

CORPORATE CRIMINAL LIABILITY IN INDIA-A THEORETICAL ANALYSIS

Ramasayi Gummadi, Tamilnadu National Law University

CHAPTER 1

INTRODUCTION

A corporate is an entity which is established with the help of registration and legislation. Apart from the shareholders in such a company, even the company that so is under consideration has separate rights and liabilities. There are some corporations which have their establishments in other countries other than that of their home country and they are known as Multi-National Corporations. They indeed play a vital role in a layman's life from time to time and have evolved as a powerhouse in comparison to various nations as such. Therefore it is imperative that there is some control or rather a cap on the activities that so are performed by these corporations. This is exactly why the Doctrine of Corporate Criminal Liability came into consideration and as per this doctrine a corporate is liable and can be penalized for any unlawful act of its agents provided that the unlawful act that so is performed is under the scope of the agent's work in that corporation. The authority that so is presumed by the agents which takes into consideration the authority by an average reasonable person refers to the apparent authority, while on the other hand, the authority that the corporation assigns to the agents refers to the actual authority. Taking into consideration that the corporations have their own entity it is imperative to note that they can very well be held liable. Adding the criminal liability to the term corporate gives it a conclusion that the Corporate Criminal Liability is a doctrine under which a corporate can be held liable for its acts or omissions for such an act or omission that is performed by it, i.e, the agents. The expansion of the corporate sector through globalization and the development of technology had made sure that the development of the Corporate Criminal Liability is un-hindered. As mentioned earlier these corporations play a major role in the functioning of a society which means that the society or these corporations are bound to be victimized and that is exactly where the deterrence factor plays a major role. There are several theories that are associated with the Doctrine of Corporate Criminal Liability which includes Theory of Vicarious Liability, Identification Theory and the Aggregation Theory which

are taken into consideration to carry out this theoretical analysis of the Corporate Criminal in order to determine its scope and effectiveness.

STATEMENT OF PROBLEM

While there exists various legislations in order to uphold the doctrine of Corporate Criminal Liability it is imperative to note that despite such an existence it is not able to explain its scope and there are a couple of crimes which are yet to be penalized owing to the inability of the jurisdiction's uni-dimensional view of the entire doctrine that clearly will not be able to explain the crux of the Doctrine, which again leads us into a scene of distrust among the public towards the Legislation. As a result, it is important to take into consideration the theories of the Corporate Criminal Liability and analyse the same in order to determine of the Doctrine of Corporate Criminal Liability is effective in resolving the corporate crimes and promote good corporate governance.

RESEARCH QUESTION

Whether the Doctrine of Corporate Criminal Liability is effective in resolving Corporate Crimes under the Indian Companies Act with special reference to its theoretical understanding?

CHAPTER 2

EVOLUTION OF THE CONCEPT OF CORPORATE CRIMINAL LIABILITY

The need for a concept of criminalization of the companies arose when it was seen that the jurists were more or less confused as to how exactly does such enterprises fall under the eyes of the law for, they rather looked at it as a non-living personality which inadvertently means that it cannot be sued. This sort of an interpretation was held noting that such a non-living entity cannot satisfy the main elements of a crime being the *Mens Rea* and *Actus Reus*. Not to mention, at that time, the courts failed to recognise the inherent capacity of such a company wherein it was seen that the court rather took into account a literal meaning of legal persons and did not seem to understand the inherent meaning or the nature of the legal persons under the eyes of law. Had they looked into

the purpose of the existence of such a term, then the concept of Corporate Criminal Liability would have emerged in the country way earlier. It was important to understand that the courts mainly cited the absence of *Mens Rea* and a pseudo-juristic identity in order to support their act of non-recognition of such a juristic personality while completely failing to understand the rationale behind formation of a company wherein a single member or a group of people come together in order to carry out business activities for the purpose of earning profit. Now that the Corporate Companies are not conferred upon by a corporate criminal liability it would inadvertently mean that the individuals can carry out any fraudulent activities using the Company's identity and escape citing the non-recognition of the company as a legal entity by the legislations around the world. In order to get rid of such an ambiguity several theories were put forward by the Common Law In the due course of its development which more or less relied on the concept of vicarious liability which can be taken as one of the major rationale behind the recognition of a corporate as an individual entity.

It is important to note that yet another confusion rises atleast in the case of India wherein the criminalisation is carried out through the Indian Penal Code. I am of the opinion that of having a legal personality owing to the nature of the corporate entities and their functioning even the corporate companies come under the scope of "Person" under the Indian Penal Code. Although a question arose as to how exactly can a corporation be imprisoned when it comes to crimes that prescribes for imprisonment of "person". In the case of *Assistant Commissioner v.Velliappa Textiles Ltd*¹ the court opined that-

*"For the aforesaid reasons, I am of the view that the first respondent company cannot be prosecuted for offences under Sections 276C, 277 and 278 read with Section 278 since each one of these Sections requires the imposition of a mandatory term of imprisonment coupled with a fine and leaves no choice to the Court to impose only a fine"*²

The Court opined that the Corporation is more or less an entity which cannot be imprisoned as a result of which the Indian Penal Code doesn't apply when a punishable crime in It is said to have

¹ Assistant Commissioner v.Velliappa Textiles Ltd (2003) 11 SCC 405

² (2003) 11 SCC 405

been committed by the company that so is under consideration. The court noted that the corporations of having acquired the status of juristic personality cannot be punished under the easily and imprisoned which acts as a main encouraging factor that prompts the corporate bodies to commit more and more crimes and get away with them. The Court also opined that with such a major loophole and the inability of the court to act beyond the scope of the act (In this case the Indian Penal Code) it would be unfair of the Indian Law to let go off the Corporations for the crimes that are committed by them. Further, the court stated that corporations must be held criminally liable for the crimes committed by them. This case merely highlighted a need for criminalization of corporate entities while however highlighting the court's inability to do so under the Indian Penal Code. In an another case of *Standard Chartered Bank v. Directorate of Enforcement*³ the court was of the opinion that

*“If a person includes a company, there is no reason to confine Section 68 to a prosecution only, because the company as a person is liable to be proceeded against under Section 50 and Section 56 of the Act, though in a criminal prosecution the punishment by way of imprisonment can be imposed only on the officer or officers of the company referred to in Section 68 of the Act.”*⁴

Which talks about the inevitability of criminal liability on the company while also emphasizing on the scope of the same where it also opined that although the company cannot be imprisoned as such, that doesn't absolve the company of its Criminal Liability. The Court further argued that incase the imprisonment is seen to be practically impossible, then fines shall be imposed upon the company which is something I cannot agree upon owing to the basic fact that it reduces the gravity of the crime at hand. This is also surprising owing to the fact that the Vicarious Liability is not taken into account, because the company as a person Is operating on behalf of the proprietor and such a charge can be put upon him. This view of mine is further supported in the case of *Iridium India Ltd v. Motorola Inc*⁵ where it held that

³ Standard Chartered Bank v. Directorate of Enforcement AIR 2005 SC 2622

⁴ AIR 2005 SC 2622

⁵ Iridium India Ltd v. Motorola Inc 2004 (1) MnLJ 532

“We hold that there is no immunity to the companies from prosecution merely because the prosecution is in respect of offences for which the punishment prescribed is mandatory imprisonment”⁶

It is important to note that the person holding the control beside such an operation of the corporation must be punished under the eyes of law in order to ensure Criminal Justice.

This is perhaps the first step towards developing a theoretical approach on the Corporate Criminal Liability where, the authority was deemed to be the one that has to be penalised (While also conferring over it a duty of care) with regards to the acts of its establishment

CHAPTER 3

SITUATIONS THAT CONFER CORPORATE CRIMINAL LIABILITY

Before moving on to the theories of Common law that talk about the concept of Corporate Criminal Liability is it important to understand situations which could lead to criminalization of such a corporate entity

The Collective Blindness Doctrine

It is imperative to note that there are situations when it comes to Corporate entities wherein it is not just one employer who is responsible for a crime that so was committed by the individual on behalf of the company but it rather is of the nature such that there is an element of fault with many other people belonging to different departments. A very simple example is with regards to non-consensual organ transplantation or stealing of organs from a human body. In such a situation, it involves the crime that is committed by more than one individuals who belong to different departments, that is the surgical team of doctors and the documentation team which has to document the consent of such a patient or his or her representative. It is important to note that an issue arises when they a case is filed either of these perpetrators shall try to raise a defence pleading ignorance which is indeed a major flaw. This is where the Doctrine of Collective Blindness helps wherein the court that so is interpreting the crime at hand will take into consideration the

⁶ 2004 (1) MnLJ 532

knowledge of all the employees thereby conferring the responsibility on the corporate as a whole. By doing so, neither is the company going to escape from such a liability and nor can the company try to compartmentalize the work of various other departments and make it easier for the company to evade such a liability by pleading ignorance. It is very important to note that such a doctrine inadvertently helps the court to assume a couple of things with the primary assumption being the fact that there is no scope of non-maliciousness when it comes to the crime that is seen at hand. Assuming that such an ignorance actually exists, it renders the members of that corporate company inadmissible to use the defence of ignorance and actually justify the same by compartmentalizing various departments. Further, this sort of an interpretation to confer corporate criminal liability on such an enterprise merely destroys the concept of separation of the company into various departments but rather is of the nature of collective responsibility of everyone as a whole for any crime that is committed in the due course of the functioning of such a company which has the tendency to assume that the individual who had not committed a crime as an agent of company as one, which is more or less flawed and puts down the burden of proof upon such an innocent individual. While such a rationale is done with a good intent it is imperative to note that the doctrine rather is based on assumptions as such that such a crime is a collective responsibility of all the employees in that corporate entity .

Wilful Blindness Doctrine

This Doctrine merely states that if the corporate company is aware of any criminal activity that so is taking place under its authorization and rather acknowledges it without taking any action against it, then it is taken into account as a Wilful Blindness that is exhibited by the Corporate Company. It invariably assumes that such an activity of non-disclosure can be carried out only with an intent to conceal the crime or to not take such a crime seriously. This can be attributed to the corporate companies which are indulging in environmental degradation, insider trading etc. It is imperative to note that such companies usually don't recognise or acknowledge the damage they are causing as a consequence of their functioning as a result of which their activities affect various factors of the population that is present which involves socio-economic and environmental degradation. I am of the opinion that in such a case wherein the corporate entity is inadvertently not paying heed to a crime even after having been aware of the fact that such an act is classified as a crime under

legislations, it has to be noted that such an act is morally supported by the company with a malicious intent that such a crime that so is committed by an individual or a group of individuals is of some significance to the welfare of the company. It further is important to note that such an illegal activity when endorsed will offer an unfair advantage of that corporate entity in consideration which more or less paves way for unhealthy market practices that so is forbidden as under various legislations. This is also applicable just incase an employer or a group of employers engage in a felony under the scope of the company and if the company as a whole acknowledges the existence of such an act and is of the awareness that such an act is a crime under the enacted legislations and still chooses to ignore the presence of the same and conceals it from the judiciary, then the corporation can be conferred with the corporate criminal liability taking into consideration the fact that such an wrongful act is deemed to have been supported by the company as a whole with its entire knowledge. For Example, if a company's employees set up a branch office in an area where the endangered species of animals thrive, but establishing such an office in that area would contribute to the economy of the company while also causing a grave hurt to the natural resources available in that area, as a consequence of which discloses it, then in such a case, it is imperative to note that the Company has a malicious mind of concealing a crime or not take an action against the same which further amounts to malicious ignorance of the crime. For a company to fall under the scope of such a liability under the aforementioned provision: An act that comes under the nature of "Crime" has to be committed, by an agent or a group of agents of the company, which is within the prior knowledge of the company.

CONSPIRACIES

Traditionally when two or more people who are agents (Employees) of the company or at least one of them is an agent of the company indulges in a deliberation of committing a crime, then it is known as a conspiracy. In such a case, then a conspiracy can render invocation of the Corporate Criminal Liability on the Company while more information on the same was not substantiated. It is important to note that the concept of vicarious liability can be applied over here however subject to the nature of the conspiracy that so is taken at hand. It really would not make any sense to confer upon a corporate criminal liability upon the conspiracy that so is taking place that is of no scope to the development of the company. I would like to trisect this concept in three different types.

The first one is wherein the conspiracy that so is undertaken by the employees of that company that so contributes to the development of the company. In this case the company can be held liable while also taking into consideration the fact that the concept of vicarious liability comes into picture. Now if the company is aware of such a conspiracy which is punishable under the eyes of law irrespective of how exactly it affects the company, using the concept of the Wilful blindness it can be held liable for such a concealment. The conferring of corporate criminal liability with regards to the conspiracy that is being carried out in the company is more or less a concept which was not further substantiated while several questions arise upon the practical functionality. Rather, it was left to ambiguity which takes into consideration various other doctrines in order to analyse if the Criminal Liability can be conferred upon a corporate entity. While it requires the reading between lines and interpretation of other principles as such in determining as to how exactly can the doctrine of corporate criminal liability be imposed upon a corporate entity which is often not done by the courts which rather look at the precedents and literal interpretation of the relevant provisions thereby trying to determine the outcome of the case. It has to be noted that the courts right in the first instance have not analysed or looked at the deeper object of a particular issue at hand. An extensive interpretation as to what the purpose of the act is and the scope of the same is always done by a higher court in an appeal that so was filed seeking the reversal of the decision made by the lower court. While this is not the case always, this is the case most of the time which says that a broader interpretation is time consuming as under the Indian Law.

MERGERS, DISSOLUTIONS AND LIABILITY

Corporation is seen as a legal entity as under the Indian Law. In the case of a merger or a dissolution wherein two or more legal entities either combine to become one single entity or one single legal personality splits to form two or more legal distinct entities, then in such a case, if there is any case of a conspiracy or a criminal activity that was undertaken, then in such a case both the entities in the case of a dissolution and the single entity as seen in the case of a merger are to be held liable as under this principle. Again one inference we can draw is that the first two theories are the major crux of the rest of the theories when it comes to the conferring of corporate criminal liability as under the Indian Law taking into consideration the fact that it talks about the responsibility of the company to address the wrong that are being done by its employees. The other theories that we

look at talks about various situations wherein the acts that so are being done by the employees differ with regards to the nature of the crime that so is being committed. It is imperative to note that in the case of a merger, two distinct entities join together in order to represent a new entity that is formed as a result of their merger. In this case, as under this theory, there is a new legal person that is created under the eyes of law that is characterized by fusion of two independent legal entities as a result of which such a liability is imposed by assuming that the legal character of the parent companies are both fused in the newly formed entity as a result of which the newly formed entity will have to answer for any crime that so is committed by its employees under the scope of its functioning while also taking into consideration the conspiracy that is committed by them (If applicable) This theory is a fusion of the Wilful Blindness Doctrine and the Conspiracies doctrine while the only area of deliberation will be to determine the nature of the newly formed legal person. In the case of Dissolution, say something on the lines of dissolution of the partnership firms, it is imperative to note that the splitting up of the legal person into two new entities would confer equal liabilities upon either of the newly formed companies. In the case of the imposition of liability as under the dissolution it is noteworthy to point out that the Doctrine of Collective Blindness is taken into consideration owing to the fact that just like the case of Collective Blindness the liabilities cannot be compartmentalized between different departments or in this case how it doesn't depend as to the post-dissolution entity the employee is working for but rather collectively holds either of the fragments of the main parent company responsible for any crime that so is committed. While we can infer that in case such a crime is committed under the scope of a company that no longer exists then such a defunct company might have to defend itself from the liability that so is conferred upon it.

FRAMING A DEFINITION OF CORPORATE CRIMINAL LIABILITY

From the aforementioned principles as to how exactly one can determine the Corporate Criminal liability, my inference of the definition of Corporate Criminal Liability along with its nature is as follows-

Corporate Criminal liability is the liability that so is conferred upon a corporation which is considered as a legal person for any punishable act that Is done by its agents in the scope of

bringing an unlawful benefit to the company. The major contents of Corporate Criminal Liability that so was observed are-

1. An employee of that particular company or anyone who comes under the scope of “Agent of the Corporation” should’ve performed the Act
2. The Act so performed must be criminal in nature (In contravention of the provisions of legislation that are enacted)
3. The Employee must act under the scope of his employment under the Company
4. The Act that so was committed by the Agent must’ve been performed in a mere attempt to benefit the company that so is taken into consideration

COMMON LAW THEORIES OF CORPORATE CRIMINAL LIABILITY

While a lot has been said and establishment with regards to Corporate Criminal Liability in Common Law, there are three important theories which more or less decided to establish a rough idea as to what exactly the nature of such a liability is and when exactly can the same be invoked when it comes to a crime that is committed by a company. The theories I look to analyse are:

1. Identification Theory
2. Vicarious Liability
3. Aggregation Theory

IDENTIFICATION THEORY

This theory in short states that the elements of *Mens Rea* and *Actus Reus* that are seen in the actions of employees must be construed in such a way that such an element corresponds to the *Mens Rea* and *Actus Reus* of the company. This theory is roughly based on the principle of *Mens Rea* and retired its presence for practical applicability of the same. It is important to note that the theory doesn’t talk about the scope of such a liability that is to be conferred upon the corporation taking into consideration the fact that it doesn’t specify with regards to the scope of employment. That is, the theory doesn’t specify as to how the liability can be conferred upon the corporation if such an act by the agents of a company is not contributing to any benefit of the company which is a glaring omission. Looking at the definition of the theory all it tends to state is that irrespective of such a

benefit that a company derives from such an act of its employees who might or might not have acted upon the scope of their employment, the element of crime along with *Mens Rea* by the employee of a company can be considered as that of the company as a whole. However with the theory having been plain, I'd like to argue that the scope of this identification theory is limited to the crime that so is committed by an employee acting on behalf of the company and with regards to the same, I would like to place a reliance on the judgement of the case *Tesco Supermarkets Ltd v. Natrass*⁷ wherein the court clarified that the person who commits one particular crime under the scope of his employment in the company he is not acting for the company as such but with the establishment of Employer-employee contractual relationship, the employee merely acts as the company in itself as a result of which the liability is conferred upon the company as a whole. This theory doesn't talk about the benefit that the company enjoys in the punishable offense that is committed by the employee. While yet again this judgement doesn't talk about the mandate of such a punishable activity that might confer some benefit to the company, I would like to reason the same with the mere point that an individual acting on behalf of the company will not act against the company. This theory takes into consideration the fact that the companies act with the help of humanitarian direction, say with the help of the directors, officers etc. This probably is the rationale behind non-exemption of the corporate bodies for the crimes committed by its agents and this view of mine was taken by the courts in the case of *State Of Maharashtra vs Syndicate Transport Co. (P) Ltd.*⁸

THEORY OF VICARIOUS LIABILITY

This theory is the base of all the other theories proposed by the common law with regards to the Corporate Criminal Liability. This is the first theory that made the corporates liable for the acts of the employees, workers and other agents of the company who act on behalf of the enterprise as a whole. It is more or less based on the concept of *Qui facit per alium facit per se* which translates to "He who acts through another does the act himself". In this case the corporate body is seen as a legal person and the employees of it are seen as agents of such a corporate body. As defined under the Indian Law, an "Agent" is "a person employed to do any act for another, or to represent

⁷ Tesco Supermarkets Ltd v. Natrass (1972) AC 153

⁸ State Of Maharashtra vs Syndicate Transport Co. (P) Ltd. AIR 1964 Bom.195

*another in dealings with third person*⁹ which is literally the nature of the relationship between the corporate entity and the employees. As a result, when the corporation acts with the help of agents, it is said to have done such an act and is responsible for the outcomes of such a commission of act. This theory was adopted in the case of *Canadian Dredge & Dock Co. v The Queen*¹⁰ Based on my understanding of the Theory of Vicarious Liability here are my observations.

A criminal liability can be imposed upon such a corporate entity when

1. The Agents commit a crime
2. Such a crime very well falls under the ambit of employment
3. Such an act is done with an intent to benefit the company they are working for
4. The Crime that so was committed has an element of malice

AGGREGATION THEORY

This theory advocates for the aggregation or rather combining of the minds and acts of the employees who are working in a company in order to actually determine the intention and the act behind such a crime. On a first glance this is similar to that of the Collective Blindness Doctrine that was discussed earlier. The main rationale behind such a theory is to take into note that such an act that is believed to be done under the cope of the corporation might not have been done or might not have been restricted to the knowledge of a single person but the collectively all the employees In the company so that the compartmentalization is prevented. This theory by that way aims to look at the course of actions taken by the agent as a whole in order to determine if the acts form any liability of the company. Such a determination is important because not all agents of a company are capable of establishing liability over the company. While a rough reading of the theory confers a liability on the acts of any agent of the company acting on the scope of his/her employment, irrespective of his capacity of work, there is an another approach that Is taken with regards to this theory in the Model Penal Code where an illegal act is said to be performed when it is authorised by a higher authority or the director of that company acting within the area of employment which more or less is of the nature of exclusion of anyone who commits a crime in

⁹ S.182, The Indian Contract Act,1872

¹⁰ Canadian Dredge & Dock Co. v The Queen (1985) 1SC R662)

the lower capacity. Not to mention such an arrangement means that the acts of the other employees are always approved upon by the senior officials as a result of which a hierarchy arises. The hierarchy is wherein the acts of the lower tier employees are authorised by the company's senior officials who in turn is authorised by the company as a whole legal entity. Such a theory helps better monitoring of the acts of employees within the company so that, as long as the individual exercises a proper duty of care, no such crimes are bound to happen and the liability is escaped by the company. Even in this case, the act that is performed by the employee or a group of employees must be benefitting the company directly. In such a case when the employee does something for his/her personal benefit which contradicts the ideas of the company then the employee's legal entity is not considered to be that of the company's because he is not performing the crime under the scope of his employment. Such a theory also ensures that the corporation doesn't turn a blind eye with regards to the illegal activities that so happen under its regime as in the case of the Wilful Blindness doctrine. And this theory is very much important owing to the fact that it sums up the liability of all the members of the act while drawing a conclusion as to how exactly does such a liability prevail

ANALYSIS AND POSITION UNDER INDIAN LAW

In the case of Indian Law, it is imperative to note that based on the precedents, the corporate entity although taken into consideration as a legal person doesn't call for an imprisonment or a prosecution but rather the punishments are restricted to Fine or the forfeiture of possessions. It is important to note that out of all the theories that are put forwards it is best for the courts to interpret the same under the Aggregation theory because this seems like a practical approach towards the sharing of responsibilities and towards the end of the day places the liability in a hierarchy wherein it collectively analyses the *Mens Rea* and *Actus Reus* aspects of a crime that is committed by all its employees. Further, clubbing the same with the Vicarious liability it is important to conclude that the Company when seen as a legal entity with all the rights that are conferred upon it including the right to sue and be sued it is important that the act of a company must be adduced to a person and in such a case it should be attributed to someone who is at the highest administrative post. An onus has to be put upon such a person to prove that due diligence was taken in order to prevent the crime being in the position of the person who enforces an authority pertaining to the functioning

of that company. Further, such a hierarchal determination of liability would render it suitable for the person responsible for it to actually represent the committee pertaining to that incident rather than not completely placing the liability on the individuals in the company who are not associated with the crime. For example there exists A and B who are employees of the company with A working at a lower Level and B working on a higher level, C who is the founder of that company ABC Ltd. As under the aggregation theory the crime is determined by the collective responsibility of A,B and C which when read with the Model Penal Code introduces a hierarchal set up wherein, the acts of A are under the control of B who are under the control of C while collectively forming a liability of the Company. My contention is that rather than penalizing the company with fines or freezing of assets, an individual who is found to be responsible for that crime while we look at the company as a whole is to be held liable after collectively analysing the element of *Mens rea* and *Actus reus*. Further such a model of interpretation with regards to the corporate criminal liability would ensure that the corporate entity has a guardian who will be punished with imprisonment unlike the earlier position of Corporate Criminal Liability In India. Thus, the gravity of the punishment is neither reduced with the substitution of imprisonment to fines and it also confers upon a responsibility upon the employees to represent the company and take liability for the same thereby making such a relationship between employer and employee a two way road. A bill was introduced in the year 1972 by prescribing an alternate imprisonment plan which was passed but lapsed which called for a better way to confer corporate criminal liability on the corporations.

CONCLUSION

Corporations play a very important role in the day to day lives of the public at large as a result of which it is important that the Corporations don't exploit the common public in the mere process of trying to earn profit. The principle of Corporate Criminal Responsibility is very important to keep the behaviour of such an enterprise in check, for the Corporate Activities involve a broad spectrum of fields of law that has to be taken into consideration. Say, in the case of the crime of insider trading the Corporate Law is considered or in the case of forceful acquisition of a land for building a factory, property law Is involved and in the case of pollution of Natural Habitat, Environmental Law is involved. As per whatever I had observed by looking at the theoretical analysis it is imperative to note that India had not updated the way it would deal with such crimes

and not to mention, it is not concrete enough as a result of which it is subject to a lot of misuse. I am of the opinion that the Indian Law pertaining to the Corporate Criminal Liability must be based on the Aggregation Theory with the already existing vicarious liability owing to the fact that as analysed, it looks more suitable to the Indian Environment so that there is no under-valuation in the gravity of the crime. Not to mention when such an approach is used, then, the person responsible will be held liable on behalf of the company upon whom the punishments such as imprisonment can be enforced which was earlier not enforceable by the company. But that doesn't mean that the company will be devoid of any responsibility to such an employee, such an arrangement should again be subject to the theories of willful and collective blindness with harsher punishments such as winding up of the company or a very high compensatory liability to the victim to be introduced in case the collective blindness doctrine is invoked or no specific employee can be held liable for such a crime that so is committed.
