

Order below Exhibit 21 in RCC 298/2007.

State of Maharashtra

Vs.

Shankar Dinkar Chavan

The present application is filed by the accused for the closure of the inquiry on the ground of double jeopardy. The prosecution filed a response at Exh. 24 and opposed the application. Heard the Learned Advocate for the accused, Shri M.D. Shinde, and the Learned Assistant Public Prosecutor for the prosecution, Smt. N.S. Ahiwale.

2. It is contended that the accused was charge-sheeted for the offences punishable under Sections 409, 468, and 477 of the Indian Penal Code, 1860 (for short, "the IPC"). The said case was numbered as R.C.C. No. 7/1999. The accused was acquitted in the said case. The present charge-sheet and R.C.C. No. 7/1999 pertain to the same offence. The informant, witnesses, and investigating officer are the same in both cases, and one panchanama was filed for both offences. All original documents were submitted in R.C.C. No. 7/1999, while only photocopies have been filed in the present matter. The accused attended proceedings in R.C.C. No. 7/1999 for a period of 25 years and has been appearing in the present case for 17 years. It is alleged that the present charge-sheet has been filed to harass the accused physically, mentally, and financially. Since the accused has already been acquitted in R.C.C. No. 7/1999, it is prayed that the present trial be closed and the accused be acquitted.

3. On the other hand, the prosecution submitted that, in R.C.C. No. 7/1999, the charge was framed for the period from 23/09/1995 to 22/09/1996 for the misappropriation of an amount of Rs. 34,209/-. As per Section 219(1) of the Cr.P.C., a charge was framed for a period of one year. The Learned Court granted liberty to the prosecution to file separate charge-

sheets for each year. Accordingly, the investigating officer subsequently filed charge-sheets for the periods from 23/09/1993 to 22/09/1994 for the misappropriation of Rs. 51,351/- and from 23/09/1994 to 22/09/1995 for the misappropriation of Rs. 34,095/-. The present charge-sheet is one of them. Therefore, the principle of double jeopardy does not apply, and the present matter should be decided on its merits.

4. I have perused the record and the order passed below Exh. 8 in R.C.C. No. 7/1999 dated 18/12/2004. It appears that the my Learned Predecessor framed charges against the accused for the period from 23/09/1995 to 22/09/1996 for the misappropriation of an amount of Rs. 34,209/-. The prosecution was granted liberty to file separate charge-sheets for alleged offences committed prior to 23/09/1995.

5. The present charge-sheet pertains to the period from 23/09/1993 to 22/09/1994 for the alleged misappropriation of Rs. 51,351/- under Sections 409, 468, and 477 of the IPC. My Learned Predecessor framed charges against the accused at Exh. 2 on 25/01/2012. Therefore, the principle of double jeopardy is not applicable in this case, as the period of the offence differs from R.C.C. No. 7/1999.

6. As per Section 219 of the Cr.P.C.:

“When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with and tried at one trial for any number of them not exceeding three.”

7. In this case, the accused has been charge-sheeted separately for different years. Therefore, it cannot be said that the accused is being tried for the same offence more than once. Hence, I am of the opinion that the application is liable to be rejected. Accordingly, I pass the following order:

ORDER

- 1) The application is rejected.
- 2) Prosecution to take necessary steps to proceed immediately.

Place :- Karad.
Date :- 15/02/2025.

(Smt. A.V. Mohite)
4th Judicial Magistrate (F.C.),
Karad.