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No Double Jeopardy Bar If There was No Trial

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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.