



CRIMINAL

Madhya Pradesh High Court Reaffirms Double Jeopardy Protection as a Fundamental Right

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In a significant ruling safeguarding constitutional protections in criminal jurisprudence, the Madhya Pradesh High Court held that an application invoking the **doctrine of double jeopardy** cannot be dismissed merely on grounds of delay or because evidence may be required during adjudication. The Court emphasized that protection against double jeopardy is not merely a statutory safeguard but also a constitutional and fundamental right guaranteed under *Article 20(2) of the Constitution of India*, which can be invoked at any stage during the trial.

Background of the Case

The case, *Harsh v. State of Madhya Pradesh*¹, arose from allegations relating to multiple bank drafts processed in March 2005. The petitioner had earlier faced trial in Vadodara for the following offences:

- Section 420 IPC (Cheating)
- Section 467 IPC (Forgery)
- Section 120B IPC (Criminal Conspiracy)

He had already been **convicted and sentenced to one year of rigorous imprisonment** in those proceedings.

Subsequently, another prosecution was initiated concerning substantially the same bank drafts and transactions. The petitioner moved an application under *Section 300(1) of the Code of Criminal Procedure*, arguing that the second trial was barred by the doctrine of double jeopardy.

However, the **Revisional Court dismissed the application** primarily on the ground that it had been filed after a delay of four years and would require evidence to be led by the parties.

Legal Issue Before the Court

The principal question before the High Court was whether an application seeking **protection under the doctrine of double jeopardy** can be rejected solely on procedural grounds such as delay.

Court's Observations

Justice Subodh Abhyankar held that such an approach defeats the very purpose of constitutional protection against repeated prosecution.

The Court observed that:

"The protection from being tried for the same offence twice is not only a legal right but also a Constitutional and fundamental right which can be exercised at any given point of time in the life of a trial."

The Court further emphasized that if courts refuse to examine such claims due to procedural delays, individuals may be compelled to undergo **multiple trials for the same offence**, thereby defeating the essence of *Article 20(2) and Section 300(1) CrPC*.

Applicability of Section 300(1) CrPC and Article 20(2)

The Court noted that the bank drafts forming the basis of the present prosecution were **substantially the same** as those involved in the earlier proceedings at Vadodara, except for one additional draft. This minor distinction, according to the Court, did not alter the essential nature of the offence.

Accordingly, the Court held that:

- **Section 300(1)** of the Code of Criminal Procedure was attracted;
- The constitutional safeguard under **Article 20(2)** also applied.

The Court therefore set aside the impugned order and allowed the petition.

Significance of the Judgment

The judgment is significant because it reinforces the **constitutional protection against double jeopardy** guaranteed under *Article 20(2) of the Constitution of India*. The Court made it clear that this safeguard is not merely procedural but a fundamental right available to an accused person throughout the duration of the trial.

The ruling also establishes that **technical grounds such as delay cannot defeat substantive constitutional rights**. By holding that an application under *Section 300(1) of the Code of Criminal Procedure* must be considered whenever raised, the Court ensured that procedural limitations do not override protections against repeated prosecution.

Further, the judgment strengthens the principle of **fair trial** by protecting individuals from the hardship, harassment, and mental burden of facing prosecution for the same offence more than once. It also reflects a rights-oriented interpretation of criminal procedure, where constitutional liberties are given precedence over procedural formalities.

Importantly, the decision clarifies the **broad scope of Section 300 CrPC** and reiterates that courts must carefully examine whether successive prosecutions arise from substantially identical transactions or facts.

Conclusion

The judgment is an important reaffirmation of the **doctrine of double jeopardy** within Indian criminal jurisprudence. By holding that constitutional protection cannot be denied merely due to delay, the Madhya Pradesh High Court reinforced the principle that individual liberty and fair trial protections must prevail over procedural technicalities.

The ruling serves as a reminder that **constitutional guarantees** are not confined by procedural timelines and remain available throughout the course of a criminal trial.

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