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Bar To Retrial In The Same Offence

Under Article 13 (a) of the Constitution of Islamic Republic of Pakistan 1973 no person shall be prosecuted or punished for an offence more than once. For this purpose, under section 403 of Criminal Procedure Code 1898 (Cr. P. C) if any person is involved in criminal case and competent court of law has either punished him or acquitted him then the person cannot be prosecuted again in the same case and on the same facts.

Under sub sec. (1) of sec. 403 Cr. P. C. any such person who has been punished or acquitted once in an offence, by the competent court, then until the punishment or acquittal is effective the person cannot be prosecuted again in the same offence and the person cannot be charged for some other offence on same facts of the case, as, for this purpose the person should be charged under section 236 for some other allegation and or he may be punished under section 237, meaning, the nature of offence should be different.

Under sub sec. (2) when any person has been punished or acquitted, he can be tried later on different offence and he can be charged for a different allegation under sec. 235 (1) Cr. P. C. 1898. For example, a person has many fake stamps in his possession which can be used for different fake papers, such person shall be charged for every fake stamp separately and punished thus.

Under sub sec. (4) of sec. 403 Cr. P. C. when a person is punished or acquitted on a crime which constitutes different acts, then, he can be charged on some act constituting the whole crime which he committed, on the condition that the court who punished the offender firstly and such court does not have jurisdiction to try the offence in which he was later charged. For example, a person commits murder with an unlicensed pistol. The person would be punished for murder along with possession of illegal weapon, and if, later, the heirs of the victim compounded/pardoned the accused of murder, even then, the person would be punished for keeping illegal weapon.