



No Double Jeopardy Bar If There was No Trial

In a recent judgment (*State of Mizoram vs. Dr. C. Sangnghina*), SC has held that the bar of double jeopardy will not apply if the person was discharged due to lack of evidence.

- In its judgment, SC held that, where the accused has not been tried at all and convicted or acquitted, the principles of “double jeopardy” cannot be invoked at all.
- **The principle of Double Jeopardy:** Double Jeopardy is a legal term and it means that a person can not be punished for the same offense more than once.
- Both **Article 20(2) of the Constitution of India** and **Section 300 of the Criminal Procedure Code** say that no person shall be prosecuted and punished for the same offense more than once.

Background

- The judgment is based on an appeal filed by the State of Mizoram against an order passed by the Gauhati High Court in August 2015, upholding a Special Court decision to decline to entertain a second charge sheet filed in a corruption case against the accused on the ground of double jeopardy.

Article 20: Protection in Respect of Conviction for Offences

- Article 20 grants protection against arbitrary and excessive punishment to an accused person, whether citizen or foreigner or legal person like a company or a corporation.
- It contains three provisions in that direction:
 1. **No ex-post-facto law:** No person shall be (i) convicted of any offense except for violation of a law in force at the time of the commission of the act, nor (ii) subjected to a penalty greater than that prescribed by the law in force at the time of the commission of the act.
 2. **No double jeopardy:** No person shall be prosecuted and punished for the same offense more than once.
 3. **No self-incrimination:** No person accused of any offense shall be compelled to be a witness against himself.
- An ex-post-facto law is one that imposes penalties retrospectively (retroactively), that is, upon acts already done or which increases the penalties for such acts.
- The protection against double jeopardy is available only in proceedings before a court of law or a judicial tribunal. In other words, it is not available in proceedings before departmental or administrative authorities as they are not of judicial nature.
- The protection against self-incrimination extends to both oral evidence and documentary evidence.