

# Sanjay Dutt vs The State Of Haryana on 2 January, 2025

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2025 INSC 34

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 11 OF 2025  
(@ SLP (Crl) No. 7464/2024)

SANJAY DUTT & ORS.

VERSUS

THE STATE OF HARYANA & ANR.

O R D E R

1. Leave granted.

2. This appeal arises from the judgment and order passed by the High Court of Punjab and Haryana at Chandigarh dated 08-12-2022 in CRMM No.55268 of 2022 by which the High Court rejected the petition filed by the appellants herein invoking Section 482 of the Code of Criminal Procedure for the purpose of quashing of complaint no. 41 of 2022 lodged by the Range Forest Officer for the alleged offence under Section 4 of the Punjab Land Preservation Act, 1900 (for short “the Act, 1900”) punishable under Section 19 of the Act, 1900.

3. We have heard Ms. Meenakshi Arora, the learned senior counsel appearing for the appellants and Mr. Akshay Amritanshu, the learned counsel appearing for the respondents. Date: 2025.01.07 18:18:40 IST Reason:

4. The short point that falls for our consideration is whether the plain reading of the complaint lodged by the Range Forest Officer discloses commission of any offence alleged to have been committed under Section 4 read with Section 19 of the Act, 1900.

5. The complaint reads thus:-

“PC No.1G/2022-23 7-9-22 IN THE COURT OF HON'BLE PRESIDING OFFICER SPECIAL ENVIRONMENT COURT, FARIDABAD IN THE MATTER OF Range Forest Officer Gurugram .....Applicants Vs. (1) Satpal Singh Project Manager (2) Kamal Sehgal General Manager (3) Sanjay Dutt Director, Sec-113 Bajgera Gurugram .....Respondents INDEX S. No. Particular Page No.

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Range Forest Officer, Gurugram Forest Crime Report Forest Department, Government of Haryana FOR Book No.0495 FOR No.079 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 Name of the report issuing Hansraj officer Source of information about the Self patrolling/informer/complaint crime Date/Day/Time of the commission of the crime Name and designation of the Sh. Virender Kumar Sr. Inspector Investigating Officer Description of the crime/ No/If yes then No. incident Act violated Section Indian Forest Act, 1927 Wild Life (Protection) Act, 1972 Punjab Land Conservation Act, Sec-4 Indian Penal Code Description of Name Father's Age Caste Address criminal Name (1) Satpal Project Sec-113, Gate Vida Bajgeda Singh Manager (2) Kamal General Gurugram Sehgal Manager (3) Sanjay Director Dutt Description of confiscated articles Details of Type Type/ Numbers Dead Compensation confiscated Size amount (1) Kikkar =7 (iv) (3) \_\_\_\_\_small plants = 62 forest produce (2) Kikkar = 5 (iv) (4) \_\_\_\_\_ (iv) = 46 (5) ,, ,, (v) = 72 (6) Misc. (u/s) = 126 Details of Type Regd. Color Model Manufacture vehicle seized No. date xxxxx Total=ABSTRFC xxxxxx U/s V IV Total

-- 7 5 12 126 72 46 244 Total 126 79 51 256 Tools/ Weapons xxxxxxx xxxxxxx xxxxxxx xxxxxx Others, if any xxxxxxx xxxxxxx xxxxxxx xxxxxxx Mark the xxxxxxx xxxxxxx xxxxxxx correct Signature of Informer/ Beat Incharge Complainant/ Witness Sd/-

Sd/-

Signature/Thumb Impression of F.R.O. accused Name Rank Dated PC No.1G/2022-23 Notice No.219.G Dated: 2/9/2021 Notice Indian Forest Act, 1900 Sec-4 Name : (1) Satpal Singh Project Manager Address: (2) Kamal Sehgal General Manager (3) Sanjay Dutt Director, Sec-113, Gate Vida Bajgera Gurugram Forest Damage Report No.079/495 has been received against you. Due to the forest crime committed by you, the environment has been harmed. According to damage report you have illegally uprooted trees situated in the area of Sec-113 Gate Vida, Gurugram, with JCB, destroyed them, and have violated the Sec-4 of the Indian Forest Act PLPA, 1900. You are hereby informed through this notice that you should appear before the undersigned on or before 7-9-2021 and explain your position that why a complaint should not be filed against you in the Environment Court, Faridabad as per the above said Indian Forest Act.

Forest Block Officer Forest Area: Sultanpur Range: Gurugram PC No.1G/2022-23 Case No..... Description of incident Range.... Police Station....District Name and address of Regarding which matter Description of statement, witnesses which the witnesses have hope for.

Hansaraj Sr. Gurugram and Beat	I I/C According to FOR (1) Forest Guard will Jhadsa No.79/495, the accused depose according to FOR have committed violation (2) Forest Inspector will
Virender Singh Sultanpur Block	I/C of Section 4 of the depose according to FOR PLPA, 1900 by (3) Forest Officer will uprooting 256 trees of
Forest Officer Gurugram Range	I/C depose according to FOR Kikkar-and xxxx and 62 plants of xxxxx with JCB from Sec-113, Gate Vida, Gurugram.

No.I Description of case, which is to be written on all Sd/-

Sd/-

Notification issued under Section 4 of the Act, 1900 Government of Haryana Forest Department Order Dated, January 4, 2013 No.S.O.8/P.A.2/1900/S.4/2013-Whereas the Governor of Haryana is satisfied after due inquiry, that for the purpose of giving effect to the provisions of the Punjab Land Preservation Act, 1900 (Punjab Act 2 of 1900), the regulations, the conditions and the prohibition set out hereinafter are necessary.

Therefore, now, in exercise of the powers conferred under Section 4 of the above said Act, the Governor of Haryana, hereby in the Schedule given below, specifically prohibits the following works in the specified areas, for a period of fifteen years from the date of publication of this Order in the Official Gazette, which has been notified under Section 3 of the above said rule by the Government of Haryana, Forest Department vide Notification No. S.O.81/P.A.2/1900/S.3/2012 dated 19th December, 2012.

(a) The cutting of trees or timber other than Safeda, Popular, Bacain, Bass, Toot and Alan-

thak, and the collection or removal of flowers, fruits and any produce of different forest, except for the actual domestic or any manufacturing process. Provided that the land owner may sell trees or timber after obtaining a permit from the concerned Divisional Officer before doing so. Such permit shall prescribe such conditions for any sale as may be deemed necessary from time to time in the interest of forest conservation and 11 state farmers will be free to sell their trees to any person/Agency/ Haryana and Development Corporation Limited at their will. So as to enable them to get remunerative price for their produce, provided that the land owner may sell their trees after obtaining permission to do so from the concerned Divisional Forest Officer.

P.C. No.1G/2022-23 Dated 2-9-2021 Statement of Forest Guard Sir, The spot was inspected. The accused has uprooted the trees standing on the inspected spot through JCB, the dt. of which has been recorded.

Sd/-

Sd/-

Certified to be true translation Advocate P.C. No.1G/2022-23 Dated 2-9-2021 Statement of Forest Inspector Sir, I do hereby solemnly affirm that upon receiving FOR No.79/495 dated 2-9-2021, the spot was inspected. Wherein on the spot at Sec-113, Gate Vida, Bajgera, Kikkar and different types of trees were found to be uprooted with the JCB and small plants of different types were destroyed. According to FOR, the damage is found to be correct. The accused were issued notice for violating Section 4 of the PLPA, 1900. But the accused did not give any satisfactory answer. In this FOR, after preparing PC case of the accused, the same was given to Forest Range Office, Gurugram for presenting before the Environment Court, Faridabad. This is my statement Sd/-

6. It appears from the materials on record that the Presiding Officer-cum-JMIC, Special Environment Court Faridabad took cognizance of the complaint, referred to above and issued process for the offence punishable under Section 19 of the Act, 1900. The order issuing process reads: -

“DFO Vs Satpal etc Present Sh Gordhan Das, Forester; Gurugram on behalf of the complainant Heard on the point of summoning of accused In the challan and the documents attached thereto, it is alleged by the complainant that on 02.09.2021, in the area of sector 113 Gate Vida Gurugram, (this area has been notified under the Forest Act, so, same belongs to the Forest Department), the accused destroyed 256 trees using JCB It is also claimed by the complainant that the illegal act committed by the above named accused, has caused a loss to the tune of Rs 90580/- (Rupees Ninty Thousand Five Hundred Eighty Only) to the Forest Department.

In view of the allegations leveled against the accused in the challan and perusal of original documents appended herewith, this court is of the opinion that a prima-facie

case is made out against the accused for indulging in said illegal activity which led to the commission of an offence, punishable u/s 19 of the Punjab Land Preservation Act, 1900.

Accordingly, accused is hereby ordered to be summoned on 07.09.2022 and same is directed to appear in person in the court.

(Seema) PO Spl Env Court, Faridabad UID HR0387 02.05.2022”

7. We are informed that the aforesaid complaint bearing CIS No.COMA-134-2024 has now been transferred to the district Court of Judicial Magistrate-1st Class, Gurugram.

8. It is not in dispute that so far as the appellant no.1 is concerned he is the Managing Director and Chief Executive Officer of a company namely TATA Realty and Infrastructure Limited and Tata Housing Development Co. Ltd. So far as the appellant no.2 is concerned, he at the relevant point of time was the General Manager and is currently the Assistant Vice President of Tata Realty and Infrastructure Limited in its Corporate Relations Group and so far as the appellant no.3 is concerned he at the relevant point of time was the erstwhile employee/Senior Manager of the company namely ‘Sector 113 Gatevida Developers Private Limited’ (formerly known as Lemon Tree and Developers Private).

Relevant Provisions of Law:

9. Section 4 of the Act, 1900 reads thus:-

“4. Power to regulate, restrict or prohibit, by general or special order, within notified areas, certain matters.— In respect of areas notified under section 3 generally or the whole or any part of any such area, the Provincial Government] may, by general or special order temporarily regulate, restrict or prohibit—

(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.”

Section 19 of the Act, 1900 reads thus:-

“19. Penalty for offences.— 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 both”

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:

“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) “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.” (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.

.....J. [J.B. PARDIWALA] .....J. [R. MAHADEVAN] New Delhi.

02nd January, 2025.