Subject Name: Code of Criminal Procedure
Topic Name: Double Jeopardy CrPC

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Introduction

The term "jeopardy" within the legal context refers to the danger an accused faces of being convicted and punished in a criminal proceeding. It particularly highlights the risk of a lawful conviction for an offence for which the individual has previously been acquitted or convicted.

Common legal expressions such as "double jeopardy," "former jeopardy," and "twice put in jeopardy of punishment," emphasise the safeguarding of an accused person to ensure they are fairly tried for the same offence under established legal procedures.

Constitutional and Statutory Provisions

Part III of the Indian Constitution, dealing with Fundamental Rights, specifically Articles 20 to 22, addresses the personal liberty of citizens. Article 20(2) provides a clear mandate that no person shall be prosecuted and punished for the same offence more than once, thereby enshrining the protection against double jeopardy.

The concept is further supported by various statutory provisions including:

- Section 300 of the Criminal Procedure Code (CrPC), which ensures that a person once convicted or acquitted cannot be tried again for the same offence while the decision remains in effect.

- Section 40 of the Indian Evidence Act, 1872, and Section 71 of the Indian Penal Code (IPC), which articulate similar protections.

- Section 26 of the General Clauses Act, 1897, which complements these protections by preventing repeated trials on the same facts.

Section 300 CrPC

Section 300 of the CrPC articulates the principle that a person cannot be tried again for the same offence once a competent court has convicted or acquitted them, thus establishing the doctrine of double jeopardy. Exceptions to this rule are meticulously outlined in subsections (2) to (5), allowing retrials only under strictly defined circumstances such as with the consent of the State Government for distinct offences or if new significant facts emerge post the initial conviction or acquittal.

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Legal Maxim

The legal maxim nemo debet bis vexari, which means a person shall not be vexed twice for the same cause, underpins the principle of double jeopardy. This principle is crucial in cases where the prosecution of an individual for the same set of facts, after an acquittal or conviction, would violate their dignity and right to live freely, as protected under Article 21 of the Constitution.

Supreme Court Rulings on Double Jeopardy

Several landmark Supreme Court decisions have clarified the application of double jeopardy:

- ➢ V**ijayalakshmi vs. Vasudevan:** Emphasised the need for a competent court's prior conviction or acquittal to remain in force to prevent retrial.

- ➢ **Thakur Ram vs. State of Bihar:** Illustrated that double jeopardy also prevents retrial for any other offence based on the same facts.



Distinction Between Double Jeopardy and Double Punishment

It's critical to distinguish between double jeopardy, which prevents a second trial for the same offence after a conviction or acquittal, and double punishment, which refers to imposing multiple penalties under different charges within a single trial. Double jeopardy serves as a fundamental safeguard against the repeated legal harassment of an individual, ensuring justice and fairness in legal proceedings.