Section: 403

.(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 section 236, or for which he might have been convicted under section 237.

(2) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 235, sub-section (1).

(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) Nothing in this section shall affect the provisions of section 26 of the General Causes Act, or section 188 of this Code.

**Double Zeopardy:**

The doctrine of “Double zeopardy” technically means that a case which has already been tried by competent court, then trial between the same parties in respect of the same matter shall not be allowed. It is a very important doctrine in criminals Justice system, it emphasis that a subject matter o which has already been decided, is deemed to be decided forever, and cannot be reopened by the same parties

**Example:**

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 upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

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

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 be subsequently 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.

The doctrine of “Double zeopardy” is based on three maxims:

1. Nemo debet bis vexari pro una et eadem causa
no man should be punished twice for the same cause

2. Interest reipublicae ut sit finis litium
it is in the interest of the state that there should be an end to a litigation

3. Res judicata pro veritate occipitur
a judicial decision must be accepted as correct

Essential conditions of Double zeopardy

1. The cause of the former case & subsequent case must be same.
2. Parties of former case & subsequent case must be the same.
3. The court which decided the former case must be a competent court.
4. After the trial, the accused must be convicted or
5. The case should have been decided on merits and final decision should have been made after hearing.