

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 20774 of 2024

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE P. M. RAVAL

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Approved for Reporting	Yes	No
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DR. V. NANDGOPAL

Versus

CENTRAL BUREAU OF INVESTIGATION & ANR.

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Appearance:

MEGHA M DAVE(8115) for the Applicant(s) No. 1

MR RC KODEKAR(1395) for the Respondent(s) No. 1

ROHAN SHAH APP for the Respondent(s) No. 2

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CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL

Date : 17/06/2026

ORAL JUDGMENT

1. Heard learned Advocate Mr. Megha M Dave for the Applicant, Learned Special PP Mr. R.C. Kodekar for the Respondent No. 1 and learned Advocate APP for the Respondent State.

2. The present application has been filed by the Applicant for quashing and setting aside the impugned judgment dated 31.12.2009 passed in Special Case No. 8/2001 by the Court of Special Judge, CBI Court No. 3, at Mirzapur, Ahmedabad (Exh. 248), whereby the learned Court had convicted the Applicant for the alleged offence under Section 120B of the IPC, Section 7 and

Section 13(2) read with Section 13(2)(d) of the Prevention of Corruption Act, mainly on the ground that the impugned judgment of conviction was passed in the present matter on 31.12.2009, and on the very same date another judgment was passed in another case i.e. SP.CBI/24/2002 wherein exactly identical allegations were levelled against the present Applicant. However, in SP.CBI/24/2002 the Applicant herein was acquitted. Thus, it is argued that the Applicant could not have been tried for the same offence.

3. It is further contended that there is a bar to prosecute in another case when the present Applicant is already prosecuted for the same offence, in the same set of facts. Thus, prosecution in the second case amounts to double jeopardy and would be a breach of Article 20(2) of the Constitution of India. It is also further contended that Section 300 of the CrPC is also based on the same principle. Thus, it is contended that Article 20(2) expressly provides that no person shall be prosecuted or punished for the same offence more than once. The protection against double jeopardy is also supplemented by statutory provisions contained in Section 300 CrPC, Section 40 of the Indian Evidence Act, 1872, Section 71 of the IPC, and Section 26 of the General Clauses Act, 1897.

4. It is submitted that the term "same offence" means that where the offences are not distinct and the ingredients of the offences are identical, and where there are two distinct offences made up of different ingredients, only then the embargo under Article 20 would have no application. It would further be contended that the offence is the same in the present matter as

well as SP. CBI/24/2002. It is so because, according to the facts of both cases, the applicant had purchased scientific gadgets/equipment for the National Research Centre for Groundnut (NRCG), Junagadh, and as alleged in both cases, the Applicant was doing a favour to the supplier of gadgets by securing orders for them, and in return for such favour, was receiving money from the suppliers. It is also alleged that a bank account was opened in the name of one Ravi Bhima Parmar and that cheques issued by the suppliers of gadgets were deposited by the Applicant and other accused in the said bank account. Thus, the Applicant is alleged to be a beneficiary.

5. It is further contended that when identical allegations are made, there ought to be only one case. It is further contended that the Hon'ble Supreme Court in the case of ***T.P. Gopalkrishnan v. State of Kerala reported in (2022) 14 SCC 323*** has also held accordingly. Thus, it is prayed to quash and set aside the impugned judgment dated 31.12.2009 passed in Special Case No. 8/2001 by the Court of Special Judge, CBI Court No. 3, at Mirzapur, Ahmedabad (Exh. 248).

6. Learned Special PP Mr. R.C. Kodekar would submit that both the offences are distinct. The Applicant herein has participated in both the cases, and in S.P. CBI/24/2002 there are four accused, including the present Applicant, wherein he has participated. Whereas in the present case S.P. CBI/8/2001, three accused are common to SPCBI/24/2002; however, Mr. Mirankumar Bose is an accused in SP.CBI/8/2001 and Mr. R.K. Prasad is the fourth accused in SP.CBI/24/2002. The accused are different, the charges are different, and the allegations are different. Having

participated in S.P. CBI/8/2001 and having been convicted along with the co-accused, they have also preferred Criminal Appeal No. 141/2010, which is pending before this Court. Thus, it is argued that the present application deserves to be rejected.

7. The question whether the charges in both the cases are the same or arise out of the said transactions is a matter of evidence. Having participated in both the cases and having been convicted in S.P. CBI/8/2001 and acquitted in S.P. CBI/24/2002, the contention that both the cases arise from the same transaction cannot be gone into, as these are disputed questions of fact in a quashing petition, more particularly when the appeal is pending before this Court preferred by the present Applicant.

8. It is made clear that this Court has not entered into the merits of the case and the contention of double jeopardy can be raised in Criminal Appeal No. 141/2010.

9. With the aforesaid observations, the captioned application stands disposed of.

10. At this juncture, it is also required to be noted that both the cases were before the same learned Judge and the judgments were also passed by the same learned Judge.

MMP

(P. M. RAVAL, J)