

# Supreme Court's Zainul judgement evolves the standards of conviction under Unlawful Assembly

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**THE SUPREME COURT'S OCTOBER 7, 2025** ruling in [Zainul v. State of Bihar](#) arrives at a critical moment for the Indian criminal justice system. As mob violence cases surge in India, the ruling redefines the evidentiary threshold for prosecutions under Section 149 of the [Indian Penal Code](#) ('IPC'), emphasising the distinction between active participants and passive bystanders.

## The perils of constructive liability

With [947 hate-related incidents](#) reported between June 2024 and June 2025, Indian courts have increasingly faced the challenge of separating genuine perpetrators from innocent bystanders in cases of collective violence.

The [doctrine of constructive liability](#) embedded in Section 149 of the IPC underlies this jurisprudential conundrum. While it serves the legitimate purpose of holding members of an unlawful assembly accountable for crimes committed in furtherance of their common object, its application has often swept innocent bystanders into the net of criminal culpability. The Supreme Court's October 2025 judgment in *Zainul* represents a significant recalibration of this doctrine, establishing more stringent evidentiary standards to safeguard against wrongful convictions.

At the heart of this case lay allegations against 72 persons accused of murder during a violent confrontation over settlement land in Bihar. The trial court convicted 21 individuals, and the High Court affirmed 12 convictions.

However, the Supreme Court's meticulous examination of the evidence revealed fundamental flaws in how the prosecution established membership in the unlawful assembly and participation in its common object.

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### **Establishing the Common Object Standard**

The judgment crystallises a crucial principle that mere physical presence at the scene of a crime does not automatically render someone a member of an unlawful assembly. The Court emphasised that the prosecution must establish through direct or circumstantial evidence that the accused shared the common object of the assembly.

This requires examining multiple factors, including the time and place of assembly formation, individual conduct before and during the incident, the nature of weapons carried, the manner of the occurrence, and the pattern of injuries inflicted.



[The legal void impairing India's stance against mob-lynching is an affront to human rights](#)

The Court reinforced a prudential rule particularly relevant in cases involving large groups by drawing on precedents like [Masalti v. State of Uttar Pradesh](#) (1964) and [Muthu Naicker v. State of Tamil Nadu](#) (1978). Courts must apply heightened scrutiny where numerous persons are implicated and evidence suggests partisan testimony. The judgment advocates that

conviction should ideally rest on consistent identification by at least two or three reliable witnesses, especially when dealing with faction-driven violence in rural settings where curious onlookers naturally gather.

### **The weight of witness testimony**

The Court's treatment of eyewitness evidence offers essential guidance for trial courts. While injured witnesses typically receive special consideration, given their presence at the scene is corroborated by their injuries, this does not immunise their testimony from critical examination. The judgment in [Balu Sudam Khalde v. State of Maharashtra](#) (2023) establishes that material contradictions, significant embellishments, or irreconcilable conflicts with medical evidence can undermine even an injured witness's credibility.

The Court found that the witness testimonies suffered from fatal inconsistencies in the present case. The primary informant admitted falling unconscious after the assault. Yet, his police statement detailed the weapons and actions of 41 assailants, information he later claimed came from other witnesses who themselves denied providing such details. These contradictions were not minor discrepancies but struck at the foundational reliability of the prosecution's narrative.

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### **Implications for Investigation and Prosecution**

The most significant aspect of the judgment concerns the First Information Report ('FIR') treatment. The Court concluded that when police receive information about a cognizable offence, the first such information must be recorded as the FIR, regardless of subsequent statements that may be more detailed or convenient for prosecution. Where evidence suggests that the investigation commenced before the formal FIR was recorded, the entire investigative process becomes suspect. This principle, grounded in [State of A.P. v. Punati Ramulu](#) (1993), serves as a vital check against manufactured evidence and post facto rationalisation of arrests.

This matters beyond individual cases. Between April 22 and May 6, 2025, India witnessed over 10 anti-Muslim hate incidents per day, with [184 hate crimes documented in just two weeks](#), including 39 assaults, three murders, and 12 attempted lynchings. Research shows that [Muslims, Dalits and other vulnerable groups](#) remain disproportionately targeted.

In cases involving mob violence, the tendency to implicate entire communities or factions remains pronounced. Police often cast wide nets, arresting dozens while investigations remain perfunctory.

The *Zainul* judgment demands that courts resist reflexive collective guilt and undertake the more complex work of identifying actual perpetrators. The ruling does not dilute the doctrine of constructive liability under Section 149 of IPC. Instead, it establishes guardrails against its misapplication. By requiring cogent evidence of shared criminal purpose and consistent witness identification, the judgment represents a necessary evolution that balances society's interest in punishing group violence with the fundamental right against wrongful conviction. As mob violence cases continue filling India's criminal dockets, this standard could not have arrived sooner.