

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

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Volume 7 | Issue 4

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2024

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# Vicarious Liability under Indian Penal Code

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## ABSTRACT

*Vicarious liability, a critical concept in legal doctrine, pertains to the imposition of responsibility on one individual for the actions of another. Under the Indian Penal Code (IPC), this principle, though primarily associated with tort law, finds its relevance in specific statutory provisions and judicial interpretations. This abstract explores the nuanced application of vicarious liability within the IPC, focusing on its theoretical foundations, legislative framework, and significant judicial precedents.*

*The IPC, while emphasising individual culpability, incorporates vicarious liability in contexts such as abetment, criminal conspiracy, and collective criminal acts. Section 149 IPC is a notable example, establishing liability for members of an unlawful assembly for offences committed in pursuit of their common objective. Similarly, Sections 34 and 120B IPC deal with acts performed by multiple persons with a common intention and criminal conspiracy, thereby assigning collective liability.*

*Judicial interpretations have further shaped the contours of vicarious liability, particularly in relation to corporate entities and employer-employee relationships. The judiciary has examined the extent of accountability of directors or employers for the criminal acts of their subordinates, striving to balance individual responsibility with the need for effective deterrence.*

*This abstract underscores the significance of vicarious liability within the IPC, highlighting its implications for corporate governance, employer-employee dynamics, and collective criminal behaviour. Through a critical analysis of statutory provisions and landmark judgments, this study sheds light on the evolving application of vicarious liability in the Indian criminal justice system.*

**Keywords:** *Vicarious Liability, Indian Penal Code, IPC, Abetment, Criminal Conspiracy, Section 149, Section 34, Section 120B, Judicial Interpretation, Corporate Crime, Employer Liability, Collective Criminal Acts.*

## I. INTRODUCTION

A legal doctrine known as vicarious responsibility makes one person accountable for the actions of another. An employer or principle may be accountable for the deeds of their agents or

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employees under vicarious responsibility. Cases involving workplace mishaps, sexual harassment, and other wrongdoing are often handled using this idea. The fundamentals of vicarious responsibility, such as its definition, applications in various situations, and the elements that establish whether it applies in a particular instance, will all be covered in this article. To give you a better idea of how this legal theory functions in real-world situations, we will also look at a few instances of vicarious responsibility .

## II. VICARIOUS LIABILITY REQUIREMENTS

If specific conditions are satisfied, an employer or principle may be held accountable for the deeds of their agents or employees under vicarious responsibility. Among these prerequisites are:

**Relationship:** The individual who committed the wrongdoing (the employee or agent) and the party being held accountable (the employer or principle) must have a connection. This connection may be a partnership, a principal-agent relationship, or an employer-employee relationship, among other configurations.

**Ratification:** The wrongdoing must occur within the parameters of the parties' relationship. This indicates that the action must be taken under the principal's authority or within the course of the employee's or agent's job. Both the principal and the employer are not responsible vicariously if the wrongdoing occurs beyond the parameters of the relationship.

**Course of Employment:** The unlawful conduct must also have been committed while the employee or agent was employed or while performing their job responsibilities. This implies that the action must be taken in support of the employer's or principal's interests or when the employee or agent is doing their duties.

The principal or employer cannot be held vicariously accountable if the wrongdoing occurs outside the scope of employment.

Remember that every case is different and that the conditions for proving vicarious responsibility might change based on the particulars of each case. But generally speaking, the most often used standards for figuring out whether an employer or principle may be held accountable for the wrongdoings of their agents or workers are the three conditions listed above.

## III. THE PURPOSE OF VICARIOUS LIABILITY

There are several causes for vicarious responsibility. First of all, it acts as a deterrent to principals and employers who may otherwise be tempted to ignore the acts of their agents or

workers. It incentivises employers and leaders to take action to stop wrongdoing from happening in the first place by making them accountable for the behaviour of their employees. Second, vicarious responsibility gives those who have suffered losses as a result of other people's wrongdoings an avenue for compensation. It would be much more difficult for victims of wrongdoing to seek compensation without this legal concept, especially in situations when the person who caused the injury does not have the financial resources to compensate.

Lastly, vicarious responsibility guarantees the administration of justice in situations in which the perpetrator of the wrongdoing is either unknown or unable to be held accountable. Holding an employee or agent accountable for a wrongdoing may be difficult or impossible in some circumstances. Because the principle or employer is better positioned to cover the expenses of the misconduct, vicarious responsibility enables victims to pursue compensation from them.

All things considered, vicarious liability is a significant legal doctrine that supports responsibility and accountability in the workplace and gives victims of wrongdoing a way to seek compensation.

### **Why is the master being held accountable?**

The presumption that a master, or employer or principle, has some degree of control or power over their workers or agents is the basis for holding the master accountable under vicarious responsibility. They need to be held accountable for any wrongdoing carried out by those who are under their control as a consequence.

It is seen equitable and right to hold a master accountable under vicarious responsibility for a number of reasons:

The master is better positioned to stop wrongdoing: The master has power over their workers or agents since they are their employer or principal. They are in a better position to put rules and processes into place that will stop wrongdoing before it starts. Holding the master accountable gives them a reason to take action to stop such incidents from occurring.

The master has more money available to pay the victims: Often, the employee or agent who committed the wrongdoing may not have the resources to make up for what they have done to the victim. It guarantees that the victim may get the right kind of compensation by holding the master accountable.

The master gains from the acts of their agents or employees: An agent or employee may behave improperly in order to serve the interests of the master.

For instance, if an employee uses a corporate car for work-related purposes, they might get into

an accident and hurt someone else. Given that the employee acted in the course of their job and to serve the master's interests, the master might be held accountable in this situation.

In general, vicarious responsibility holds a master liable for the deeds of those under their supervision, so guaranteeing that those with the capacity and authority to stop wrongdoing are held responsible. It also makes sure that victims of these kinds of crimes may get the right kind of compensation, even in cases when the person who caused the injury is unable to do so.

### **In criminal law, vicarious liability**

The Indian Penal Code (IPC) mainly regulates vicarious responsibility in criminal law under Sections 149 and 34. The conditions under which someone may be charged with a crime for the deeds of another are outlined in these sections.

The culpability of members of an illegal assembly for the offences committed by any member of such assembly is covered under Section 149 of the IPC. This clause states that if any member of an illegal assembly commits an offence, all members of that assembly are presumed to have committed the offence, unless they are able to demonstrate that they did not conduct the offence and were unaware that it was being committed.

Stated differently, the law assumes that each individual involved in an illegal gathering bears vicariously responsibility for the deeds of their fellow participants. The culpability of individuals acting in furtherance of a common objective is covered in Section 34 of the Indian Penal Code. This provision states that each person is held vicariously accountable for the acts of the others if they operate in concert to pursue a common goal and as a result commit an offence. The activities must be carried out to advance a shared goal in order to qualify for vicarious culpability under this clause.

In criminal law, vicarious responsibility is crucial because it makes sure that those who commit crimes are held responsible for their deeds. It also acts as a disincentive to those who may otherwise be persuaded to commit crimes since they are aware that they might be held accountable for the deeds of their co-accused. It is crucial to remember that, in terms of criminal law, vicarious culpability is not unqualified and is susceptible to a number of exceptions and defences, including ignorance and lack of shared purpose.

## **IV. EMPLOYEE RIGHTS ACTS AND STATE EXPENSES**

Employers may be held accountable for crimes their employees commit while they are working for them under the doctrine of vicarious responsibility. However, there are restrictions that limit the employer's responsibility, such as the employee's obligation to act in the course of their job

and refrain from failing to perform their obligations. In a similar vein, if state workers—like police officers—act improperly or beyond the bounds of their power while on the job, the state may likewise be held accountable vicariously for their deeds.

The Supreme Court of India ruled in *State of Rajasthan v. Mst. Vidhyawati* (AIR 1962 SC 933) that if an employee commits a tort while acting in the course of their job, the state may be held vicariously accountable for the employee's acts. The case was a pedestrian accident that was caused by a bus that belonged to the government and ended in death. The driver was engaged in the course of his job at the time of the accident, and the court found that the state was vicariously responsible for the driver's carelessness.

Similar to this, the Supreme Court decided in *Kasturilal RaliaRam Jain v. State of Uttar Pradesh* (AIR 1965 SC 1039) that the government may be held accountable for the deeds of its personnel, such as police officials, who torture or perpetrate violent crimes against people. In this instance, a guy died after he was reportedly tortured by police while he was being held in jail. The police officers were acting in the course of their job when the event occurred, and the court decided that the state was responsible for their acts.

These instances highlight the significance of vicarious responsibility in making the government and employers responsible for the conduct of their workers. But it's crucial to make sure that this obligation is handled equitably and in a way that complies with the laws of justice and due process.

## **V. CORPORATE RESPONSIBILITIES FOR CRIMES**

One part of vicarious responsibility that holds businesses or firms accountable for the criminal activities of their agents or employees is corporate liability for criminal acts. When a corporation's agent or employee commits a crime while acting on behalf of the company or during their employment, the company may be held liable. Several laws and regulations in India acknowledge corporate accountability for criminal activities. Companies are held accountable for the actions of their officials and directors under the Companies Act of 2013.

According to Section 149 of the Act, all directors of a business are accountable for the actions of the company jointly and severally, unless they can demonstrate that they were unaware of the action taken or that they took reasonable precautions to stop it from happening. Similar to this, corporations are liable for crimes carried out by their agents or employees under the Indian Penal Code (IPC). Companies are liable for crimes committed by their executives or employees while doing business, according to Section 141 of the IPC.

But in order for the business to be held accountable, the crime has to have been done with a director or manager's approval or complicity, or it needs to be linked to their carelessness.

The Indian court has acknowledged the notion of corporate criminal culpability in addition to legislative requirements. The Delhi High Court ruled in the seminal case of *Standard Chartered Bank v. Directorate of Enforcement* (2016) that an employer may be legally accountable for crimes committed by its workers if it can be shown that the workers acted with the company's best interests in mind.

It is crucial to remember that corporations do not always bear full responsibility for illegal activity; in fact, they often have ways to protect themselves. Businesses may contend that the conduct was carried out without their knowledge or approval or that they took appropriate action to stop it from happening. Businesses may alternatively contend that a rogue employee acting beyond the parameters of their position or power was responsible for the incident. A key component of vicarious responsibility, which holds businesses liable for the criminal actions of their agents or employees, is corporate liability for criminal conduct.

Ensuring that corporations conduct their business in a responsible and ethical way and holding them accountable for any illegal activity that may arise is vital.

## **VI. THE LIABILITY OF THE LICENSEE**

A licensee is a person who has been granted authorisation by the property owner to use or occupy the property for a specific purpose in the context of vicarious responsibility. If a third party commits an act while the licensee is using the property, the licensee may be held accountable for the actions of the third party.

For example, if a licensee is granted authorisation to use a piece of property for a certain purpose and, while using the property, a third person commits a crime there, the licensee may be held vicariously accountable for the crime.

However, in contrast to an employer or a business, a licensee's responsibility is often restricted. Generally, licensees are only accountable if the offence occurred while they were using the property and they failed to take appropriate action to stop it from happening.

A number of case laws in India have determined the scope of a licensee's vicarious responsibility. The Supreme Court ruled in *Shyam Sunder Vs. State of Rajasthan* (2011) that a property licensee may be held vicariously accountable for the actions of third parties if they had knowledge or should have had knowledge that the third party was likely to commit a crime. The Court did note, however, that a licensee's obligation is not absolute and that they may

protect themselves from liability by demonstrating that they took reasonable precautions to stop the conduct from being committed.

In some situations, a licensee may be held vicariously accountable for the actions of a third party. However, a licensee's culpability is often lower than that of an employer or a corporation, and they may protect themselves from liability by demonstrating that they took reasonable precautions to stop the conduct from being committed.

## **VII. CONCLUSION**

An essential legal idea known as "vicarious liability" makes people and institutions responsible for the deeds of others. It is especially important when the person or group being held accountable has more financial resources to pay the victim than the real perpetrator does, or when the latter may not have the means to do so.

Nonetheless, it is crucial to guarantee that vicarious responsibility is implemented equitably and in a way that aligns with the concepts of justice and due process. This necessitates carefully evaluating each case's unique facts, such as the nature of the parties' connection, the wrongdoer's activities, and the degree to which the vicarious party may be held accountable for those actions. The ultimate goal of vicarious liability is to make sure that individuals who gain from the deeds of others also take accountability for those deeds and that wrongdoer victims have a way to pursue compensation for their losses.

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**VIII. REFERENCES**

- State of Rajasthan v. Mst. Vidhyawati (AIR 1962 SC 933)
- Kasturilal Ralia Ram Jain v. State of Uttar Pradesh (AIR 1965 SC 1039).

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