



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

MISC. CRIMINAL CASE No. 7919 of 2011

HARSH

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Girish Desai- Advocate for the petitioner.

Shri Romil Verma- G.A. for the State.

Reserved on : 11.02.2026

Pronounced on : 30.04.2026

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This petition having been heard and reserved for orders, coming on for pronouncement this day, the court passed the following:

ORDER

Heard finally with the consent of the parties.

2. This petition has been filed by the petitioner under Section 482 read with Section 300(1) of Cr.P.C. and Article 20(2) of the Constitution of India, against the order dated 02.09.2011, passed by the IV Additional Sessions Judge, District Dhar, in Criminal Revision No.128/2011, whereby the revision has been dismissed on the ground of delay.

3. The aforesaid revision was filed against the order dated 27.05.2011, passed in Criminal Case No.2626 of 2007, whereby the application filed by the petitioner under Section 300(1) of Cr.P.C., alleging double jeopardy, has been rejected.



4. In brief, the facts of the case, as narrated in the petition, are as hereunder:-

1. That on 23.03.2005, Police Station Dhar registered a Crime No.156/2005 on a complaint made by Manager State Bank Of Indore, Branch Pipali Bazar Dhar, for an offence u/s 420, 467, 468 and 120(B) of the I.P.C. against Rajendra Agrawal proprietor Anoop Udyog, and Manager Union Bank Of India branch, Dhar.
2. That according to the complaint, on 17.03.2005 the said bank had received from Union Bank of India through clearing house a bank draft No. 285999 dated 16.03.2005 of Rs.8,25,000/- which was in favour of Anoop Udyog.
3. That the said draft was shown to have been issued by State Bank of Indore Vadodara Branch; and on enquiry from the issuing bank it was informed that the bank had not issued the said draft. That upon this the draft was returned to the forwarding bank with said endorsement.
4. That this put the bank on alert, and they checked earlier bank draft clearing and found that similar two drafts Nos.**286000 dated 11.03.2005 for an amount of Rs.6,50,000/- and Draft No.623000 dated 04.03.2005 for an amount of Rs.2,51,000/-**, which were in favour of Anoop Udyog were cleared and amount was paid on 12.03.2005 & 07.03.2005 respectively.
5. That upon this aforesaid report was made. The case was investigated and after collecting necessary evidence charge-sheet was submitted against the applicant and others but not against the persons named in the F.I.R. i.e. Rajendra Agrawal and Bank Manager of Union Bank of India branch Dhar.
6. That for the draft in question in Dhar case, the applicant was earlier tried by the J.M.F.C. First Class (IV Court) Vadodara Gujarat in Criminal Case No.2862/06 for offences u/s 467/467/468 & 420 of the I.P.C.



7. That on trial the learned Magistrate acquitted the applicant of other charges but found him guilty of offence u/s 419/420 of I.P.C. and convicted and sentenced him to R.I. for one year.
8. That the applicant moved an application u/s 300(1) of the Cr.P.C. before the Trial Court, which was dismissed.
9. That against the said dismissal the applicant filed the aforesaid Criminal revision before the Court of Sessions which was also dismissed.

5. Shri Girish Desai, learned counsel for the petitioner has also submitted that the Revisional Court has erred in dismissing the revision only on the ground of limitation, holding that the application under 300(1) of Cr.P.C was filed after a period of four years and thus, the evidence is required to be led by the parties. Shri Desai has also drawn the attention of this Court to Section 300(1) of Cr.P.C., as also Article 20(2) of the Constitution of India to submit that it was the petitioner's legal and constitutional right to file such an application, which could not have been rejected on the ground of limitation. Thus, it is submitted that when the Revisional Court has also held that *prima facie*, the bank drafts and the amount for which the petitioner was tried in the Court at Vadodara were similar to that of the Court at Dhar, there was no reason for the Court to reject the plea of double jeopardy.

6. Shri Desai has also referred to the decision rendered by the Supreme Court in the case of ***Kola Veera Raghav Rao Vs Gorantla Venkateshwara Rao and Another***, reported as **2011 (15) SCC 498**; ***Sangeetaben Mahendrabhai Patel Vs. State of Gujarat & Another***, reported as **2012 AIR (SC) 2844**; ***J. Vedhasingh Vs. R.M. Govindan & Ors.***, reported as **2022 AIR (SC) 3772**, and thus it is submitted that the petition deserves to be allowed, and the proceedings in the Trial Court deserves to be quashed.



7. Counsel for the State, on the other hand, has opposed the prayer, and it is submitted that looking to the delay in filing the application under Section 300(1) of Cr.P.C, no case for interference is made out at this belated stage. Counsel has submitted that the matter is still pending in the Trial Court, as a stay was granted by this Court, and thus the petition deserves to be dismissed, and the matter be directed to be decided by the Trial Court at the earliest.

8. Heard counsel for the parties and perused the record.

9. At this juncture, it would be germane to refer to Section 300 of Cr.P.C and Article 20 of the Constitution of India, which read as under:-

“Section 300 of Cr.P.C.-

300. Person once convicted or acquitted not to be tried for same offence.—(1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of section 221, or for which he might have been convicted under sub-section (2) thereof.

(2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been made against him at the former trial under sub-section (1) of section 220.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 258 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate. (6) Nothing in this section shall affect the provisions of



section 26 of the General Clauses Act, 1897 (10 of 1897) or of section 188 of this Code.

Explanation.—The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section.

Article 20 of the Constitution of India-

20. Protection in respect of conviction for offences.—

(1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the Act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.”

(Emphasis Supplied)

10. From the record, this Court finds that so far as the bank drafts in question in the present case are concerned, they are as hereunder:-

(i) 623000 for Rs.2,51,000/-

(ii) 286000 for Rs.6,50,000/-,

Whereas, in the case which the petitioner faced in the Court at Vadodara, in addition to the aforesaid two drafts, one more draft was also there, with serial No.286999 for Rs.8,26,000/-.

11. Thus, it is apparent that the drafts in question in the present case, were also the drafts on the basis of which the complaint was filed in the Court at Vadodara, although at Vadodara, one more draft was also added in the complaint, but it would not change the nature of the offence, and in such circumstances, when the subject matter and nature of offence for which the petitioner was tried at Vadodara is exactly the same for which he is being tried at Dhar, this Court has no hesitation to hold that Section 300(1) of Cr.P.C, as also Article 20(2) of the Constitution of India would be squarely applicable in the present case.



12. So far as the delay in filing such an application under Section 300(1) of Cr.P.C. or Article 20(1) of the Constitution of India is concerned, which the Revisional Court has held to be un-condonable, this Court is of the considered opinion that when such an application, invoking the doctrine of double jeopardy is filed, the same cannot be rejected either on the ground of delay or that the evidence would be required to be led by the parties, as the question of double jeopardy has to be decided as and when it is raised by the parties otherwise, the whole purpose of such an enactment would be lost, *i.e.*, to save a person from undergoing the plight of facing the same trial, twice. It must be kept in mind 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.

13. In view of the aforesaid discussion, the petition stands ***allowed***, and the impugned order dated 02.09.2011 is set aside, and the further proceedings in the Court at Dhar are hereby quashed.

14. M.Cr.C. stands ***allowed*** and ***disposed of***.

(SUBODH ABHYANKAR)
JUDGE