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Fixing Vicarious Liability on Company Directors in India: Case Law Analysis

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Abstract: ***A company is an artificial person, distinct from its members without its own head or hand. It is the directors, through whom the company largely carries out its routine business. Directors hold a very important position in the company and are one of the strong pillars of ensuring transparent governancein companies. They are responsible for the routine decision makings in the company and occupy a fiduciary position in the company. We may say, that they shoulder a mixed bag of responsibilities i.e., trustee, agent and managing partner. Company Directors enjoy both a position of privilege and accountability. Privilege in terms of the power they exercise in the decision making of the company and accountability for the decisions taken by them.Due to the position that they occupy, they may be vicariously responsible for the acts or omissions of the company. Liability may be fixed on them for the decisions taken in which they might not have any involvement but still due to their position in the company, they may be held accountable.The question arises, to what extent such vicarious liability can be fixed on the directors.This case law analysis, the author, attempts to evaluate the extent and circumstances under which the directors of the company may be held vicariously liable and what is the boundary of fixing this liability. Limitless liability or uncertainties with respect to the same, can become a deterrent from taking decisions for the benefit of the company in a fearless and impartial manner.This case law analysis focuses on the latest judicial interpretation with respect to ascertaining the boundary of vicarious liability of directors under the laws enforceable in India.***

Keywords: director, governance, vicarious liability, boundary, limitless, accountability, privilege

I. INTRODUCTION

The position of directors in a company comes with multiple responsibilities and also with immense accountability. They are the navigators of the companies. Plethora of decisions are taken by them on a routine basis for the governance of the company.They also remain supervisor of various business activities carried by the company. As they are shouldering so many responsibilities in a company, their accountability is also very high. They can be held liable for because of their position in the company. Question arises as to what extent liability can be fixed on the Directors. The Companies Act, 2013 provides for the circumstances in which directors may be held liable. Their liability can also be fixed under other laws. They may also be held criminally liable for certain offences. As far as their direct involvement is concerned in any of such offence, penalty may be imposed both including fine or imprisonment or both. However, the question arises as to what extent the directors of the company can be vicariously held liable for the offences in which they might not have a direct involvement or for their supervisory role that they play in the company for carrying out their responsibilities.

II. THE GENESIS

The question that came before the Hon'ble Supreme Court of India in the matter of *Sanjay Dutt v. State of Haryana*[1] for deciding whether the directors of a company can be held vicariously liable for the acts in which neither the company has been directly impleaded nor there is sufficient evidence of direct involvement of the directors?

Before getting into the decision of the Apex Court, it is pertinent to understand the genesis of this matter and how it reached his Court.The jurisdiction of the Punjab and Haryana High Court was invoked under Section 482 of CrPC for quashing of complaint[2]under section 4 of Punjab Land Preservation Act, 1900 was registered against the director, manager and project manager (herein referred as "Petitioners") of the company in connection with the project undertaken by the company in Gurugram i.e., Gurgaon Gateway and La Vida. A summon was issued to the Petitioners to be present before the Forest Block Officer on or before 07.09.2021 to give justification.

[1]Criminal Appeal No. 11 of 2025
[2] Complaint No.41/2022 titled as "Range Forest Officer, Gurugram v. Satpal Singh and Ors" dated 07.09.2022

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Time was sought in filing a reply. The response of the Petitioners was that they have been falsely implicated in the complaint and the charges against them are not true.They also contended that the trial court had erred in sending a summon to them as there is no prima facie case against them. For proving their position, reliance was placed on *Lalan Kumar Singh & Ors v. State of Maharashtra,*"wherein the Apex Cort held that issuance of process is not an empty formality and the magistrate is required to apply his mind as to whether sufficient ground for proceeding exists or not and formation of such opinion is required to be stated in the order itself"[3]. The petitioners also claimed that requisite permissions were sought by the company for developing this group housing project and therefore there was no violation of any law. The counsels for the Petitioners argued that they cannot be held vicariously liable for the offences on behalf of the company and more specifically when the company has not ben made a party in the complaint. They relied on the decision in *Aneeta Hada v. M/s Godfather Travels and Tours P.Ltd.* in which the company had not been impleaded as an accused, and therefore the liability of the Managing Director could not be attached under Section 141 of the Negotiable Instruments Act".

Strong objection was raised against the complaint that the Petitioners had uprooted and destroyed trees. For their project. Rather, they have claimed that the required permissions were obtained and that the said area in the project does not fall under forest Area and is duly covered under the provisions of the Haryana Development and Regulations of Urban Areas Act, 1975

The Hon'ble High Court upon heard the parties and held that " the company, as is well-known, acts through its directors or authorised officers and they cannot seek an escape route by seeking quashing of the proceedings under section 482 of Code of Criminal Procedure solely on the foundation that the company has not been impleaded as an accused inasmuch as the deemed liability includes both the company and the officers in charge and hence prosecution can exclusively be maintained against the directors or office in charge depending on the averments made in the complaint petition"[4].

The Hon'ble High Court dismissed the Petition and also held that the cutting of trees is a matter of concern. All efforts should be made to protect every tree and only subject to compliance of the statutory conditions, following all necessary safeguards, afforestation and translocation wherever possible (which in the present case, is not forthcoming), of trees may be allowed.

III. APPEAL BEFORE THE HON'BLE SUPREME COURT OF INDIA

Aggrieved by the order of the High Court of Punjab and Haryana, the petitioners appealed before the Hon'ble Supreme Court[5]. The Appellant prayed for quashing of the Complaint lodged by the Range Forest Officer for the alleged offence under Section 4 of Punjab Land Preservation Act, 1990 punishable under Section 19 of the Act. The foremost question to be decided by the court was that whether on the basis of the complaint filed by the range forest officer, an offence had been committed under section 4 r/w section 19 of Punjab Land Preservation Act, 1900? The allegations made against the appellant was that environment had been harmed by them due to illegal uprooting of the trees situated in the area of Sec-113 Gate Vida, Gurugram, with JCB and hence violated Section 4 of the Punjab Land Preservation Act, 1900.

Upon going through the provisions of Section 4 and Section 19 of the Punjab Land Preservation Act, 1900, the Apex Court observed that no vicarious liability can be attached to any of the directors or any office bearers of the company. It is the individual liability that would make the person liable for getting prosecuted under the Act. The Court further observed that it is difficult to hold the appellants responsible for uprooting of the trees directly. The persons who actually uprooted the threes have not been held accused and the company has also not been made a party. It was further held that there cannot be automatic liability of the directors for the wrongful act of the company. This will depend only on the interplay between the personal actions of the director and the responsibility of the company. Vicarious liability can only arise if the company itself is liable and such director acted in a manner that directly connects their conduct to the company's liability. Exercising supervisory role might not result in vicarious liability of the director. It was held by the Court that "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". Thus, the vicarious liability of the managing director and the director is dependent upon specific provision in a statute and it cannot be automatic in effect. It will depend upon the role or conduct of such director which should be sufficient enough to attract the provision of vicarious liability. It is the primary responsibility of the complainant to make specific averments to make the accused vicariously liable.

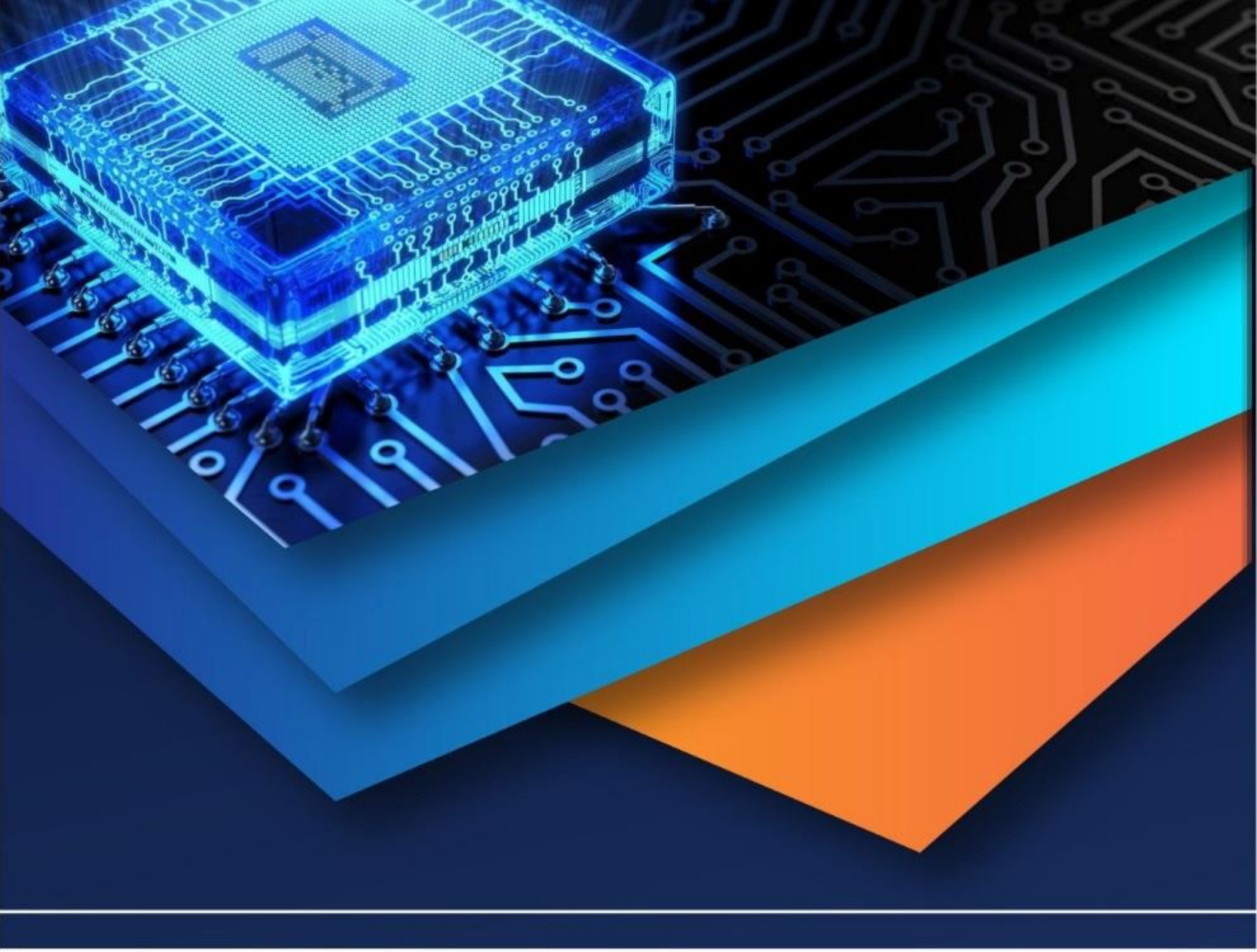
[3]Criminal appeal No.1757 of 2022 decided on 11.10.2022
[4]CRM-M-55268-2022
[5] Criminal Appeal No.11 of 2025

The Apex Court held that vigil must be applied by the courts when jurisdiction is exercised on a complaint petition filed in terms of section 156 or section 200 of the CrPC. The High Court failed to pose this question before itself" 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 offence under Section 4 and punishable under Section 19 of the Act of 1900". The Hon'ble Court allowed the appeal and the complaint was quashed.

IV. CONCLUSION

This judgment of the Hon'ble Supreme Court of India has provided a solution to drawing a boundary with respect to fixing vicarious liability on directors of the company. This decision has provided clarity for the future. Setting the limits for holding directors vicariously liable also ensures that they are able to perform their functions in a company in a fearless manner and in the interest of the company.This judgment does not dilute the accountability of directors, rather attempts to remove the ambiguities with respect to the same.

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