

proved beyond all reasonable doubts and that no other conclusion except that of the complicity of Accused to have agreed to commit an offence is evident.⁷⁷ Accordingly, the circumstances proved before and after the occurrence have to be considered to decide about the complicity of the accused. Even if some acts are proved to have been committed, it must be clear that they were so committed in pursuance of an agreement made between the accused persons who were parties to the alleged conspiracy. Inferences from such proved circumstances regarding the guilt may be drawn only when such circumstances are incapable of any other reasonable explanation. An offence of conspiracy cannot be deemed to have been established on mere suspicion and surmises or inference which are not supported by cogent and acceptable evidence. Inferences from such proved circumstances regarding the guilt may be drawn only when such circumstances are incapable of any other reasonable explanation. To establish a charge of conspiracy knowledge about indulgence in either an illegal act or a legal act by illegal means is necessary. In some cases, intent of unlawful use being made of the goods or services in question may be inferred from the knowledge itself.⁷⁸ This apart, the prosecution has not to establish that a particular unlawful use was intended, so long as the goods or service in question could not be put to any lawful use. Finally when the ultimate offence consists of a chain of actions, it would not be necessary for the prosecution to establish, to bring home the charge of conspiracy, that each of the conspirators had the knowledge of what the collaborator would do.⁷⁹

One of the accused persons, a foreign national, was found staying in the country without valid passport and visa. His movement to various places with the main accused was established. A large quantity of arms and ammunition was recovered from the place occupied by the main accused. The Court said that an inference of criminal conspiracy could be drawn.⁸⁰ The Court also said that the appeal against conviction of the main accused was dismissed would not be sufficient to say that the charge of conspiracy against other accused would be deemed to be proved.⁸¹ Circumstances proved before, during and after the occurrence of the crime have to be considered together to decide about the complicity of the accused.⁸² Circumstantial evidence was based on the recovery of the scooter used by the executant and alleged to have been owned by a co-conspirator, but the recovery was not based on any information given by the accused, but by one witness. The Supreme Court held that no circumstantial evidence was proved against any of the conspirators.⁸³

[s 120A.10] Circumstantial evidence, inference must be backed by evidence.—

Most of the circumstances stated as against the accused were not proved. Merely based on the circumstance that the accused had filed a civil suit against the deceased for restraining him from doing a business he cannot be convicted. Moreover, there was no specific evidence as to who the conspirators were, where and when the conspiracy was hatched, what the specific purpose of such a conspiracy was and whether it was relating to the elimination of the deceased.⁸⁴ The law is well established that conspiracy cannot be proved merely on the basis of inferences. The inferences have to be backed by evidence.⁸⁵

The Court for the purpose of arriving at a finding as to whether the said offence has been committed or not may take into consideration the circumstantial evidence. However, while doing so, it must bear in mind that the meeting of minds is essential and mere knowledge or discussion would not be sufficient.⁸⁶ In *Mukesh v State for NCT of Delhi*, Criminal Appeal Nos. 607–608 of 2017, (popular as Nirbhaya Case) the criminal conspiracy was proved by the sequence of events and the conduct of the accused.

In the conspiracy for assassination of the former PM (Rajiv Gandhi) one of the accused persons at one point of time in his confessional statement said that he had a strong suspicion that Rajiv Gandhi was the target of the accused persons. The Court said that this suspicion did not make him a member of the conspiracy. His association, however strong with the main conspirators would not make him a member of the conspiracy by itself. But those who were in the thick of the conspiracy, for example, one who purchased the battery for explosion of human body, their conviction for the main offence was proper. But mere association with LTTE was not sufficient nor the fact that messages about arrests were sent by certain persons.^{87.}

[s 120A.11] Contacts through telephone.—

Where the case against the appellants A2 to A4 is that they had hatched a conspiracy with appellant A1 to kill the deceased and the case against A1 was proved as per the 'last seen theory', and to prove the conspiracy the prosecution relied on the circumstance that there were frequent phone calls among the accused some days around the date of murder, and the recovery of some vehicles; the Supreme Court held that the telephonic calls and the recovery may raise suspicion against the accused but mere suspicion by itself cannot take the place of proof.^{88.}

[s 120A.12] Between bank officials.—

Criminal conspiracy was taken to be established when officials of two public sector banks acted in such a way that the transaction in question appeared to be an inter-banking transaction relating to call money which the borrowing bank was supposed to retain with itself. The transaction was in fact formalised for the purpose of helping a private party to use public funds for a private purpose.^{89.}

[s 120A.13] Approval of television serial.—

The accused was the director of *Doordarshan*. The allegation against him was that he continued a serial which was approved at lower rates by an earlier director. Each director worked at different point of time. They did not work together. Their postings were official postings. It was difficult to infer any conspiracy between them for continuing the telecast. The investigation launched against the director was liable to be quashed.^{90.}

1. Chapter VA (containing sections 120A and 120B) inserted by Act 8 of 1913, section 3.

2. *State through Superintendent of Police, CBI/SIT v Nalini*, reported in (1999) 5 SCC 253 [LNIND 1999 SC 526] .

3. *Pratapbhai Hamirbhai Solanki v State of Gujarat*, (2013) 1 SCC 613 [LNIND 2012 SC 1033] : 2012 (10) Scale 237 [LNIND 2012 SC 1033] relying on *Ram Narayan Popli v Central Bureau of*

Investigation, (2003) 3 SCC 641 [LNIND 2003 SC 26] .

4. *State of MP v Sheetla Sahai*, 2009 Cr LJ 4436 : (2009) 8 SCC 617 : (2009) 3 SCC(Cr) 901.
5. *Yogesh v State of Maharashtra*, AIR 2008 SC 2991 [LNIND 2008 SC 979] : 2008 Cr LJ 3872 : (2008) 10 SCC 394 [LNIND 2008 SC 979] ; *S Arul Raja v State of TN*, reported in, 2010 (8) SCC 233 [LNIND 2010 SC 689] ; *Mohan Singh v State of Bihar*, AIR 2011 SC 3534 [LNIND 2011 SC 820] : 2011 Cr LJ 4837 : (2011) 9 SCC 272 [LNIND 2011 SC 820] ; *Central Bureau of Investigation Hyderabad v K Narayana Rao*, 2012 AIR SCW 5139 : 2012 Cr LJ 4610 : JT 2012 (9) SC 359 [LNIND 2012 SC 569] : (2012) 9 SCC 512 [LNIND 2012 SC 569] : 2012 (9) Scale 228 [LNIND 2012 SC 569] ; *Ajay Aggarwal v UOI*, (AIR 1993 SC 1637 [LNIND 1993 SC 431] : 1993 AIR SCW 1866 : 1993 Cr LJ 2516) : (1993) 3 SCC 609 [LNIND 1993 SC 431] .
6. *Rajiv Kumar v State of UP*, AIR 2017 SC 3772 [LNIND 2017 SC 367] .
7. *Pratapbhai Hamirbhai Solanki v State of Gujarat*, (2013) 1 SCC 613 [LNIND 2012 SC 1033] : 2012 Mad LJ (Cr) 532 : 2012 (10) Scale 237 [LNIND 2012 SC 1033] ; *Damodar v State of Rajasthan*, (2004) 12 SCC 336 [LNIND 2003 SC 803] ; *Kehar Singh v State (Delhi Admn)*, (1988) 3 SCC 609 [LNIND 1988 SC 887] ; *State of Maharashtra v Somnath Thapa*, (1996) 4 SCC 659 [LNIND 1996 SC 776] .
8. *Ram Narayan Popli v Central Bureau of Investigation*, (2003) 3 SCC 641 [LNIND 2003 SC 26] .
9. *Topandas v State of Bombay*, AIR 1956 SC 33 [LNIND 1955 SC 78] : 1956 Cr LJ 138 : (1955) 2 SCR 881 [LNIND 1955 SC 78] . The ruling in *Topandas* case, AIR 1956 SC 33 [LNIND 1955 SC 78] and *Fakhruddin* case, AIR 1967 SC 1326 [LNIND 1966 SC 307] were not followed in *Sanichar Sahni v State of Bihar*, (2009) 7 SCC 198 [LNIND 2009 SC 1350] : (2009) 3 SCC (Cr) 347, because here only one person was charged under section 120-B and for no other offence, and his co-accused was charged with another offence but not under section 120-B, the court said that the charge was not properly framed. In the earlier cases, more than one were charged with conspiracy, all but one were acquitted, the single one could not be convicted. He was convicted for murder which was proved against him.
10. *Haradhan Chakrabarty v UOI*, AIR 1990 SC 1210 [LNIND 1990 SC 57] : 1990 Cr LJ 1246 : (1990) 2 SCC 143 [LNIND 1990 SC 57] .
11. See also *Thakur H v State of HP*, 2013 Cr LJ 1704 (HP).
12. *Bimbadhar Pradhan v The State of Orissa*, AIR 1956 SC 469 [LNIND 1956 SC 25] .
13. *Mohd Arif v State of NCT of Delhi*, JT 2011 (9) SC 563 [LNIND 2011 SC 753] : (2011) 13 SCC 621 [LNIND 2011 SC 753] : (2011) 10 SCR 56 [LNIND 2011 SC 753] : 2011 (8) Scale 328 [LNIND 2011 SC 753] .
14. *McDowell*, (1966) 1 All ER 193 : (1965) 3 WLR 1138 ; *Rex v IRC Haulage*, (1944) KB 551 : (1944) 1 All ER 691 . *Central Bureau of Investigation v VC Shukla*, AIR 1998 SC 1406 [LNIND 1998 SC 272] : 1998 Cr LJ 1905 ; *Ajay Kumar Rana v State of Bihar*, 2001 Cr LJ 3837 (Pat).
15. *Mowji*, (1957) All ER 385 : (1957) 2 WLR 277 . See Glanville Williams, *Legal Unity of Husband and Wife*, 10 Modern LR 16 (1947). "But either spouse may be convicted of inciting the other to commit a crime if such be proved." See Kenny, 450, p 428, *Outlines Of Criminal Law*, 19th Edn 1966.
16. *Cross & Jones : Introduction To Criminal Law*, 9th Edn, p 343.
17. *R v Charstny*, (1991) 1 WLR 1381 (CA).
18. *Bhagat Ram*, AIR 1972 SC 1502 [LNIND 1972 SC 72] : 1972 Cr LJ 909 ; *Tapandas*, AIR 1956 SC 33 [LNIND 1955 SC 78] : (1955) 2 SCR 881 [LNIND 1955 SC 78] ; *Fakhruddin*, AIR 1967 SC 1326 [LNIND 1966 SC 307] : 1967 Cr LJ 1197 ; See also *State v Dilbagh Rai*, 1986 Cr LJ 138 (Delhi).
19. Relying upon *Faguna Kanta Nath v State of Assam*, AIR 1959 SC 673 [LNIND 1959 SC 2] : 1959 Cr LJ 90 : 1959 Supp 2 SCR 1, where also the acquittal of the co-accused automatically

followed the acquittal of the main accused; *Madan Lal Bhandari v State of Rajasthan*, AIR 1970 SC 436 [LNIND 1969 SC 230] : 1970 Cr LJ 519 : (1969) 2 SCC 385 [LNIND 1969 SC 230] : (1970) 1 SCR 688 [LNIND 1969 SC 230], the nurse causing miscarriage acquitted, the conspirator also acquitted.

20. *Plummer v State*, (1902) 2 KB 339 ; *Coughlan* (1976) 64 Cr App Rep 11 .

21. *Pradumna*, 1981 Cr LJ 1873 (Bom).

22. JE Cecil Turner, *Kenny's Outlines of Criminal Law*, 428, 19th Edn, 1966.

23. Citing *R v Myrick and Ribuffi*, (1929) 21 Cr App R 94 TAC.

24. *Regina v Chrastry*, (1991) 1 WLR 1381 (CA). *Kuldeep Singh v State of Rajasthan*, 2001 Cr LJ 479 (SC), the only evidence against one of the accused conspirators was that he was seen moving with others to the house of the deceased. This was held to be not sufficient to make him a part of the conspiracy or participant in murder.

25. *Mohammad Ismail*, (1936) Nag 152; *Bimbadhar Pradhan*, (1956) Cut 409 SC; *EG Barsay*, AIR 1961 SC 1762 [LNIND 1961 SC 196] : 1962 (2) SCR 195 [LNIND 1961 SC 196] ; *Chaman Lal v State of Punjab*, (2009) 11 SCC 721 [LNIND 2009 SC 721] AIR 2009 SC 2972 [LNIND 2009 SC 721], requisites of the offence restated.

26. *Sudhir Shantilal Mehta v CBI*, (2009) 8 SCC 1 [LNIND 2009 SC 1652] : (2009) 3 SCC (Cr) 646 : *Baldev Singh v State of Punjab*, (2009) 6 SCC 564 [LNIND 2009 SC 1151] : (2009) 3 SCC (Cr) 66.

27. *State through Superintendent of Police, CBI/SIT v Nalini*, reported in (1999) 5 SCC 253 [LNIND 1999 SC 526] Mere knowledge, or even discussion, of the plan is not, *per se* enough; *Russell on Crimes*, 12th Edn, vol I, quoted in *Kehar Singh v State (Delhi Administration)*, 1988 (3) SCC 609 [LNIND 1988 SC 887] at 731.

28. *R Venkatakrishnan v CBI*, (2009) 11 SCC 737 [LNIND 2009 SC 1653] .

29. *Yogesh v State of Maharashtra*, AIR 2008 SC 2991 [LNIND 2008 SC 979] : 2008 Cr LJ 3872 : (2008) 10 SCC 394 [LNIND 2008 SC 979] .

30. *Esher Singh v State of AP*, AIR 2004 SC 3030 [LNIND 2004 SC 329] : (2004) 11 SCC 585 [LNIND 2004 SC 329] . *K Hashim v State of TN*, AIR 2005 SC 128 [LNIND 2004 SC 1142] : (2005) 1 SCC 237 [LNIND 2004 SC 1142] , the court enumerated four elements of criminal conspiracy, the essence is an unlawful agreement and it is complete when the agreement is framed. A design resting in mind only does not make out the offence.

31. *Subramanian Swamy v A Raja*, AIR 2012 SC 3336 [LNIND 2012 SC 498] : 2012 Cr LJ 4443 : (2012) 9 SCC 257 [LNIND 2012 SC 498] (Involvement of finance minister in 2G Spectrum Case) - Criminal conspiracy cannot be inferred on the mere fact that there were official discussions between the officers of the MoF and that of DoT and between two Ministers, which are all recorded. Suspicion, however, strong, cannot take the place of legal proof and the meeting between Shri P Chidambaram and Shri A Raja would not by itself be sufficient to infer the existence of a criminal conspiracy so as to indict Shri P. Chidambaram.

32. *Esher Singh v State of AP*, 2004 (11) SCC 585 [LNIND 2004 SC 329] .

33. *Gulam Sarbar v State of Bihar*, 2014 Cr LJ 34 : (2014) 3 SCC 401.

34. *Chaman Lal v State of Punjab*, AIR 2009 SC 2972 [LNIND 2009 SC 721] : (2009) 11 SCC 721 [LNIND 2009 SC 721] : (2010) 1 SCC(Cr) 159.

35. *State through Superintendent of Police, CBI/SIT v Nalini*, reported in (1999) 5 SCC 253 [LNIND 1999 SC 526] ; *State of HP v Krishan Lal Pardhan*, (AIR 1987 SC 773 [LNIND 1987 SC 131] : 1987 Cr LJ 709) : (1987) 2 SCC 17 [LNIND 1987 SC 131] .

36. *K R Purushothaman v State*, AIR 2006 SC 35 [LNIND 2005 SC 842] : (2005) 12 SCC 631 [LNIND 2005 SC 842] ; approved in *John Pandian v State Rep by Inspector of Police, TN*, AIR 2011 SC (Supp) 531 : (2011) 3 SCC(Cr) 550 : 2010 (13) Scale 13.

37. *Yash Pal Mittal v State of Punjab*, AIR 1977 SC 2433 [LNIND 1977 SC 304] : 1978 Cr LJ 189 : (1977) 4 SCC 540 [LNIND 1977 SC 304] .
38. *Firozuddin Basheeruddin v State*, 2001 (7) SCC 596 [LNIND 2001 SC 1755] .
39. *K Hasim v State of TN*, AIR 2005 SC 128 [LNIND 2004 SC 1142] : 2005 Cr LJ 143 .
40. *Raju v State of Chhatisgarh*, 2014 Cr LJ 4425 : 2014 (9) SCJ 453 [LNINDORD 2014 SC 19031] .
41. *Sushil Suri v CBI*, AIR 2011 SC 1713 [LNIND 2011 SC 494] : (2011) 5 SCC 708 [LNIND 2011 SC 494] : (2011) 2 SCC(Cr) 764 : (2011) 8 SCR 1 [LNIND 2011 SC 494] .
42. *Chaman Lal v State of Punjab*, AIR 2009 SC 2972 [LNIND 2009 SC 721] : (2009) 11 SCC 721 [LNIND 2009 SC 721] : (2010) 1 SCC(Cr) 159.
43. *SC Bahri v State of Bihar*, AIR 1994 SC 2020 : 1994 Cr LJ 3271 .
44. *Kehar Singh v State (Delhi Administration)*, AIR 1988 SC 1883 [LNIND 1988 SC 887] : 1989 Cr LJ 1 : (1988) 3 SCC 609 [LNIND 1988 SC 887] .
45. *EG Barsay*, AIR 1961 SC 1762 [LNIND 1961 SC 196] : 1962 (2) SCR 195 [LNIND 1961 SC 196] .
46. *Lennart v State*, AIR 1970 SC 549 [LNIND 1969 SC 396] : 1970 Cr LJ 707 .
47. *RK Dalmia*, AIR 1962 SC 1821 [LNIND 1962 SC 146] : (1962) 2 Cr LJ 805 ; *Yashpal v State*, AIR 1977 SC 2433 [LNIND 1977 SC 304] SC : 1978 Cr LJ 189 .
48. *State of HP v Krishanlal Pradhan*, AIR 1987 SC 773 [LNIND 1987 SC 131] : 1987 Cr LJ 709 : (1987) 2 SCC 17 [LNIND 1987 SC 131] .
49. *KS Narayanan*, 1982 Cr LJ 1611 (Mad); *Krishnalal Naskar*, 1982 Cr LJ 1305 (Cal). *Mahabir Prasad Akela v State of Bihar*, 1987 Cr LJ 1545 Pat, no meeting of minds.
50. (1988) 3 SCC 609 [LNIND 1988 SC 887] : AIR 1988 SC 1883 [LNIND 1988 SC 887] : 1989 CR LJ 1 . AS AGAINST THIS SEE, *Param Hans Yadav v State of Bihar*, AIR 1987 SC 955 [LNIND 1987 SC 253] : 1987 Cr LJ 789 : (1987) 2 SCC 197 [LNIND 1987 SC 253] , murder of Collector by a person whose connection with the jailed co-accused not proved, though the latter had a grudge against the collector for demolishing his temple and detaining him. *Reversing the High Court decision*, 1986 Pat LJR 688 .
51. *Mohd Arif v State of NCT of Delhi*, JT 2011 (9) SC 563 [LNIND 2011 SC 753] : (2011) 13 SCC 621 [LNIND 2011 SC 753] : 2011 (8) Scale 328 [LNIND 2011 SC 753] : (2011) 10 SCR 56 [LNIND 2011 SC 753] ; *NV Subba Rao v State*, (2013) 2 SCC 162 [LNIND 2012 SC 1350] : 2013 Cr LJ 953 .
52. *MS Reddy v State Inspector of Police ACB Nellore*, 1993 Cr LJ 558 (AP). *Ammuni v State of Kerala*, AIR 1998 SC 280 : 1998 Cr LJ 481 , the accused administered poison and caused death of the woman and her two children, there was evidence to show that all the four entered into a conspiracy to murder the woman. They were seen hanging around her house. One of the glass tumblers recovered from her place carried the finger prints of one of them. One of them also confessed. Conspiracy proved conviction under sections 300/34, confirmed. *Kuldeep Singh v State of Rajasthan*, AIR 2000 SC 3649 [LNIND 2000 SC 724] , accused persons entered into conspiracy to cause death, circumstantial evidence coupled with recoveries. Guilt established. Conviction for murder and conspiracy.
53. *Yogesh v State of Maharashtra*, AIR 2008 SC 2991 [LNIND 2008 SC 979] : 2008 Cr LJ 3872 : (2008) 10 SCC 394 [LNIND 2008 SC 979] .
54. *Nellai Ganesan v State*, 1991 Cr LJ 2157 . See also *Khalid v. State*, 1990 Cr LJ (NOC) Raj, where the court inferred the fact of agreement from transmission of thoughts sharing the unlawful design, the court observing that neither proof of actual words of communication nor actual physical meeting of persons involved is necessary.
55. *KTMS Mohd v UOI*, AIR 1992 SC 1831 [LNIND 1992 SC 362] : 1992 Cr LJ 2781 .

56. *Wai Yu-Tsang v The Queen*, (1991) 3 WLR 1006 PC, applying *Welham v DPP*, (1961) AC 103 HL(E) and *Reg v Allsop*, (1976) 64 Cr App R; CA. *Shambhu Singh v State of UP*, AIR 1994 SC 1559 : 1994 Cr LJ 1584 , the Supreme Court did not interfere in the concurrent finding of the lower courts as to the involvement of the accused in the conspiracy.
57. *Mir Naqvi Askari v CBI*, AIR 2010 SC 528 [LNIND 2009 SC 1651] : (2009) 15 SCC 643 [LNIND 2009 SC 1651] . The court also explained the nature of the crime.
58. *R Venkatakrishnan v CBI*, (2009) 11 SCC 737 [LNIND 2009 SC 1653] , under the [National Housing Bank Act, 1987](#). *Sudhir Shantilal Mehta v CBI*, (2009) 8 SCC 1 [LNIND 2009 SC 1652] : (2009) 3 SCC (Cr) 646; criminal conspiracy by bank officials in relation to Harshad Mehta Securities Scam, illegally extending discounting/ rediscounting facility for bills of exchange by bank officials, conspiracy in relation to persons liable to be convicted, role/conduct necessary to fasten liability.
59. *Nand Kumar Singh v State of Bihar*, AIR 1992 SC 1939 : 992 Cr LJ 3587 : (1992) Supp (2) SCC 111 .
60. *Narain Lal Nirala v State of Rajasthan*, AIR 1993 SC 118 : 1993 Cr LJ 3911 .
61. *State v Siddarth Vashisth (alias Manu Sharma)*, 2001 Cr LJ 2404 (Del).
62. *R v Ashton*, (1992) Cr LR 667 (CA).
63. *Dinanath*, 1939 Nag 644.
64. *Vinayak v State of Maharashtra*, AIR 1984 SC 1793 [LNIND 1984 SC 255] : (1984) 4 SCC 441 [LNIND 1984 SC 255] : 1984 SCC (Cr) 605.
65. *Pramatha Nath v Saroj Ranjan*, AIR 1962 SC 876 [LNIND 1961 SC 400] : (1962) 1 Cr LJ 770 . Further explained by the Supreme Court in *Kehar Singh v State (Delhi Admn)*, AIR 1988 SC 1883 [LNIND 1988 SC 887] : 1989 Cr LJ 1 : (1988) 3 SCC 609 [LNIND 1988 SC 887] .
66. *State of TN through Superintendent of Police CBI/SIT v Nalini*, AIR 1999 SC 2640 [LNIND 1999 SC 1584] : 1999 Cr LJ 3124 : JT 1999 (4) SC 106 [LNIND 1999 SC 526] : (1999) 5 SCC 253 [LNIND 1999 SC 526] ; *Sardar Sardul Singh Caveeshar v State of Maharashtra*, (AIR 1965 SC 682 [LNIND 1963 SC 67] : 1965 (1) Cr LJ 608) : (1964) 2 SCR 378 [LNIND 1963 SC 67] See also.
67. *Bhagwandas*, AIR 1974 SC 898 : 1974 Cr LJ 751 ; *Ashok Datta Naik*, 1979 Cr LJ NOC 95 (Goa); *V Shivanarayan*, AIR 1980 SC 439 : 1980 Cr LJ 388 ; *Mohd Usman Mohd Hussain*, AIR 1981 SC 1062 [LNIND 1981 SC 127] : 1981 Cr LJ 588 : (1988) 3 SCC 609 [LNIND 1988 SC 887] ; *State of UP v Girijashankar Misra*, 1985 Cr LJ NOC 79 (Delhi); *Subhas*, 1985 Cr LJ 1807 (Cal).
68. *Pratapbhai Hamirbhai Solanki v State of Gujarat*, (2013) 1 SCC 613 [LNIND 2012 SC 1033] : 2012 Mad LJ (Cr) 532 : 2012 (10) Scale 237 [LNIND 2012 SC 1033] ; An offence of criminal conspiracy can also be proved by circumstantial evidence. *State of MP v Sheetla Sahai*, 2009 Cr LJ 4436 : (2009) 8 SCC 617 : (2009) 3 SCC(Cr) 901. In *S Arul Raja v State of TN*, 2010 (8) SCC 233 [LNIND 2010 SC 689] in which it is held that mere circumstantial evidence to prove the involvement of the appellant is not sufficient to meet the requirements of criminal conspiracy under Section 120A of the (IPC, 1860) A meeting of minds to form a criminal conspiracy has to be proved by placing substantive evidence.
69. *Re MD Mendekar*, 1972 Cr LJ 978 (Mysore); See also *Bhagwandas*, *supra*.
70. *DB Naik*, 1982 Cr LJ 856 (Bom); *Hari Ram*, 1982 Cr LJ 294 (HP).
71. *Jethsur Surangbhai*, AIR 1984 SC 151 [LNIND 1983 SC 329] : 1984 Cr LJ 162 (SC) : (1984) SCC (Cr) 474.
72. *Ajoyadha Prashad* 1985 Cr LJ 1401 (Ori).
73. *State v VC Shukla*, 1980 Cr LJ 965 : 1980 Cr LR (SC) 301 . Also *VC Shukla v State (Delhi Admn)*, AIR 1980 SC 1382 [LNIND 1980 SC 179] : 1980 SCC (Cr) 561 and 849 (1980) 2 SCC 665 [LNIND 1980 SC 179] . *State of HP v Gian Chand*, 2000 Cr LJ 949 (HP); *Sardari Lal v State of Punjab*, 2003 Cr LJ 383 (P&H), *State of MP v Sheetla Sahai*, (2009) 8 SCC 617 : (2009) 3 SCC (Cr)

901; *Baldev Singh v State of Punjab*, (2009) 6 SCC 564 [LNIND 2009 SC 1151] : (2009) 3 SCC (Cr) 66; *Y Venkaiah v State of AP*, AIR 2009 SC 2311 [LNIND 2009 SC 513] : (2009) Cr LJ 2834 : (2009) 12 SCC 126 [LNIND 2009 SC 513] . *State of MP v Paltan Mallah*, 2005 AIR 2005 SC 733 [LNIND 2005 SC 64] : Cr LJ 918 SC : (2005) 3 SCC 169 [LNIND 2005 SC 64] .

74. *State (NCT) of Delhi v Navjot Sandhu @ Afsan Guru*, (2005) 11 SCC 600 [LNIND 2005 SC 580]

75. *Charandas Swami v State of Gujarat*, 2017 (4) Scale 403 .

76. *Rajiv Kumar v State of UP*, AIR 2017 SC 3772 [LNIND 2017 SC 367] .

77. *Charandas Swami v State of Gujarat*, 2017 (4) Scale 403 .

78. *State of Maharashtra v Som Nath Thapa*, AIR 1996 SC 1744 [LNIND 1996 SC 776] : 1996 AIR SCW 1977 : 1996 Cr LJ 2448 : (1996) 4 SCC 649 .

79. *State through Central Bureau of Investigation v Dr Anup Kumar Srivastava*, AIR 2017 SC 3698 [LNIND 2017 SC 371] .

80. *Lal Singh v State of Gujarat*, AIR 2001 SC 746 [LNIND 2001 SC 98] : 2001 Cr LJ 978 . The case under the Terrorists and Disruptive Activities (Prevention) Act, 1987. *Saju v State of Kerala*, AIR 2001 SC 175 [LNIND 2000 SC 1552] , no inference of conspiracy to murder from circumstances proved in the case, *Suman Sood v State of Rajasthan*, AIR 2007 SC 2774 [LNIND 2007 SC 647] : (2007) Cr LJ 4080 : (2007) 5 SCC 634 [LNIND 2007 SC 647] , inference regarding conspiracy can be drawn from surrounding circumstances because normally no direct evidence is available.

81. *Ibid*. The court followed the ruling in *Babu Singh v State of Punjab*, AIR 1996 SC 3250 [LNIND 1996 SC 860] : 1996 Cr LJ 2503 ; *Vijayan v State of Kerala*, AIR 1999 SC 1086 [LNIND 1999 SC 159] : 1999 Cr LJ 1638 , it is difficult to establish conspiracy by direct evidence. But there should be material evidence showing the connection between the alleged conspiracy and the act done pursuant to that conspiracy. *Firozuddin Basheerudin v State of Kerala*, AIR 2001 SC 3488 [LNIND 2001 SC 1755] : 2001 Cr LJ 4215 , conspiracy to eliminate a police informer on whose information contraband gold was seized from the accused persons, chain of circumstances to the point of murder, complete, conviction. *State of Kerala v P Suganthan*, AIR 2000 SC 3323 [LNIND 2000 SC 1298] : 2000 Cr LJ 4584 , conspiracy to murder the earlier paramour of the concubine, not proved. *Hira Lal Hari Lal v CBI*, AIR 2003 SC 2545 [LNIND 2003 SC 499] : 2003 Cr LJ 3041 : (2003) 5 SCC 257 [LNIND 2003 SC 499] , difficult to prove conspiracy by direct evidence. An agreement between the parties to do something unlawful has to be proved. The allegation here was that of evasion of customs duty.

82. *Chandra Prakash v State of Rajasthan*, 2014 Cr LJ 2884 : (2014) 8 SCC 340 [LNIND 2014 SC 346] .

83. *Indra Dalal v State of Haryana*, 2015 Cr LJ 3174 : 2015 (6) SCJ 501 [LNIND 2015 SC 358] .

84. *Balkar Singh v State of Haryana*, 2015 Cr LJ 901 : (2015) 2 SCC 746 [LNIND 2014 SC 950] .

85. *Satyavir Singh v State of UP*, 2016 Cr LJ 4863 (All), 2015 (91) ALLCC 892.

86. *State v Nitin Gunwant Shah*, 2015 Cr LJ 4759 : 2016 (1) SCJ 30 [LNIND 2015 SC 529] .

87. *State of TN v Nalini*, AIR 1999 SC 2640 [LNIND 1999 SC 1584] : 1999 Cr LJ 3124 .

88. *Kiriti Pal v State of WB*, 2015 Cr LJ 3152 : 2015 (3) Crimes 11 (SC).

89. *R Venkatkrishanan v CBI*, 2010 1 SCC (Cr) 164 : (2009) 11 SCC 737 [LNIND 2009 SC 1653] .

90. *Mahesh Joshi v State, (CBI)*, 2002 Cr LJ 97 (Kant).

THE INDIAN PENAL CODE

1. CHAPTER V-A CRIMINAL CONSPIRACY

[s 120B] Punishment of criminal conspiracy.

- (1) **Whoever is a party to a criminal conspiracy to commit an offence punishable with death, ⁹¹[imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.**
- (2) **Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]**

COMMENT—

Earlier to the introduction of sections 120A and B, conspiracy per se was not an offence under [IPC, 1860](#), except in respect of the offence mentioned in section 121A. However, abetment by conspiracy was and still remains to be an ingredient of abetment under the second clause of [section 107 of IPC, 1860](#). The punishment therefore, is provided under various sections, viz., sections 108–117. Whereas under section 120A, the essence of the offence of criminal conspiracy is a bare agreement to commit the offence, the abetment under section 107 requires the commission of some act or illegal omission pursuant to the conspiracy.⁹² Criminal conspiracy is an independent offence. It is punishable separately.⁹³ The punishment for conspiracy is the same as if the conspirator had abetted the offence.⁹⁴ The punishment for a criminal conspiracy is more severe if the agreement is one to commit a serious offence; it is less severe if the agreement is one to commit an act which although illegal is not an offence punishable with death, imprisonment for life or rigorous imprisonment for more than two years.

Conspiracy to commit an offence is itself an offence and a person can be separately charged with respect to such a conspiracy. There may be an element of abetment in a conspiracy; but conspiracy is something more than abetment. The offences created by section 109 and section 120A are quite distinct and where offences are committed by several persons in pursuance of a conspiracy it is usual to charge them with those offences as well as conspiracy to commit those offences.⁹⁵

This section applies to those who are the members of the conspiracy during its continuance. Conspiracy has to be treated as a continuing offence and whoever is a party to the conspiracy during the period for which he is charged is liable under this section.⁹⁶ A conspiracy is held to be continued and renewed as to encompass all its members wherever and whenever any member of it acts in furtherance of the common design.⁹⁷ The most important ingredient of a criminal conspiracy is an agreement for an illegal act, conspiracy continues to subsist till it is executed or rescinded or frustrated by choice or necessity.⁹⁸ The conspirators' connection with the conspiracy

would get snapped after he is nabbed by the police and kept in custody. He would then cease to be the agent of others. In this case (*Rajiv assassination*) the prosecution could not establish that the accused persons who were under detention continued their conspiratorial contact with those who remained outside. A statement which constitutes *prima facie* evidence of a conspiracy may amount to an act for which all the members can be held liable.^{99.}

Where the accused conspired with others in awarding a contract when he was in job, he could be held liable for subsequent acts of other conspirators even after his retirement as he contributed his part for furtherance of the conspiracy.^{100.}

For the purpose of establishing or proving the charge of conspiracy, it is not necessary that there should be knowledge of who are other conspirators and of the detailed stages of the conspiracy. The necessary requisite is knowledge of the main object and purpose of the conspiracy.^{101.} A fraud was alleged to have been committed by Government officers in processing and verifying fake bills. It was held that all the officers who dealt with the relevant files at one point of time or the other could not be considered to have taken part in the conspiracy or that they would be guilty of aiding and abetting the offence. Individual acts of criminal misconduct would have to be considered for fastening liability.^{102.}

An accused can be convicted for substantive offence even where he has been acquitted of the charge of conspiracy.^{103.}

[s 120B.1] Sanction for prosecution (section 120B IPC, 1860 and section 196 (Cr PC, 1973)).—

This section has to be read along with section 196(1-A) (2) (Cr PC, 1973), which requires previous sanction of the State Government or the District Magistrate to launch prosecution in respect of a criminal conspiracy to commit an offence punishable with less than two years imprisonment. Thus, where the object of the conspiracy was cheating by false personation under section 419, IPC, 1860, which is an offence punishable with a three-year imprisonment, the mere fact that there were other non-cognizable offences for which too the accused had been charged would not vitiate the trial in absence of sanction under section 196(1A)(2), (Cr PC, 1973), as that section is meant to be applicable to a case where the object of the conspiracy is to commit an offence punishable with less than two years' imprisonment.^{104.} Where the act in question was not done by the army officer in the discharge of his official duties, it was held that a sanction for his prosecution was not necessary.^{105.}

[s 120B.2] Can a company be prosecuted for Criminal conspiracy.—

A corporation is virtually in the same position as any individual and may be convicted of common law as well as statutory offences including those requiring *mens rea*. The criminal liability of a corporation would arise when an offence is committed in relation to the business of the corporation by a person or body of persons in control of its affairs. In such circumstances, it would be necessary to ascertain that the degree and control of the person or body of persons is so intense that a corporation may be said to think and act through that person or the body of persons.^{106.}

[s 120B.3] Signing differently in vakalatnama.—

The fact was that the accused put their signatures in *vakalatnama* differently from their original ones. It has been alleged by the complainant that the accused petitioners have deliberately and wilfully put their signatures on the *vakalatnama* in collusion with each other like irresponsible persons in order to gain wrongfully and with a view to cheat and mislead the complainant. It was held that the alleged action of the petitioners in signing their own name on the *vakalatnama* and filing the same in the Court through their counsel is neither an offence nor prohibited by any law. When the alleged act itself was not illegal, it cannot be said that there was any 'criminal conspiracy' and in absence of the basis for a charge for criminal conspiracy, the petitioners cannot be prosecuted or punished for the offence under [section 120-B of the IPC, 1860](#).¹⁰⁷

[s 120B.4] Seeking opinion.—

Merely taking someone's opinion, who is an outsider to litigation, before filing the reply in the Court would not undermine the administration of justice in any way and it is not indicative of criminal conspiracy.¹⁰⁸

[s 120B.5] Hooch Tragedy case.—

In a case, the allegation was that all the accused persons hatched a criminal conspiracy and they created a well-oiled machinery for importing methyl alcohol to make spurious liquor. Accused diluted the spirit by adding water and sold it through their outlets. Many persons died due to the consumption of spurious liquor. Some persons lost their eyesight and number of others sustained grievous injuries. Supreme Court said that the whole business itself was a conspiracy. It may not be the conspiracy to mix the noxious substance but the fact of the matter is that in order to succeed in the business, which itself was a conspiracy, they mixed or allowed to be mixed methanol and used it so freely that ultimately resulted in the tragedy. Conviction is upheld.¹⁰⁹

[s 120B.6] Corruption cases.—

The prosecution asserted that the appellants A1 to A4 had entered into a conspiracy and in furtherance thereof, A1 who was a public servant, had come to possess assets to the tune of Rs. 66.65 crores, disproportionate to her known sources of income, during the period from 1991 to 1996, when she held the office of the Chief Minister of the State. The Supreme Court in respect to the charge of criminal conspiracy observed that the free flow of money from one account to the other of the respondent's, firms/companies also proved beyond reasonable doubt that all the accused persons had actively participated in the criminal conspiracy to launder the ill-gotten wealth of A1 for purchasing properties in their names.¹¹⁰

[s 120B.7] Previous sanction.—

No Court shall take cognizance of the offence of any criminal conspiracy punishable under [section 120B of the IPC, 1860](#), (45 of 1860), other than a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, unless the State Government or the District Magistrate has consented in writing to the initiation of the proceeding: Provided