

Cheque bouncing may also give rise to cheating case, rules SC

For issuing a cheque without sufficient fund in one's account, a person can be tried for both bouncing of his cheque and for cheating as the two trials do not breach double jeopardy doctrine, the Supreme Court has ruled.

A bench of justices B S Chauhan and J S Khehar gave the ruling while dismissing Gujarat native Sangeetaben Mahendrabhai Patel's appeal for quashing a criminal case of cheating and breach of trust, pending before Patan's chief judicial magistrate in the state.

She had come to the apex court contending that as per the double jeopardy doctrine, she cannot be tried twice for the same offence.

Under the double jeopardy doctrine, enshrined under Article 22 of the Constitution and section 300(1) of the CrPC, a person cannot be convicted twice for the same offence.

The apex court, however, dismissed her appeal, saying the doctrine of double jeopardy "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," the bench said citing the apex court's earlier rulings.

In this case, the woman was convicted by a trial court under the Negotiable Instruments (NI) Act for issuing a cheque of Rs 20 lakh which had bounced at the bank in 2003.

The complainant, who was given the cheque, had also lodged a complaint with the police on February 6, 2004, accusing the woman of having committed the offences of criminal breach of trust and cheating, respectively under sections 406 and 420 of the Indian Penal Code.

In the case under Section 138 of N.I Act, the trial court had convicted her, but she was acquitted by the district court, upon which the complainant had gone to the high court in appeal, which is pending.

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