

The identical with that
which is sought to



**ASSIGN
BUSTER**

The principle of issue-estoppel is entirely a creature of judicial decisions, and has not been embodied in the Code of Criminal Procedure. The rule of issue-estoppel in a criminal trial is that where an issue of fact has been decided by a competent Court on a former occasion and a finding reached in favour of an accused, such a finding constitutes an estoppel or res judicata against the prosecution, not as a bar to the trial and conviction of the accused for a different or distinct offence, but as barring the reception of evidence to disturb the finding of fact in a subsequent or different trial of the accused. The rule of issue-estoppel relates only to the admissibility of evidence which is designed to upset a finding of fact recorded by a competent Court at a previous trial. The rule as to issue-estoppel applies where same issue was distinctly raised and inevitably decided in earlier proceedings between the same parties. The essentials of the rule of issue-estoppel are: (i) The parties in the two proceedings must be the same; (ii) The issue that was decided earlier must be identical with that which is sought to be re-agitated.

The issue-estoppel applies only when both the earlier and the present proceedings are criminal prosecutions. Where an issue has been decided by a competent Court on a former occasion, such a finding constitutes an estoppel or res judicata against the parties to that proceeding. It will operate as a bar to reception of evidence to disturb that finding in a subsequent trial or proceedings, the principle is known as rule of estoppel. Where an issue of fact has been decided by a competent Court on a former occasion in favour of the accused, such finding operates as estoppel or res judicata against the prosecution.

For example, in Pritam Singh's case, the accused was charged under Section 19(f) of the Indian Arms Act for possessing a revolver without a licence, and was acquitted as the alleged possession could not be proved. In a subsequent trial of the accused on the charge of murder, it was held that the fact of possession of the revolver cannot be proved against the accused person as the prosecution was bound by the earlier decision on the point and was estopped from giving evidence to prove the, contrary.