

*Shantaram Todankar v State of Maharashtra*, (2003) 2 SCC 257 [LNIND 2003 SC 4] : 2003 SCC (Cr) 506 and *State of Punjab v Sanjiv Kumar*, (2007) 9 SCC 791 [LNIND 2007 SC 797] : (2007) 3 SCC (Cr) 578.

90. *Kuldip Yadav v State of Bihar*, 2011 (5) SCC 324 [LNIND 2011 SC 403] : AIR 2011 SC 1736 [LNIND 2011 SC 403] : 2011 Cr LJ 2640 : (2011) 2 SCC (Cr) 632.

91. *Iqbal v State of UP*, AIR 2017 SC 1127 [LNIND 2017 SC 73] .

92. *Vyas Ram @ Vyas Kahar v State of Bihar*, 2014 Cr LJ 50 : (2013) 12 SCC 349 [LNIND 2013 SC 861] .

93. *Kattukulangara Madhavan v Majeed*, AIR 2017 SC 2004 [LNIND 2017 SC 158] .

94. *Sunil Balkrishna Bheir v State of Maharashtra*, (2007) 14 SCC 598 [LNIND 2007 SC 669] : 2007 Cr LJ 3277 .

95. *Munivel v State of TN*, 2006 Cr LJ 2133 .

96. *Hori Lal v State of UP*, (2006) 13 SCC 79 [LNIND 2006 SC 1086] : 2007 Cr LJ 1181 . See also *State of Punjab v Sanjeev Kumar*, (2007) 9 SCC 791 [LNIND 2007 SC 797] : AIR 2007 SC 2430 [LNIND 2007 SC 797] ; *Purusuram Pandey v State of Bihar*, AIR 2004 SC 5068 [LNIND 2004 SC 1075] : 2005 SCC (Cr) 113, restatement of ingredients and principle on which the provision is based.

97. *Najabhai Desurbhai Wagh v Valerabhai Deganbhai Vagh*, 2017 (1) Crimes 270 (SC), (2017) 3 SCC 261 [LNIND 2017 SC 46] .

98. *Vijay Pandurang Thakre v State of Maharashtra*, AIR 2017 SC 897 . *Gurmail Singh v State of Punjab*, 2013 (4) SCC 228 [LNIND 2012 SC 864] : 2013 (2) SCC (Cr) 36; *State of Maharashtra v Kashiram*, (2003) 10 SCC 434 [LNIND 2003 SC 716] : AIR 2003 SC 3901 [LNIND 2003 SC 716] , two parts of sections 149 explained and distinguished, the expression "in prosecution of common object" and the word "knew" in section 149, their meaning also explained. *Rajendra Shantaram Todankar v State of Maharashtra*, (2003) 2 SCC 257 [LNIND 2003 SC 4] : AIR 2003 SC 1110 [LNIND 2003 SC 4] : 2003 Cr LJ 1277 , two clauses of the section explained, inference about knowledge of likelihood of crime, when can be drawn, explained.

99. *Vijay Pandurang Thakre v State of Maharashtra*, AIR 2017 SC 897 .

100. *Roy Fernandes v State of Goa*, 2012 (2) Scale 68 [LNIND 2012 SC 86] : JT 2012 (2) SC 457 : AIR 2012 (SCW) 1238 : (2012) 3 SCC 221 [LNIND 2012 SC 86] : 2012 Cr LJ 1542 .

101. *Gangadhar Behera v State of Orissa*, 2002 (8) SCC 381 [LNIND 2002 SC 645] and *Bishnaalias Bhiswadeb Mahato v State of WB*, 2005 (12) SCC 657 [LNIND 2005 SC 873]

102. *Barendra Kumar Ghosh*, (1924) 52 IA 40 , 52 : 27 Bom LR 148 : 52 Cal 197.

103. *Aniruddha Mana*, (1924) 26 Cr LJ 827 , 829. Where the purpose was to show force and not to cause death, common intention was ruled out and the conviction was converted from under sections 302/34 to one under 302/149, *Jai Narain v State of UP*, 1995 Cr LJ 2335 (All).

104. *Sabid Ali*, (1873) 20 WR (Cr) 5 : 11 Beng LR 347, **approved** by the Supreme Court in *Mazaji*, AIR 1959 SC 572 [LNIND 1958 SC 169] ; *Krishnarao*, (1903) 5 Bom LR 1023 ; *Fatnaya*, (1941) 23 Lah 470.

105. *Legal Remembrancer, Bengal v Golok Tikadar*, (1943) 1 Cal 181 .

106. *UN Singh v State*, (1946) 25 Pat 215.

107. *Jahiruddin*, (1894) 22 Cal 306 , **approved** by the Supreme Court in *Shambhu Nath*, AIR 1960 SC 725 : 1960 Cr LJ 1114 .

108. *Dalip Singh*, AIR 1953 SC 364 [LNIND 1953 SC 61] : 1953 Cr LJ 1465 ; See also *Dharam Pal*, 1975 Cr LJ 1666 : AIR 1975 SC 1917 [LNIND 1975 SC 314] ; *State of UP v Ranjha Ram*, AIR 1986 SC 1959 [LNIND 1986 SC 271] : 1986 Cr LJ 1906 : (1986) 4 SCC 99 [LNIND 1986 SC 271] ; *Amar Singh v State of Punjab*, AIR 1987 SC 826 : 1987 Cr LJ 706 : (1987) 1 SCC 679 , see further *Gopeteshwar Nath Ojha v State of Bihar*, AIR 1986 SC 1649 : 1986 Cr LJ 1242 . *Hoshiar Singh v*

*State of Punjab*, [AIR 1992 SC 191](#) [[LNIND 1991 SC 568](#)] : [1992 Cr LJ 510](#) , the acquittal of some would not warrant the acquittal of the rest; *Sahebrao Kisan Jadhav v State of Maharashtra*, [1992 Cr LJ 339](#) , presence of eight in the course of an assault was established but four were acquitted due to weak evidence, conviction of the rest for unlawful assembly not illegal. The cases of *Amar Singh v State of Punjab*, [AIR 1987 SC 826](#) ; and *Maina Singh v State of Punjab*, [AIR 1976 SC 1084](#) [[LNIND 1976 SC 97](#)] : (1976) 3 SCR 651 [[LNIND 1976 SC 97](#)] , were followed by the Supreme Court in *K Nagamalleswara Rao v State of AP*, [1991 Cr LJ 1365](#) : [AIR 1991 SC 1075](#) [[LNIND 1991 SC 150](#)] : (1991) 2 SCC 532 [[LNIND 1991 SC 150](#)] , so as to come to the conclusion that where all others were acquitted and the evidence against the remaining four was also not reliable as to any overt acts done by them, their conviction was not sustainable. *Darshan Singh v State of Punjab*, [1990 Cr LJ 2684](#) : [AIR 1991 SC 66](#) , prosecution theory that an 80-year-old man went in advance to hold the deceased, not acceptable. *State of Assam v Bhelu Sheikh*, [1989 Cr LJ 879](#) : [AIR 1989 SC 1097](#) , no evidence to show that the accused caused injury, even dying declaration not recorded when the injured lived for seven days. *Saudagar Singh v State of Haryana*, [AIR 1998 SC 28](#) [[LNIND 1997 SC 890](#)] : [1998 Cr LJ 62](#) , persons not named in the FIR as members of unlawful assembly were let off, the gun wielding accused persons fired gun shots, convicted for murder. *Komal v State of HP*, [AIR 2002 SC 3057](#) [[LNIND 2002 SC 518](#)] , prosecution case of murder with common object proved, conviction. See also *Sajjan Sharma v State of Bihar*, (2011) 2 SCC 206 [[LNIND 2011 SC 33](#)] : [AIR 2011 SC 632](#) [[LNIND 2011 SC 33](#)] : [2011 Cr LJ 1169](#) : (2011) 1 SCC (Cr) 660.

109. *Birbal Choudhary v State of Bihar*, [AIR 2017 SC 4866](#) [[LNIND 2017 SC 2898](#)] .

110. *Bolineedi Venkataramaiah v State of AP*, [AIR 1994 SC 76](#) : [1994 Cr LJ 61](#) : 1994 Supp (3) SCC 732 . *Chanda v State of UP*, (2004) 5 SCC 141 [[LNIND 2004 SC 582](#)] : [AIR 2004 SC 2451](#) [[LNIND 2004 SC 582](#)] : 2004 All LJ 1871 : [2004 Cr LJ 2536](#) , common object as specified in section 141 must be proved for inflicting constructive liability, but proof of any overt act is not necessary. The court stated consideration for ascertaining common object, when and how it comes into existence and when it becomes modified or abandoned. *Madan Singh v State of Bihar*, (2004) 4 SCC 622 [[LNIND 2004 SC 427](#)] : [AIR 2004 SC 3317](#) [[LNIND 2004 SC 427](#)] . *Dani Singh v State of Bihar*, [2004 Cr LJ 3328](#) , there must be common object as stated in section 141 and person actuated by it. *Charan Singh v State of UP*, (2004) 4 SCC 205 [[LNIND 2004 SC 308](#)] : [AIR 2004 SC 2828](#) [[LNIND 2004 SC 308](#)] .

111. *Rudrappa Ramappa Jainpur v State of Karnataka*, (2004) 7 SCC 422 [[LNIND 2004 SC 738](#)] : [AIR 2004 SC 4148](#) [[LNIND 2004 SC 738](#)] . *Amzad Ali v State of Assam*, [2003 Cr LJ 3545](#) : (2003) 6 SCC 270 [[LNIND 2003 SC 570](#)] , applicability in the context of section 302.

112. *Shyam Singh v State of UP*, [1992 Cr LJ 1632](#) (All). *Ram Dhani v State*, [1997 Cr LJ 2286](#) (All) dispute over land, complainant party resorted to cutting crop grown by the accused party. The latter were more than five in number and assembled to prevent the cutting. The court held that they could not be said to form an unlawful assembly.

113. *Raj Nath v State of UP*, [AIR 2009 SC 1422](#) [[LNIND 2009 SC 59](#)] : (2009) 4 SCC 334 [[LNIND 2009 SC 59](#)] : (2009) 1 SCR 336 : JT 2009 (1) SC 373 [[LNIND 2009 SC 85](#)] : (2009) 2 SCC (Cr) 289.

114. *Gangadhar Behera v State of Orissa*, [2003 Cr LJ 41](#) : [AIR 2002 SC 3633](#) [[LNIND 2002 SC 645](#)] . *Chanda v State of UP*, (2004) 3 SCC 141 : [AIR 2004 SC 2836](#) [[LNIND 2004 SC 1556](#)] , the expression "in prosecution of common object" and the word "knew" as used in section 149 were explained and distinguished.

115. *Jagdeo Singh*, [1981 Cr LJ 166](#) : [AIR 1981 SC 648](#) .

116. *Jit Singh v State*, (1957) Pun 950; *Mizaji*, (1959) Supp (1) SCR 940 : [AIR 1959 SC 572](#) [[LNIND 1958 SC 169](#)] : [1959 Cr LJ 777](#) . *Satbir Singh v State of UP*, (2009) 13 SCC 790 [[LNIND](#)

2009 SC 450] : AIR 2009 SC 2163 [LNIND 2009 SC 450] : (2009) 3 All LJ 786; *Ashok Kumar v State of TN*, 2006 Cr LJ 2931 : AIR 2006 SC 2419 [LNIND 2006 SC 360] : (2006) 10 SCC 157 [LNIND 2006 SC 360] .

117. *Ibid*, and see *Lalji v State of UP*, AIR 1989 SC 754 [LNIND 1989 SC 26] : (1989) 1 SCR 130 [LNIND 1989 SC 26] : 1989 Cr LJ 850 , the members cannot be acquitted only because of lack of evidence of precise participation. Earlier to this, in *Ram Bilas Singh v State of Bihar*, 1964 (1) Cr LJ 573 : (1963) 1 SCWR 743 : (1964) 1 SCR 775 [LNIND 1963 SC 22] , the Supreme Court observed: "It is true that in order to convict persons vicariously under section 34 or section 149 it is not necessary to prove that each and every one of them had indulged in overt acts. Even so, there must be material to show that the overt act or acts of one or more was or were done in furtherance of the common intention of all the accused or in prosecution of the common object of the members of the unlawful assembly. **Following** this and the above **cited** Supreme Court cases in *Nagina Sharma v State of Bihar*, 1991 Cr LJ 1195 , the Patna High Court held that the gang of persons who came fully armed to capture a booth and to prevent voters from voting and causing eight deaths in the process were all responsible for the deaths in question. See at pp 1231–1233.

118. *Allauddin Mian v State of Bihar*, AIR 1989 SC 1456 [LNIND 1989 SC 236] : 1989 Cr LJ 1466 . *Ramappa Halappa Pujar v State of Karnataka*, (2007) 13 SCC 31 [LNIND 2007 SC 561] , the fact of benefit of doubt to some accused person could not give advantage to others on whose part some other act was evident.

119. *Vithal Bhimshah Koli v State of Maharashtra*, AIR 1983 SC 179 [LNIND 1982 BOM 340] : 1983 Cr LJ 340 : (1983) 1 SCC 431 . See also *Jawahar v State of UP*, AIR 1991 SC 273 : 1991 Cr LJ 376 , equal conviction of the accused who was only holding the deceased by the neck while others struck.

120. *Suratlal v State of MP*, AIR 1982 SC 1224 [LNIND 1980 SC 121] : 1982 Cr LJ 1577 : (1982) 1 SCC 488 [LNIND 1980 SC 121] . *Mohamed Arif v State of Gujarat*, AIR 1997 SC 105 [LNIND 1996 SC 1604] : 1997 Cr LJ 65 ; conviction of all the accused except one who was not identified by the eye-witness and given benefit of doubt. *Ganga Singh v State of UP*, 2000 Cr LJ 1695 (All), unlawful assembly, fodder belonging to informant burnt, death ensued from lathi blows, incident 21 years old. Accused persons grew into men of 55–60 years. They were sentenced to three years RI and fine of Rs. 5,000 each. *Vikram v State of Maharashtra*, (2007) 12 SCC 332 [LNIND 2007 SC 617] : (2008) 1 SCC (Cr) 362 : AIR 2007 SC 1893 [LNIND 2007 SC 617] : 2007 Cr LJ 3193 , whether in a given case common object has been made out depends upon facts and circumstances, conduct of the parties and the manner in which the occurrence had taken place has some bearing on the question.

121. *Bhimrao v State of Maharashtra*, (2003) 3 SCC 37 [LNIND 2003 SC 167] : AIR 2003 SC 1493 [LNIND 2003 SC 167] : 2003 Cr LJ 1204 .

122. *Raju v State of Rajasthan*, 2013 (2) SCC 233 [LNIND 2013 SC 25] : 2013 Cr LJ 1248 (SC). See also *Shyam Babu v State of UP*, JT 2012 (8) SC 377 [LNIND 2012 SC 536] : AIR 2012 (SCW) 4846 : (2012) 8 SCC 651 [LNIND 2012 SC 536] : AIR 2012 SC 3311 [LNIND 2012 SC 536] : 2012 Cr LJ 4550 : 2012 (8) Scale 535 [LNIND 2012 SC 536] .

123. *Hari Singh*, (1878) 3 CLR 49 . *Haricharan v State of Rajasthan*, AIR 1998 SC 244 [LNIND 1997 SC 1350] : 1998 Cr LJ 398 , accused appeared armed with weapons. They stopped the bus, put the gun on the chest of the driver threatening him if he tried to move. They caught hold of the deceased. One of them fired two shots and the other attacked with his weapon. Their conviction under section 300 read with section 149 was held to be proper. *Mahantappa v State of Karnataka*, AIR 1999 SC 314 [LNIND 1998 SC 1018] : 1999 Cr LJ 450 , the accused persons assaulted their victim with a sword, threw his body into a hut and set it on fire. Their conviction

under section 300 read with section 149 was held to be proper. Some others who were also tried with them did not seem to have been members, they could have been bystanders. They were given the benefit of doubt. *Bhagwan Singh v State of UP*, (1992) 4 SCC 85 , the accused persons were on inimical terms with the complainant party, came to the spot armed with deadly weapons and attacked claiming three lives, it was held that they shared common object. *Rachapalliabulu v State of AP*, (2002) 4 SCC 208 [LNIND 2002 SC 267] : 2000 Cr LJ 2527 : AIR 2002 SC 1805 [LNIND 2002 SC 267] , assailants came together as fully armed, caused two deaths, held to have shared common object. *Pratapneni Ravi Kumar v State of AP*, AIR 1997 SC 2810 [LNIND 1997 SC 892] : 1997 Cr LJ 3505 , all those who assaulted the victim were members of unlawful assembly and death was caused in prosecution of common object, all of them guilty irrespective of the fact whether they had participated in beating the deceased. *State of Rajasthan v Ani*, AIR 1997 SC 1023 [LNIND 1997 SC 35] , armed accused person killed two and attempted to cause one more death, they were earlier involved in other riots. Conviction, but two accused were acquitted because evidence showed no connection with the incident. *Satbir v Surat Singh*, AIR 1997 SC 1160 : (1997) 4 SCC 192 , two accused persons, though present, could not be said with certainty to have shared the common intention to commit murder, benefit of doubt. *Siddique v State of UP*, 1998 Cr LJ 3829 (All), unlawful assembly causing death in business rivalry, conviction. *State of Rajasthan v Nathu*, (2003) 5 SCC 537 [LNIND 2003 SC 479] , murder, vicarious liability.

124. *Muthu Naicker v State of WB*, 1978 Cr LJ 1713 : AIR 1978 SC 1647 [LNIND 1978 SC 188] . From numbers, situs and nature of wounds it could be hold that all five accused persons had definite intention to commit murder of victim. *State of Assam v Golbar Hussain*, 2012 Cr LJ 4649 (Gau).

125. *Kartar Singh v State of Punjab*, AIR 1996 SC 1406 [LNIND 1996 SC 307] : 1996 Cr LJ 1722 . In *Ramesh v State of Haryana*, AIR 2011 SC 169 [LNIND 2010 SC 1016] : 2011 Cr LJ 80 : (2010) 12 SCR 799 : (2010) 13 SCC 409 [LNIND 2010 SC 1016] : (2011) 1 SCC (Cr) 1176, the evidence show that the appellants variously armed, including the firearms assembled at one place and, thereafter, came to the place of occurrence and started assault together and when protested by the deceased, one of the members of the unlawful assembly shot the deceased dead and some of them caused injury by firearm, gandas, lathi, etc., to others. All of them have come and left the place of occurrence together. Appellant held to be members of the unlawful assembly and offence have been committed in pursuance of the common object. Each of them shall be liable for the offence committed by any other member of the assembly. Also see *Ranjit Singh v State of MP*, AIR 2011 SC 255 [LNIND 2010 SC 1057] : 2011 Cr LJ 283 : (2011) 4 SCC 336 [LNIND 2010 SC 1057] : (2011) 2 SCC (Cr) 227.

126. *C Chellappan*, 1979 Cr LJ 1335 : AIR 1979 SC 1761 .

127. *Asharfi Lal v State of UP*, AIR 1987 SC 1721 [LNIND 1987 SC 346] : 1987 Cr LJ 1885 : (1987) 3 SCC 224 [LNIND 1987 SC 346] . See also *Lalji Singh v State of UP*, AIR 1985 SC 1266 : 1985 Cr LJ 1488 , charges under sections 302, 147, 148 and 149; and *Dalip Singh v State of UP*, 1985 SCC (Cr) 486 : 1985 Supp SCC 471 : AIR 1986 SC 316 , charges under the same sections, established. *Kishan Singh v State of Rajasthan*, 1995 Cr LJ 2027 (Raj), circumstances of the case established unlawful assembly as well as common object. *Poonma Ram v State of Rajasthan*, 1995 Cr LJ 359 (Raj), unlawful assembly, death caused, but requisite intention for murder not proved, conviction for culpable homicide and for forming unlawful assembly. *Luku Pulke v State of Orissa*, 1995 Cr LJ 1207 (Ori), acquittal because of contradictory statements of witnesses as to participation. *Gajanan v State of Maharashtra*, 1996 Cr LJ 2887 : AIR 1996 SC 3332 , the accused persons caused death by assault and beating, also beating others who came to rescue, showed common object of causing death.

128. *Sheikh Ajyub v State of Maharashtra*, 1995 Cr LJ 420 : 1994 Supp (2) SCC 269 .
129. *Joseph v State of Karnataka*, 1993 Cr LJ 3538 : 1993 AIR SCW 2900. *State of UP v Man Singh*, AIR 2003 SC 62 [LNIND 2002 SC 657] , seven persons were variously armed, they attacked and killed their victim whose severed body was thrown by them into river. The witnesses recovered the body immediately after the attackers left. This established their presence at the spot. The reversal of conviction by the High Court because of poor visibility caused by fog was held to be improper. *Shrawan Bhadaji Bhirad v State of Maharashtra*, AIR 2003 SC 199 [LNIND 2002 SC 701] : 2003 Cr LJ 398 , seven persons armed with swords, attacked their victim causing multiple injuries which were found to be sufficient to cause death, but saved by a team of doctors. Conviction of the accused under the section was held to be proper. *Alla Chinna Apparao v State of AP*, 2003 Cr LJ 17 : AIR 2002 SC 3648 [LNIND 2002 SC 647] , the victim was attacked by accused persons who hacked his neck on two sides with coconut cutting knives. Eye-witnesses. Conviction under section 300
130. *Umesh Singh v State of Bihar*, AIR 2000 SC 2111 [LNIND 2000 SC 871] : 2000 Cr LJ 3167 .
131. *Ram Dular Rai v State of Bihar*, (2003) 12 SCC 352 [LNIND 2003 SC 1032] : AIR 2004 SC 1043 [LNIND 2003 SC 1032] : 2004 Cr LJ 635 ; *Chand v State of UP*, (2004) 5 SCC 141 [LNIND 2004 SC 582] : AIR 2004 SC 2451 [LNIND 2004 SC 582] : 2004 All LJ 1871 : 2004 Cr LJ 2536 , number of convicted persons less than five. Eight persons were named. Two of them held pistols. Shot fired but did not hit the victim. The other's shot proved fatal. Unlawful assembly was there. Acquittal of some of them on a technical ground did not wipe out application of section 149.
132. *Kashirma v State of MP*, (2002) 1 SCC 71 [LNIND 2001 SC 2369] .
133. *Kashi Ram v State of MP*, AIR 2001 SC 2902 [LNIND 2001 SC 2369] ; *Siyaram v State of MP*, (2009) 4 SCC 792 [LNIND 2009 SC 577] : (2009) 2 SCC (Cr) 602 : 2009 Cr LJ 2071 , statement of principles to be **followed** by the appellate court in considering an appeal against acquittal. See also *State of Maharashtra v Tulshiram Bhanudas Kamble*, (2007) 14 SCC 627 [LNIND 2007 SC 3167] : AIR 2007 SC 3042 [LNIND 2007 SC 3167] : (2007) Cr LJ 4319 .
134. *Yunis v State of MP*, AIR 2003 SC 539 [LNIND 2002 SC 784] : 2003 Cr LJ 817 ; *Re Ram Pravesh Sharma*, 2003 Cr LJ NOC 180 (Jhar) : 2003 AIR Jhar HCR 220.
135. *State of MP v Mishrilal*, 2002 Cr LJ 2312 (SC).
136. *State of UP v Kishanpal*, (2008) 16 SCC 73 [LNIND 2008 SC 1608] . *Akbar Sheikh v State of WB*, (2009) 7 SCC 415 [LNIND 2009 SC 1106] : (2009) 3 SCC (Cr) 431, rule of prudence should be applied. Something more than the persons concerned being cited as accused in a witness box would be necessary. The court must have before it some materials to form an opinion that they had shared the common object. *Sheo Prasad Bhor v State of Assam*, (2007) 3 SCC 120 [LNIND 2007 SC 19] : AIR 2007 SC 918 [LNIND 2007 SC 19] : 2007 Cr LJ 1423 , assignment of independent parts to each member not necessary; if one is a member of the assembly, assault and death caused by any one of them would make others liable.
137. *Ganga Ram Sah v State of Bihar*, AIR 2017 SC 655 [LNINDU 2017 SC 31] .
138. *Najabhai Desurbhai Wagh v Valerabhai Deganbhai Vagh*, (2017) 3 SCC 261 [LNIND 2017 SC 46] : 2017 (1) Crimes 270 (SC).
139. *Vinubhai Ranchhodbhai Patel v Rajivbhai Dudabhai Patel*, AIR 2018 SC 2472 [LNIND 2018 SC 300] .
140. *Vinubhai Ranchhodbhai Patel v Rajivbhai Dudabhai Patel*, AIR 2018 SC 2472 [LNIND 2018 SC 300] .
141. *Kabil Singh*, (1869) 3 Beng LR (A Cr J) 1. See also *State of Gujarat v Bharwad*, 1990 Cr LJ 2531 (Guj), common object to belabour the members of a particular community, all liable under sections 324 and 326 and not for murder. *Teja v State of MP*, 1990 Cr LJ 262 , common object to

insult, guilty under section 326 and not under section 302 though death was caused. *Ramesh Baburao Devaskar v State of Maharashtra*, (2008) Cr LJ 372 : (2007) 13 SCC 501 [LNIND 2007 SC 1213] , name of only one accused mentioned in the FIR, PWs did not attribute any overt act to the remaining accused persons, thus, there was some substance in the contention that others did not share the common object.

142. *Kshudiram*, 1972 Cr LJ 756 : AIR 1972 SC 1221 . See also *Bharwad Bhikha Natha*, 1977 Cr LJ 1160 : AIR 1977 SC 1768 ; *K Neelakanthee*, 1978 Cr LJ 780 : AIR 1978 SC 1021 [LNIND 1978 SC 55] ; *Bhudeo Mondla v State of Bihar*, 1981 Cr LJ 725 : AIR 1981 SC 219 : (1981) 2 SCC 755 [LNIND 1981 SC 177] .

143. *Jhapa Kabari v State of Bihar*, AIR 2002 SC 312 [LNIND 2001 SC 2762] . *Jadu Sahani v State*, 1999 Cr LJ 593 : 1999 AIR SCW 3985, no enmity between the conflicting groups, death caused by one of them as an individual act, only he was convicted for murder. *State of Punjab v Harjit Singh*, AIR 2002 SC 3040 [LNIND 2002 SC 501] , mere participation in the crime with others is not sufficient to attribute common object or common intention to one of them of the others involved in the incident. One accused person can be made liable criminally for the acts and deeds of others only on proof of the subjective elements in common intention by the objective test.

144. *Nawab Ali*, 1974 Cr LJ 921 : AIR 1974 SC 1228 [LNIND 1974 SC 117] . See also *Ram Anjore*, 1975 Cr LJ 249 : AIR 1975 SC 185 [LNIND 1975 SC 87] ; *Badruddin v State*, 1981 Cr LJ 729 : AIR 1981 SC 1223 .

145. *Fatte*, 1980 Cr LJ 829 : AIR 1979 SC 1504 . In a similar case, the assailant giving the fatal blow was convicted under section 302 but co-accused under sections 326/149, *Ram Swarup v State of Haryana*, AIR 1993 SC 2436 [LNIND 1993 SC 487] : 1993 Cr LJ 3540 : 1993 Supp (4) SCC 344 . *Sukhbir Singh v State of Haryana*, AIR 2002 SC 1168 [LNIND 2002 SC 134] , a sweeper while working in a street happened to throw splashes of mud on the face of the accused. He abused the sweeper. The latter's father slapped the accused. He went away threatening and came back with others, but fatal injuries to the sweeper's father were inflicted by him alone, others kept only standing. Held individual act and not a common object: *Kajal Sen v State of Assam*, AIR 2002 SC 617 [LNIND 2002 SC 31] , fatal blows given by main accused. Others could not be convicted for offences punishable under section 302 read with sections 148 and 149. *Tamaji Govind Misal v State of Maharashtra*, AIR 1998 SC 174 [LNIND 1997 SC 1211] : 1998 Cr LJ 340 , the motive of the accused party was to remove *babul* trees from the land of the complainant party whatever be the cost and cause injuries which might become necessary. But some of them started assaulting immediately on reaching the spot. Others might not have known that the matter would go to the extent of murder, they were punished under sections 326/149 and not 300/149. *Atmaram Zongarazi v State of Maharashtra*, AIR 1997 SC 3573 [LNIND 1997 SC 1079] : 1997 Cr LJ 4406 , proof showed only one man striking and not others, others acquitted. *Chandubhai Malubhai Parmar v State of Gujarat*, AIR 1997 SC 1422 [LNIND 1997 SC 627] : 1997 Cr LJ 1909 , inter-community riot, accused armed with guns causing deaths, convicted under sections 300/149, but those who were busy only in burning property could not be convicted with others under section 300/149. *Naurangi Mahto v State*, 2001 Cr LJ 1525 (Jhar), no common object attributed to those who were just only present at the moment and had done no overt act. Incident took place at the spur of the moment. *Naththoo Ram v State of UP*, 2000 Cr LJ 3870 (All), injuries caused with blunt side of the weapon. It could not be said that the common object of the unlawful assembly was to cause death. Conviction was altered from under sections 302/149 to section 326/149.

*State of UP v Rasid*, AIR 2003 SC 1243 [LNIND 2003 SC 295] , accused persons who entered the house and caused death, convicted for murder, but those remained posted outside given benefit



of doubt. *Basisth Roy v State of Bihar*, [AIR 2003 SC 1439](#) [[LNIND 2003 SC 162](#)] , witnesses attributed overt act only to two out of 13 accused persons, convicted, others given benefit of doubt and acquitted. *Jayantibhai Bhankarbhai v State of Gujarat*, [AIR 2002 SC 3569](#) [[LNIND 2002 SC 565](#)] , five convicted, only one appealed, he was acquitted, the Supreme Court allowed the conviction of the non-appealing convicts to stand.

**146.** *Parusuram Pandey v State of Bihar*, [AIR 2004 SC 5068](#) [[LNIND 2004 SC 1075](#)] : (2004) 13 SCC 189 [[LNIND 2004 SC 1075](#)] .

**147.** *Mohan Lal*, [1982 Cr LJ 1898](#) (All).

**148.** *Sarman v State of MP*, [AIR 1993 SC 400](#) : [1993 Cr LJ 63](#) : 1993 Supp (2) SCC 356 . Where the only common object discovered on evidence was to beat the victim and not to cause death, others were held not liable to be convicted for murder but only under section 149/324; *Gopa Ram v State of Rajasthan*, [1996 Cr LJ 2987](#) (Raj).

**149.** *State of Karnataka v Bhojappa*, [1994 Cr LJ 1543](#) (Kant). See also *Anant Kumar v State of MP*, [AIR 1994 SC 1639](#) : (1994) 2 Cr LJ 1585 , no specific acts were attributed to two of the accused persons who also had no knowledge whether the others carried knives or that they were likely to cause injuries, such two accused acquitted. *Bhimrao v State of Maharashtra*, [2003 Cr LJ 1204](#) : [AIR 2003 SC 1493](#) [[LNIND 2003 SC 167](#)] , the accused came to the house of the victim with a common object, those who entered the house executed a different, held, their act could not be attributed to those who were standing outside. *State of Rajasthan v Sheo Singh*, [2003 Cr LJ 1569](#) : [AIR 2003 SC 1783](#) [[LNIND 2003 SC 231](#)] , a joint project of murder could not be proved. *Basisth Roy v State of Bihar*, [2003 Cr LJ 1301](#) : [AIR 2003 SC 1439](#) [[LNIND 2003 SC 162](#)] : (2003) 9 SCC 52 [[LNIND 2003 SC 162](#)] , murder on account of land dispute between the complainant and deceased party, specific overt acts of lathi blows and gun shots were attributed only to two of the accused persons, others could not be convicted for the same because there was no proof of a shared common object to that effect. *Bharosi v State of MP*, [AIR 2002 SC 3299](#) [[LNIND 2002 SC 567](#)] , six accused persons armed with lathis attacked the victim, death was due to one head injury attributed to the main accused, others did not intend nor had any knowledge. They were held to be not guilty of murder. They were guilty under section 147 for their individual acts. *Kishan Pal v State of UP*, [2001 Cr LJ 2875](#) (All), unlawful assembly, eight members of a family slaughtered in a day light attack. Witnesses untrustworthy. Acquittal.

**Cases of no proof.**—*Baikunth Mahto v State of Bihar*, [2003 Cr LJ 2135](#) (Jhar), the accused persons attacked the deceased at midnight while he was asleep along with three other persons. Two of them became hostile. The medical report was that death must have been instantaneous with injury and so the deceased could not have named anybody. The persons sleeping there could not have identified the assailants because of dark night. Evidence doubtful, acquittal. *Sunil Balkrishna Bhoil v State of Maharashtra*, (2007) 14 SCC 398 : [2007 Cr LJ 3277](#) , unlawful assembly originally formed to assault the victim, all of sudden accused two stabbed him causing death, common object held to be not applicable, rest of them guilty of only house trespass under section 452. They had been in custody for a long period. They were set at liberty. *Munna Chanda v State of Assam*, [2006 Cr LJ 1632](#) : [AIR 2006 SC 3555](#) [[LNIND 2006 SC 128](#)] : (2006) 3 SCC 752 [[LNIND 2006 SC 128](#)] , prior concert is not required, common object can develop at the spur of the moment, the deceased in this case, on being assaulted, fled, he was chased by some members of the party but who gave the fatal blow was not clear. Membership of two of the accused could not be proved nor any overt act could be attributed to them. They could not have been convicted under sections 302/149.

150. *Ranjit Singh v State of MP*, AIR 2011 SC 255 [LNIND 2010 SC 1057] : 2011 Cr LJ 283 : (2011) 4 SCC 336 [LNIND 2010 SC 1057] : (2011) 2 SCC (Cr) 227. See also *Jhapsa Kabari v State of Bihar*, AIR 2002 SC 312 [LNIND 2001 SC 2762] at p 314, where YK Sabharwal, J explained the position of a solitary witness.
151. *Charan Singh v State of UP*, (2004) 4 SCC 205 [LNIND 2004 SC 308] : AIR 2004 SC 2828 [LNIND 2004 SC 308] .
152. *Nanak Chand v State of Punjab*, AIR 1955 SC 274 [LNIND 1955 SC 3] : 1955 (1) SCR 1201 [LNIND 1955 SC 3] : 1955 Cr LJ 721 .
153. *Suraj Pal v State of UP*, AIR 1955 SC 419 [LNIND 1955 SC 17] : 1955 (1) SCR 1332 [LNIND 1955 SC 17] : 1955 Cr LJ 1004 .
154. *Willie Slaney v State of MP*, AIR 1956 SC 116 [LNIND 1955 SC 90] : 1955 (2) SCR 1140 [LNIND 1955 SC 90] : 1956 Cr LJ 291 .
155. *Subran v State*, 1993 (3) SCC 32 [LNIND 1993 SC 162] : 1993 SCC (Cr) 583 : 1993 Cr LJ 1387 : 1993 (2) Crimes 15 [LNIND 1993 SC 162] .
156. (*supra*).
157. *State of Rajasthan v Hazi Khan*, AIR 2017 SC 4001 .
158. *Kanwarlal v State of MP*, 2003 Cr LJ 62 : AIR 2002 SC 3690 [LNIND 2002 SC 558] .
159. *Shri Krishan v State of UP*, (2007) 15 SCC 557 .
160. *Eknath Ganpat Aher v State of Maharashtra*, (2010) 6 SCC 519 [LNIND 2010 SC 466] .
161. *Sudha Renukaiah v State of AP*, AIR 2017 SC 2124 [LNIND 2017 SC 197] .
162. *Najabhai Desurbhai Wagh v Valerabhai Deganhai Vagh*, (2017) 3 SCC 261 [LNIND 2017 SC 46] : 2017 (1) Crimes 270 (SC).



# THE INDIAN PENAL CODE

## CHAPTER VIII OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

The offences in this chapter may be classified in the following four groups:—

### I. Unlawful assembly.

- (1) Being a member of an unlawful assembly (sections 141, 142, 143).
- (2) Joining an unlawful assembly armed with deadly weapons (section 144).
- (3) Joining or continuing in an unlawful assembly knowing it has been commanded to disperse (section 145).
- (4) Hiring of persons to join an unlawful assembly (section 150).
- (5) Harboursing persons hired for an unlawful assembly (section 157).
- (6) Being hired to take part in an unlawful assembly (section 158).

### II. Rioting (sections 146, 147).

- (1) Rioting with deadly weapon (section 148).
- (2) Assaulting or obstructing a public servant in the suppression of a riot (section 152).
- (3) Wantonly giving provocation with intent to cause riot (section 153).
- (4) Liability of the owner or occupier of land on which an unlawful assembly is held or a riot is committed (section 154).
- (5) Liability of the person for whose benefit a riot is committed (section 155).
- (6) Liability of the agent of owner or occupier for whose benefit a riot is committed (section 156).

### III. Promoting enmity between different classes (section 153A).

### IV. Affray (sections 159, 160).

### **[s 150] Hiring, or conniving at hiring, of persons to join unlawful assembly.**

**Whoever hires or engages or employs, or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.**

**COMMENT—**

This section brings within the reach of the law those who are really the originators and instigators of the offences committed by hired persons. It deals with the case of those who are neither abettors of nor participants in the offence committed by an unlawful assembly.

The section creates a specific offence. It intends to embrace all those who hire, promote or connive at the employment of persons and render them punishable as principal participators. Under the section, a person, though not actually a member of an unlawful assembly himself, may be held guilty of being a member of the assembly and may be held liable for the offence which may be committed by the assembly to the same extent as if he had himself committed that offence. But this is possible only when it is found that he hired or engaged or employed or promoted or connived at the hiring, engagement or employment by any other person to join or become a member of the assembly. There must have been an unlawful assembly which was composed of persons so hired, etc., and an offence committed in the course of that assembly for which he becomes equally liable. The word "promotes" denotes acceleration or inducement. Though the word "employ" or "employment" is used, it does not mean recruitment. It would mean calling of the service of the hired person without any recruitment as a servant or agent to commit the offence.<sup>163</sup>

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<sup>163</sup>. *Vinit v State of Maharashtra*, [1994 Cr LJ 1791](#) at pp 1804–1805, certain persons, who constituted an unlawful assembly, were hired to eliminate a particular person. The eliminators and their procurer were both held equally liable.