



A.F.R.
Reserved Judgment
Reserved On : 12.11.2025
Delivered On : 16.01.2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/s 482 No. - 10684 of 2024

Krishna Mohan Tripathi

.....Applicant(s)

Versus

Superintendent of Police, C.b. I. / A. C. B. Lko.

.....Opposite Party(s)

Counsel for Applicant(s)	: Chandra Bhushan Pandey, Asim Kumar Singh
Counsel for Opposite Party(s)	: Anurag Kumar Singh,

Court No. - 13

HON'BLE SAURABH LAVANIA, J.

1. Heard Shri C.B. Pandey, Advocate along with Shri Asim Kumar Singh, Ms Tripti and Shri Mohit Ashok, learned counsel for the applicant and Shri Anurag Kumar Singh, learned counsel for the C.B.I.

2. By means of the present application, the applicant Krishna Mohan Tripathi has impeached the proceedings related to Criminal Case No.12 of 2011, arising out of F.I.R. No.RC0062010A0010/2010 dated 24.02.2010 under Section 13 (1)(e) read with 13 (2) of the Prevention of Corruption Act, 1988 (in short "PC Act"), Police Station-CBI/ACB, Lucknow pending in the Court of Special Judge, CBI/Anti Corruption (West), Lucknow.

3. The main prayer sought in the petition reads as under :

"to quash the impugned criminal proceeding in Criminal Case No. No.12/2011 arises out of FIR No.RC0062010A0010/2010, dated 24.02.2010, under Section 13(1)(e) r/w 13(2) of P.C. Act, 1988, Police

Station-CBI/ACB, Lucknow, pending before the Learned Special Judge, CBI/Anti Corruption (West), Lucknow."

4. Upon due consideration of pleadings and documents on record as also the submissions advanced by Shri C.B. Pandey, learned counsel for the applicant, and Shri Anurag Kumar Singh, who appeared for C.B.I., this Court is of the view that prayer/relief, quoted above, has been sought based upon the following :

(A) Article 20(2) of the Constitution of India and Section 300 (1) Cr.P.C. These provision(s) are based upon the principle embodied in the Maxim(s) (i) "*Nemo debet bis vexari pro una et eadem causa*" (no one should be vexed twice for the same cause) and (ii) "*Nemo debet bis puniri pro uno delicto*" (no one ought to be punished twice for one offence). According to these provision(s), in nutshell, an accused/a person once punished or acquitted cannot be subsequently tried and /or punished for the same offence. In other words "After a person faces a judicial trial and receives a punishment or acquittal for an offence, he is legally protected from being subjected to another trial and punishment for that exact offence".

(B) Section 71 of I.P.C. This provision provides that 'where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offence, unless it be so expressly provided.

(C) Section 220 of Cr.P.C. This provision relates to the joinder of charges of offences committed by the same person. It applies to a case in which different offences or acts are parts of a single transaction. If the offences are committed in the course of the same transaction, they may be tried together. This section is an enabling provision. It permits the Court to try more than one offence in one trial. The Court may or may not try all the offences together in one trial. If the Court tries the offences separately, it does not commit any illegality. The accused in a case has no

vested right to seek joinder of charges and trial of more offences in one trial. The expression "same transaction" in Section 220 of Cr.P.C. is relevant for deciding the question of whether the series of acts are so connected together to be tried at one trial. There cannot be a universal formula for the purpose of determining whether two or more acts constitute the same transaction. The commonality of purpose or design and continuity of action manifest that the same or different offences were committed in the course of the same transaction. The proximity of time, unity of place, unity or community of purpose or design and continuity of action make the series of acts alleged against the person to constitute the same transaction.

(D) Section 13 of the Prevention of Corruption Act, 1988 (in short "PC Act"), as applicable in this case. This provision deals with 'Criminal Misconduct by a Public Servant'. Based upon this Section, in nutshell, it has been alleged that 'Criminal Misconduct' by a Public Servant, as mentioned under Section 13 (1)(d) of PC Act, the applicant has already been convicted and therefore he cannot be tried for the offence as mentioned under Section 13 (1) (e) of PC Act.

(E) Judgment passed in the case of ***T.T. Antony Vs. State of Kerala, (2001) 6 SCC 181***. In this judgment the Hon'ble Apex Court observed that "Thus there can be no second FIR and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences. On receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of

the same transaction or the same occurrence and file one or more reports as provided in Section 173 Cr.P.C."

5. For considering the main prayer sought in the instant application, to the view of this Court, the following facts of the case are relevant, which are related to two cases indicated herein under :-

- (i) Criminal Case No.17/2010 arising out of FIR lodged on 30.10.2009 at Police Station - CBI/ACB, Lucknow, registered as Case Crime No.RC0062009A0033 (in short "**First Case**").
- (ii) Criminal Case No.12 of 2011 arising out of FIR lodged on 24.02.2010 at Police Station - CBI/ACB, Lucknow registered as RC No.0062010A0010 i.e. Case-in-Issue (in short 'Second Case/Case-in-Issue').

6. The relevant facts of **First Case**, arising out of Case Crime No.RC0062009A0033, are as under :

6.1. Written report dated 30.10.2009 was submitted by Sunil Kumar Singh son of Maheshwar Prasad Singh (in short "Complainant") before Superintendent of Police, CBI, Lucknow. Annexed at page 52A of the paper book.

6.2. According to the aforesaid Written Report dated 30.10.2009, the applicant demanded total Rs.70,000/- from the Complainant for the purposes of renewal of licence of 'Three Trollies' and 'One Stall' related to Basti and Khalilabad Railway Station(s).

6.3. It is to be noted that the applicant, an employee of Railways, was discharging the duties of the post of C.R.M., I.R.C.T.C., Gomti Nagar, Lucknow.

6.4. Based upon the aforesaid Written Report dated 30.10.2009 an F.I.R. was lodged on 30.10.2009, at Police Station CBI/ACB, Lucknow, registered as Case Crime No. RC0062009A0033, under Section 7, 13 (1)(d) read with 13 (2) of the PC Act. In nutshell, this F.I.R. relates to demand of illegal gratification.

6.5. Thereafter on 31.10.2009 the CBI team caught the present applicant red handed at his residence, where the bribe money i.e.

Rs.70,000/- was recovered from the Briefcase of the applicant and the applicant was arrested.

6.6. The Trap Memo was also prepared on 31.10.2009.

6.7. The CBI thereafter filed the charge sheet against the applicant under Section(s) 7, 13(1)(d) read with 13 (2) of the PC Act.

6.8. Trial Court thereafter proceeded in the matter which includes framing of charges and recording the statement(s) of independent witnesses of prosecution namely Santosh Kumar Saravgi and Saurav Paul as also the recording of statement of the applicant under Section 313 Cr.P.C.

6.9. Trial Court namely Special Judge, CBI/Anti Corruption (West), Lucknow (in short "Trial Court"), after conclusion of evidence, passed the judgment on 11.08.2024 in Criminal Case No.17 of 2010, arising out of Case Crime No.RC0062009A0033, under Section 7, 13 (1)(d) read with 13 (2) of the PC Act.

6.10. Trial Court vide judgment dated 11.08.2024 convicted the applicant for the offence under Section 7 of PC Act and also for the offence under Section 13 (1)(d) read with Section 13 (2) of the PC Act.

6.11. It is to be noted that the judgment of conviction dated 11.08.2024 relates to F.I.R./Case Crime No.RCNo.0062009A0033 of 2009, CBI/ACB Lucknow.

7. The relevant facts of 'Second Case/Case-in-Issue' arising out of Case Crime No.RC00622010A0010, are as under :

7.1. After apprehending the applicant red handed, the house of the applicant was also searched on 31.10.2009 and during search the prosecution/CBI found various assets. Relevant portion of Memo prepared in this regard is extracted herein under :

ASSETS

The assets possessed by Sri K.M. Tripathi as on 31.10.2009.

Immovable Assets

1. House at B-1/12, L Road, Type-B

Mahanagar Extension, Lucknow : Rs. 60,00,000/-

2. House at 70, Mall Avenue, Lucknow : Rs.50,00,000/- (approx)

3. House at Village- Kotha, Distt- Gorakhpur : Rs.20,00,000/- (approx)
4. 1/5th of 1.7 Hectare agricultural land at
Village - Kotha, Distt - Gorakhpur : Ancestral
Total : Rs.1,30,00,000/-

Movable Assets

- a) Sri K.M. Tripathi possesses following movable assets in the name of him and his family members, details of which are given as under -
1. One Maruti Esteem Car : Rs.4,49,405/-
2. Gold Jewellery items : Rs.51,91,810/-
3. Silver Jewellery items : Rs.5,87,619/-
4. Cash : Rs.24,91,000/-
5. Household Inventory items
(including cost of 2 LCD Home Theatres,
6 Air Conditioners, Firearms,
44 Bottles of Liquor, Furniture etc.) : Rs.41,03,594/-
Total : Rs.1,28,23,428/-
- b) Bank Deposits

Besides the above movable assets, Sri K.M. Tripathi has following bank accounts in different banks in his name and in the names of his family members along with the balance amounts as on 31.10.2009 -

S. No.	A/c No.name of the Bank and Branch Name	Name of the A/C holder	Amount in Rs.
1.	07810053493, HDFC Bank, M.G. Road, Lucknow.	Smt. Poonam Tripathi (wife)	54,477/-
2.	05500100000096, Bank of Baroda, Hazratganj Branch, Lucknow.	-do-	21,181/-
3.	628101073549, ICICI Bank, M.G. Road, Hazratganj, Lucknow.	Sri K.M. Tripathi	2876/-
4.	6281062580, ICICI Bank, M.G. Road, Hazratganj, Lucknow	Smt. Poonam Tripathi	3210/-
5.	1189667 ABN AMRO Bank, M.G. Road, Lucknow	Sri K.M. Tripathi	1236/-
6.	1189667 ABN AMRO Bank, M.G. Road, Lucknow	Smt. Poonam Tripathi	35,438/-
7.	26700400004051, Bank of Baroda, Gomti Nagar, Lucknow	Sri K.M. Tripathi	1,87,754/-
8.	2186101006843, Canara Bank, Sapru Marg, Lucknow	Sri K.M. Tripathi	2,07,430/-
		Total	5,13,602/-

Total Movable Assets = (a)+(b) = Rs.1,28,23,428/- + 5,13,602/-
= Rs.1,33,37,020/-

Total Assets = Immovable assets + Movable assets =
Rs.1,30,00,000/- + Rs.1,33,37,030/-
= Rs.2,63,37,030/- "

7.2. Considering the aforesaid assets found in the search, the officer of CBI namely A.K. Sharma, Deputy Superintendent of Police, CBI, ACB, Lucknow wrote a letter dated 09.12.2009 to Superintendent of Police,

CBI, ACB, Lucknow, indicating aforesaid therein and in this letter concluded as under :

INCOME

1. Income from property settlement	: Rs.4,00,000/-
2. Housing loan from Bank of Baroda	: Rs.32,00,000/-
3. Loan from LIC	: Rs.8,00,000/-
4. Income from maturity of LIC Policy	: Rs.46,880/-
5. Sale proceeds of jewellery	: Rs.5,98,000/-
Total	: Rs.50,44,880/-

Thus the total income of Sri K.M Tripathi = Net Salary Income + Income other than salary

$$\text{Total Income} = 37,50,293/- + 50,44,880/- = \text{Rs.87,95,173/-}$$

Expenditure

(a). Non verifiable expenditure : Rs.16,22,117/-
[1/3 of (Gross salary - Income Tax deductions)
(Income Tax Deductions are not yet known)]

(b). Verifiable expenditure

i). Expenses on education of children	: Rs.8,80,000/-
ii). Stamp duty paid on Mahanagar house property	: Rs.7,24,000/-
iii). Registration Fee paid on Mahanagar House property	: Rs.5040/-
iv). Stamp Duty paid on house at Mall Avenue	: Rs.70,100/-
v). Expenses on Rental Car	: Rs.1,50,000/-
vi). Miscellaneous expenditure	: Rs.11,715/-
vii). Taxi fare paid as per records	: Rs.28,386/-
viii). Hotel bills of stay at Pune	: Rs.31,552/-
Total	: Rs.19,00,793/-

$$\begin{aligned} \text{Total Expenditure : (a) + (b)} &= \\ \text{Rs.16,22,117/- + Rs.19,00,793/-} &= \text{Rs.35,22,910/-} \end{aligned}$$

Disproportionate Assets possessed by Sri K.M. Tripathi =

Assets as on 31.10.2009 - Assets possessed on 6.3.1989 + expenditure between 6.3.1989 to 31.10.2009 - Income between 6.3.1989 to 31.10.2009

$$= 26337030-0+3522910 -8795173 = \text{Rs.2,10,64,767}$$

$$\text{Percentage Disproportionate Asset} = \frac{21064767 \times 100}{8795173} = 239.5(\text{approx})\%$$

While calculating the Disproportionate Assets of Sri K.M. Tripathi, the immovable / movable assets existing in his name and in the name of his dependent family members have been taken into account.

During investigation, the general reputation of Sri K.M. Tripathi has not been found above board. He is known as a corrupt officer particularly during his posting as Sr. DCM, Lucknow and CRM, IRCTC, Lucknow. Investigation has also revealed that a number of immovable properties were acquired by him which are highly undervalued and registered below the market rates. It has also been revealed that Sri K.M. Tripathi has not declared any major source of income other than his salary.

There is strong possibility that during open investigation, disproportionate assets will further increase as there are more immovable properties. the details of which could not be gathered due to paucity of time. During open investigation, the expenditure on house hold articles, demat accounts details credit cards details, pleasure trip, expenses and some more bank accounts details in the name of Sri K.M. Tripathi and his family members are likely to be revealed.

In view of the above facts, a regular case U/s 13 (2) r/w 13 (1) (e) of PC. Act, 1988 may be registered against Sri K.M. Tripathi, the then Chief Regional Manager, Indian Railway Catering and Tourism Corporation Limited, Regional Office, Lucknow for the possession of disproportionate assets to his known source of income to the tune of Rs. 2,10,64,767/-.

Sd.
09.12.2009
(A. K. SHARMA),
Dy. Supdt. of Police,
CBI, ACB, Lucknow

After obtaining necessary permission of the Govt. vide letter No. 2009/ V-2/ IRCTC/14 dt. 08.02.2010 as required U/s 6 A of DSPE Act 1946, a regular case u/s 13 (2) r/w 13 (1)(e) of P. C. Act, 1988 against Sri K.M. Tripathi, the then Chief Regional Manager, Indian Railway Catering and Tourism Corporation Limited, Regional Office, Lucknow is registered and entrusted to Sri Surender Rai, Inspector, CBI, ACB, Lucknow for investigation.

7.3. From a bare perusal of above quoted portion of the letter dated 09.12.2009 indicates that after obtaining necessary permission of the Government of India vide letter No.2009/V-2/IRCTC/14 dated 08.10.2010 as required under Section 6A of DSPE Act, 1946, a regular case under Section 13 (2) read with Section 13(1)(e) of PC Act was registered against the applicant and one Sri Surender Rai, Inspector, CBI, ACB, Lucknow was directed to investigate the matter on 24.02.2010 itself, the date of second FIR i.e. FIR/Case Crime No. RC0062010A0010 dated 24.02.2010, in relation to which the present application for the relief(s) sought, quoted above, has been filed.

8. While pressing the instant application for the relief sought, quoted above, Sri Chandra Bhushan Pandey, learned counsel for the applicant submitted that pending Criminal Case arising out of FIR/Case Crime No.RC0062010A0010/2010 is not in consonance with the spirit of

relevant statutory provision and also Article 20(2) of Constitution of India.

9. Elaborating the aforesaid, Shri Pandey submitted as under :

(i) In Section 13(1) of the Act of 1988, expression/word 'or' has been mentioned in relation to all the sub-sections and as such the trial for the offence under Section 13(1)(e) of the Act of 1988 cannot proceed for the reason that the applicant has already been convicted for the offence under Section 13(1)(d) of the Act of 1988.

(ii) Subsequent/second FIR lodged on 24.10.2010 registered as FIR/Case Crime No.RC0062010A0010, the basis of Criminal Case No.12 of 2011 i.e. 'Second Case/Case-in-Issue', is also not in consonance with the principles settled in this regard. Reliance in this regard has been placed on the judgment passed by the Hon'ble Apex Court in the case of **T.T. Antony vs. State of Kerala and others, (2001) 6 SCC 181**. Referred paragraphs of which are as under :

"19. The scheme of CrPC is that an officer in charge of a police station has to commence investigation as provided in Section 156 or 157 CrPC on the basis of entry of the first information report, on coming to know of the commission of a cognizable offence. On completion of investigation and on the basis of the evidence collected, he has to form an opinion under Section 169 or 170 CrPC, as the case may be, and forward his report to the Magistrate concerned under Section 173(2) CrPC. However, even after filing such a report, if he comes into possession of further information or material, he need not register a fresh FIR; he is empowered to make further investigation, normally with the leave of the court, and where during further investigation he collects further evidence, oral or documentary, he is obliged to forward the same with one or more further reports; this is the import of sub-section (8) of Section 173 CrPC.

20. From the above discussion it follows that under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 CrPC only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 CrPC. Thus there can be no second FIR and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences. On receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same

occurrence and file one or more reports as provided in Section 173 CrPC.

xxxxxxx xxxxxxxx xxxxxxx xxxxxxx xxxxxxx

27. A just balance between the fundamental rights of the citizens under Articles 19 and 21 of the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. There cannot be any controversy that sub-section (8) of Section 173 CrPC empowers the police to make further investigation, obtain further evidence (both oral and documentary) and forward a further report or reports to the Magistrate. In Narang case [(1979) 2 SCC 322 : 1979 SCC (Cri) 479] it was, however, observed that it would be appropriate to conduct further investigation with the permission of the court. However, the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under Section 173(2) CrPC. It would clearly be beyond the purview of Sections 154 and 156 CrPC, nay, a case of abuse of the statutory power of investigation in a given case. In our view a case of fresh investigation based on the second or successive FIRs, not being a counter-case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 CrPC or under Articles 226/227 of the Constitution."

(iii) The trial pertaining to subsequent/second FIR cannot proceed in terms of Article 20(2) of the Constitution of India, Section(s) 220, 221 and 300 Cr.P.C. and Section 71 of IPC.

10. Opposing the instant application, Sri Anurag Kumar Singh, Advocate, who appeared for the opposite party/CBI, submitted that the applicant is not entitled for the main relief sought in this application, quoted above. In continuation Sri Singh submitted as under :

(i) Based upon Written Report dated 30.10.2009 an FIR was lodged on 30.10.2009 registered as Case Crime No. RC0062009A0033.

(ii) The applicant was caught red handed on 31.10.2009 and the 'Trap Memo' was also prepared, based upon the same the first case was registered as Case Crime No. RC0062009A0033.

(iii) In the Case Crime No. RC0062009A0033, the charge sheet was filed for the offence under Sections 7 and 13(2) read with Section 13(1) (d) of the PC Act.

(iv) Subsequent to filing of the charge sheet, the trial court proceeded in the matter and ultimately found that the applicant is guilty for the offence under Section 7 and Section 13(1)(d) read with Section 13 (2) of the PC Act and therefore passed the judgment dated 11.08.2014 whereby convicted the applicant.

(v) The Case Crime No.RC0062010A0010, in relation to which the instant application has been filed, was registered based upon the assets found during search after seeking necessary permission from the Government of India as required under Section 6A of DSPE Act, 1946, under Section 13(2) read with Section 13(1)(e) of the PC Act, which relates to disproportionate assets.

(vi) For the offence indicated under Section(s) 7 and 13 (1)(d) of the PC Act the applicant has already been convicted vide order dated 11.08.2014.

(vii) Section 13(1)(d) relates to demand of illegal gratification and Section 13(1)(e) relates to disproportionate assets. Thus, Section 13(1) (e) is the separate offences. As such, the applicant can be tried for both the offences separately.

(viii) In the 'First Case' i.e. Case Crime No. RC0062009A0033 related to Section 13(1)(d), the applicant has already been convicted and the present case would be dealt with on the basis of assets found during search and the income of the applicant of which the applicant is legally entitled.

(ix) The 'First Case' i.e. Case Crime No. RC0062009A0033 under Section 13 (1)(d) of the PC Act was based upon the different evidence and the Case-in-Issue, arising out of Case Crime No. RC0062010A0010, under Section 13 (1)(e) of PC Act is based upon different evidence.

(a) On the aforesaid, reference has been made to page 128 of the paper book, which is the copy of 'List of Articles' filed in Case Crime No.RC0062009A0033, CBI/ACB, Lucknow. The same reads as under :

"LIST OF ARTICLES IN RC 0062009 A0033, CBI, ACB, Lucknow.

1. Sealed envelope containing tainted money amounting to Rs. 70,000/-.
2. 5 sealed bottles containing pink colour solution of Sodium Carbonate, water and Phenolphthalein powder.
3. One sealed envelope containing remaining Phenolphthalein powder used during pre-trap proceedings.
4. One sealed envelope containing piece of paper used during pre-trap proceedings.
5. Specimen seal used by CBI during laying of trap.
6. Two sealed CDs containing the recorded conversation between the accused Shri K.M. Tripathi and Shri Sunil Kumar Singh, the complainant and accused Shri Ajay Kumar Srivastava and Shri Sunil Kumar Singh, the complainant.
7. One briefcase belonging to accused Shri K.M. Tripathi from which the tainted GC Notes were recovered."

(b) Reference has also been made to copy of 'List of Documents' filed in Case Crime No.RC0062010A0010 (Second Case/Case-in-Issue). Relevant portion of the same is extracted hereunder :

List of Documents in RC-0062010A0010

Sl. No.	Description of documents
1	FIR of RC0062010(A)0010
2	Sale deed of House No.70 Duplex Awaas Vikas Parishad, Mall Avenue, Lko
3	Letter No.5914/RC-10(A)/2010/CBI,ACB/Lucknow, date 29-07-2010
4	Letter No.5617/RC-10(A)/2010/CBI, ACB/Lucknow, dated 13.07.2010
5	Valuation report of House No. 70 Duplex Awaas Vikas Parishad, Mall Avenue, LKO.
6	Seizure Memo dt.10.5.2010
7	Sale deed of H. No.B-1/12 L. Road Type B, Mahanagar, Extension, LKO.
8	Search-List on 31.10.2009 along with Valuation report of Gold ornaments, Silver Ornaments, Coins and Utensils.
9	Inventory memo on 31.10.2009.
10.	Document related (Invoice) to purchased maruti Car from T.S. Motar Ltd. LKO.
11	Certified copy of license of Revolver.
12	Certified copy of license of Rifle
13	Fax No.05912416680 dt.13.04.2011 related to Kamal Armoury, Moradabad, Bill dt. 09.09.2005
14	FIR of Case Crime No.1201, 1202/09 P.S. Hazratganj, Lucknow.
15	Seizure Memo dt. 20.04.2010
16	Documents related to Royal Bank of Scotland (RBS) A/C No.1189656
17	Seizure Memo dt. 4.5.2010

18	<i>Documents related to bank of Baroda, Gomti nagar, Vipul Plaza, Vipul Khand, Lko's A/C No.26700400004051 of overdraft loan</i>
19	<i>Seizure Memo dt. 20.5.2010</i>
20	<i>Documents related from Canara bank Sapru Marg LKO A/C No.2186101006843</i>
21	<i>Seizure Memo dt.20.5.2010</i>
22	<i>Documents related from ICICI Bank, Br-Hazratganj LKO A/C No.628101073549</i>
23	<i>Seizure Memo dt. 06.9.2010</i>
24	<i>Documents related to Share Certificate No.423412 of IDBI Bank Br-Hazratganj, LKO.</i>
25	<i>Seizure Memo dt. 31.12.2010</i>
26	<i>Documents related to Bank of Baroda, Gomti nagar, Vipul Plaza, Vipul Khand, Lko's A/C No.26700600007135 of Housing Loan</i>
27	<i>Documents related to Car Loan pertaining to ICICI Bank Hazratganj LKO Agreement No.LALUC00005490563.</i>
28	<i>Seizure Memo dt 14.01.2011</i>
29	<i>Documents relating to LIC Lucknow Policy No. 211162383, 211279715, 211528424, 215896557</i>
30	<i>Seizure Memo dt. 9.07.2010</i>
31	<i>Certified Photo Copy of A/C No.CLSB/01/020198 of Corporation Bank of India Br-Indranagar Lko, Certified Photo copy of A/C No.SB/01/004298 of Corporation Bank of India Br-Gomtinagar Lko.</i>
32	<i>Seizure Memo dt 17-1-2011.</i>
33	<i>Certified Photo copy of A/C No.SB/1/004298 of Corporation Bank of India Br-Gomtinagar Lko,</i>
34	<i>Seizure memo dt 22-10-2010</i>
35	<i>Certified Photo copy of A/C statement of SBI Gorakhpur related to A/C/11049774987 on 24-05-09 to 30-05-09</i>
36	<i>Seizure memo dt 08.09.2010</i>
37	<i>Documents related to Agricultural Income</i>
38	<i>Seizure Memo dt 09-04-2010</i>
39	<i>Certified Photo copy of letter dt 26-11-09 from Shri Anil Tekariwa, to SP, CBI, ACB Lko along with statement A/C 1854000101009317 holder of Shri Anil Tekariwal.</i>
40	<i>Seizure memo dt 20-01-2011</i>
41	<i>Certified Photo copy of A/C statement, A/C 1854000101009317 holder of Shri Anil Tekariwal</i>
42	<i>Seizure Memo dt 13-05-2010</i>
43	<i>Certified Photo copy of A/C Statement, A/C 00500100000096 holder of Smt. Poonam Tripathi</i>
44	<i>Seizure Memo dt 8-07-2010</i>
45	<i>Certified Photo copy of purchase Voucher, Bank statement of Bank of India, Br-Mahanagar, Lko, Ledger A/C of Smt. Poonam Tripathi.</i>
46	<i>Seizure Memo dt 28-05-2010</i>
47	<i>Documents related to Aviva Life Insurance Ltd. LKO Policy No.RSG/1307840</i>
48	<i>Gift deed of Late Umrawati Devi</i>

49	<i>Seizure Memo dt 14-05-2010</i>
50	<i>Attested copy of Fees amount paid by Shri K.M. Tripathi to school for his daughters education.</i>
51	<i>Seizure memo dt 10-06-2010</i>
52	<i>Letter dated 09-06-2010 expenditure on education son of Shri K.M. Tripathi</i>
53	<i>Documents related to education expenditure on education daughter of Shri K.M. Tripathi</i>
54	<i>Documents related to education expenditure on education son of Shri K.M. Tripathi</i>
55	<i>Documents related to expenditure on Hotel Taj Blue Diamond, Pune's by Shri K.M. Tripathi, Bill No.82512 dt.12.07.06, amount Rs.31,582/-</i>
56	<i>Seizure Memo dt 10-11-2010</i>
57	<i>Documents related to Certified Photo copy of pay particulars of Shri Mrishna Mohan Tripathi, 1989 to Aug-2008</i>
58	<i>Seizure Memo dt 02-12-2010</i>
59	<i>Certified copy of statement of Immovable property, Annual property return, Transaction of Immovable property, salary statement, year 2008-9, 2009-10</i>
60	<i>Letter No.IRCTC/RO/Lko/GEN CORRES dt 14-03-11</i>
61	<i>Letter No -E/PC/KM Tripathi/YDPM dt 4-4-11</i>
62	<i>Seizure Memo dt 19-11-2010</i>
63	<i>Certified copy of personal File of Shri Krishna Mohan Tripathi, with the note sheet.</i>
64	<i>Prosecution Sanction Order letter no.RCNO. 0062010A0010, 2011/V2/IRCTC/12-CBI New Delhi, Date 29-11-2011</i>

(c) Reference has also been made to the copy of the 'List of Witnesses' filed in Case Crime No.RC0062010A0010. The names and particulars of Witnesses, as indicated in this document, are as under :

List of Witnesses in RC0062010A0010

S.No	Description of the witnesses
1	Shri Ajay Kumar Sharma, the then Dy. Supdt of Police, CBI, ACB, Lucknow
2	Shri Md. Yahiya Qureshee S/o Shri Balagat Husain, Ad. Khajanchi Bazar, P.O.- Basharatpur, Gorakhpur, Present Address- Janpath, Chandralok, Aliganj, Lucknow
3	Shri Amresh Chandra Tripathi, Asstt. IG Registration (First) Lucknow
4	Shri Pradeep Kumar S/o Gul Rajiram, Valuation Officer, Income Tax Office, Lucknow
5	Shri Pradeep Kumar Aren S/o Shri Brajendra Singh Gupta, 2/301, East end Apart., Mayur Vihar, Phase-I
6	Shri Rajesh Pratap Singh, Daily Wages Clerk, O/o Sub-Registrar (III), Lucknow
7	Shri Manoj Kumar Srivastava, Sub-Registrar-III, Registrar Office, Lucknow (Statement not recorded)
8	Shri Santosh Kumar Saravgi Sr. Manager, Punjab National Bank, Circle Office, LKO

9	Shri Pushkar Nath Kesharwani, R/O B-711, Sector-C, Mahanagar, Lucknow
10	Shri Manish Kumar Pandey, Bunglow Khalasi, R/O Patti Dilippur, P.S.- Patti, Distt-Pratapgarh (UP)
11	Shri Harish Chandra Saxena, Prop. Kamal Armoury, Arms Dealer, Moradabad
12	Shri Anoop Kumar Shukla, Joint General Manager, Small Arms Factory, Kanpur (Statement not recorded)
13	Shri Ashish Kumar, Price Counter / Computer Operator, Cheers Model Shop, ShahNazaf Road, LKO
14	Shri Punit Arora, Operational Manager, Royal Scotland Bank-13, MG Marg, LKO
15	Shri Gaurav Seth, Lobby Manager, Royal Scotland Bank-13, MG Marg, LKO
16	Shri Naresh Chandra Tripathi S/o Late Jeevan Lal, Operation Manager, Bank of Baroda, Br-Charbagh, LKO
17	Shri Harish Kumar Purwar, Sr. Manager, Bank of Baroda, Br-Gomti Nagar, LKO
18	Shri Sharat Kumar S/o Raj Narain Srivastava, Sr. Branch Manager, Canara Bank, Br-Sapru Marg, LKO
19	Shri Ashwini Kumar Vyas S/o Shri Sadanand Vyas, Asstt. Branch Manager, ICICI Bank, Br.- Hazratganj, Lucknow.
20	Shri Sumit Sinha S/o Shri Sudhir Kumar Sinha, R/o D-1/420 H.L. Colony, LKO, Asstt. Manager, IDBI Bank, Br- Hazratganj, Lucknow.
21	Shri Upendra Singh, S/o Late Lallu Singh, Universal Tailor, Bank of Baroda, Br.- Gomti Nagar, LKO.
22	Shri Rohit Sahni, Cluster Manager, ICICI Bank, Br.- Hazratganj, Lucknow.
23	Shri Anil Kumar Mishra, Chief Manager, LIC, Hazratganj, Lucknow.
24	Shri Vinay Kumar Tripathi S/o Late Kedar Nath Tripathi, R/o Betiya Hata, Gorakhpur, 3/89 Vishal Khand, Gomti Nagar, Lucknow.
25	Shri Gaurav Mishra, Clerk, Corporation Bank Br.- Gomti Nagar, Lucknow.
26	Shri Ramesh Mishra S/o Ramvraksh Mishra R/o 577 Mamford Ganj, Allahabad, AGM, S.B.I., R.A.,S., M.E.C.C., Gorakhpur.
27	Shri Dayaram Prajapati S/o Shri Thakurdeen Prajapati, I/C Nayab Tahsildar, Tahsil-Khajni, Gorakhpur.
28	Shri Pramod Kumar S/o Shri Sachiddanand, Lekhpal Village-Kotha, Tahsil-Kajni, Gorakhpur.
29	Shri Anil Tekriwal S/o RadheyShyam Tekriwal, 1-Sapru Marg, Lucknow, owner of Cox and Kings Travels Agency, Lucknow.
30	Shri Rajesh, Personnel of Punjab National Bank Br-Aliganj, Lucknow.
31	Shri Madan Lal Bhagat, Sr. Manager, Bank of Baroda Br-Hazratganj, Lucknow.
32	Shri Nishank Rastogi, Partner of the Firm Lallu Lal Jugal Kishore, Jeweller, M-12 Gole Market, Mahanagar, Lucknow.
33	Shri Shailesh Kumar Mishra, Branch Manager, AVIVA Life Insurance Co., Lucknow.
34	Shri Ganesh, Peon, Loreto Convent Intermediate College, 99 M.G. Marg, Lucknow.
35	Smt. L. Georg, Principal, Loreto Convent Intermediate College, Lucknow. (Statement not recorded)
36	Shri Carloze Miz S/o Shri Julias Miz, Office Asstt., St. Francis College, Lucknow.

37	<i>Father Vin Saint Pintu, Principal, St. Francis College, Lucknow. (Statement not recorded)</i>
38	<i>Smt. M. Abraham, Principal, La-Marteniar Girls College, Lucknow. (Statement not recorded)</i>
39	<i>Shri E. Disuza, Principal, La-Marteniar College, Lucknow (Statement not recorded)</i>
40	<i>Shri Sandeep Mukherjee, General Manager, Hotel Taj Blue Diamond, Pune, (Statement not recorded)</i>
41	<i>Shri Kunwar Singh Rawat S/o Late Preetu Singh Rawat, Chief Vigilance Inspector, Head Office, North Railway Vigilance Department, Baroda House, New Delhi.</i>
42	<i>Shri ChandraKant Jha, S/o Shrikant Jha, Executive, IRCTC, North Zone, New Delhi.</i>
43	<i>Shri VayuNandan Shukla, Sr. Executive Finance, IRCTC, Regional Office, Gomti Nagar, Lucknow.</i>
44	<i>Shri Jagdish Kunwar Srivastava, Sr. Clerk, Personnel Section (Gazetted), N.E.R., LKO.</i>
45	<i>Shri Ramesh Pandey S/o Shri Brindavan Pandey, Chief Vigilance Inspector, Vigilance Office, N.E.R., Gorakhpur.</i>
46	<i>Shri Md. Istiyaq Khan S/o Md Ilhaq Khan, Account Officer, O/o Sr. Finance Manager, North Railway, Lucknow.</i>
47	<i>Shri Sunil Kumar, Deputy Secretary (D&A), Ministry of Railways, Railway Board, New Delhi. (Statement not recorded)</i>
48	<i>Surendra Rai, Inspector, Investigating Officer.</i>

(x) To establish/prove the Second Case/Case-in-Issue before the trial court arising out of Case Crime No. RC0062010A0010, the prosecution, as per charge sheet, would produce 48 witnesses including the complainant namely Sri Ajay Kumar Sharma, the then Deputy Superintendent of Police, CBI/ACB, Lucknow, who was not the complainant of Case Crime No. RC0062009A0033.

(xi) The complainant of the Case Crime No. RC0062009A0033 was Sunil Kumar Singh, who was examined before the Trial Court, and on the basis of whose complaint the applicant was caught red handed on 31.10.2009 and from the possession of the applicant an amount to the tune of Rs.70,000/- was recovered and thereafter phenolphthalein test of the applicant was also carried out and 'Trap Memo' was prepared.

(xii) Other witnesses in Criminal Case No. 17 of 2010, arising out of Case Crime No. RC No.RC0062009A0033, were Santosh Kumar Saraogi, Senior Manager, Punjab National Bank, Circle Office, Lucknow and Saurav Paul, Agriculture Officer, Punjab National Bank, Circle Office, Lucknow (witnesses of recovered amount of Rs.70,000/- from the possession of the applicant on 31.10.2009).

(xiii) As both the aforesaid FIRs relate to different offences, the case of ***T.T. Anthony (Supra)*** would not be applicable in the instant case. Other provisions, as pointed out by Sri C.B. Pandey, Advocate, would also not be applicable in the instant case.

(xiv) The time period and set of accused as also witnesses in both the cases are different.

(xv) In 'First Case' arising out of Case Crime No.RC0062009A0033, Ajay Kumar Sharma was also an accused and he has been acquitted by the trial court. The Second Case/Case-in-Issue is only against the applicant.

(xvi) First Case arising out of Case Crime No. RC0062009A0033 was related to recovery of amount i.e. Rs.70,000/- on 31.10.2009 from the possession of the applicant and therefore the applicant was charged related for the offence under Section 13 (1)(d) of PC Act.

(xvii) The Second Case/Case-in-Issue relates to acquired assets, which were found not proportionate to the known sources of income of the applicant, during his service period w.e.f. 06.03.1989 (the date of joining the service) and 31.10.2009 (the date of search) and therefore the separate F.I.R. was lodged, registered as Case Crime No. RC0062010A0010, under Section 13 (1)(e) of PC Act and in this section subsequently the charge-sheet was filed.

(xviii) In support of submissions advanced, Sri Anurag Kumar Singh has placed reliance on the following judgments :

(a) ***V.K. Puri vs. Central Bureau of Investigation, (2007) 6 SCC 91.***

Relevant paragraphs referred are extracted herein under :

"11. The 1988 Act is a special Act. It overrides the provisions of the general law viz. the Code of Criminal Procedure. But, then when a matter is not covered by the 1988 Act, in view of sub-section (3) of Section 5 of the 1988 Act, the provisions of the Code of Criminal Procedure shall clearly be applicable.

12. A distinction exists between a case filed under Sections 13(1)(c) and 13(1)(d) of the 1988 Act, on the one hand, and Section 13(1)(e) thereof, on the other.

13. Ingredients of the offence under Section 13(1)(e) of the 1988 Act are:

(i) the accused is a public servant;

(ii) the nature and extent of the pecuniary resources of property found in his possession;

(iii) his known sources of income i.e. known to the prosecution;

(iv) such resources or properties found in possession of the accused were disproportionate to his known sources of income.

14. Once, however, the aforementioned ingredients are established by the prosecution, the burden of proof would shift on the accused to show that the prosecution case is not correct. (See *M. Krishna Reddy [(1992) 4 SCC 45 : 1992 SCC (Cri) 801]* , para 7.)

15. One of the ingredients of offences, therefore, is known sources of income. What is material therefor is that the criminal misconduct had been committed during the period the accused held office and not the places where he had held offices. The fact that the appellant had bank accounts within the jurisdiction of the Delhi Courts as also immovable properties is not in dispute. The respondent in the charge-sheet has clearly pointed out that one of his known sources of income was the rental received by him from his Delhi flat. The same had been given due credit for the purpose of arriving at a *prima facie* satisfaction that the assets possessed by him are disproportionate to his known sources of income.

16. From a perusal of the charge-sheet, it furthermore appears that the appellant is said to have acquired large properties including several bank accounts. For the purpose of proving the offence, therefore, on the one hand, known sources of income must be ascertained vis-à-vis the possession of property or resources which were disproportionate to the known sources of income of public servant and the inability of the public servant to account for it, on the other. Whereas the burden to prove the first part of the offence is on the prosecution, in the event the same is proved, it would shift to the public servant concerned. (See *P. Nallammal [(1999) 6 SCC 559 : 1999 SCC (Cri) 1133]* .)

17. It is not a case where the offence revolves round any conspiracy or abetment to commit an offence. It is also not a case falling under clauses (c) and (d) of sub-section (1) of Section 13 of the 1988 Act as was the case in *Braj Bhushan Prasad [(2001) 9 SCC 432 : 2002 SCC (Cri) 576]* . The appellant is not accused of commission of such an offence. No other person has been charged with the offence of abetment and conspiracy. The question of finding out the place where the offence was completed, thus, does not arise in this case.

18. Strong reliance has been placed by Mr Nageswara Rao on a Single Judge Bench decision of the Kerala High Court in *Banwarilal Jhunjhunwalla v. Union of India [AIR 1959 Ker 311]* wherein it was observed:

“13. Taking the first offence under Section 5(2) of the Prevention of Corruption Act, alleged to have been committed by Thomson, there can be little doubt that it was committed within the State of Kerala where he passed inferior jungle wood as timber of the contract quality and issued false certificates to that effect. (Of course these statements are as yet no more than assumptions based on the prosecution case, in accordance with which the question of jurisdiction has to be determined and it is unnecessary to repeat this caution at every stage of the discussion.)

When Thomson did this, he was undoubtedly abusing his position as a public servant, and it is a legitimate inference that he thereby obtained for himself or at least for the contractors, a pecuniary advantage. The act of abusing his position as a public servant certainly took place within the Kerala State where the false certificates were issued, and even if the consequence of obtaining a pecuniary advantage for himself or for the contractors which consequence makes that act an offence took place elsewhere, under Section 179, Criminal Procedure Code, the Special Judge for Kerala would have jurisdiction to try the offence. That the Special Judge has jurisdiction to try Thomson for the offence under Section 5(2) of the Prevention of Corruption Act is, in fact, not disputed.”

19. However, therein the factual matrix was absolutely different. In a case of this nature, the question of completion of any offence does not arise.

20. In a case involving Section 13(1)(e) of the 1988 Act, what is necessary is as to whether keeping in view the period in question, commonly known as check period, the public servant has acquired wealth which is disproportionate to his known sources of income. It has nothing to do with individual case of bribery. It has nothing to do with a series of acts culminated into an offence.

21. Each court, where a part of the offence has been committed, would, therefore, be entitled to try an accused. The 1988 Act does not bar application of Section 178 of the Code of Criminal Procedure. If application of the provision of Section 178 of the Code of Criminal Procedure is not barred, the fact that the appellant has a part of his known sources of income at Delhi, in our opinion, would confer jurisdiction upon the Delhi Courts. It is one thing to say that only the Special Courts will have jurisdiction to try the offence, but for the purpose of arriving at a decision as to the Special Judge of which place shall have the requisite jurisdiction, the situs of the property may or may not have any relevance. Once the situs of the property is held to have relevance for the purpose of ascertaining his known source of income and consequent acquisition of disproportionate assets, in our opinion, the Special Judge concerned will also have the requisite jurisdiction to try the case. For the said purpose, purport and object for which the 1988 Act has been enacted must be taken into consideration. The doctrine of purposive construction therefor must be taken recourse to.

22. With respect, Punchhi, J. (as the learned Chief Justice then was) in *Kamal Dev* [(1986) 3 Crimes 305 (P&H)] was not concerned with such a question and in that view of the matter, the following observations made in para 4 may not have strict application : (Crimes p. 306, para 4)

“4. The commission of the offence of criminal misconduct has nexus to the period of his office. It is so intimately interlinked that it is the place of office which would determine the place of commission of his misconduct. It is through his office alone that one can determine his known source of income and if his property which is presently in his possession or in possession of someone on his behalf, or has at any time during the period of his office been in his possession or of someone on his behalf, then it is relatively to be viewed with the period of his office. In this context, the place of office assumes importance, for that would determine the jurisdiction in which the offence of criminal misconduct would be triable. Thus, in the instant case, I am of the view that it was

the Special Judge at Chandigarh who had the jurisdiction to try the offence against the petitioner.”

23. In any event, as would appear from para 5 of the said judgment itself, the learned Judge did not intend to determine the said question finally as ultimately the doctrine of forum conveniens had been taken recourse to for holding that although more than one Special Judge may have jurisdiction to try the offence, the Special Judge at Chandigarh would be the appropriate authority to have the case tried before it in the interest of justice.”

(b) Prem Shankar Singh vs. State of U.P. thru CBI, 2019 SCC OnLine All 4743. Relevant paragraphs referred are extracted herein under :-

“10. The Supreme Court in the case of State of Jharkhand through S.P., CBI v. Lalu Prasad Yadav alias Lalu Prasad, (2017) 8 SCC 1 in paragraphs 40, 41, 42, 49 and 50 which summarising the law on the point has held as under:-

“40. In the instant case, offences are not the same offence. There can be different trials for the same offence if tried under two different enactments altogether and comprised of two different offences under different Acts/statutes without violation of the provisions of Article 20(2) or Section 300 CrPC. This Court has decided the issue in various cases:

40.1. In Kharkan v. State of U.P. [Kharkan v. State of U.P., (1964) 4 SCR 673 : AIR 1965 SC 83 : (1965) 1 Cri LJ 116] this Court has laid down thus: (AIR p. 86, para 10)

“10. ... Even if the two incidents could be viewed as connected so as to form parts of one transaction it is obvious that the offences were distinct and required different charges. The assault on Tikam in fulfilment of the common object of the unlawful assembly was over when the unlawful assembly proceeded to the house of Tikam to loot it. The new common object to beat Puran was formed at a time when the common object in respect of Tikam had been fully worked out and even if the two incidents could be taken to be connected by unity of time and place (which they were not), the offences were distinct and required separate charges. The learned Sessions Judge was right in breaking up the single charge framed by the Magistrate and ordering separate trials. In this view the prior acquittal cannot create a bar in respect of the conviction herein reached.”

40.2. In Maqbool Hussain v. State of Bombay [Maqbool Hussain v. State of Bombay, 1953 SCR 730 : AIR 1953 SC 325 : 1953 Cri LJ 1432] this Court has laid down thus: “The appellant had smuggled gold into India and was booked under Section 167(8) of the Sea Customs Act, 1878 and subsequently when no one came to claim the gold, he was charged under Section 8 of FERA. He challenged this as violation of Article 20(2). The Court analysed the scope of Article 20(2) and held that the “prosecution” must be before a court of law or judicial tribunal. The plea of double jeopardy was discarded as it was held that the Customs Authorities were not a judicial tribunal or court. For double jeopardy, the test is whether the former offence and the offence now charged have the same ingredients in the sense that the facts constituting the one are sufficient to justify a conviction of the other and not that the facts relied on by the prosecution are the same in the two trials.”

40.3. In *State of Bombay v. S.L. Apte* [*State of Bombay v. S.L. Apte*, (1961) 3 SCR 107 : AIR 1961 SC 578 : (1961) 1 Cri LJ 725] a Constitution Bench of this Court has laid down as to the issue regarding conviction under Section 409 IPC and Section 105 of the Insurance Act. The submission of double jeopardy was repelled with respect to offences under Section 11 IPC and Section 105 of the Insurance Act. It was held that the offences under both the Acts are distinct due to their ingredients. So as to constitute double jeopardy two offences should be identical.

40.4. In *T.S. Baliah v. ITO* [*T.S. Baliah v. ITO*, (1969) 3 SCR 65 : AIR 1969 SC 701], the appellant was sought to be prosecuted under Section 177 IPC and Section 52 of the Income Tax Act, 1922 for furnishing wrong information in his tax returns. On consideration of Section 26 of the General Clauses Act, this Court held that the provision did not provide a bar on trial and conviction for the same offence under more than one enactment in case ingredients of offences are distinct. It only barred double punishment and not double conviction.

40.5. In *Collector of Customs v. Vasantraj Bhagwanji Bhatia* [*Collector of Customs v. Vasantraj Bhagwanji Bhatia*, (1988) 3 SCC 467 : 1988 SCC (Cri) 679] the question arose whether acquittal of an accused charged with having committed the offence punishable under Section 111 read with Section 135 of the Customs Act, 1969 created a legal bar to the accused, subsequently being prosecuted under Section 85 of the Gold (Control) Act, 1968. It was held that the ingredients of the offence under each of the enactments were quite different. The Court applied the test developed in *Maqbool Hussain* [*Maqbool Hussain v. State of Bombay*, 1953 SCR 730 : AIR 1953 SC 325 : 1953 Cri LJ 1432] and held the two offences to be different in scope and contents of their ingredients. The Court also relied upon *S.L. Apte* [*State of Bombay v. S.L. Apte*, (1961) 3 SCR 107 : AIR 1961 SC 578 : (1961) 1 Cri LJ 725] decision and observed that what is necessary is to analyse the ingredients of the two offences and not the allegations made in two complaints. No doubt about it that there can be separate offences but ingredients would remain same under penal provision but that would also not make out a case of violating the provisions of Article 20(2) of the Constitution and Section 300 CrPC.

40.6. In case ingredients of the offences to be tried separately arise out of the same offence, there can be separate trials under two enactments, if the ingredients constituting two offences are different under different Acts, there is no bar for separate trials. In *State of Bihar v. Murad Ali Khan* [*State of Bihar v. Murad Ali Khan*, (1988) 4 SCC 655 : 1989 SCC (Cri) 27] it was held: (SCC pp. 665, 667 & 668, paras 24, 28 & 31) The expression “any act or omission which constitutes any offence under this Act” in Section 56 of the Wild Life (Protection) Act, 1972, merely imports the idea that the same act or omission might constitute an offence under another law and could be tried under such other law or laws also. Further held that, if there are two distinct and separate offences with different ingredients under two different enactments, a double punishment is not barred. The same set of facts can constitute offences under two different laws. An act or an omission can amount to and constitute an offence under IPC and at the same time constitute an offence under any other law.

40.7. In *State of Rajasthan v. Hat Singh* [*State of Rajasthan v. Hat Singh*, (2003) 2 SCC 152 : 2003 SCC (Cri) 451] this Court was dealing with

vires of the Rajasthan Sati (Prevention) Act, 1987. It was urged that Sections 5 and 6 of the new Sati Act were overlapping. It was held that with regard to Article 20(2) that subsequent trial or a prosecution and punishment are not barred if the ingredients of two offences are distinct. There can be separate offences from same set of facts and hence no double jeopardy.

40.8. In Monica Bedi v. State of A.P. [Monica Bedi v. State of A.P., (2011) 1 SCC 284 : (2011) 1 SCC (Cri) 22] this Court considered the meaning of the expression “same offence” employed in Article 20(2) and observed that second prosecution and conviction must be for the same offence. If the offences are distinct, there is no question of the rule as to double jeopardy being applicable. This Court has observed thus: (SCC pp. 293 & 295, paras 26 & 29) “26. What is the meaning of the expression used in Article 20(2) “for the same offence”?”

What is prohibited under Article 20(2) is, that the second prosecution and conviction must be for the same offence. If the offences are distinct, there is no question of the rule as to double jeopardy being applicable.

29. It is thus clear that the same facts may give rise to different prosecutions and punishment and in such an event the protection afforded by Article 20(2) is not available. It is settled law that a person can be prosecuted and punished more than once even on substantially same facts provided the ingredients of both the offences are totally different and they did not form the same offence.”

40.9. In Sangeetaben Mahendrabhai Patel v. State of Gujarat [Sangeetaben Mahendrabhai Patel v. State of Gujarat, (2012) 7 SCC 621: (2012) 4 SCC (Civ) 305 : (2013) 3 SCC (Cri) 445], with respect to double jeopardy, this Court has laid down thus: (SCC pp. 633-34, para 33)

“33. In view of the above, the law is well settled that in order to attract the provisions of Article 20(2) of the Constitution i.e. doctrine of autrefois acquit or Section 300 CrPC or Section 71 IPC or Section 26 of the General Clauses Act, ingredients of the offences in the earlier case as well as in the latter case must be the same and not different. The test to ascertain whether the two offences are the same is not the identity of the allegations but the identity of the ingredients of the offence. Motive for committing offence cannot be termed as the ingredients of offences to determine the issue. The plea of autrefois acquit is not proved unless it is shown that the judgment of acquittal in the previous charge necessarily involves an acquittal of the latter charge.”

40.10. In State of Rajasthan v. Bhagwan Das Agrawal [State of Rajasthan v. Bhagwan Das Agrawal, (2013) 16 SCC 574 : (2014) 6 SCC (Cri) 319] there were 3 FIRs registered with respect to illegal supply of explosives. Charge was under the Explosives Act. This Court held that the nature and manner of the offences committed by the accused persons were not identical but were different, and as such FIRs were not relating to the same offence as different acts happened in different places. As such the provisions contained in Section 186 CrPC would not apply.

40.11. In State (NCT of Delhi) v. Sanjay [State (NCT of Delhi) v. Sanjay, (2014) 9 SCC 772 : (2014) 5 SCC (Cri) 437] this Court considered the maxim *nemo debet bis vexari pro una et eadem causa* i.e. no man shall be put in jeopardy twice for one and the same offence. In case

ingredients are different there canPrem Shankar Singh v. State of U.P., 2019 SCC OnLine All 4743 be separate trial for the same offence also. This Court has laid down thus: (SCC pp. 805-06, para 52)

“52. It is well-known principle that the rule against double jeopardy is based on a maxim nemo debet bis vexari pro una et eadem causa, which means no man shall be put in jeopardy twice for one and the same offence. Article 20 of the Constitution provides that no person shall be prosecuted or punished for the offence more than once. However, it is also settled that a subsequent trial or a prosecution and punishment has no bar if the ingredients of the two offences are distinct.”

41. In the light of the aforesaid discussion, it is appropriate to consider the submissions raised by Shri Surendra Singh, learned Senior Counsel appearing on behalf of Lalu Prasad Yadav. It was submitted by the learned Senior Counsel that since the conspiracy was between 1988 and 1996 which included the period of 1994-1995, the conviction has been made on the charge of conspiracy from 1988 to 1996 which included all the treasuries of the erstwhile State of Bihar. There was no charge of separate conspiracy. Charges being similar in the cases which have been quashed. No case is made out for trial under Section 120-B. Same and identical circumstances are being relied upon by the prosecution. There are no new or additional circumstances in the cases which have been quashed. The conspiracies referred to are one and the same and not different conspiracies. Thus, in view of the trial which had concluded, there cannot be further trial on the charge of conspiracy.

42. We are unable to accept the submissions raised by the learned Senior Counsel. Though there was one general charge of conspiracy, which was allied in nature, the charge was qualified with the substantive charge of defalcation of a particular sum from a particular treasury in particular time period. The charge has to be taken in substance for the purpose of defalcation from a particular treasury in a particular financial year exceeding the allocation made for the purpose of animal husbandry on the basis of fake vouchers, fake supply orders, etc. The sanctions made in Budget were separate for each and every year. This Court has already dealt with this matter when the prayers for amalgamation and joint trial had been made and in view of the position of law and various provisions discussed above, we are of the opinion that separate trials which are being made are in accordance with the provisions of law otherwise it would have prejudiced the accused persons considering the different defalcations from different treasuries at different times with different documents. Whatever could be combined has already been done. Each defalcation would constitute an independent offence. Thus, by no stretch, it can be held to be in violation of Article 20(2) of the Constitution or Section 300 CrPC. Separate trials in such cases is the very intendment of law. There is no room to raise such a grievance. Though evidence of general conspiracy has been adduced in cases which have been concluded, it may be common to all the cases but at the same time offences are different at different places, by different accused persons. As and when a separate offence is committed, it becomes punishable and the substantive charge which has to be taken is that of the offence under the PC Act, etc. There was conspiracy hatched which was a continuing one and has resulted into various offences. It was joined from time to time by different accused persons, so whenever an offence is committed in continuation of the conspiracy, it would be punishable separately for different periods as envisaged in Section 212(2), obviously, there have to

be separate trials. Thus it cannot be said to be a case of double jeopardy at all. It cannot be said that for the same offence the accused persons are being tried again.

x x x x

49. This Court has distinguished general conspiracy from a number of separate conspiracies having a similar general purpose. Where different groups of persons cooperate towards their separate ends without any privity with each other, each combination constitutes a separate conspiracy. It was held that in the case there was single general conspiracy to smuggle gold into India from foreign countries. The contention raised was that separate conspiracies were raised by the accused in the facts of the said case. The facts are quite different in the instant case. The question which has come up for consideration did not arise in the aforesaid decision and this Court has held that there was no prejudice caused to the accused persons by not making separate trials.

50. The modus operandi being the same would not make it a single offence when the offences are separate. Commission of offence pursuant to a conspiracy has to be punished. If conspiracy is furthered into several distinct offences there have to be separate trials. There may be a situation where in furtherance of general conspiracy, offences take place in various parts of India and several persons are killed at different times. Each trial has to be separately held and the accused to be punished separately for the offence committed in furtherance of conspiracy. In case there is only one trial for such conspiracy for separate offences, it would enable the accused person to go scot-free and commit a number of offences which is not the intendment of law. The concept is of "same offence" under Article 20(2) and Section 300 CrPC. In case distinct offences are being committed there has to be independent trial for each of such offence based on such conspiracy and in the case of misappropriation as statutorily mandated, there should not be joinder of charges in one trial for more than one year except as provided in Section 219. One general conspiracy from 1988 to 1996 has led to various offences as such there have to be different trials for each of such offence based upon conspiracy in which different persons have participated at different times at different places for completion of the offence. Whatever could be combined has already been done. Thus we find no merit in the submissions made by the learned Senior Counsel appearing on behalf of the accused persons."

11. Thus, when the accused have entered into separate conspiracies for committing the offences in each block, the filing of separate charge sheet in pursuance of one FIR, is neither illegal nor improper and the trial court has rightly taken cognizance in each charge sheet."

11. Considered the aforesaid and perused the record.

12. In order to come to the conclusion, this Court finds it appropriate to refer relevant provisions pointed out before this Court by the counsel for the applicant and based upon which he advanced his submissions.

(a) Article 20 (2) of the Constitution of India.

20(2). No person shall be prosecuted and punished for the same offence more than once.

(b) **Section 220 Cr.P.C.****"Section 220 Trial for more than one offence**

1. *If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.*
2. *When a person charged with one or more offences of criminal breach of trust or dishonest misappropriation of property as provided in Sub-Section (2) of section 212 or in Sub-Section (1) of section 219, is accused of committing, for the purpose of facilitating or concealing the commission of that offence or those offences, one or more offences of falsification of accounts, he may be charged with, and tried at one trial for, every such offence.*
3. *If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.*
4. *If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for the offence constituted by such acts when combined, and for any offence constituted by any one, or more, or such acts.*
5. *Nothing contained in this section shall affect section 71 of the Indian Penal Code (45 of 1860)."*

(c) **Section 300 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 or 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 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.

Illustrations

(a) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(b) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(c) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(d) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless this case comes within sub-section (3) of this section.

(e) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may subsequently be charged with, and tried for, robbery on the same facts.

(f) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts."

(d) **Section 71 IPC.**

"S. 71 Limit of punishment of offence made up of several offences

Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence, the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences."

(e) **Section 13 of the Act of 1988.**

"13. Criminal misconduct by a public servant.-

(1) A public servant is said to commit the offence of criminal misconduct,-

(a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in Section 7; or

(b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or

(c) If he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or

(d) if he,-

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage, or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage, or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or

(e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

Explanation. For the purposes of this section, "known sources of income" means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine."

13. In the facts/contexts of the instant case it would be useful to refer some pronouncements, in addition to which have been placed before this Court by the counsel for the parties.

(i) In the case of ***State of Rajasthan v. Surendra Singh Rathore***, 2025 SCC OnLine SC 358, the Hon'ble Apex Court considered the

various pronouncements on the issue related to lodging of 'Second FIR' including the judgment passed in the case of ***T.T. Antony (Supra)*** and thereafter concluded as under :-

"9. From the above conspectus of judgments, inter alia, the following principles emerge regarding the permissibility of the registration of a second FIR:

9.1 When the second FIR is counter-complaint or presents a rival version of a set of facts, in reference to which an earlier FIR already stands registered.

9.2 When the ambit of the two FIRs is different even though they may arise from the same set of circumstances.

9.3 When investigation and/or other avenues reveal the earlier FIR or set of facts to be part of a larger conspiracy.

9.4 When investigation and/or persons related to the incident bring to the light hitherto unknown facts or circumstances.

9.5 Where the incident is separate; offences are similar or different."

(ii) In the case of ***Sangeetaben Mahendrabhai Patel v. State of Gujarat, (2012) 7 SCC 621***, for coming to the conclusion (para 33) on the issue related to scope and application of 'Doctrine of Double Jeopardy' the Hon'ble Apex Court took note of Article 20(2) of Constitution of India, Section 171 of IPC, Section 300 of Cr.P.C., 26 of General Clauses Act, Section 11 of CPC and 115 of Indian Evidence Act and also various pronouncements related to the same. The relevant para(s) of the report are extracted herein under:

"9. The sole issue raised in this appeal is regarding the scope and application of the doctrine of double jeopardy. The rule against double jeopardy provides foundation for the pleas of autrefois acquit and autrefois convict. The manifestation of this rule is to be found contained in Section 300 CrPC; Section 26 of the General Clauses Act and Section 71 IPC.

13. In Maqbool Hussain v. State of Bombay [(1953) 1 SCC 736 : AIR 1953 SC 325 : 1953 Cri LJ 1432] , the Constitution Bench of this Court dealt with the issue wherein the central issue arose in the context of the fact that a person who had arrived at an Indian airport from abroad on being searched was found in possession of gold in contravention of the relevant notification, prohibiting the import of gold. Action was taken against him by the Customs Authorities and the gold seized from his possession was confiscated. Later on, a prosecution was launched against him in the criminal court at Bombay charging him with having committed the offence under Section 8 of the Foreign Exchange Regulation Act, 1947 (hereinafter called "the FERA") read with the relevant notification. In the background of these facts, the plea of autrefois acquit was raised seeking protection under Article 20(2) of the Constitution of India (hereinafter called "the Constitution")

14. This Court in Maqbool Hussain [(1953) 1 SCC 736 : AIR 1953 SC 325 : 1953 Cri LJ 1432] held that the fundamental right which is guaranteed under Article 20(2) enunciates the principle of "autrefois convict" or "double jeopardy" i.e. a person must not be put in peril twice for the same offence. The doctrine is based on the ancient maxim nemo debet bis punire pro uno

delicto, that is to say, that no one ought to be punished twice for one offence. The plea of autrefois convict or autrefois acquit avers that the person has been previously convicted or acquitted on a charge for the same offence as that in respect of which he is arraigned. The test is whether the former offence and the offence now charged have the same ingredients in the sense that the facts constituting the one are sufficient to justify a conviction of the other and not that the facts relied on by the prosecution are the same in the two trials. A plea of autrefois acquit is not proved unless it is shown that the verdict of acquittal of the previous charge necessarily involves an acquittal of the latter.

15. The Constitution Bench of this Court in *S.A. Venkataraman v. Union of India* [AIR 1954 SC 375 : 1954 Cri LJ 993] explained the scope of doctrine of double jeopardy, observing that in order to attract the provisions of Article 20(2) of the Constitution, there must have been both prosecution and punishment in respect of the same offence. The words “prosecuted” and “punished” are to be taken not distributively so as to mean prosecuted or punished. Both the factors must coexist in order that the operation of the clause may be attracted.

16. In *Om Parkash Gupta v. State of U.P.* [AIR 1957 SC 458 : 1957 Cri LJ 575] and *State of M.P. v. Veereshwar Rao Agnihotri* [AIR 1957 SC 592 : 1957 Cri LJ 892] this Court has held that the prosecution and conviction or acquittal under Section 409 IPC do not debar trial of the accused on a charge under Section 5(2) of the Prevention of Corruption Act, 1947 because the two offences are not identical in sense, import and content.

17. In *Leo Roy Frey v. Supt., District Jail* [AIR 1958 SC 119 : 1958 Cri LJ 260] , proceedings were taken against certain persons in the first instance before the Customs Authorities under Section 167(8) of the Sea Customs Act and heavy personal penalties were imposed on them. Thereafter, they were charged for an offence under Section 120-B IPC. This Court held that an offence under Section 120-B IPC is not the same offence as that under the Sea Customs Act : (AIR p. 121, para 4)

“4. ... The offence of a conspiracy to commit a crime is a different offence from the crime that is the object of the conspiracy because the conspiracy precedes the commission of the crime and is complete before the crime is attempted or completed, equally the crime attempted or completed does not require the element of conspiracy as one of its ingredients. They are, therefore, quite separate offences.”

(emphasis added)

18. In *State of Bombay v. S.L. Apte* [AIR 1961 SC 578 : (1961) 1 Cri LJ 725] the Constitution Bench of this Court while dealing with the issue of double jeopardy under Article 20(2) of the Constitution, held : (AIR pp. 581 & 583, paras 13 & 16)

“13. To operate as a bar the second prosecution and the consequential punishment thereunder, must be for ‘the same offence’. The crucial requirement therefore for attracting the article is that the offences are the same i.e. they should be identical. If, however, the two offences are distinct, then notwithstanding that the allegations of facts in the two complaints might be substantially similar, the benefit of the ban cannot be invoked. It is, therefore, necessary to analyse and compare not the allegations in the two complaints but the ingredients of the two offences and see whether their identity is made out...”

16. The next point to be considered is as regards the scope of Section 26 of the General Clauses Act. Though Section 26 in its opening words refers to ‘the act or omission constituting an offence under two or more enactments’, the emphasis is not on the facts alleged in the two complaints but rather on the ingredients which constitute the two offences with which a person is

charged. This is made clear by the concluding portion of the section which refers to 'shall not be liable to be punished twice for the same offence'. If the offences are not the same but are distinct, the ban imposed by this provision also cannot be invoked."

(emphasis added)

19. In *Roshan Lal v. State of Punjab* [AIR 1965 SC 1413 : (1965) 2 Cri LJ 426] , the accused had caused disappearance of the evidence of two offences under Sections 330 and 348 IPC and, therefore, he was alleged to have committed two separate offences under Section 201 IPC. It was held that neither Section 71 IPC nor Section 26 of the General Clauses Act came to the rescue of the accused and the accused was liable to be convicted for two sets of offences under Section 201 IPC, though it would be appropriate not to pass two separate sentences. A similar view has been reiterated by this Court in *Kharkan v. State of U.P.* [AIR 1965 SC 83 : (1965) 1 Cri LJ 116]

20. In *Bhagwan Swarup Lal Bishan Lal v. State of Maharashtra* [AIR 1965 SC 682 : (1965) 1 Cri LJ 608] , while dealing with the issue, this Court held : (AIR pp. 688-89, paras 11-12)

"11. ... The previous case in which this accused was convicted was in regard to a conspiracy to commit criminal breach of trust in respect of the funds of the Jupiter and that case was finally disposed of by this Court in *Sardul Singh Caveeshar v. State of Bombay* [AIR 1957 SC 747 : 1957 Cri LJ 1325] . Therein it was found that Caveeshar was a party to the conspiracy and also a party to the fraudulent transactions entered into by the Jupiter in his favour. The present case relates to a different conspiracy altogether. The conspiracy in question was to lift the funds of the Empire, though its object was to cover up the fraud committed in respect of the Jupiter. Therefore, it may be that the defalcations made in Jupiter may afford a motive for the new conspiracy, but the two offences are distinct ones. Some accused may be common to both of them, some of the facts proved to establish the Jupiter conspiracy may also have to be proved to support the motive for the second conspiracy. The question is whether that in itself would be sufficient to make the two conspiracies the one and the same offence.

12. ... The two conspiracies are distinct offences. It cannot even be said that some of the ingredients of both the conspiracies are the same. The facts constituting the Jupiter conspiracy are not the ingredients of the offence of the Empire conspiracy, but only afford a motive for the latter offence. Motive is not an ingredient of an offence. The proof of motive helps a court in coming to a correct conclusion when there is no direct evidence. Where there is direct evidence for implicating an accused in an offence, the absence of proof of motive is not material. The ingredients of both the offences are totally different and they do not form the same offence within the meaning of Article 20(2) of the Constitution and, therefore, that article has no relevance to the present case."

(emphasis added)

21. In *State of A.P. v. Kokkiliagada Meerayya* [(1969) 1 SCC 161 : AIR 1970 SC 771] this Court while having regard to Section 403 CrPC, 1898, held : (SCC pp. 163-64, para 6)

"6. The following important rules emerge from the terms of Section 403 of the Code of Criminal Procedure:

(1) An order of conviction or acquittal in respect of any offence constituted by any act against or in favour of a person does not prohibit a trial for any other offence constituted by the same act which he may have committed, if the court trying the first offence was incompetent to try that other offence.

(2) If in the course of a transaction several offences are committed for which separate charges could have been made, but if a person is tried in respect of

some of those charges, and not all, and is acquitted or convicted, he may be tried for any distinct offence for which at the former trial a separate charge may have been, but was not, made.

(3) If a person is convicted of any offence constituted by any act, and that act together with the consequences which resulted therefrom constituted a different offence, he may again be tried for that different offence arising out of the consequences, 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 who has once been tried by a court of competent jurisdiction for an offence and has been either convicted or acquitted shall not be tried for the same offence or for any other offence arising out of the same facts, for which a different charge from the one made against him might have been made or for which he might have been convicted under the Code of Criminal Procedure.”

(emphasis added)

22. The Constitution Bench of this Court in *Collector of Customs v. L.R. Melwani* [AIR 1970 SC 962 : 1970 Cri LJ 885] repelled the contention of the respondents therein that their criminal prosecution for alleged smuggling was barred because proceedings were earlier instituted against them before the Collector of Customs. It was observed that neither the adjudication before the Collector of Customs was a prosecution, nor the Collector of Customs was a court. Therefore, neither the rule of *autrefois acquit* can be invoked, nor the issue estoppel rule was attracted. The issue estoppel rule is but a facet of doctrine of *autrefois acquit*.

23. This Court has time and again explained the principle of issue estoppel in a criminal trial observing that where an issue of fact has been tried by a competent court on an earlier occasion and a finding has been recorded in favour of the accused, such a finding would constitute an estoppel or *res judicata* against the prosecution, not as a bar to the trial and conviction of the accused for a different or distinct offence, but as precluding the acceptance/reception of evidence to disturb the finding of fact when the accused is tried subsequently for a different offence. This rule is distinct from the doctrine of double jeopardy as it does not prevent the trial of any offence but only precludes the evidence being led to prove a fact in issue as regards which evidence has already been led and a specific finding has been recorded at an earlier criminal trial. Thus, the rule relates only to the admissibility of evidence which is designed to upset a finding of fact recorded by a competent court in a previous trial on a factual issue. (Vide *Pritam Singh v. State of Punjab* [AIR 1956 SC 415 : 1956 Cri LJ 805] , *Manipur Admn. v. Thokchom Bira Singh* [AIR 1965 SC 87 : (1965) 1 Cri LJ 120] , *Workmen v. Gujarat Electricity Board* [(1969) 1 SCC 266 : AIR 1970 SC 87] and *Bhanu Kumar Jain v. Archana Kumar* [(2005) 1 SCC 787 : AIR 2005 SC 626] .)

24. In *V.K. Agarwal v. Vasantraj Bhagwanji Bhatia* [(1988) 3 SCC 467 : 1988 SCC (Cri) 679 : AIR 1988 SC 1106] wherein the accused were prosecuted under the Customs Act, 1962 (hereinafter referred to as “the Customs Act”) and subsequently under the Gold (Control) Act, 1968, [hereinafter called as “the Gold (Control) Act”] it was held that : (SCC p. 474, para 7)

“7. ... the ingredients of the two offences are different in scope and content. The facts constituting the offence under the Customs Act are different and are not sufficient to justify the conviction under the Gold (Control) Act.”

(emphasis in original)

It was held that what was necessary is to analyse the ingredients of the two offences and not the allegations made in the two complaints.

25. In *P.V. Mohammad Barmay Sons v. Director of Enforcement* [1993 Supp (2) SCC 724 : 1993 SCC (Cri) 777 : AIR 1993 SC 1188] it was held : (SCC p. 732, para 11)

“11. The further contention that under the Customs Act, 1962 for the selfsame contravention, the penalty proceedings terminated in favour of the appellant, is of little avail to the appellant for the reasons that the two Acts operate in different fields, one for contravention of FERA and the second for evasion of [excise] duty. The mere fact that the penalty proceedings for evasion of the [excise] duty had ended in favour of the appellant, does not take away the jurisdiction of the enforcement authorities under the Act to impose the penalty in question. The doctrine of double jeopardy has no application.”

(See also *State of Bihar v. Murad Ali Khan* [(1988) 4 SCC 655 : 1989 SCC (Cri) 27 : AIR 1989 SC 1] , *Union of India v. K.V. Jankiraman* [(1991) 4 SCC 109 : 1993 SCC (L&S) 387 : (1993) 23 ATC 322 : AIR 1991 SC 2010] , *State of T.N. v. Thiru K.S. Murugesan* [(1995) 3 SCC 273 : 1995 SCC (L&S) 668 : (1995) 29 ATC 555] and *State of Punjab v. Dalbir Singh* [(2001) 9 SCC 212 : 2002 SCC (Cri) 1018] .)

26. In *A.A. Mulla v. State of Maharashtra* [(1996) 11 SCC 606 : 1997 SCC (Cri) 305 : AIR 1997 SC 1441] the appellants were charged under Section 409 IPC and Section 5 of the Prevention of Corruption Act, 1947 for making false panchnama disclosing recovery of 90 gold biscuits on 21-9-1969 although according to the prosecution case the appellants had recovered 99 gold biscuits. The appellants were tried for the same and acquitted. The appellants were also tried for the offence under Section 120-B IPC, Sections 135 and 136 of the Customs Act, Section 85 of the Gold (Control) Act and Section 23(1-A) of FERA and Section 5 of the Imports and Exports (Control) Act, 1947. The appellants filed an application before the Judicial Magistrate contending that on the selfsame facts they could not be tried for the second time in view of Section 403 of the Code of Criminal Procedure, 1898 (corresponding to Section 300 CrPC).

27. This Court held : (*A.A. Mulla case* [(1996) 11 SCC 606 : 1997 SCC (Cri) 305 : AIR 1997 SC 1441] , SCC pp. 613-14, para 22)

“22. After giving our careful consideration to the facts and circumstances of the case and the submissions made by the learned counsel for the respective parties, it appears to us that the ingredients of the offences for which the appellants were charged in the first trial are entirely different. The second trial with which we are concerned in this appeal, envisages a different fact situation and the enquiry for finding out facts constituting offences under the Customs Act and the Gold (Control) Act in the second trial is of a different nature. ... Not only the ingredients of offences in the previous and the second trial are different, the factual foundation of the first trial and such foundation for the second trial is also not indented (sic). Accordingly, the second trial was not barred under Section 403 CrPC of 1898 as alleged by the appellants.”

(emphasis added)

28. In *Union of India v. Sunil Kumar Sarkar* [(2001) 3 SCC 414 : 2001 SCC (L&S) 600 : AIR 2001 SC 1092] , this Court considered the argument that if the punishment had already been imposed for court-martial proceedings, the proceedings under the Central Rules dealing with disciplinary aspect and misconduct cannot be held as it would amount to double jeopardy violating the provisions of Article 20(2) of the Constitution. The Court explained that the court-martial proceedings deal with the penal aspect of the misconduct while the proceedings under the Central Rules deal with the disciplinary aspect of the misconduct. The two proceedings do not overlap at all and, therefore, there was no question of attracting the doctrine of double jeopardy.

While deciding the said case, the Court placed reliance upon its earlier judgment in *R. Viswan v. Union of India* [(1983) 3 SCC 401 : 1983 SCC (L&S) 405 : AIR 1983 SC 658] .

29. In *Union of India v. P.D. Yadav* [(2002) 1 SCC 405 : 2002 SCC (L&S) 149] , this Court dealt with the issue of double jeopardy in a case where the pension of the official, who stood convicted by a Court Martial, had been forfeited. The Court held : (SCC p. 425, para 25)

“25. ... This principle is embodied in the well-known maxim *nemo debet bis vexari, (si constat curiae quod sit) pro una et eadem causa* meaning no one ought to be vexed twice if it appears to the court that it is for one and the same cause. Doctrine of double jeopardy is a protection against prosecution twice for the same offence. Under Articles 20-22 of the Indian Constitution, provisions are made relating to personal liberty of citizens and others. ... Offences such as criminal breach of trust, misappropriation, cheating, defamation, etc., may give rise to prosecution on criminal side and also for action in civil court/other forum for recovery of money by way of damages, etc., unless there is a bar created by law. In the proceedings before General Court Martial, a person is tried for an offence of misconduct and whereas in passing order under Regulation 16(a) for forfeiting pension, a person is not tried for the same offence of misconduct after the punishment is imposed for a proven misconduct by the General Court Martial resulting in cashiering, dismissing or removing from service. Only further action is taken under Regulation 16(a) in relation to forfeiture of pension. Thus, punishing a person under Section 71 of the Army Act and making order under Regulation 16(a) are entirely different. Hence, there is no question of applying principle of double jeopardy to the present cases.”

30. In *State of Rajasthan v. Hat Singh* [(2003) 2 SCC 152 : 2003 SCC (Cri) 451 : AIR 2003 SC 791] this Court held that as the offence of glorification of Sati under Section 5 of the Rajasthan Sati (Prevention) Act, 1987, is different from the offence of violation of prohibitory order issued under Section 6 thereof, the doctrine of double jeopardy was not attracted for the reason that even if the prohibitory order is promulgated, a subsequent criminal act even if it falls under Section 5 could not be covered under Section 6(3) of the said Act. Doctrine of double jeopardy is enshrined in Section 300 CrPC and Section 26 of the General Clauses Act. Both the provisions employ the expression “same offence”.

31. Similar view has been reiterated by this Court in *State of Haryana v. Balwant Singh* [(2003) 3 SCC 362 : 2003 SCC (L&S) 279 : AIR 2003 SC 1253] , observing that there may be cases of misappropriation, cheating, defamation, etc. which may give rise to prosecution on criminal side and also for action in civil court/other forum for recovery of money by way of damages, etc. Therefore, it is not always necessary that in every such case the provisions of Article 20(2) of the Constitution may be attracted.

32. In *Hira Lal Hari Lal Bhagwati v. CBI* [(2003) 5 SCC 257 : 2003 SCC (Cri) 1121 : AIR 2003 SC 2545] this Court while considering the case for quashing the criminal prosecution for evading the customs duty, where the matter stood settled under the Kar Vivad Samadhan Scheme, 1998, observed that once the tax matter was settled under the said Scheme, the offence stood compounded, and prosecution for evasion of duty, in such a circumstance, would amount to double jeopardy.

33. In view of the above, the law is well settled that in order to attract the provisions of Article 20(2) of the Constitution i.e. doctrine of *autrefois acquit* or Section 300 CrPC or Section 71 IPC or Section 26 of the General Clauses Act, the ingredients of the offences in the earlier case as well as in the latter case must be the same and not different. The test to ascertain whether the two

offences are the same is not the identity of the allegations but the identity of the ingredients of the offence. Motive for committing the offence cannot be termed as the ingredients of offences to determine the issue. The plea of autrefois acquit is not proved unless it is shown that the judgment of acquittal in the previous charge necessarily involves an acquittal of the latter charge.

(iii) In the case of **Mohan Baitha Vs. State of Bihar [(2001) 4 SCC 350]**, the Hon'ble Apex Court has considered the scope of Section 220 Cr.P.C. by constructing the meaning of the expression “same transaction”. In Mohan Baitha, the Supreme Court observed as under:-

“The expression “same transaction” from its very nature is incapable of an exact definition. It is not intended to be interpreted in any artificial or technical sense. Common sense and the ordinary use of language must decide whether on the facts of a particular case, it can be held to be in one transaction. It is not possible to enunciate any comprehensive formula of universal application for the purpose of determining whether two or more acts constitute the same transaction. But the circumstances of a given case indicating proximity of time, unity or proximity of place, continuity of action and community of purpose or design are the factors for deciding whether certain acts form parts of the same transaction or not. Therefore a series of acts whether are so connected together as to form the same transaction is purely a question of fact to be decided on the aforesaid criteria.”

(iv) In the case of **Anju Chaudhary Vs. State of U.P. [(2013) 6 SCC 384]**, while considering the test to be applied for determining the question as to whether two or more acts constitute the same transaction, the Hon'ble Apex Court observed as under :-

“43. It is true that law recognizes common trial or a common FIR being registered for one series of acts so connected together as to form the same transaction as contemplated under Section 220 of the Code. There cannot be any straight jacket formula, but this question has to be answered on the facts of each case. This Court in the case of Mohan Baitha v. State of Bihar [(2001) 4 SCC 350], held that the expression ‘same transaction’ from its very nature is incapable of exact definition. It is not intended to be interpreted in any artificial or technical sense. Common sense in the ordinary use of language must decide whether or not in the very facts of a case, it can be held to be one transaction.

44. It is not possible to enunciate any formula of universal application for the purpose of determining whether two or more acts constitute the same transaction. Such things are to be gathered from the circumstances of a given case indicating proximity of time, unity or proximity of place, continuity of action, commonality of purpose or design. Where two incidents are of different times with involvement of different persons, there is no commonality and the purpose thereof different and they emerge from different circumstances, it will not be possible for the Court to take a view that they form part of the same transaction and therefore, there could be a common FIR or subsequent FIR could not be permitted to be registered or there could be common trial.

45. Similarly, for several offences to be part of the same transaction, the test which has to be applied is whether they are so related to one another

in point of purpose or of cause and effect, or as principal and subsidiary, so as to result in one continuous action. Thus, where there is a commonality of purpose or design, where there is a continuity of action, then all those persons involved can be accused of the same or different offences "committed in the course of the same transaction."

(emphasis supplied)

(v) In the case of **P. v. State of Uttarakhand [2022 KHC 6634]**, the appellant therein allegedly committed rape on a girl in February 2016. Later, he made a demand for money and refused to marry her when the demand was not met. Later on, he hurled abuses at her and threatened to kill her. A complaint was filed by the victim, which was forwarded for investigation under Section 156(3) Cr. P.C. The Police submitted a Final Report clubbing both the acts alleging offences under Sections 376, 504 and 506 of IPC. On the issue/question, "whether the offences were distinct or not", the Hon'ble Apex Court held that the offences were distinct in nature and those being different offences could be separately charged and tried. Following the decisions in **Mohan Baitha v. State of Bihar (Supra)** and **Anju Chaudhary v. State of U.P. (Supra)**, the Hon'ble Apex Court held that for several offences to be part of the same transaction, the test which has to be applied is whether they are so related to one another in point of purpose or of cause and effect, or as principal and subsidiary, so as to result in one continuous action.

14. Upon due consideration of aforesaid, this Court is of the view that the instant application, based upon the provision(s) referred above as also "*Doctrine of Double Jeopardy*", has no force and being so is liable to be dismissed.

15. The conclusion aforesaid is for the reason that both the offences i.e. offence under Section 13 (1)(d) of PC Act and offence under Section 13 (1) (e) of PC Act are different/distinct and are not of the same transaction and therefore, being different/distinct offences could be separately charged and tried.

16. The aforesaid is evident and established from the following :

(A) Offence indicated under Section 13 (1)(d) of the PC Act relates to illegal gratification/illicit gain.

(B) Offence under Section 13 (1)(e) of the PC Act relates to disproportionate assets.

(C) 'First Case', arising out of Case Crime No. RC0062009A0033, under Section 13 (1)(d) of PC Act was related to illegal gratification/illicit gain.

(D) 'First Case' registered as Case Crime No. RC0062009A0033, under Section 13 (1)(d) of PC Act, concluded vide judgment of conviction of the applicant dated 11.08.2024, was registered on the written complaint of Sumit Kumar Singh on 30.10.2009. According to this complaint illegal demand was made by the applicant.

(E). On 31.10.2009 from the Briefcase of the applicant Rs.70,000/- (tainted notes) were recovered. Phenolphthalein test of the applicant was carried out and 'Trap Memo' was prepared. Thereafter, the Charge Sheet against the applicant was filed under Section 13 (1)(d) of PC Act.

(F) Second Case/Case-in-Issue, arising out of Case Crime No. RC00622010A0010, under Section 13 (1)(e) of PC Act, relates to disproportionate assets accumulated by the applicant during his service period w.e.f. 06.03.1989 (the date of joining the service) and 31.10.2009 (the date of search). Therefore, the separate F.I.R. was lodged, registered as Case Crime No. RC0062010A0010, under Section 13 (1) (e) of PC Act and in this section subsequently the charge-sheet was filed.

(G) To establish/prove the Second Case/Case-in-Issue before the trial court arising out of Case Crime No. RC0062010A0010, under Section 13 (1)(e) of the PC Act, the prosecution, as per charge sheet would produce 48 witnesses including the complainant namely Sri Ajay Kumar Sharma, the then Deputy Superintendent of Police, CBI/ACB, Lucknow, who was not the complainant of Case Crime No. RC0062009A0033, under Section 13 (1)(d) of PC Act.

(H) The complainant of the Case Crime No. RC0062009A0033, under Section 13 (1)(d) of PC Act, was Sunil Kumar Singh, who was examined before the Trial Court and on the basis of whose complaint the applicant was caught red handed on 31.10.2009 and from the possession of the applicant an amount to the tune of Rs.70,000/- (tainted notes) was recovered.

(I) Other witnesses in Criminal Case No. 17 of 2010, arising out of Case Crime No. RC No.RC0062009A0033, under Section 13 (1)(d) of PC Act, were Santosh Kumar Saraogi, Senior Manager, Punjab National Bank, Circle Office, Lucknow and Saurav Paul, Agriculture Officer, Punjab National Bank, Circle Office, Lucknow (witnesses of recovered amount i.e. Rs.70,000/- from the possession of the applicant on 31.10.2009).

(J) In 'First Case' arising out of Case Crime No.RC0062009A0033, under Section 13 (1)(d) of PC Act, Ajay Kumar Sharma was also an accused and he has been acquitted by the trial court.

(K) The Second Case/Case-in-Issue is only against the applicant.

(L) The time period, set of accused of above indicated both the offences are not same.

(M) The evidence as also the witnesses in both the cases are not same. [See para 10 (ix) of this judgment]

17. Accordingly, the application is **dismissed**. No order as to costs.

(Saurabh Lavania,J.)

January 16, 2026

ML/-