

## IPC Section 34, 302

### 1. Vicarious Liability under Section 34 (Para 7):

- The court clarified that Section 34 of the IPC, which deals with acts done by several persons in furtherance of common intention, does not necessitate prior conspiracy or premeditation. Common intention can be formed right before or during the incident.
- In cases under Section 302 (punishment for murder), Section 34 introduces vicarious liability. Even if an accused did not commit the overt act but shared a common intention, they could be held liable.

### 1. Specific Case Facts (Para 7):

- Accused No. 3, who fired the fatal shot, was liable under Section 302 independently of Section 34. However, Section 34 was applied to the appellants to establish their shared intention with Accused No. 3.

### 1. Eye-Witnesses and Adverse Inference (Para 8):

- The court stated that withholding eye-witnesses does not automatically lead to adverse inference against the prosecution. The totality of circumstances must be considered.

### 1. Testimony of Close Relatives (Para 10):

- Eye-witnesses who are close relatives of the deceased require closer scrutiny, but their testimony should not be discarded solely on this basis. In this case, their testimony was found to be of sterling quality.

### 1. Independent Witnesses (Para 10):

- An adverse inference can be drawn against the prosecution if independent witnesses are available but not examined. However, if the eye-witnesses' evidence is of high quality, the need for independent witnesses diminishes, emphasizing that quality of testimony is more important than quantity.

### 1. Overall Findings:

- The court relied on the consistent and credible testimony of the eye-witnesses. Despite some inconsistencies, the evidence was found credible and formed the basis of the court's findings.

This judgment underscores the nuances of Section 34 of the IPC in establishing vicarious liability, the importance of the quality of eye-witnesses over their quantity, and the need for a comprehensive evaluation of all circumstances in a criminal trial.

**(2023-4)212 PLR 282 (SC)**

[Full Judgment with detailed headnotes for Premium Subscribers \(opens automatically\)](#)



[2023-SCEJ-0532Download](#)