CORPORATE CRIMINAL LIABILITY: HOW IS MENS REA ATTRIBUTED TO A COMPANY? SUPREME COURT EXPLAINS A THREE-STAGE INQUIRY

Non-identification or non-arraignment of an individual director, officer or employee is not, by itself, a ground to quash criminal proceedings against a company.

In an important judgment on corporate criminal liability, the Supreme Court of India in *Sanofi India Ltd. v. Central Bureau of Investigation*, 2026 INSC 957, has clarified the principles governing the attribution of criminal intent (*mens rea*) to a corporate entity. The Court has held that criminal proceedings against a company cannot be quashed merely because no individual director, officer or employee has been identified or arraigned as a co-accused, even where the alleged offence requires proof of mens rea.

The judgment formulates a structured three-stage framework for determining when the acts and mental state of a natural person may be treated as those of the company itself.

Sanofi India Ltd., a pharmaceutical company, was prosecuted in connection with the supply of medicines to the Rare Materials Project of the Bhabha Atomic Research Centre (BARC). The prosecution alleged that a public servant had entered into a criminal conspiracy with pharmaceutical companies to procure medicines at inflated prices and in quantities exceeding requirements. It was further alleged that Sanofi had received favourable treatment in procurement and had paid illegal gratification to the public servant.

The chargesheet alleged offences under Sections 120B read with 420 of the Indian Penal Code and provisions of the Prevention of Corruption Act, 1988. Sanofi was arraigned as an accused, but none of its employees or officials was made a co-accused.

The company sought quashing of the criminal proceedings, contending that, in an offence requiring mens rea, the prosecution had to identify and arraign the natural person who constituted its directing mind or alter ego. The Karnataka High Court rejected this contention. The matter reached the Supreme Court.

Corporate Criminal Liability and the Attribution of Mens Rea

The Supreme Court began by explaining that a company is a separate legal person, but is also an artificial entity which can act only through natural persons. A criminal offence ordinarily involves two essential elements: *actus reus*, namely the offending act, and *mens rea*, the requisite guilty state of mind.

While the attribution of acts to a company is relatively straightforward, attributing a guilty state of mind presents a more complex question. A company has no mind of its own in the physical sense. Nevertheless, the law recognises that a corporate entity can possess mens rea and can be prosecuted for offences requiring proof of criminal intent.

The Court emphasised that the ordinary rule of criminal law does not impose vicarious criminal liability upon one person for the acts of another, unless a statute expressly provides for it. The approach adopted in the present judgment is therefore not one of automatically holding a company liable for every act of its employee. It is based on treating the act and mental state of a natural person, in appropriate circumstances, as the act and mental state of the company itself. This is direct corporate liability.

The Three-Stage Inquiry for Attributing Mens Rea to a Company

The Supreme Court formulated a three-stage, hierarchical and sequential inquiry. The Court clarified that the next stage is to be considered only where attribution cannot be established at the preceding stage.

First Stage: Examination of Constitutional Documents

The first inquiry is whether the company's constitutional documents, including its Memorandum and Articles of Association, vest the person concerned with the power to undertake the particular act in question.

The inquiry is not confined strictly to express provisions in these documents. It also includes rules implied by company law which may identify the person authorised to exercise the relevant corporate power.

Where the relevant authority is vested in a person under the company's constitutional framework, that person's act and the accompanying state of mind may be treated as those of the company.

Second Stage: Delegation of Authority

If the first stage does not provide an answer, the Court must examine whether the company expressly or impliedly delegated the relevant power to the person concerned. The delegation must confer sufficient discretion and independence upon the individual in carrying out the particular act.

The Court explained that if a board authorises an individual merely to sign documents after having already determined all the material terms of a transaction, the individual cannot be said to possess the authority to decide or undertake that transaction independently.

Thus, the relevant consideration is whether the individual was vested with genuine decision-making authority, rather than merely performing instructions under the supervision of superior officers.

Third Stage: Purpose of the Statute and a Special Rule of Attribution

The third stage becomes relevant where attribution cannot be established through either the constitutional documents or delegated authority.

At this stage, the Court must examine the purpose of the statutory provision under which criminal liability is sought to be imposed. Depending upon the nature of that purpose, the inquiry takes one of two forms:

- Where the statutory purpose is narrow and readily identifiable, the Court must determine whether that purpose requires a special rule of attribution and, if so, whose acts and mental state are intended to count as those of the company.
- Where the statutory purpose is broad and cannot be understood in the abstract, the Court must examine the facts and circumstances of the particular case to determine whether a special rule of attribution is necessary.

Importantly, the inquiry is transaction-specific. The Court is not required to identify an abstract "directing mind and will" of the company for all purposes. It must determine whose act and state of

mind, in relation to the particular transaction or matter under investigation, should be treated as the company's own.

Identification and Arraignment of an Individual Are Not Mandatory at the Threshold

One of the most important aspects of the judgment concerns whether proceedings against a company can be quashed merely because the investigating agency has not identified or arraigned the natural person through whom the company allegedly acted.

The Supreme Court answered this question in the negative.

The Court held that what a chargesheet must disclose is that the company itself has committed the alleged offence. It is not necessary, at the threshold stage, that the prosecution must also identify the particular individual through whom the company acted.

The company's role may be disclosed through allegations concerning its conduct, decisions and dealings, even if the individual responsible for carrying them out has not been named.

Similarly, the requisite mens rea may be inferred prima facie from the surrounding facts and circumstances. The absence of a specifically identified individual does not, by itself, mean that the essential ingredients of the offence have not been disclosed.

Safeguards Against Baseless Prosecutions

The judgment does not mean that every allegation against a company must proceed to trial. The Supreme Court reiterated that criminal proceedings may still be quashed where the allegations do not disclose an offence or are merely bald assertions unsupported by material.

At the threshold, the allegations must prima facie reveal three elements:

1. That some natural person or persons acted on behalf of the company;
2. That such action is referable to the offence in question; and
3. That the surrounding circumstances do not make the existence of the requisite mens rea patently absurd or inherently improbable.

Applying these principles, the Supreme Court found that the chargesheet and material on record disclosed that natural persons had acted on behalf of Sanofi in relation to the alleged offences and that the surrounding circumstances raised the possibility of the requisite mens rea. It accordingly dismissed the company's appeal.

The judgment in *Sanofi India Ltd. v. CBI* marks an important development in Indian corporate criminal jurisprudence. By formulating a three-stage framework for attribution, the Supreme Court has provided a structured method for determining when the acts and guilty state of mind of a natural person may be treated as those of a corporate entity.

The ruling also makes clear that a company cannot secure quashing of criminal proceedings merely by pointing to the investigating agency's failure to identify or arraign a particular director, officer or employee. At the same time, the prosecution must place material disclosing the company's alleged role and the possibility of the requisite mens rea.

The judgment thus seeks to strike a balance between preventing genuine corporate offences from being frustrated by the complexity of corporate structures and protecting companies from baseless or unsupported criminal proceedings.

Source: Supreme Court judgment in Sanofi India Ltd. v. Central Bureau of Investigation, Criminal Appeal No. 4250 of 2026, 2026 INSC 957, decided on 7 September 2026.

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