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Corporate Mens Rea and Attribution after Sanofi India Ltd. v. Central Bureau of Investigation: Reassessing Corporate Criminal Liability in India

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ABSTRACT

This case commentary examines the Supreme Court's decision in *Sanofi India Ltd. v. Central Bureau of Investigation* and its approach to attributing a natural person's state of mind to a company in criminal proceedings. It places the decision alongside earlier authorities on corporate criminal liability and considers the Court's three-stage approach, which looks at the company's constitutional documents, actual delegation of authority, and the purpose of the relevant statute. The commentary analyses the significance of the ruling that a company's prosecution need not automatically fail merely because a particular employee has not been identified and arraigned. It also considers the limits of the framework, particularly the uncertainty involved in using statutory purpose as the final basis for attribution. It argues that the decision provides a more structured approach to corporate mens rea, while leaving important questions for future cases and legislative consideration.

INTRODUCTION

A company has no mind of its own and cannot have a guilty mind, yet Indian criminal law holds it liable for offences which, by their very nature, require one. Courts addressed this dilemma years ago by accepting that a corporation can possess mens rea. The harder question remained: whose mind counts as the company's?¹

In *Sanofi India Ltd. v. Central Bureau of Investigation*, a two-judge Bench, with Pardiwala, J. delivering the judgment, heard the pharmaceutical company's appeal on 7 September 2026 in a case where the corruption prosecution had not identified any Sanofi employee. The judgment lays down a structured method for attributing the criminal state of mind of a natural person to a company.²

¹*Iridium India Telecom Ltd. v. Motorola Inc.*, (2011) 1 SCC 74 (India); *Standard Chartered Bank v. Directorate of Enforcement*, (2005) 4 SCC 530 (India).

²*Sanofi India Ltd. v. Central Bureau of Investigation*, Criminal Appeal No. 4250 of 2026, 2026 INSC 957 (India); see

The pages that follow read Sanofi not as a departure from settled law, but as a development that fills the gap left by Iridium India Telecom and Standard Chartered Bank. I first set out the facts and the Court's three-stage framework, and then consider why attribution remains difficult and what the decision means for corporate criminal liability in India.

WHY ATTRIBUTION IS HARD

The classical theory is that every crime has two elements: a wrongful act and a guilty mind. Criminal law usually asks whether a particular person committed the act and had the required intention. A company does not fit neatly into that picture. As the courts have long recognised, it has neither a soul that can be damned nor a body that can be punished; it can act or form an intention only through the people who work for it.³⁴

That creates two questions, and Indian law had answered only the first. Can a company have a guilty mind? In *Iridium India Telecom Ltd. v. Motorola Inc.*, the Court held that companies may be prosecuted for offences requiring mens rea, not merely for strict-liability offences. A second difficulty is that some offences prescribe mandatory imprisonment, which a company cannot serve. In *Standard Chartered Bank v. Directorate of Enforcement*, the Court held that a fine could still be imposed because the law cannot require the impossible. Neither case, however, answered the harder question: once a company can have a guilty mind, whose mind is to be treated as its own? That is the question Sanofi tackles.⁵⁶

FACTS AND PROCEDURAL HISTORY

Sanofi India supplied medicines for the Rare Materials Project at the Bhabha Atomic Research Centre in three tender cycles between 2011 and 2016. The CBI alleged that a BARC scientific officer, Dr. P. Anand, had colluded with several pharmaceutical suppliers. The allegations included classifying items as proprietary so they could be sourced from a single supplier despite lower bids, removing rival bidders, and overlooking the lowest quotation. The 2017 chargesheet named Dr. Anand and Sanofi as accused nos. 1 and 2 under Section 120-B read with Section 420 IPC (now Sections 61 and 318 of the Bharatiya Nyaya Sanhita, 2023), along with provisions of

also 2026 LiveLaw (SC) 904.

³*Sanofi*, 2026 INSC 957, ¶ 17.

⁴*Id.* ¶ 16 (paraphrasing the traditional description, often attributed to Edward, First Baron Thurlow, of a corporation as having no soul to damn and no body to kick); see generally John C. Coffee, Jr., "No Soul to Damn: No Body to Kick": An Unscandalized Inquiry into the Problem of Corporate Punishment, 79 Mich. L. Rev. 386 (1981).

⁵*Iridium India Telecom Ltd. v. Motorola Inc.*, (2011) 1 SCC 74 (India).

⁶*Standard Chartered Bank v. Directorate of Enforcement*, (2005) 4 SCC 530 (India) (applying the maxim *impotentia excusat legem*).

the Prevention of Corruption Act, 1988. No Sanofi employee was named alongside the company.⁷⁸⁹

Sanofi approached the Karnataka High Court seeking to quash the proceedings. It argued that a company could not be prosecuted for conspiracy without identifying and arraigning the directing mind through whom it was alleged to have acted. The High Court relied on Iridium and dismissed the petition in 2019. Sanofi then appealed to the Supreme Court.¹⁰

THE COURT'S REASONING

The Bench held that the real question was whether a prosecution must fail simply because no natural person had been named. That could not be answered without first deciding how a person's acts and state of mind are attributed to a company. Indian precedent did not offer a clear answer, so the Court turned to English law. It traced the directing mind and will from Lennard's Carrying Co. through the narrower identification doctrine in Tesco Supermarkets v. Nattrass and then to the Privy Council's approach in Meridian Global Funds Management. Lord Hoffmann's approach in Meridian moved away from searching for a company's "brain". Instead, the question was to be answered first by the company's constitution, then by ordinary agency principles and, where necessary, by rules suited to the purpose of the statute. The Barclays prosecutions added an important qualification: a senior executive's acts count as the company's own only where the executive has real authority over the particular transaction, not merely because of senior status.¹¹¹²¹³

Rather than simply adopting that structure, the Court adapted it into a three-stage inquiry. First, the company's constitutional documents are examined to see who has the power to act for it. Second, if the documents are silent, the Court asks whether that power was in fact delegated. Third, if neither stage answers the question, it asks whether the purpose of the statute requires a special rule treating that person's act as the company's own. The Court made clear that seniority alone is not enough. The inquiry is transaction-specific, not a general search for the company's directing mind. It also works in only one direction: from person to company. It does not determine the person's own guilt and does not apply where the statute already contains a deeming or strict-liability rule.¹⁴¹⁵

⁷Sanofi, 2026 INSC 957, ¶¶ 3–4.

⁸Id. ¶ 5(a).

⁹Id. ¶ 4.

¹⁰Id. ¶¶ 6–8.

¹¹Id. ¶¶ 14–15.

¹²Id. (Part D.II) (discussing Lennard's Carrying Co. v. Asiatic Petroleum Co., [1915] A.C. 705; Tesco Supermarkets Ltd. v. Nattrass, [1972] A.C. 153; and Meridian Global Funds Mgmt. Asia Ltd. v. Securities Comm'n, [1995] 2 A.C. 500).

¹³Id. (Part D.II(c)) (discussing *Serious Fraud Office v. Barclays PLC*, [2018] EWHC 3055 (QB)).

¹⁴Id. (Part D.III(c)) (setting out the three-stage inquiry).

¹⁵Id. (rejecting a standalone status-based rule, describing the inquiry as transaction-specific, and confining the

On the narrower issue before it, the Court held that a natural person need not be identified and arraigned before a company can be prosecuted. It distinguished *Aneeta Hada v. Godfather Travels*, where the requirement that the company be arraigned before its signatory can be held vicariously liable under the Negotiable Instruments Act arises from that statute's particular scheme. At the chargesheet stage, it is enough to show *prima facie* that someone acted for the company, that the act is referable to the offence, and that the surrounding circumstances do not make corporate *mens rea* inherently improbable. Sanofi's chargesheet met that threshold through its specific allegations concerning comparable bids. The appeal was dismissed, leaving guilt to be decided at trial. The Bench also urged Parliament to undertake a systematic study of corporate liability, pointing to the failure-to-prevent model already found in Section 9 of the Prevention of Corruption Act.¹⁶¹⁷¹⁸¹⁹

PLACING SANOFI IN THE DOCTRINAL LANDSCAPE

Sanofi matters less for what it changes than for what it completes. *Iridium* settled that a company can have a guilty mind; *Standard Chartered* settled that mandatory imprisonment does not put companies beyond criminal law; Sanofi now explains how a person's guilt becomes the company's own. Read alongside *Sunil Bharti Mittal v. Central Bureau of Investigation*, which requires specific evidence of a director's own active role before the company's guilt travels the other way, the two decisions address opposite directions of attribution rather than conflict with each other. The Court itself makes this distinction, limiting its framework to a single direction.²⁰²¹

The treatment of *Aneeta Hada* can be read in the same way. Its arraignment rule belongs to a statutory scheme built around vicarious liability. Sanofi, by contrast, concerned direct, primary liability under offences that do not themselves rely on vicarious liability. The distinction may still invite argument from statute to statute.²²

The framework's real weak point is the third stage. Reading a company's constitution and asking about actual delegation are relatively concrete exercises. Asking what a statute's purpose demands is less predictable, and English courts working within the same Meridian lineage have struggled with that problem. India's regulatory terrain—securities, competition, environmental and tax law—is equally varied. The Bench's acknowledgement that the framework remains narrow, together

framework to one direction of attribution).

¹⁶*Aneeta Hada v. Godfather Travels & Tours (P) Ltd.*, (2012) 5 SCC 661 (India).

¹⁷*Sanofi*, 2026 INSC 957, ¶ 193.

¹⁸*Id.* ¶¶ 197–199.

¹⁹*Id.* (Part E) (citing the Prevention of Corruption Act, 1988, § 9).

²⁰Compare *Iridium India Telecom Ltd. v. Motorola Inc.*, (2011) 1 SCC 74 (India), and *Standard Chartered Bank v. Directorate of Enforcement*, (2005) 4 SCC 530 (India), with *Sanofi*, 2026 INSC 957.

²¹*Sunil Bharti Mittal v. Central Bureau of Investigation*, (2015) 4 SCC 609, ¶¶ 42–43 (India).

²²*Aneeta Hada v. Godfather Travels & Tours (P) Ltd.*, (2012) 5 SCC 661 (India) (Negotiable Instruments Act, 1881, § 141).

with its call for legislative study, suggests that stage three cannot yet be applied with much confidence. There is also a quieter cost: because the threshold for surviving quashing is low, much of the fight over attribution will move to trial. Companies may have to litigate the issue at considerable cost in time, money and reputation.²³²⁴

CONCLUSION

Sanofi does not change whether Indian companies can answer for offences requiring mens rea; that was settled before this case reached the Supreme Court. What it finally supplies is an Indian answer to how attribution works: a framework built on Meridian's structure without copying it wholesale, alongside rather than displacing Standard Chartered, Iridium, Sunil Bharti Mittal and Aneeta Hada. Its first two stages should bring greater predictability. Its third stage remains open, and Sanofi's real test will come when that inquiry moves beyond conspiracy and corruption into securities and other regulatory offences.

²³See Law Commission for England and Wales, *Corporate Criminal Liability: An Options Paper* (2022).

²⁴*Sanofi*, 2026 INSC 957 (Part E).