability or the act that would make the person concerned liable for being prosecuted,,,,,

for the offence punishable under Section 19 of the Act, 1900. Having regard to the nature of the allegations, it is difficult for us to take the view that" ,,,,,,,,,,

the appellants herein are responsible for the alleged offence. There are no allegations worth the name in the complaint that the three appellants before,,,,,,,,,,

us are directly responsible for uprooting of the trees with the aid of Bulldozers or JCB machines or causing damage to the environment. The persons,,,,,,,,,,

who were actually found at the site felling the trees have not been arrayed as accused in the complaint. Although the license / necessary permission,,,,,,,,,,

for development of the land in the specified area had been granted in favour of the company, yet for the reasons best known to the complainant the" ,,,,,,,,,,

company has not been arrayed as an accused in the complaint.,,,,,,,,,,

11. It appears that the Courts below proceeded on the erroneous assumption that the three appellants herein being responsible officers of the company,,,,,,,,,,

are liable for the alleged offence. While a company may be held liable for the wrongful acts of its employees, the liability of its directors is not" ,,,,,,,,,,

automatic. It depends on specific circumstances, particularly the interplay between the director's personal actions and the company's" ,,,,,,,,,,

responsibilities. A director may be vicariously liable only if the company itself is liable in the first place and if such director personally acted in a,,,,,,,,,,

manner that directly connects their conduct to the company's liability. Mere authorization of an act at the behest of the company or the exercise,,,,,,,,,,

of a supervisory role over certain actions or activities of the company is not enough to render a director vicariously liable. There must exist something,,,,,,,,,,

to show that such actions of the director stemmed from their personal involvement and arose from actions or conduct falling outside the scope of its,,,,,,,,,,

routine corporate duties. Thus, where the company is the offender, vicarious liability of the Directors cannot be imputed automatically, in the absence" ,,,,,,,,,,

of any statutory provision to this effect. There has to be a specific act attributed to the director or any other person allegedly in control and,,,,,,,,,,

management of the company, to the effect that such a person was responsible for the acts committed by or on behalf of the company." ,,,,,,,,,,

12. At the same time, wherever by a legal fiction the principle of vicarious liability is attracted and a person who is otherwise not personally involved in" ,,,,,,,,,,

the commission of an offence is made liable for the same, it has to be specifically provided in the statute concerned. When it comes to penal" ,,,,,,,,,,

provisions, vicarious liability of the managing director and director would arise provided any provision exists in that behalf in the statute. Even where" ,,,,,,,,,,

such provision for fastening vicarious liability exists, it does not mean that any and all directors of the company would be automatically liable for any" ,,,,,,,,,,

contravention of such statute. Vicarious Liability would arise only if there are specific and substantiated allegations attributing a particular role or ,,,,,,,,,,

conduct to such director, sufficient enough to attract the provisions constituting vicarious liability and by extension the offence itself." ,,,,,,,,,,

13. It is the cardinal principle of criminal jurisprudence that there is no vicarious liability unless the statute specifically provides so. Thus, an individual" ,,,,,,,,,,

who has perpetrated the commission of an offence on behalf of a company can be made an accused, if the statute provides for such liability and if" ,,,,,,,,,,

there is sufficient evidence of his active role coupled with criminal intent. The primary responsibility is on the complainant to make specific averments,,,,,,,,,,

as are required under the law in the complaint so as to make the accused vicariously liable. For fastening criminal liability on an officer of a company," ,,,,,,,,,,

there is no presumption that every officer of a company knows about the transaction in question.,,,,,,,,,,

14. The allegations which find place against the appellants herein in their personal capacity seem to be absolutely vague. When a complainant intends,,,,,,,,,,

to rope in a Managing Director or any officer of a company, it is essential to make requisite allegations to constitute the various liability." ,,,,,,,,,,

15. When jurisdiction is exercised on a complaint petition filed in terms of Section 156(3) or Section 200 of the CrPC, the Court concerned should" ,,,,,,,,,,

remain vigilant & apply its mind carefully before taking cognizance of a complaint of the present nature.,,,,,,,,,,

16. The High Court failed to pose unto itself the correct question i.e., as to whether the complaint even if given face value and taken to be correct in" ,,,,,,,,,,

its entirety would lead to the conclusion that the appellants herein were personally liable for the offence under Section 4 of the Act, 1900 made" ,,,,,,,,,,

punishable under Section 19 of the Act, 1900." ,,,,,,,,,,

17. In Maharashtra State Electricity Distribution Company Limited and Anr., v. Datar Switchgear Limited and Ors., as reported in (2010) 10 SCC" ,,,,,,,,,,

479, wherein, the Chairman of the Maharashtra State Electricity Board was made an accused for the offence under Sections 192 and 199 respectively" ,,,,,,,,,,

read with Section 34 of the IPC, this Court observed thus:" ,,,,,,,,,,

Ã¢â¬Å30. It is trite law that wherever by a legal fiction the principle of vicarious liability is attracted and a person who is otherwise not personally involved in the,,,,,,,,,,

commission of an offence is made liable for the same, it has to be specifically provided in the statute concerned. In our opinion, neither Section 192 IPC nor Section" ,,,,,,,,,,

199 IPC incorporate the principle of vicarious liability, and therefore, it was incumbent on the complainant to specifically aver the role of each of the accused in the" ,,,,,,,,,,

complaint. It would be profitable to extract the following observations made in S.K. Alagh: (SCC p.667, para 19)" ,,,,,,,,,,

Ã¢â¬Å19. As, admittedly, drafts were drawn in the name of the company, even if the appellant was its Managing Director, he cannot be said to have committed an" ,,,,,,,,,,

offence under Section 406 of the Penal Code. If and when a statute contemplates creation of such a legal fiction, it provides specifically therefor. In absence of any" ,,,,,,,,,,

provision laid down under the statute, a Director of a company or an employee cannot be held to be vicariously liable for any offence committed by the company" ,,,,,,,,,,

itself.Ãçâ,¬â€€,,,,,,,,,,

(Emphasis supplied),,,,,,,,,,

18. In such circumstances, referred to above, no case could be said to have been made out for putting the three appellants to trial for the alleged" ,,,,,,,,,,

offence. The Court concerned could not have issued process for the alleged offence.,,,,,,,,,,

19. In view of the aforesaid, this appeal succeeds and is hereby allowed. The impugned complaint and order taking cognizance of the said complaint is" ,,,,,,,,,,

hereby quashed.,,,,,,,,,,

20. We clarify that if it is the case of the department that the company has committed any breach or violation of any of the conditions imposed at the,,,,,,,,,,

time of grant of license, then it is always open for authority concerned to proceed against the company for violation of such terms and conditions." ,,,,,,,,,,

21. Pending application(s), if any, stand disposed of." ,,,,,,,,,,