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FORTNIGHTLY CASE LAW BULLETIN

(01-03-2025 to 15-03-2025)

A Summary of Latest Judgments Delivered by the Supreme Court of Pakistan & Lahore High Court, Legislation/Amendment in Legislation and important Articles

Prepared & Published by the Research Centre Lahore High Court

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LATEST LEGISLATION/AMENDMENTS

SELECTED ARTICLES

1. **Supreme Court of Pakistan**
Zafar Iqbal & another v. Syed Riaz Hussain Shah & others.
C.P.L.A.3854/2024
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._3854_2024.pdf

Facts: The Petitioners filed an eviction petition under Section 15 of the Punjab Rented Premises Act, 2009, asserting that the Respondent was their tenant under a tenancy agreement dated 21.03.2006, which the Respondent denied, alleging the agreement was false and fraudulent. The core dispute revolved around the existence of a landlord-tenant relationship and the proof of the tenancy agreement.

Issues: i) Whether a Rent Tribunal is bound to strictly follow the Qanun-e-Shahadat, 1984?
ii) What legal principles should be followed by Rent Tribunal to ensure Fair trail and due process guaranteed under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973?
iii) Does relaxed evidentiary procedure in rent matters serves any public policy objective if seen from socio-economic perspective?
iv) Whether Rent Tribunal is bound to follow Article 17(2) and Article 79 of Qanun-e-Shahadat, 1984 for determining genuineness of the tenancy agreement?
v) What presumption is drawn about the owner of property and its possessor when there is no evidence to the contrary?
vi) What would be the period of tenancy when tenancy agreement does not fix any term?
vii) What is the yardstick to determine bona fide requirement of landowner for personal use of property?

Analysis: i) It may be noted at the outset that a Rent Tribunal under the Act, like the Rent Controller under the West Pakistan Urban Rent Restriction Ordinance 1959, acts in a quasi-judicial capacity and does not function as a court of law in the strict sense of the term. Similarly, although Article 1(2) of the Qanun-e-Shahadat provides that it applies to all judicial proceedings in or before any Court, including a court-martial, tribunal, or other authority exercising judicial or quasi-judicial powers or jurisdiction, its applicability to proceedings before a Rent Tribunal under the Act is expressly excluded by Section 34 of the Act.4 Consequently, the provisions of the Qanun-e-Shahadat do not stricto sensu apply to proceedings before a Rent Tribunal under the Act, as the special law (the Act) prevails over the general law (the Qanun-e-Shahadat).
ii) ... despite the non-applicability of the provisions of the Qanun-e-Shahadat to proceedings under the Act, a Rent Tribunal may, rather should, invoke the general principles of the law of evidence codified in the Qanun-e-Shahadat concerning relevancy, admissibility or weight of evidence when admitting and appraising evidence to decide disputed facts. Since a Rent Tribunal adjudicates upon civil rights and obligations in eviction proceedings, the parties thereto are entitled to a fair trial and due process under Article 10A of the Constitution of the Islamic

Republic of Pakistan. A fair trial and due process require that no material that does not constitute evidence should be relied upon. No fact in dispute may be established through material that is not testified by a competent witness. Likewise, where a document is produced in evidence, the fundamental question that arises is whether it is genuine. Therefore, even though the provisions of the Qanun-e-Shahadat may not strictly apply to proceedings under the Act, it will be unfair if a Rent Tribunal could rely on inadmissible material, such as hearsay, or base its decision on copies of documents without producing and satisfactorily proving the originals when they exist. This underscores the necessity for a Rent Tribunal to invoke and apply the general principles of the law of evidence codified in the Qanune-Shahadat to ensure fairness and due process in determining the civil rights and obligations of the parties in eviction proceedings. However, applying the general principles of the law of evidence does not mean that a Rent Tribunal must enforce all the provisions of the Qanun-e-Shahadat, as doing so would render Section 34 of the Act redundant and frustrate the legislative objective behind the very enactment of the Act—namely, the expeditious disposal of rent matters.

iii) From an economic and social perspective, relaxed evidentiary procedure serve critical public policy objectives. They reduce litigation costs, making the process more accessible to individuals who may lack the resources to comply with stringent evidentiary requirements. This, in turn, encourages investment in rental housing by providing landlords with a reliable mechanism to address disputes swiftly. At the same time, these rules protect tenants from unjust eviction and homelessness, thereby maintaining housing stability and social harmony. By addressing the inherent power imbalances between landlords and tenants, relaxed evidentiary rules promote equity and fairness, ensuring that the legal process does not become a tool for oppression or undue advantage. In sum, the relaxation of evidentiary procedure in rent proceedings is not merely a procedural convenience but a necessary measure to uphold the principles of justice, economic efficiency, and social welfare.

iv) In light of the above principles of law, when we examine Articles 17(2)(a) and 79 of the Qanun-e-Shahadat, it becomes evident that they do not embody general principles of the law of evidence but rather enact special provisions therein. A Rent Tribunal was, therefore, in no way bound to invoke and apply these provisions for the purpose of determining the genuineness of the tenancy agreement. Accordingly, we answer the question in the terms that a disputed tenancy agreement is not required to be proved in a proceeding before the Rent Tribunal under the Act, in accordance with the provisions of Articles 17(2)(a) and 79 of the Qanun-e- Shahadat.

v) As this Court has held in several cases, in the absence of any evidence to the contrary, the owner of a property, by virtue of his title, is presumed to be the landlord, and the person in possession is presumed to be the tenant of that property.

vi) As for Issue No. 2, we find that the tenancy agreement does not specify a fixed term. In such a situation, under Section 106 of the Transfer of Property Act 1882, the tenancy is deemed to be from month to month, terminable, on the part of either landlord (lessor) or the tenant (lessee), by fifteen days notice expiring with the end of a month of tenancy.
vii) As held by this Court in Jehangir Rustom, the statement of a landlord on oath—if consistent with the averments made in the eviction petition and neither shaken in cross-examination nor disproved in rebuttal—is sufficient to establish that the landlord's requirement for personal use is bona fide.

Conclusion: i) The provisions of the Qanun-e-Shahadat do not stricto sensu apply to proceedings before a Rent Tribunal.
ii) See above analysis No. (ii)
iii) The relaxation of evidentiary procedure in rent proceedings is not merely a procedural convenience but a necessary measure to uphold the principles of justice, economic efficiency, and social welfare.
iv) A Rent Tribunal is not bound to apply Articles 17(2)(a) and 79 of the Qanun-e- Shahadat for the purpose of determining the genuineness of the tenancy agreement.
v) The owner of a property is presumed to be the landlord, and the person in possession is presumed to be the tenant of that property.
vi) In such a situation, under Section 106 of the Transfer of Property Act 1882, the tenancy is deemed to be from month to month.
vii) See above analysis No. (vii)

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2. **Supreme Court of Pakistan**
Muhammad Nasir Ismail v. Government of Punjab through Secretary Law and Parliamentary Affairs Division, Lahore, etc.
C.P.L.A. 3062/2022
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._3062_2022.pdf

Facts: On the charges pertained to wilful absence from duty, inefficiency, and misconduct, Disciplinary proceedings were initiated against petitioner under Section 5 of the PEEDA Act. Pursuant to a regular inquiry, a recommendation was made for his removal from service; however, he was instead awarded the major penalty of compulsory retirement by the competent authority. Aggrieved, the petitioner preferred an appeal before the appellate authority, which was dismissed vide impugned order. Thereafter, the petitioner assailed the impugned order by invoking the constitutional jurisdiction of the Lahore High Court, Lahore, through a writ petition, which was dismissed vide impugned judgment. Hence, the instant petition for leave to appeal.

Issues: i) What is the effect of the "proviso" on the general discretion of the competent authority to impose any one or more of penalties under Section 4, including in cases of absence from duty for less than a year?

ii) Can the competent authority impose major penalty for absence from duty of less than one year, and what constraints apply?
iii) What is the object of the principle of proportionality?
iv) What is the test of assessing Proportionality?

Analysis: i) What is therefore the effect of the "proviso" on the general discretion of the competent authority to impose any one or more of penalties under Section 4, including in cases of absence from duty for less than a year? A "proviso" serves to qualify, restrict, or except a particular case from the generality of the main provision.3 Ordinarily, a proviso limits the scope of the principal provision.4 The second proviso to Section 13(5)(ii) restricts discretion of the competent authority when imposing a penalty in cases of prolonged absence (exceeding one year). In such cases, the competent authority must impose one of the three major penalties i.e., compulsory retirement or removal or dismal from service—whichever it deems fit—if the charge stands proved against the officer. The proviso restricts and limits the general discretion of the competent authority under Section 13(5)(ii) only in case where there is a charge of absence from duty for a period of more than one year. The proviso has no application in other cases including cases of absence from duty for a period of less than one year, where the competent authority continues to enjoy its general discretion under Section 13(5)(ii) to impose any one or more of the penalties under Section 4 of PEEDA Act. Nonetheless, the exercise of such discretion must be structured, reasoned, and supported by cogent justification in accordance with the principles of proportionality and administrative fairness.

ii) We, therefore, concur with the interpretation rendered by the High Court that the second proviso to Section 13(5)(ii) does not restrict the authority of the competent authority in imposing any of the three major penalties, even where the period of absence from duty is less than one year. However, where the competent authority elects to impose a major penalty in cases of absence from duty for less than a year, it must do so in accordance with the principle of proportionality.

iii) The principle of proportionality, in the context of structured discretion, mandates that the exercise of discretionary power must be reasonable, balanced, and commensurate with the objectives sought to be achieved. It serves as a check against arbitrariness and excess, ensuring that disciplinary action remains fair, just, and legally sustainable.

iv) Proportionality is assessed through a structured three pronged test5: First, whether the measure in question is suitable and bears a rational connection to the legitimate objective it seeks to achieve. Second, whether the measure is necessary, meaning no less restrictive or less onerous alternative exists to accomplish the same purpose. Third, whether the measure maintains a fair balance between the public interest and the rights of the individual, ensuring that the burden imposed is neither excessive nor oppressive in relation to the intended benefit.

Conclusion: i) The major penalty is required only for absence over one year, for shorter

absence the authority retains discretion but must justify its decision.
ii) A major penalty in cases of absence from duty for less than a year are allowed and must follow principle of proportionality.
iii) To check against arbitrariness and excess, ensuring that disciplinary action remains fair, just, and legally sustainable
iv) See above analysis No. iv.

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3. **Supreme Court of Pakistan**
Abdul Shakoor(deceased)through legal heirs v. Muhammad Hanif (deceased) through legal heirs, etc.
C.P.L.A. No.1808-L/2015
Mr. Justice Munib Akhtar, Mrs. Justice Ayesha A. Malik
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1808_l_2015.pdf

Facts: In first round of litigation, suit for deceleration was filed to get cancel the sale deed which was executed through attorney after the death of principal. The first suit was decreed and sale deed was cancelled. The appeal was also dismissed. In second round of litigation, the legal heirs of one of the defendant of first suit, filed suit for specific performance of pre-existing agreement to sell, which was decreed and appeal was failed. Resultantly, the revision was filed in the High Court by the present leave petitioner, which was dismissed. Hence, this leave to appeal before the Supreme Court.

Issues: i) What is effect and scope of an assignment?

Analysis: i) An assignment and a sale of immoveable property are not the same thing. The leave petitioner derived his claimed interest (which would, as a matter of law, be the title) through the sale of the land to him by the aforementioned Shafi during the pendency of the second suit. If at all valid, this was not an assignment but would be a sale, i.e., a divestment by Shafi of the whole of his claimed interest (which itself, as a matter of law, would be the title) in the suit land... To accept the leave petitioner as an assignee of an interest on the basis of the sale to him by Shafi in such circumstances would be to, in effect, recognize the creation of assignments in what could be (effectively) an endless chain, with each link being a attenuated claim than the one before it. The finding that Shafl was not a bona fide purchaser without notice set up an insuperable barrier which the leave petitioner could not surmount.

Conclusion: i) See analysis Para No. i.

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4. **Supreme Court of Pakistan,**
The Government of Balochistan through, Additional Chief Secretary Development, P&D Department, Quetta and another v. Muhammad Akhtar and others
Civil Petition No. 100-Q of 2023
Mr. Justice Amin-ud-Din Khan, Mr. Justice Muhammad Ali Mazhar,
Mr. Justice Syed Hasan Azhar Rizvi.

https://www.supremecourt.gov.pk/downloads_judgements/c.p._100_q_2023.pdf

Facts: The respondents succeeded in a recruitment process but were not issued appointment letters. They filed a Constitution Petition, alleging the department intended to appoint others unlawfully. The High Court ruled in their favor, directing the department to issue appointment orders as recommended by the Selection Committee. The petitioner now seeks leave to appeal, challenging the High Court's decision.

Issues: i) Whether Selection/Recruitment Committee can subtract or add any post in the selection process?
ii) What is the mandate of the Selection Board or Recruitment Committee for recruitments and whether it can deviate from the terms and conditions of the advertisement published for the information of the general public?
iii) What are the key responsibilities of the Recruitment Committee?
iv) How the appointments are to be made under The Baluchistan Civil Servants (Appointment, Promotion and Transfer) Rules, 1979?
v) What is the precondition for appointment under The Baluchistan Civil Servants (Appointment, Promotion and Transfer) Rules, 1979?

Analysis: i) Neither can it subtract any post nor add any post in the selection process, but it is obligated to adhere to the terms of reference and conduct the recruitment process strictly for the sanctioned posts allowed to be included in the written test and interview by the candidates.
ii) The Selection Board or Recruitment Committee can only recommend the candidates for issuing offer or appointment letters who are strictly selected on merit for the sanctioned posts, without deviating from the terms and conditions of the advertisement published for the information of the general public.
iii) The key responsibilities of the Recruitment Committee are to first determine how many positions have been advertised for inviting applications; to scrutinize all applications for shortlisting; and to examine whether all required antecedents and credentials have been attached and vetted for the purposes of the initial shortlisting of applications; whether the applicant joined the competitive process and qualified the written test, if any such conditions is required to be complied with, then to assess the marks on merits; and subsequently, conduct the interview according to the merit list, awarding interview marks. The Recruitment Committee may also consider granting additional marks for additional/value added qualifications or experience as mentioned in the advertisement inviting applications.
iv) The Baluchistan Civil Servants (Appointment, Promotion and Transfer) Rules, 1979, framed pursuant to Section 25 of the Baluchistan Civil Servants Act, 1974, manifestly elucidate under Rule 3 that the appointments to posts shall be made by the method of promotion or transfer or by initial appointment.
v) The precondition is that the method of appointment and the qualifications and other conditions applicable to a post shall be as laid down by the Department

concerned in consultation with the Services and General Administration Department ("S&GAD"). This means that the Recruitment Committee must undertake the recruitment process according to the conditions outlined by the concerned department, in consultation with the S&GAD and they are bound to strictly follow the criteria fixed for appointments with the required number of posts, and they are obligated to complete the process and send recommendations without deviating from or departing from the benchmarks to achieve the goal.

Conclusion: i) Selection/Recruitment Committee cannot subtract or add any post in the selection process.
ii) See above analysis No.ii
iii) See above analysis No.iii
iv) See above analysis No.v.
v) See above analysis No.vi.

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5. **Supreme Court of Pakistan**
Federation of Pakistan through Secretary Finance, Islamabad v. Muhammad Atiq-ur-Rehman and others
Civil Petition No. 687 of 2022
Mr. Justice Amin-ud-Din Khan, Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._687_2022.pdf

Facts: The respondent was appointed through proper channel in a federal government department but was denied pay protection for prior service in an autonomous body. The Federal Service Tribunal allowed his claim for pay protection, which was challenged before the Supreme Court.

Issues: i) Whether an employee of an autonomous body, upon subsequent appointment in government service, is entitled to pay protection under Fundamental Rule 22?
ii) Whether the benefit of pay protection can be claimed by employees of autonomous organizations that do not follow Basic Pay Scales (BPS)?
iii) Whether a judgment rendered on technical grounds without deciding a question of law can operate as a precedent for similar cases?

Analysis: i) The appellant was an employee of the statutory autonomous body having switched over to Government Service is a different creed of employees and cannot claim the benefit of F.R.22 and F.R.22 (a)(i) or (ii) of 1992 which is applicable to Civil Servants on their appointment subsequently to another post as a Civil Servant.
ii) In fact, as per policy, the employees of such autonomous organizations, established through a resolution are extended the benefit of fixation of pay in the manner set out in FR 22 on their subsequent appointment in the government service if they have adopted government pay scale scheme in totality. Furthermore, the employees of Atomic Energy Commission of Pakistan have SPS, therefore, they were not entitled for protection of pay in terms of policy

guidelines issued vide Finance Division's O.M.No.4(2)R-2/96 dated 12-08-2002.
iii) Even it failed to consider the five member judgment of this Court but only relied on its earlier judgment passed in Appeal No.1730(R)CS/2015, which was challenged in this Court but the civil petition was dismissed on technical grounds and no question of law was decided, rather this Court merely dismissed the petition due to non-availability of certain papers/notifications on record, which order in our view cannot be treated an order or judgment in rem but on the face of it an order in personam.

Conclusion: i) No, an employee of an autonomous body is not entitled to pay protection under Fundamental Rule 22 upon appointment in government service.
ii) No, employees of autonomous bodies that do not adopt Basic Pay Scales (BPS) are not entitled to pay protection on appointment in government service.
iii) No, a judgment rendered on technical grounds without deciding a question of law does not operate as a precedent.

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6. **Supreme Court of Pakistan**
Adamjee Insurance Company Limited Petitioner(s) (In both cases) v. Techno International and others
Civil Petitions 202-L and 203-L of 2022
Mr. Justice Munib Akhtar, Mr. Justice Athar Minallah
https://www.supremecourt.gov.pk/downloads_judgements/c.p._202_l_2022.pdf

Facts: The petitioner-company filed two separate recovery suits by adopting the summary procedure provided under Order XXXVII of the Code of Civil Procedure 1908. The respondents filed applications for grant of leave to appear and defend the suits, trial court granted leave to appear and defend in two separate suits, subject to furnishing surety equivalent to the claimed amount; which orders were assailed but the Hon'ble High Court dismissed the civil revisions and upheld the trial court's orders. The petitioner-company has sought leave under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973, to challenge the judgment passed by the Hon'ble High Court.

Issues: i) Essential contents and procedural requirements under Rule 3 of Order XXXVII of the Code of Civil Procedure.
ii) Whether the court have absolute discretion to impose conditions while granting leave to defend under Rule 3 of Order XXXVII of the Code of Civil Procedure?
iii) How has the court interpreted the principles governing the grant of leave to defend under Order XXXVII in light of the decision in Fine Textile Mills (PLD 1963 SC163)?
iv) Under what circumstances is the court justified in granting leave to defend in a suit under Order XXXVII, and what conditions may be imposed if the defence appears vague or doubtful?
v) Whether the court have unfettered discretion in imposing conditions while granting leave to defend under Order XXXVII, or are there guiding principles for its exercise?

vi) What factors should the court consider while exercising discretion to impose conditions on leave to defend under Order XXXVII?
vii) At what stage is the defendant required to substantiate their defense with evidence in a suit under Order XXXVII?
viii) What grounds justify the grant of leave to defend under Order XXXVII?
ix) Does the court have absolute discretion in granting conditional or unconditional leave to defend under Order XXXVII?
x) When can the court grant only conditional leave to defend under Order XXXVII?
xi) Does the court have exclusive discretion in deciding the form of security while granting conditional leave to defend under Order XXXVII?

Analysis: i) Rule 3 of Order XXXVII provides that the court shall, upon application by the defendant, give leave to appear and defend the suit, upon affidavits which disclose such facts as would make it incumbent on the holder to prove consideration, or such other facts as the court may deem sufficient to support the application. Sub-rule (2) of Rule 3 explicitly provides that leave to defend may be given unconditionally or subject to such terms as payment into court, giving security, framing and recording issues or otherwise as the court thinks fit
ii) The leave to appear and defend the suit may be given unconditionally or the court in its discretion may impose conditions by way of subjecting the leave to appear and defend to such terms as payment in the Court or giving security in some other form. The grant of leave to appear and defend the suit, whether unconditionally or subject to condition, falls within the exclusive discretion of the court and it has to be exercised on the basis of the facts and circumstances of each case.
iii) The principles regarding the exercise of discretion by a trial court in the context of granting leave to appear and defend the suit unconditionally or conditionally, as the case may be, have been enunciated by this Court in the case of Fine Textile Mills. This Court has observed that the principles upon which the provisions of Order XXXVII should be applied are not dissimilar to the principles which govern the exercise of the summary power of giving liberty to sign final judgment in a suit filed by a specially endorsed writ of summons under Order XIV of the Rules of the Supreme Court in England.
iv) In a suit in the nature of one instituted under Order XXXVII where the defendant discloses upon his affidavit facts which may constitute a plausible defence or even show that there is some substantial question of fact or law which needs to be tried or investigated into, then the court would be justified to grant leave to appear and defend the suit…even if the defence set up by the defendant is vague or unsatisfactory or there is any doubt as to its genuineness, leave should not be refused altogether but, rather, the defendant should be required either to furnish security or to deposit the amount claimed in the court.
v) No hard and fast rule can be laid down for determining the question as to how the discretion vested in the court to subject the order for grant of leave to defend

to conditions ought to be exercised as this question depends on the facts and circumstance of each case...laying down a rule for the exercise of powers in matters of discretion vesting in a court would be improper since the legislature itself has not placed fetters on how the discretion has to be exercised under sub-rules 2 of Rule 3 of Order XXXVII of the CPC.

vi) While exercising discretion it was necessary for the court to take into consideration the scope and object of the summary procedure of suit provided under Order XXXVII. If the Court is of the opinion that the defendant is attempting to prolong the litigation and impeding a speedy trial, then it would be justified to impose conditions.

vii) It has been further observed that it would be an improper exercise of discretion to impose conditions merely because the defendant at the leave stage has not been able to adduce his evidence on the pleas raised in his defense. The proper stage for substantiating and taking evidence would not be the leave granting stage but the subsequent trial proceedings.

viii) Where a fact disclosed by the defendant in the affidavit makes out a case for shifting the onus on the plaintiff to prove consideration of the instrument, then leave to defend ought to be granted. The leave could also be granted on any other ground or facts which the court considers sufficient to support the application for grant of leave to appear and defend the suit… ordinarily, leave would not be declined even in cases where the defence appears to be very weak or a sham one, because in such cases the grant of leave by a court can be made conditional.

ix) The grant of conditional or unconditional leave has been held to be a matter within the discretion of the court which is to be exercised keeping in view the facts and circumstances of each case and that no hard and fast rule could be laid down as to how it should be exercised by the court.

x) However, where the defense disclosed by the defendant in the affidavit is found to be illusory, or lacking bona fides, or is intended to delay the proceedings or is based on allegations of a vague and general nature relating to misrepresentation, fraud and coercion, without any supporting material, then leave may be granted conditionally i.e. by way of deposit of the amount claimed in the suit in the court or on furnishing of security for the same or on such other terms and conditions which the court may think fit.

xi) The nature of security which a court may order falls within its exclusive discretion and it has to be exercised on the basis of facts disclosed in the affidavits supporting the applications. No hard and fast rule can be applied in order to compel a court to order a particular form of security.

Conclusion: i) See above analysis No i.

ii) The grant of leave to appear and defend the suit, whether unconditionally or subject to condition, falls within the exclusive discretion of the court

iii) See above analysis No iii.

iv) See above analysis No iv.

v) See above analysis No v.

vi) While exercising discretion it was necessary for the court to take into consideration the scope and object of the summary procedure provided under Order XXXVII.

vii) The proper stage for substantiating and taking evidence would not be the leave granting stage but the subsequent trial proceedings.

viii) See above analysis No viii.

ix) The grant of conditional or unconditional leave has been held to be a matter within the discretion of the court.

x) See above analysis No x.

xi) The nature of security which a court may order falls within its exclusive discretion.

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7. **Supreme Court of Pakistan.**
Aamir Akbar v. Additional Superintendent of Police, Bahawalpur, and others
Civil Petition No. 921-L of 2017
Mr. Justice Amin-ud-Din Khan, Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._921_l_2017.pdf

Facts: The petitioner was dismissed from service after a regular inquiry on allegations of misconduct. The departmental representation and service appeal met the dismissal.

Issues: i) What is the step by step procedure of inquiries under the Punjab Civil Servants (Efficiency & Discipline) Rules, 1999 (E&D Rules)?

ii) What is the underlying aspiration of conducting departmental inquiries?

iii) Whether a discreet inquiry could be equated with regular inquiry?

Analysis: i) Though the E&D Rules provide the procedure for conducting an inquiry, for better understanding, help, and assistance of the Inquiry Officer/Committee, the aforesaid guidebook has incorporated a step-by-step procedure to ensure that a fair and impartial inquiry may be conducted without any procedural lapses. The guidelines for the procedure to be abided by the Inquiry Officer/Committee are as under:

> "1) No party to any proceedings is to be allowed to be represented by a lawyer.
>
> 2) Where any witness is produced by one party, the other party must be allowed to cross-examine that witness.
>
> 3) If the accused fails to submit his explanation within the period prescribed in the charge sheet the inquiry officer/inquiry committee shall proceed with the inquiry and hear the case on day-to-day basis.
>
> 4) No adjournment can be given except for reasons to be recorded in writing.
>
> 5) Every adjournment has to be reported to the authority and normally no

adjournment shall be of more than a week.

6) If the inquiry officer/inquiry committee finds that the accused is hampering the proceedings it should administer a warning and if even that is disregarded, the inquiry should be completed in such manner as the inquiry officer/inquiry committee may think best in the interest of justice.

7) Absence from the inquiry on medical grounds. Unless medical leave is applied and is sanctioned on the recommendations of the Medical Board, absence from the enquiry proceedings shall be considered tantamount to hampering the progress of inquiry. The authority is, however, empowered to sanction medical leave up to 7 days without recommendations of the Medical Board.

8) In conducting an enquiry, the enquiry officer/committee exercises judicial or quasi-judicial functions. The enquiry officer/enquiry committee must act in a judicial spirit and manner in conformity to well recognized principles of natural justice without fear, favour or bias.

9) The enquiry officer/enquiry committee should not refuse to summon and examine the witnesses enlisted by the accused. All witnesses should be examined in the presence of the parties, enabling one party to cross-examine the witnesses of the other.

ii) The underlying aspiration of conducting departmental inquiry is to determine whether a case of misconduct is made out and whether the accused is found guilty by the Inquiry Officer/Committee. As a fact-finding forum, the learned Service Tribunal is obligated to ascertain whether due process of law or the right to a fair trial, as envisaged under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973, was followed. A regular inquiry cannot be considered or labelled a regular inquiry unless fair opportunity is provided to defend the charges.

iii) The learned Tribunal also failed to note some inherent defects in the inquiry, which are manifest in the report, and it hardly seems to be a regular inquiry. Even the letter dated 11.06.2015, whereby the major punishment of dismissal from service was imposed upon the petitioner, reflects that the Inquiry Officer conducted a discreet inquiry. It is evident from this disclosure that the department intended to hold a discreet inquiry rather than a regular inquiry, but without affording a proper opportunity, the petitioner was found guilty in an injudicious and heedless manner.

Conclusion: i) As per a guidebook complied by S&GAD and assimilated in the Punjab Estacode, 2013, there are 09 step procedures for inquiries under E&D Rules, 1999.

ii) The underlying aspiration of conducting departmental inquiry is to determine whether a case of misconduct is made out and whether the accused is guilty.

iii) Discreet inquiry could not be a substitute of regular inquiry.

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8. **Supreme Court of Pakistan.**
Rashid and others v. The State
Criminal Appeal No. 282-L/2020
The State v. Talha
Criminal Petition 461-L/2015
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan,
Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._282_l_2020.pdf

Facts: The leave was granted by the august Supreme Court to look into the capital punishment confirmed by the Hon'ble High Court in a trial conducted by the Anti-Terrorism court.

Issues: i) What are legal requirements and relevant rules to conduct the identification parade of suspects?

Analysis: i) In our view, for proper dispensation of justice while carrying out identification parades, the parameters as enshrined under Article 22 of the Qanun-e-Shahadat Order, 1984 read with the High Court (Lahore) Rules and Orders Volume III, Chapter 11, Part C and Rule 26.32 of the Chapter 26, Volume 3 of the Police Rules 1934, have to be fulfilled. It was held by this Court in the case of Kanwar Anwaar Ali (PLD 2019 SC 488) that identification parades have to be held within the shortest possible period, whereas in the instant matter, admittedly, the said parade took place two months after the occurrence (as is evident from deposition of Rafla Atta, PW-9). Reliance is also placed upon a judgment of this Court titled Subha Sadiq vs The State (2025 SCMR 50) (authored by one of us namely Athar Minallah, J) in which it was expounded in an elaborate manner the parameters required for a proper procedure to be adopted while conducting identification parade.

Conclusion: i) The identification parades are to be conducted in line with the guidelines provided by the apex court in 2025 SCMR 50, PLD 2019 SC 488 and the Lahore High Court, Rules & Orders Volume III, Chapter 11, Part C and Rule 26.32 of the Chapter 26, Volume 3 of the Police Rules 1934.

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9. **Supreme Court of Pakistan**
Tariq Mehmood v. The State
Criminal Appeal No. 29 of 2023
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._29_2023.pdf

Facts: The appellant was convicted and sentenced to death for a double murder based on a judicial confession and recovery of weapon during investigation. The High Court upheld the conviction and confirmed the death sentence, which was challenged before the Supreme Court.

Issues: i) Whether recovery of crime weapon and forensic matching, when conducted contrary to law, can be considered valid evidence?
ii) Whether a judicial confession without reflection time and verification of voluntariness is admissible for conviction?
iii) Whether conviction can be sustained when the prosecution fails to prove motive for the alleged offence?

Analysis: i) Though, it was averred by the prosecution that after arrest, the accused led the police party to the designated place from-where the crime weapon, matching with the empties recovered from the crime spot, however, equal true is the fact that the empties and the crime weapon were sent together to the FSL, which is contrary to the law.
ii) It is also an admitted position that though the confessional statement was recorded before the Judicial Magistrate on 26.06.2004 however, the replies in the memorandum were recorded without giving any extra time to the accused to think over the matter before confessing his guilt. It is also an admitted position that Muhammad Asif Khan, Additional Sessions Judge, who recorded the confession statement of the accused did not examine the accused physically to check whether he was tortured by the police or not.
iii) The most crucial aspect of the case, in our view, being that the prosecution has miserably failed to prove any motive in the instant matter. It has nowhere been stated as to what prompted the accused to kill the two brothers as neither was there any enmity alleged to be between the parties nor there was any report with regard to any scuffle which took place between them prior to the incident.

Conclusion: i) No, weapon recovery and forensic evidence obtained through an unlawful process cannot be considered valid evidence.
ii) No, a judicial confession without reflection time and verification of voluntariness is inadmissible for conviction.
iii) Non-proving a motive cast doubt on the prosecution case

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10. **Supreme Court of Pakistan**
Mst. Humaira Wazir v. Muhammad Faisal and others
Civil Petition No. 344-P/2022
Mr. Justice Yahya Afridi, Mr. Justice Irfan Saadat Khan
https://www.supremecourt.gov.pk/downloads_judgements/c.p._344_p_2022.pdf

Facts: Petitioner sought restitution of conjugal rights and recovery of dower, dowry articles, gold ornaments, a share in a house, maintenance allowance, and a loan amount; Family Court granted partial relief, ordering the defendant to provide a house, pay Rs. 2 lac, return dowry items, and pay maintenance. On appeal, the Appellate Court upheld most findings and additionally granted 25 tolas of gold and a Shari share in the ancestral property. The High Court later ruled that the snatching of gold was unproven but upheld the petitioner's right to her Shari

share, maintenance, and dowry items. The petitioner now seeks leave to appeal against this judgment.

Issue: Whether petitioner's claim for a specific share in property, as dower under the Nikahnama, is legally enforceable?

Analysis: It also remains an admitted fact, that neither at the time of Nikah nor after its culmination, any objection was raised by the petitioner with regards to the entry made in column No.16 of the Nikahnama on the basis that it was vague and that there was no mention of any particular house or address in the said entry. She also admitted in her deposition, that she never demanded or asked from the respondent, that in which ancestral property did he have his share, so as to entitle the petitioner to claim her right in that property. Therefore, the High Court was correct in observing that columns No.13 and 16 of the Nikahnama entitles the petitioner to have shari share in the ancestral property, which the respondent was bound to provide her, without any exception.

Conclusion: Petitioner's claim for a specific share in property, as dower under the Nikahnama, is legally enforceable.

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11. **Supreme Court of Pakistan**
M/s Muhammad Faisal Prop, F.A. Traders, Lahore v. Commissioner Inland Revenue, Zone-II, RTO-11, Lahore
Civil Petition No. 2100/2024
Mr. Justice Yahya Afridi, CJ, Mr. Justice Irfan Saadat Khan
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2100_2024.pdf

Facts: The petitioner, a dealer/distributor of a manufacturing company, was subjected to tax proceedings after failing to disclose certain purchases. The High Court upheld the orders of the tax authorities, leading to the petitioner challenging the decision.

Issues: i) Whether the High Court was required to adjudicate upon the issue of limitation before deciding the matter on merits?
ii) Whether an appeal suffering from defects that are not removed within the limitation period becomes time-barred?
iii) Whether a court can imply condonation of delay in the absence of an express order?

Analysis: i) Though the High Court has passed the order on the merits of the case but it could not be denied that it has failed to discuss the averments of the CMA with regard to the limitation by specifying whether the same was allowed or rejected; which the High Court ought to have decided as a preliminary issue, duly raised by the petitioner in his objections to the said CMA.
ii) It is a settled proposition of law that if objections raised by the office of the Court were not removed within the time specified by the office and in the meantime limitation for filing the appeal stands expired, the appeal would be rendered as time barred.

iii) We also do not agree with the Department, that the CMA was impliedly allowed by the High Court, as it is a trite principle of law that a vested right can only be taken away through express legislation and not by implication.

Conclusion: i) The Court should have expressly ruled on the issue of limitation before deciding on the merits of the case.
ii) Since the defects in the appeal were not remedied within the limitation period, the appeal was rendered time-barred.
iii) The High Court could not imply condonation of delay without an explicit decision addressing the matter.

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12. **Supreme Court of Pakistan,**
Rana Muhammad Yameen and another v. Muhammad Jamil (decd.) through L.Rs. and others
Civil Appeal No.151-P of 2013 & C.M.A.Nos.11-P of 2014, 213-P of 2017, 530-P of 2018 & 2570 of 2024.
Mr. Justice Shahid Waheed, Mr. Justice Shahid Bilal Hassan,
Mr. Justice Aamer Farooq.
https://www.supremecourt.gov.pk/downloads_judgements/c.a._151_p_2013.pdf

Facts: Respondents No.1 to 6, claiming to be the legal heirs of the original allottee, who died while migrating to Pakistan in 1947, filed a suit for declaration of ownership through inheritance and nullification of the land transfer, alleging that respondent No.7 fraudulently transferred the land to the appellants and respondent No.8 using a fake power of attorney. The suit was dismissed by the trial court, and the appeal also failed. However, the High Court, upon accepting the revision petition, decreed the suit in favor of the respondents. Now the appellants have filed this appeal under Article 185(2)(d) of the Constitution of Pakistan, 1973 challenging the said judgment and decree.

Issues: i) What is the legal requirement for proving claims made in pleadings?
ii) Under what circumstances can the High Court interfere with concurrent findings in revision?

Analysis: i) It is an established principle of law that mere taking a stance and pleading a fact in the plaint or written statement is not sufficient, rather the same has to be proved by leading unimpeachable, confidence inspiring and solid evidence, direct or secondary (after obtaining permission by moving application in this respect).
ii) Though the High Court has ample powers to undo and disturb the concurrent findings of the trial Court and first appellate Court in exercise of revisional jurisdiction under section 115, Code of Civil Procedure, 1908, but, if the same are found to be based on any illegality or irregularity and wrong exercise of jurisdiction.

Conclusion: i) Pleadings must be proved with unimpeachable, confidence-inspiring, and solid evidence.

ii) The High Court can interfere in concurrent findings in revision only in cases of illegality, irregularity, or jurisdictional error.

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13. **Supreme Court of Pakistan**
Muhammad Ehsan Shah v. The State through A.G. Islamabad and another
Criminal Petition No.231/2021
Mr. Justice, Muhammad Hasham Khan Kakar, Mr. Justice Ishtiaq Ibrahim.
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._231_2021.pdf

Facts: The petitioner through this Criminal Petition has called in question the validity of judgment of High Court.

Issues: i) What is the role of medical evidence in a criminal case, and why is it considered only a corroborative piece of evidence?
ii**)** Whether recovery of the crime weapon in absence of blood- stains and Chemical Examiner's report is helpful for the prosecution?
iii) Whether a single reasonable doubt arising from the prosecution evidence, is sufficient for the acquittal of the accused?

Analysis: i) It is also by now a settled law that medical evidence is just a corroborative piece of evidence which does not identify the assailant. At the most medical evidence is a supporting piece of evidence because it may confirm the ocular account evidence with regards to the receipt of injury, its locale, kind of weapon used for causing the injury, duration between the injury and the death but it would not tell the name of the assailant.
ii) The alleged recovery of crime weapon from the room of the petitioner is also not helpful for the prosecution as the same was not stained with blood and as such no report of Chemical Examiner and Serologist is available on the record.
iii) It is well established principle of Criminal justice that there is need of so many doubts in the prosecution case rather any reasonable doubt arising out of the prosecution evidence pricking the judicial mind is sufficient for acquittal of the accused.

Conclusion: i) Medical evidence is merely corroborative, confirming injury details but not identifying the assailant.
ii) See above analysis No.ii.
iii) A single reasonable doubt arising from the prosecution evidence is sufficient for the acquittal of the accused.

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14. **Supreme Court of Pakistan**
Syed Muhammad Ali Jaferi v. The State and another
Criminal Petition No. 94/2025
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._94_2025.pdf

Facts: Petitioner filed the petition under Article 185(3) of the Constitution as High Court denied his post-arrest bail on the allegation that he hacked complainant's Gmail

account, accessed private images, and disseminated them on social media to blackmail and intimidate her and family.

Issues: i) Whether the petitioner's continued incarceration in a marital dispute serves the interest of justice or constitutes legal harassment?
ii) Whether the petitioner is entitled to bail when the alleged offenses fall outside the prohibitory clause of Section 497 Cr.P.C. and no exceptional circumstances exist for refusal?

Analysis: i) In cases involving marital disputes, the court must balance the interests of justice with the need to ensure that the legal process is not used as a tool for harassment. The allegations in this case, while serious, arise from the private dispute between the parties, and the petitioner's continued incarceration may not serve the interest of justice.
ii) The offences alleged in the FIR fall outside the prohibitory clause of section 497 Cr.P.C, the maximum punishment of imprisonments whereof are five years and three years respectively. The petitioner is behind the bars for the last 2/3 months. Grant of bail in suchlike cases is a rule and refusal is an exception. No exceptional circumstances have been pointed out to refuse the concession of bail to the petitioner.

Conclusion: i) Petitioner's continued incarceration may not serve the interest of justice and cannot be used as a tool for harassment in a marital dispute.
ii) See analysis No. ii.

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15. **Supreme Court of Pakistan**
Tanvir Hussain v. The State.
Jail Petition No. 235 of 2021
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.m.a._714_2023.pdf

Facts: The petitioner was convicted under Section 302(b) PPC for murder and sentenced to death, later modified to life imprisonment by the High Court. He sought leave to appeal before the Supreme Court, the court also reviewed a compromise deed submitted during the proceedings.

Issues: i) Whether minor contradictions in witness testimonies affect their credibility?
ii) Whether the occurrence in broad daylight among known parties affects the possibility of mistaken identity?
iii**)** Whether the share of minor legal heirs in Diyat remains protected despite a compromise by other legal heirs?
iv) Whether a convict unable to pay the Diyat amount due to financial constraints has any legal remedies under the law?

Analysis: i) They remained consistent on each and every material point. The minor

contradictions and discrepancies are not helpful to the defence because with the passage of time such discrepancies are bound to occur.

ii) The parties are known to each other and the occurrence took place in broad daylight, so there was no chance of mistaken identity or substitution.

iii) It would be relevant to mention here that it is now well settled that the share of minor legal heirs in Diyat shall remain protected under all circumstances, regardless of whether a compromise has been reached by all legal heirs of the deceased.

iv**)** So far as the issue of inability of convict to pay the amount of Diyat due to weak financial resources is concerned, in the case of Government of Punjab v. Abid Hussain (PLD 2007 SC 315) this Court issued directions to the Federal Government to frame rules on this matter. Consequently, the Rules i.e. Diyat, Arsh and Daman Fund Rules, 2007, were framed by the Federal Government under the mandate of section 338-G PPC. These rules provide four types of remedies for convicts/inmates unable to pay the amounts of Diyat, Arsh, or Daman subject to the terms and conditions specified therein, namely; (i) provisions of Soft Loans, (ii) grant out of the Fund, (iii) release on Parole, and (iv) facilitation for Jobs. In such view of the matter, the petitioner is at liberty to approach the administrative committee constituted under the Rules for the management of the Fund.

Conclusion: i) Minor contradictions do not affect witness credibility if they are consistent on key points.

ii) A broad daylight occurrence among known parties leaves no chance of mistaken identity.

iii) The share of minor legal heirs in Diyat remains protected irrespective of any compromise by other legal heirs.

iv) See Above analysis. iv

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16. **Supreme Court of Pakistan**
Muhammad Abid Hussain v. The State and another
Crl. Misc. No. 10324-B/2024
Mr. Justice Muhammad Hashim Khan Kakar, Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._146_2025.pdf

Facts: The petitioner while invoking the jurisdiction of this Court under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 has questioned the order of the Lahore High Court, Lahore, whereby his application for bail after arrest in FIR for the offence under section 9(1)6(c) of the Control of Narcotic Substances Act, 1997 ("Act of 1997 was dismissed. Upon receipt of spy information, the petitioner was apprehended by the police and the complainant recovered "Heroin" weighing 1100 grams, which the petitioner kept in his possession for the purpose of sale; hence this case.

Issue: i) What should be the standard of proof of recovery and guilt in criminal cases reported under the Control of Narcotic Substances Act, 1997 ("Act of 1997")?
ii) Whether use of modern devises during recovery proceedings is mere a procedural formality?

Analysis: i) The standard of proof required to establish guilt must be correspondingly high. The prosecution must demonstrate beyond reasonable doubt that the petitioner was in possession of narcotics substance and that it was intended for sale ……. In the cases of stringent punishments, the prosecution must present clear, cogent and reliable evidence to prove the accused's guilt beyond a reasonable doubt. In the absence of video evidence and independent witnesses, the prosecution's case relies heavily on the testimony of the police officers involved in the raid, which is insufficient to meet the required standard of proof.
ii) The use of modern devices during recoveries is not merely a procedural formality but a crucial safeguard to protect innocent persons from potential police atrocities. It provides an objective and unbiased account of the recovery process, reducing the risk of false implications and ensuring that the rights of the accused are protected.

Conclusion: i) See above analysis No. i
ii) The use of modern devices during recoveries is not merely a procedural formality but a crucial safeguard to protect innocent persons from potential police atrocities.

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17. **Supreme Court of Pakistan**
Ameeruddin v. The State
Criminal Appeal No. 198/2023
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Saddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._198_2023.pdf

Facts: The Trial Court convicted the appellant for the offence of committing murder of the complainant's father, relatives and sentenced him to life imprisonment on four counts under section 302(b) PPC. He preferred appeal before High Court which was dismissed. Through this appeal, the appellant, has impugned the judgement of the High Court.

Issues: i) Whether the human eye has limitations in resolving fine details at a great distance?
ii**)** What is the legal standard for assessing eyewitness credibility based on distance?
iii) Can witness testimony be accepted if other accused with similar role has been acquitted?

Analysis: i) The human eye has limitations in resolving fine details at a great distance. Even with 6 x 6 vision, the ability to identify specific actions or individuals diminishes significantly as the distance increases. In evaluating the reliability of eye witnesses' testimony, it is crucial to consider how the distance between the witness and the perpetrator can affect identification accuracy. A recent study by Nyman, Lampinen, Antfolk, Korkman, and Santtila (2019), published in the credible Journal of Law and Human Behavior, states that even a person by 20 x 20 vision or average eyesight can only accurately recognize facial features up to a maximum of 40 meters.

ii) The law is clear on cases involving witness testimony, the prosecution must establish the credibility and reliability of its witnesses. The distance from which the witnesses claim to have observed the incident with graphic details is critical in assessing the truthfulness and the ability of their accounts. The general rule is that at a distance of 500 meters (half a kilometer), even individuals with excellent visual acuity would struggle to discern specific details of an event, particularly when the incident involves rapid moment, or if it occurs in an area that is not well lit or has obstructions that could hinder vision. Furthermore, a man's eyesight, even under optimal conditions, is not designed for sustained observations of minute details at such a distance.

iii) The law is settled that if the eyewitnesses have been disbelieved against some accused persons who were attributed effective roles, then the same eyewitnesses cannot be believed against another accused person attributed a similar role unless such eyewitnesses received independent corroboration qua the other accused person.

Conclusion: i) See Above analysis no.i

ii) See Above analysis no.ii

iii) The same eyewitnesses cannot be believed against another accused person attributed a similar role unless such eyewitnesses receive independent corroboration qua the other accused person.

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18. **Supreme Court of Pakistan**
Imtiaz Naeem etc. v. The State
Jail Petition No. 438/2018
Justice Muhammad Hashim Khan Kakar, Justice Salahuddin Panhwar, Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/j.p._438_2018.pdf

Facts: Petitioners were convicted of abduction and murder of a minor and sentenced to death, which was later reduced to life imprisonment by the High Court. Their conviction was challenged on grounds of insufficient and unreliable evidence.

Issues: i) Whether a conviction can be sustained on the basis of voice recognition evidence without corroboration?

ii) Whether a retracted judicial confession without corroborative evidence can form the basis for conviction in cases involving capital punishment?

iii. Whether the absence of medical, forensic, and discovery evidence impacts the validity of conviction on a capital charge?

Analysis: i) The claim of the complainant in respect of recognizing the voice of the petitioner during a ransom demand made over the telephone, particularly in high stakes scenarios, is fraught with significant risks of error, bias and misinterpretation; secondly, unlike fingerprints or DNA evidence, voice recognition lacks a standardized scientific framework for verification; thirdly, telephone calls, especially those made under duress, may suffer from poor audio quality, background noise or distortions, making it difficult to accurately identify the speaker; and, fourthly, in the absence of additional corroborative evidence (e.g., call records, witness testimony, or forensic analysis), relying solely on voice recognition is inherently unreliable. The irreversible nature of the death penalty or life imprisonment necessitates that evidence be unequivocal and incontrovertible. Any doubt, no matter how small, must weigh in favour of the accused because convicting an individual based on unreliable evidence violates the principle of due process and fair trial, which are fundamental to justice.

ii) A retracted confession, especially when it stands as the sole basis for conviction, raises significant legal, ethical and practical concerns. When coupled with the dismissal of oral evidence furnished by the complainant, relying on a retracted confession to secure a conviction becomes even more precarious.

iii) The record depicts that the place from where the dead body was recovered was already in the knowledge of investigating agency and due to the decomposition of the dead body, there is no medical evidence to corroborate the said confessional statement of petitioner Naeem. There is no evidence of recovery and discovery, legally incriminating in nature to connect the necks of the petitioners with the crime in question, as such, such a confession in the peculiar circumstances of the case could not be made basis for conviction and that too on a capital charge entitling death penalty.

Conclusion: i) No, conviction cannot be sustained on uncorroborated voice recognition evidence.

ii) No, a retracted confession without corroboration cannot solely sustain a conviction in capital cases.

iii) Yes, it is unsafe to base conviction on a capital charge in the absence of such evidence.

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19. **Supreme Court of Pakistan**
Commissioner Inland Revenue, Corporate Zone RTO Peshawar v. M/s Flying Kraft Paper Mills (Pvt.) Limited, Charsadda and another
Civil Appeal No. 316 of 2022
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a._316_2022.pdf

Facts: The appellant issued show cause notice to the respondent-company on the alleged inadmissible input tax adjustment paid towards electricity and gas bills supplied to the residential colony of the factory within factory premises; the adjustment was questioned. The show cause notice was contested. It was originally decided via order-in-original against the respondent. The respondent filed an appeal before the Tribunal, which was allowed and decided in favour of respondent and the impugned order-in-original was set aside. Being aggrieved, the appellant filed Sales Tax Reference before High Court, which was also dismissed. This civil appeal is against these concurrent findings of Tribunal and reference jurisdiction of High Court.

Issues i) What is input and output tax?
ii) Whether a registered person or tax-payer cannot be vexed twice?
iii) What is effect and impact of residential colony which is part of one manufacturing unit?
iv) What facility is provided under the provisions of section 7(1) of the Sales Tax Act, 1990

Analysis: i) Input tax is a tax paid by the registered person on the purchases while output tax is calculated on the sale of goods so it requires a legitimate nexus between the two.
ii) The provisions of section 7(1) of the Act provides the facility to the registered person as a legal right to deduct tax paid on purchases from the tax calculated on the sale of its taxable supplies, so that the said registered person may not be vexed twice and the taxpayer is saved from unnecessary hardship.
iii) The residence of labour and work place is shown as "one unit" and is also registered as "one manufacturing unit". The residence is provided to the workers to ensure smooth and unhindered work by labour engaged in the process of manufacturing of the taxable goods. Consequently, the consumption of electricity and gas by the labour/workers in their accommodation is directly connected with the taxable activity of the respondent-company and the entire unit is considered as a manufacturing unit, and hence considered to be a direct manufacturing expenditure in relation to the cost of goods.
iv) The provision of section 7 of the Act is to be interpreted liberally. In terms of the case of *Sheikhoo Sugar Mills Ltd. and others v. Govt. of Pakistan and others* (PTCL 2001 CL 331), it provides a facility to the registered person to adjust input tax at the time of making payment of output sales tax.

Conclusion: i) See above analysis No. i
ii) The registered person may not be vexed twice
iii)See above analysis No.iii
iv) It provides a facility to the registered person to adjust input tax at the time of making payment of output sales tax

20. **Supreme Court of Pakistan**
Sultan Mahmood and another v. Munir Ahmad
Civil Appeal No. 550-L of 2009
Mr. Justice Shahid Waheed, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a._550_l_2009.pdf

Facts: A suit for declaration, possession, and specific performance based on a mortgage deed, was decreed ex-parte. The appellants filed an application to set aside the ex-parte decree. During the appellants' evidence stage, one appellant, acting as an attorney for the other, offered a special oath, leading to the dismissal of the application. On appeal, the Additional District Judge remanded the case for evidence recording. However, the High Court upheld the Civil Judge's decision, relying on the special oath.

Issues: Whether a special oath can be administered to decide an application under Order IX Rule 13 of the CPC when the ex-parte judgment is a past and closed transaction?

Analysis: Perusal of the record of the trial court also reveals that the instant offer of special oath triggered when an application under Order IX rule 13 of the CPC for setting aside ex-parte order was fixed for evidence of the respondent while the applicant's partial evidence in this regard was already recorded. It was at this stage when such offer was made. If at all the special oath could have been offered, it could only be to the extent of deciding the pending application under Order IX rule 13 of the CPC. The procedure requires in terms of Article 163 of the Qanun-e-Shahadat Order, 1984 read with sections 8 and 9 of the Oaths Act, 1873 does not contemplate a decision of a dispute which has already been rendered ex-parte. Decision on oath no doubt is one of the prescribed ways of disposal, but at the same time courts were bound to handle such cases with great care. The ex-parte judgment and decree was a past and closed transaction and it could only be open once an application under Order IX rule 13 of the CPC could have been allowed and not otherwise. The corpus before the trial court was a miscellaneous application and not the main suit.

Conclusion: A special oath cannot be administered to decide an application under Order IX Rule 13 of the CPC when the ex-parte judgment is a past and closed transaction.

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21. **Supreme Court of Pakistan**
Muhammad Israr v. Jehanzeb and others
Civil Appeal No. 156-P of 2013
Mr. Justice Shahid Waheed, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a._156_p_2013.pdf

Facts: Appellant filed suit for declaration to be declared him owner of gifted suit property whereas respondent filed suit for declaration-cum-possession via

partition, which were later on consolidated; the trial court dismissed the appellant suit and decreed suit of respondent; the appellate court reversed the decision, decreeing the suit of respondent and dismissed the appellant suit, this led to a civil revision before the High Court which restored the findings of trial court.

Issues: i) Whether thirty years old deed, can be presumed genuine under the Qanun-e-Shahadat Order, 1984, despite concerns regarding its execution, proper custody, and the credibility of the party producing the document?
ii)What are the powers of revisional court?

Analysis: i) The dower deed which is more than thirty years old claimed to have presumption of genuineness but that presumption is always rebuttable by the party questioning genuineness thereof. Indeed the unsuspicious character of a document, its proper custody and other circumstances are the foundation to raise presumption of its execution, however, if prima-facie, the dispute to its execution and proper custody is raised then it becomes the duty of the court to determine the question of its genuineness. The presumption is thus discretionary and not mandatory in terms of the case of Allah Ditta v. Aimna Bibi (2011 SCMR 1483). The presumption of correctness of a document available under the Qanun-e-Shahadat Order, 1984 in respect of thirty years old document, subject to above, is only in respect of a signature and every other part thereof in handwriting of a particular person. Rest of the contents which are not in the handwriting would then become the subject matter of proof. The other aspect of the matter which germane to the requirement of law is that the subject document should be produced by person having proper custody in terms of Article 100 of the Qanun-e-Shahadat Order, 1984. Production of document purported or proved to be thirty years old from "proper custody" was the condition precedent; until and unless such condition is met, no presumption as to the signature, contents or any part of such document to be duly executed/attested, would arise.
ii) It was within the competence of the revisional court to see whether (i) the courts below had exercised jurisdiction not vested in it or (ii) the courts below have failed to exercise jurisdiction so vested or (iii) the courts below have acted in the exercise of its jurisdiction illegally or with material irregularity.

Conclusion: i) The presumption of correctness of a document is available to thirty years old document, in respect of signature and handwriting of a particular person and if it produces by person having proper custody in terms of Article 100 of the Qanun-e-Shahadat Order, 1984.
ii) See analysis No.ii.

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22. **Supreme Court of Pakistan**
Commissioner Inland Revenue, (Special Zone for Builders and Developers) Regional Tax Office, Islamabad v. Khudadad Heights, Islamabad.
Civil Petition No. 862 of 2024.
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui
https://www.supremecourt.gov.pk/downloads_judgements/c.p._862_2024.pdf

Facts: In the instant Civil petition the question proposed is about 'definite information' required for the amendment of the assessment under section 122 of the Income Tax Ordinance, 2001 ('the Ordinance'). It started via notice under subsections 1, 5 and 9 of section 122 of the Ordinance, 2001 issued to the assessee for the tax year 2006, finalized under section 120 of the Ordinance by accepting a declared version. The cause is a bank statement alone, on the basis of which proceedings commenced. The explanation provided by the taxpayer was found unsatisfactory and the assessing officer re-assessed the net income of the taxpayer. Being aggrieved of such treatment, the taxpayer filed an appeal before the Commissioner Inland Revenue (Appeals-I), Islamabad ('the Commissioner') and was able to successfully established his response to some extent. The Commissioner decided the appeal from which both the department and the taxpayer found themselves aggrieved of the order so they filed appeal/cross-appeal before the Appellate Tribunal Inland Revenue Islamabad Bench-I, Islamabad ('the Tribunal'). The Tribunal heard the appeals and accepted the appeal of the taxpayer, whereas, the departmental appeal was rejected. The Income Tax Reference was then preferred by department before the Islamabad High Court, Islamabad.

Issue: i) What is the comparative analysis of the two *pari material* provisions of Income Tax Ordinance 1979 and income tax ordinance, 2001 regarding procedure prescribed for amending assessment?
ii) What is meant by the phrase "definite information" mentioned in the text of Income Tax Ordinance 1979 and Income Tax ordinance, 2001?
iii) How the effect of definite information can be noticed and what statements and entries disclose definite information?

Analysis: i) The procedure prescribed for amending assessment under the repealed law was not the same as in the present law. Indeed, the procedural aspects have been distinguished but with commonality of object of 'definite information'. Earlier for a 'definite information' the Deputy Commissioner was saddled with responsibility if such definite information came into his possession and if he had obtained the approval of the Inspecting Additional Commissioner, whereas, in the regime of 2001 Ordinance the 'definite information' was either left to the audit analysis which may allow Commissioner to adjudge the following, i.e., (i) any income chargeable to tax has escaped assessment; or (ii) total income has been under-assessed, or assessed at too low a rate, or has been the subject of excessive relief or refund; or (iii) any amount under a head

of income has been mis-classified. Certainly there is no audit claim and even no notice under section 111 of the Ordinance is issued and similarly statement of account alone cannot be a basis to form any of the three routes provided in the later part of section 122(5).

ii) "Definite information" is information so definite that it suffices in engendering a reasonable or definite belief without the need for such information to be subjected to further analysis, scrutiny or logical deduction.

iii) The effect of 'definite information' is to be noticed on a case to case basis and the source of information would then consequently decide as to the information being definite or otherwise. The re-assessment proceedings triggered on the basis of bank statement of the taxpayer. All transactions therein not necessarily demonstrate the income of the taxpayer/assessee hence unless it is established that these statements and/or entries therein disclose information of income which is 'definite', the subject instrument cannot be applied as being one having 'definite information'

Conclusion: i) See above analysis No. i
ii) See above analysis No. ii.
iii) See above analysis No.iii

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23. **Supreme Court of Pakistan**
Mehboob v. The State and others
Criminal Petition No. 344 of 2018
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._344_2018.pdf

Facts: The petitioner killed his sister and a male relative after finding them in a compromising position. He did not attempt to flee and surrendered to the police along with the weapon. The trial court convicted him and sentenced him to life imprisonment, which was upheld by the High Court. Hence; this criminal petition.

Issues: i) What is the judicial approach in determining the effect of sudden provocation on sentencing?
ii) What is the legal impact of sudden provocation on the classification of Qatl-i-Amd under section 302 PPC?

Analysis: i) The cases of State vs. Muhammad Hanif and 5 others1 and Ali Muhammad vs. Ali Muhmmad2 seem to be the most relevant case to understand the consequences of sudden provocation and the events discussed. In the later case, this Court observed that the High Court was not right in holding that the accused had not committed any offence and was not liable to any punishment on account of sudden provocation/self-defence.

ii) A situation cannot be ruled out that one of the deceased provided the situation of sudden provocation as to the cases falling under clause (c) of section 302 of the PPC; the law maker has left it to the court to decide on a case to case basis

depending upon the gravity and intensity of provocation and the time taken for the reaction. In the instant case it was spontaneous.

Conclusion: i) Sudden provocation affects punishment but does not absolve liability.
ii) Courts assess provocation case to case under section 302(c) PPC.

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24. **Supreme Court of Pakistan.**
Province of Punjab through District Collector/ District Officer (Rev), Lahore & others (in CA No. 119-L/ 2022), Malik Abdul Latif Amar (in CA No. 3952/2022) v. Malik Abdul Latif Amar (in CA No. 119-L of 2022), Land Acquisition Collector Highway Department, Lahore & others (in CA No. 3952/2022).
Civil Appeals No. 119-L of 2022 & 3952 of 2022,
Mr. Justice Shakeel Ahmad, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.a._119_l_2022.pdf

Facts: Punjab Highway Department acquired land for the construction of an overhead bridge and awarded certain amount of compensation. The land owner approached the referee court, which enhanced the amount of compensation vide impugned judgment.

Issues: i) What would be the effect of office objections on period of limitation?
ii) What factors are to be considered in determining the compensation for the land acquired?
iii) What is the difference between potential value and market value, which would be awarded?
iv) How the delay in announcement of award would affect the determination of compensation?

Analysis: i) It is an admitted position that the objections were not addressed within the stipulated time and the appeal was re-submitted after the removal of the objection on 09.12.2021, well beyond the period prescribed for removing the objection. Accordingly, the High Court while rightly placing reliance on "Asad Ali & Others vs. The Bank of Punjab & Others" (PLD 2020 SC 736) held the appeal to be time-barred as the Appellants failed to remove the deficiencies pointed out by the office within the period prescribed. When confronted with these legal and factual aspects of the case, the learned counsel failed to furnish a satisfactory response.
ii) A perusal of Section 23 of the Act reflects that various factors are to be taken under consideration while determining compensation, with market value being just one such factor as reiterated in "The Province of Sindh v. Ramzan and Other" (PLD 2004 SC 512). Furthermore, it is pertinent to note that compensation is a very wide term, indicating that the land owners, for various reasons, are to be compensated and not merely paid the price of the land which is just an interaction of supply and demand fixed between a willing buyer and a willing seller. Additionally, although, mere classification or nature of land, can be taken as a relevant consideration for the purposes of determining compensation, it is not an

absolute one. Factors such as location, neighbourhood, potentiality or other benefits could not be disregarded either. Indeed, the place and situation of the acquired land are paramount considerations that must be accorded due and thoughtful attention in the fair assessment of compensation.

iii) In this regard, reference may be made to the case reported as "Malik Aman & Others v. Land Acquisition Collector & Others" (PLD 1988 SC 32) wherein this Court had explained the concept of 'potential value' and differentiated it from the term 'market value'. It was held that market value was normally to be taken as the one existing on the date of notification under Section 4 (1) of the Act, based on the principle of a willing buyer and a willing seller. In contrast, the potential value was explained to be one to which similar lands could be put to any use in future. Furthermore, factors for determining the compensation of the land are not restricted only to the time of the notification, but, can also relate to the period in future, and that is why in a large number of cases the potential value has been held to be a relevant factor.

iv) It is also noteworthy that there is an unreasonable delay of four years in the announcement of the Award and issuance of notification under Section 4 of the Act. Obviously, any escalation in the value of the property during such period constitutes the potential value of the land, which was rightly taken into consideration by the Courts below while determining the compensation.

Conclusion: i) The appeal would be barred, if the office objections are not removed within the given time and presented again after limitation.

ii) Factors such as location, neighbourhood, potentiality or other benefits could not be disregarded either alongwith the market value.

iii) Market value is determined on the principle of a willing buyer and a willing seller. The potential value was explained to be one to which similar lands could be put to any use in future. It is potential value to be awarded.

iv) Any escalation in the value of the property during such period constitutes the potential value of the land and is to be considered.

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25. **Supreme Court of Pakistan**
Muhammad Azam v. The Stat etc.
Criminal Appeal No. 297 of 2023
Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._297_2023.pdf

Facts: Appellant was convicted for abduction and rape of a minor girl along with committing theft, which conviction was upheld by the High Court. The appellant challenged the conviction and sentence through the present appeal.

Issues: i) Whether conviction can be sustained when the prosecution story is found to be improbable and irrational?

ii) Whether delay in lodging the FIR without plausible explanation affects the prosecution case?

iii) Whether non-production of material witnesses amounts to withholding best available evidence attracting adverse presumption?
iv) Whether medical evidence alone, without unimpeachable corroborative evidence, is sufficient to sustain conviction for rape?

Analysis: i) Prosecution's story being foundation on which the entire superstructure of the case is built, occupied a pivotal status, it should, therefore, stand to reason and must be natural, convincing and free from any inherent improbability as it would neither be safe to believe the prosecution's story which did not meet the said requirements nor the prosecution's case based on improbable story could sustain conviction. In the instant case we have noticed that the prosecution's story from its every inception is improbable and irrational as the same did not appeal to reason.

ii) The complainant has failed to furnish any explanation, much less a plausible one, for such significant delay in reporting a matter of grave nature, involving the alleged abduction and sexual assault of his minor daughter. It is indeed surprising and contrary to the natural conduct of a prudent father that when his minor daughter was allegedly abducted, he remained silent for a period of seven days without approaching the law enforcement agencies. Such an unexplained and unreasonable delay in lodging the First Information Report casts serious doubts on the veracity of the prosecution's case and suggests that the possibility of deliberation, consultation, and fabrication before lodging the FIR cannot be ruled out. It is a settled principle of law that delay in setting the criminal machinery into motion, when not reasonably explained, erodes the credibility of the prosecution's case and makes it unsafe to rely upon without independent and unimpeachable corroboration.

iii) Non-production of … material evidence, amounts to withholding of best available evidence, therefore an adverse inference within the meaning of Article 129(g) of the Qanun-e-Shahadat Order, 1984 would be drawn against the prosecution.

iv) The testimony of lady doctor, in absence of any other evidence of unimpeachable character would not be sufficient to prove that the sexual intercourse was committed with the victim girl by the appellant. Besides, the vaginal swabs taken from the victim girl were sent to the Chemical examiner after a delay of three weeks for which no explanation, much less, plausible, has been furnished by the prosecution.

Conclusion: i) Conviction cannot be maintained when prosecution evidence is improbable and suffers from material contradictions.

ii) Unexplained delay in lodging FIR fatally affects the prosecution case.

iii) Non-production of material witnesses amounts to withholding best evidence and attracts adverse presumption against the prosecution.

iv) Medical evidence alone, without credible corroboration, is insufficient to sustain conviction for rape.

26. **Supreme Court of Pakistan**
Muhammad Ramzan v. The State
Jail Petition No.95 of 2022
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/j.p._95_2022.pdf

Facts: Petitioner was sentenced to death as Ta'azir under section 302(b) PPC and to pay rupees two lacs, as compensation to legal heirs of the deceased within the meaning of section 544-A Cr.P.C. and in default of payment thereof to further undergo six months simple imprisonment, which judgment was maintained by Islamabad High Court. Petitioner being discontented from conviction and sentence, assailed the same through instant jail petition.

Issue: i) What is evidentiary value of FIR registered on information supplied by accused, wherein accused admits the commission of such occurrence?
ii) Whether the FIR in itself is a substantive piece of evidence?
iii) Is there any exception to the settled law that FIR is not a substantive piece of evidence?
iv) What is the presumption against non-production of material witness by the prosecution?
v) What are legal consequences of non-associating private witnesses in residential area?
vi) Whether medical evidence in a criminal case can identify the assailant?

Analysis: i) It could be considered as confession before police which is inadmissible evidence within the meaning of Article 38 of the Qanun-e-Shahadat Order, 1984.
ii) It is settled law that FIR by itself is not a substantive piece of evidence unless its contents are affirmed on oath in the witness box by its maker and its maker is subjected to the test of cross examination. In view of Articles 140 and 153 of the QSO, FIR being a previous statement can only be used for contradicting its maker but unless the same is not proved through its maker, cannot be used as a substantive piece of evidence in favour of the prosecution's case.
iii) FIR is not a substantive piece of evidence unless proved by its maker by deposing on oath in the witness box in support thereof except recorded on the report of a person who is near to die. In such eventuality, the FIR is commonly known as "dying declaration", and is admissible evidence under Article 46 of the QSO.
iv) An adverse inference is drawn under Article 129(g) of the Qanun-e-Shahadat Order, 1984 to the effect that had the above witness been produced by the prosecution at the trial, they would not have supported the version of the prosecution.
v) Due to non-association of any private witness of the locality to attest the recovery memo lacks independent corroboration, thus, the same is disbelieved.
vi) It is by now well settled that medical evidence is a type of supporting

evidence, which may confirm the prosecution version with regard to receipt of injury, nature of the injury, kind of weapon used in the occurrence but it would not identify the assailant.

Conclusion: i) Confession before police is inadmissible evidence.
ii) FIR by itself is not a substantive piece of evidence.
iii) FIR registered on the dying declaration is admissible evidence under Article 46 of QSO.
iv) An adverse inference is drawn under Article 129(g) of the Qanun-e-Shahadat Order, 1984 for non-production of material witnesses.
v) Non-association of any private witness in recovery proceedings is fatal.
vi) Medical evidence in itself cannot identify the assailant.

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27. **Supreme Court of Pakistan**
Zarin Khan, etc. v. The Chairman, Evacuee Trust Property Board, Lahore, etc.
C.A.No.613 of 2020 (Against the judgment dated 05.03.2020 of the Peshawar High Court, Peshawar passed in C.R. No.647-A of 2009) and
C.M.A. No.3760 of 2022
Mr. Justice Shahid Waheed, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a._613_2020.pdf

Facts: An auction was conducted for the sale of a piece of land, wherein the highest bid was matched by the appellants. However, the approval of the competent authority was not granted for their bid. Subsequently, the auction was cancelled, and the land was ordered to be re-auctioned, leading to a legal dispute over the appellants' entitlement to ownership. The civil suit of the appellant's was dismissed and appeal was allowed but the revision of the respondents was allowed.

Issues: i) Whether a bid at an auction creates a legal right in favour of the bidder in the absence of confirmation or approval by the competent authority?
ii) Whether the competent authority has an unfettered right to cancel an auction without assigning any reason?
iii) Whether the rejection of a highest bid and the decision to re-auction violates principles of natural justice?
iv) Whether an auction bid subject to approval or confirmation by the competent authority results in a concluded contract prior to such approval?

Analysis: i) A bid at an auction is only an offer and without confirmation or approval does not create any right in the property in favour of the successful bidder. By matching the bid of the highest bidder, the appellants merely stepped into their shoes. Their status upon exercising the option would be no different from the highest bidder.
ii) There is no denying the fact that in terms of clause 8 of the terms and conditions of the auction, ETPB was given the right to cancel the auction without assigning any reason.

iii) In the case of Javed Iqbal Abbasi & Company Vs. Province of Punjab (1996 SCMR 1433), it was held inter alia that where the highest bid was rejected and re-auction was ordered which afforded equal opportunity to persons whose bid had been rejected, then the principles of natural justice would not be deemed to have been violated.
iv) It is also well settled that where the acceptance of the highest bid is subject to the approval or confirmation by the competent authority, then unless and until such approval is granted or confirmation is made there is no concluded contract vesting the highest bidder with an interest in the property subjected to auction.

Conclusion: i) A bid is just an offer; no rights arise without confirmation.
ii) The authority can cancel it without reason.
iii) Equal opportunity ensures no injustice.
iv) Approval is essential for rights to vest.

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28. **Supreme Court of Pakistan**
Syed Uzair Shah & others v. Mst. Surriya Begum (decd.) thr. L.Rs & others
C.A.1779/2024
Mr. Justice Shahid Waheed, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.a._1779_2024.pdf

Facts: Through the instant appeal, the appellants have called into question the judgment passed by High Court, whereby civil revision filed by the predecessor of the private respondents against the judgment and decree dated passed by the learned appellate Court, was allowed and the judgment and decree passed by the learned civil Court decreeing the suit for declaration filed by the predecessor of the private respondents to challenge the inheritance mutation as their gifted land was devolved on all the legal heirs, was restored.

Issues: i) Whether a declaration as to the landholding of a land owner has been judicially recognized as a 'decisive step' in the process of land reforms?
ii) Is it necessary for the completion of a valid gift under Islamic law to put minor donee in actual physical possession of the gifted property where the donor is the minor's guardian?

Analysis: i) A declaration as to the landholding of a land owner has been judicially recognized as a 'decisive step' in the process of land reforms. True, that such gift was not incorporated in the revenue record, and after Syed Noor Ahmed Shah's demise, inheritance mutation No.9,660 was attested on 07.12.1994 showing Syed Noor Ahmed Shah's entire land including the land gifted to Mst. Surriya Begum to have devolved on all his legal heirs. However, at no material stage did Syed Noor Ahmed Shah in his lifetime revoke the declaration made by him on 13.04.1959 before the Land Reforms Authorities. This declaration was infact an admission by him as to the gift made by him in favour of his daughter.

ii) The High Court has recognized the well settled principle that where the donee is a minor and the donor is the minor's guardian, it is not necessary for the completion of a valid gift under Islamic law to put such donee in actual physical possession of the gifted property. In the case of Kaneez Bibi Vs. Sher Muhammad (PLD 1991 SC 466), this Court held inter alia that in cases where the father is the donor for a daughter and / or a minor living with him, strict proof by the donee of transfer of physical possession, as in other type of cases, is not insisted upon. Furthermore, in the case of Riaz ullah Khan Vs. Asghar Ali (2004 SCMR 1701), this Court held the objection as to the non-delivery of possession of the gifted property by a person to a wife or to a ward to be immaterial.

Conclusion: i) A declaration as to the landholding of a land owner has been judicially recognized as a 'decisive step' in the process of land reforms.
ii) See analysis No. ii.

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29. **Supreme Court of Pakistan**
Chairman Water and Power Development Authority, Pakistan Lahore and others v. Haji Abdul Rehman and others
Civil Appeal No.1612 of 2018
Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/c.a._1612_2018.pdf

Facts: By way of this appeal, the appellants being officers of the acquiring department have impugned the judgment and decree of the High Court, whereby their RFA was dismissed maintaining the order of the Executing Court.

Issues: i) What is the basic criteria for determination of the market value of the land to be acquired?

Analysis: i) The market value of the land to be acquired prevailing at the date of publication of the notification under Section 4(1) is to be considered and it is the basic criteria for determination of the market value.

Conclusion: i) Market value prevailing at the date of publication of the notification under Section 4(1) is the basic criteria.

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30. **Lahore High Court**
Zafar Iqbal alias Ilam Din v. The State, etc.
Crl. Appeal No.27878-J of 2022
Muhammad Rafique v. The State, etc.
Crl. Appeal No.27874 of 2022
Muhammad Rafique v. Zafar Iqbal alias Ilam Din, etc.
Crl. Rev. No.27876 of 2022
Ms. Justice Aalia Neelum Chief Justice
https://sys.lhc.gov.pk/appjudgments/2025LHC607.pdf

Facts: The appellant was accused of trespassing into the complainant's house along with others and attacking the complainant's minor son. When the complainant's

relative intervened, the appellant allegedly struck him on the head with a brick, leading to fatal injuries who succumbed to injuries. The trial court convicted the appellant and acquitted respondents No.2 to 5. Hene; these criminal appeals and revision.

Issues: i) Whether the delay in lodging the FIR affects the prosecution's case and creates doubt regarding its genuineness?

ii) What is the legal effect of non-production of injured witnesses and lack of medical evidence?

iii) What is the evidentiary value of a recovered weapon if it is not produced before the trial court?

iv) What is the standard for interference with an acquittal order in appellate jurisdiction?

Analysis: i) The first information report was lodged with considerable delay, for which the prosecution's explanation is not plausible. The witnesses' conduct in keeping quiet and not reporting the matter immediately is most unnatural when police were with them soon after the incident and remained with them till the death of Bilal at General Hospital, Lahore. (…)In the light of the entire prosecution evidence and circumstances, they influenced the court's mind that there had been some wrangling about the time of the case's registration. This breeds serious doubts regarding the prosecution story's genuineness, including the offenders' names and eyewitnesses.

ii) The fact that the accused persons, including the appellant, gave a beating to the family members of Muhammad Rafique (PW-1)-the complainant, and Muhammad Ashraf (PW-2) has not been proved. The injured witnesses were not produced in court, and the prosecution could not provide evidence regarding their injuries, which shows that the prosecution's story is false. Having scrutinized the evidence on record, I am not satisfied that the prosecution has proved its case beyond reasonable doubt. In any event, the appellant is entitled to the benefit of the doubt.

iv) Production of the recovered piece of blood-stained brick is necessary to corroborate the expert report with the recovery. There is no evidence on record that the brick was produced before the learned trial court. The learned DPG cannot show any evidence on record that the piece of blood-stained brick was produced in the court, which creates serious infirmity and doubt about the existence of the piece of brick. The irresistible conclusion that emerges from scanning, perusing, and dissecting the prosecution evidence is that the prosecution has failed to prove its case beyond reasonable doubt.

iv) I have also taken note of the settled principle of criminal jurisprudence, which states that unless it can be shown that the lower court's judgment is perverse or that it is completely illegal, No other conclusion can be drawn except the guilt of the accused or misreading or non-reading of evidence, resulting in a miscarriage of justice. Even otherwise, when a court of competent jurisdiction acquits the accused persons, the double presumption of innocence is attached to his case. The

acquittal order cannot be interfered with, whereby an accused earns double presumption of innocence.

Conclusion: i) The delayed FIR and police presence soon after the incident create serious doubts about the prosecution's case.
ii) The absence of injured witnesses and medical evidence weakens the prosecution's claim, granting the appellant the benefit of the doubt.
iii) Failure to present the recovered brick in court raises doubts about its existence and weakens the prosecution's case.
iv) Acquittal stands unless proven perverse or illegal, as the accused benefits from a double presumption of innocence.

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31. **Lahore High Court**
Ali Akbar, etc. v. The State, etc.
Crl. Appeal No.31052 of 2023
Crl. Rev. No.43674 of 2023
Muhammad Yousaf v. Ali Akbar, etc.
Ms. Chief Justice Aalia Neelum
https://sys.lhc.gov.pk/appjudgments/2025LHC585.pdf

Facts: The appellants through this appeal have challenged their conviction in a private complaint and the complainant through criminal revision seeks the enhancement of punishment for life imprisonment awarded to the appellants.

Issues: i) What is the effect of not mentioning the names of witnesses in the inquest report?
ii) What is the time period during which the human blood disintegrates?

Analysis: i) Non-mentioning the names of prosecution witnesses in the inquest report (Ex. CW-2/D) creates doubt about their presence at the place of occurrence.
ii) I noted that the recovered daggers were analyzed on 16.04.2020, forty-three days after the occurrence. Human blood was not compared with Muhammad Ali's blood. It was not possible to determine the origin of the blood on "daggers", as blood disintegrated after one month of the occurrence and in this regard, case of "FAISAL MEHMOOD. Vs. THE STATE" (2017 Cr.LJ 1) can be referred.

Conclusion: i) Non-mentioning the names of witnesses in inquest report makes their presence doubtful.
ii) Blood disintegrated after one month of the occurrence

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32. **Lahore High Court**
Bilal Muzaffar alias Heera, etc. v. The State etc.
Crl. Appeal No.62458-J of 2020
Hon'ble Chief Justice Ms. Aalia Neelum
https://sys.lhc.gov.pk/appjudgments/2025LHC717.pdf

Facts: The learned trial court convicted the appellants with imprisonment for life upon the allegations of murder.

Issues: i) What is the effect of unexplained delay in lodging FIR and postmortem examination, upon the prosecution case?
ii) Under what circumstances a court can allow the party calling a witness, to ask questions to him?
iii) Whether the mere absconsion is sufficient proof of guilt of accused?

Analysis: i) A delay in lodging the first information report often results in consultation and deliberation, which is a creature of afterthought. The prosecution failed to explain the delay in reporting the incident as well as the delay in conducting a post-mortem examination on the dead bodies of Safdar Iqbal, Ghulam Murtaza alias Gogi Cheema, and Ali Raza, the deceased persons. Hence, these circumstances raised considerable doubt regarding the veracity of the case, and it was held that it was not safe to base a conviction on it. The unexplained delay in reporting the incident in lodging the first information report and the delay in conducting postmortem examination on the dead bodies of the deceased persons prove fatal to the case of the prosecution.
ii) A court can permit a party calling a witness to put questions under Article 150 of the Qanun-e-Shahadat Order, 1984, only in the examination-in-chief of the witness. Article 150 does not, in terms or by necessary implication, confine the exercise of the power by the court before the examination-in-chief is concluded or to any stage of the examination of the witness. A clever witness in his examination-in-chief deposes what he stated earlier to the police or in the committing court, but in the cross-examination introduces statements subtly, contradicting in effect what he stated in the examination-in-chief. If his design is evident during his cross-examination, the court, therefore, can permit a person, who calls a witness, to put questions to him which might be put in the cross-examination at any stage of the examination of the witness, provided it takes care to allow the accused to cross-examine him on the answers elicited which do not find place in the examination-in-chief.
iii) In the instant case, medical evidence conflicts with the ocular account, and only one thing goes against the appellants No.2 & 3 i.e. their abscondence for the considerable period. In such cases, the accused also abscond with fear of arrest as well as due to torture by the police. However, even if established, the factum of abscondence could only be used as corroborative evidence and was not substantive. It is an established principle of law that mere absconsion is not proof of guilt of the accused.

Conclusion: i) The unexplained delay in reporting the incident in lodging the first information report and the delay in conducting postmortem examination on the dead bodies of the deceased persons prove fatal to the case of the prosecution.
ii) If a clever witness after deposing in terms of his earlier stance but introduces statement subtly, contradicting his examination-in-chief with ulterior design. The

court can permit the party calling him to ask questions which might be put in cross-examination.
iii) Abscondence even if established is corroboratory only, not substantive evidence and could not be basis of conviction.

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33. **Lahore High Court**
Malik Abdul Rauf v. Malik Abdul Razzaq (deceased) through L.Rs., etc.
Civil Revision No. 2363 of 2012.
Mr. Justice Shujaat Ali Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC526.pdf

Facts: The parties instituted multiple civil suits against each other five in total, for declaration alongwith permanent as well as mandatory injunction and for partition of property. The learned trial court through consolidated judgment decreed the suit of petitioner and dismissed the other four. Whereas, the learned appellate court dismissed the suit of the petitioner, which resulted the instant revision.

Issues: i) Whether the principle of Res Judicata is applicable to appeals?
ii) Whether a main case could be decided pending the miscellaneous applications?
iii) How the omissions as to description of property in gift deed would affect the case of beneficiary?
iv) What are essential ingredients of a valid gift?
v) Whether a gift could be accepted by anybody else on behalf of the donee?
vi) Whether registration of a document with Sub-Registrar is a proof of its authenticity?
vii) How the authenticity of a written document could be proved and by whom?
viii) What is status of constructions upon joint property by a co-sharer and effect of electricity connection over the ownership?
ix) What is effect of non-appearance of a person, filing conceding written statement?
x) When presumption attached to a registered document evaporates?

Analysis: i) The Apex Court of the country in the case of *Khair Muhammad v. Muhammad Hussain and others* (PLD 2006 SC 577), while dealing with a question as to whether appeal can be rejected while pressing into service the principle of *res-judicata* on the ground that all decrees drawn pursuant to a consolidated judgment have not been appended, has *inter-alia* concluded as under: -

> *"15. From perusal of the above precedent cases, it is clear that preponderance of opinion has been in favour of the view taken by the learned Full Bench of the Lahore High Court in Mt. Lachhmi's case. We are of the opinion that in the facts and circumstances of the case, one appeal against the decree passed in the suit of the respondents was sufficient to get rid of the adjudication made by the single judgment and the unappealed decree did not operate as res judicata. It is also*

held that the decree passed in appeal by the learned first Court of appeal shall have precedence over the decree passed by the trial Court in Suit No.55-A."

If the authenticity of the objection raised by learned counsel for the petitioner is adjudged in the light of the afore-referred judgment of Hon'ble Supreme Court of Pakistan, the same does not hold any water and is accordingly spurned.

ii) If a forum decides to dispose of the main case without deciding the miscellaneous application(s) its decision cannot sustain, however, when the matter stands decided conclusively, the decision of the said forum cannot be held non-maintainable. Reliance in this regard is placed on *Silver Star Insurance Company Limited, Lahore through Chief Executive v. Messrs Kamal Pipes Industries, Lahore and another* (2023 CLD 1342) …If the fate of the objection of learned counsel for the petitioner against decision of the main appeal without disposing of the miscellaneous application filed by respondent No.1, seeking dismissal of the appeal in view of principle of *res-judicata*, is seen in the light of the afore-quoted judgment of a learned Division Bench of this Court, there leaves no doubt that when the appeal filed by respondent No.1 was decided by the learned Appellate Court after dilating upon all *pros and cons* of the case, the said omission cannot be considered fatal especially when the petitioner has miserably failed to prove execution of valid gift in his favour.

iii) the exact description of the property, subject matter of the gift deed, has not been mentioned. Though, no Khewat number, Khasra number or Khatooni Number has been mentioned in the Gift Deed but while filing suit, the petitioner incorporated details of the suit house which were not part of the gift deed. The omission of said important antecedent in the gift deed raises serious objection against its veracity.

iv) The three essential ingredients for a valid gift have been described under Para 149 of the D.F. Mullah's Principles of Mohammadan Law. As per the referred Para, there should be an offer by the donor and its acceptance by or on behalf of the donee and delivery of possession.

v) There is no cavil with the fact that gift can be accepted by anybody else on behalf of the donee but non-production of said person in the evidence put serious dent to the authenticity of the gift deed.

vi) mere registration of a document with Sub-Registrar concerned, *per se* cannot be considered as a proof regarding its authenticity rather the said fact can only be used to treat a document as public one…registration of a document with the relevant authority can be considered for registration purposes only but the said fact cannot be used to prove its authenticity especially when credibility of said document has been challenged by the opposite side.

vii) It is important to mention over here that as per Article 79 of Qanun-e-Shahadat Order, 1984, a written document must be attested by two witnesses. Further, in the event of any dispute regarding authenticity of said document, beneficiary of said document is bound to produce its marginal witnesses in addition to the scribe.

viii) It is well established by now that if a co-sharer raises construction on a land, jointly owned by different persons, he does so at his own risk and cost. Likewise, the installation of utility apparatuses and payment of utility bills also cannot be considered as proof of ownership as held by the Hon'ble Supreme Court of Pakistan in its recent decision, dated 13.01.2015, rendered in Civil Petition No.4389/2023, titled *Umar Gul v. Dr. Hafiza Akhtar and others* (2025 SCP 23)

ix) It is well settled by now that mere filing of a conceding Written Statement, without examination of the relevant defendant in the witness box, cannot be used in favour of a plaintiff as held by the Hon'ble Supreme Court of Pakistan in the case reported as *Muhammad Ejaz and 2 others v. Mst. Khalida Awan and another* (2010 SCMR 342).

x) In the cases of *Muhammad Siddique (deceased) through L.Rs and others* and *Anjuman-e-Khuddam-ul-Qur'an, Faisalabad through President Qur'an Academy* (supra) Hon'ble Supreme Court of Pakistan has highlighted that presumption of correctness is attached to a document which has been registered by the public functionaries in discharge of their routine duties. Firstly, the said presumption becomes rebuttable when anybody challenges the sanctity of the registered document and secondly the said presumption evaporates when the beneficiary fails to prove its execution.

Conclusion: i) when decrees are drawn pursuant to a consolidated judgment, the appeal is not hit by Res Judicata.

ii) When the matter stands decided conclusively, pendency of miscellaneous would have no bar.

iii) The omission of important antecedent in the gift deed raises serious objection against its veracity.

iv) An offer by the donor and its acceptance by or on behalf of the donee and delivery of possession, are the essentials of a valid gift.

v) A gift could be accepted by anybody else on behalf of the done.

vi) Mere registration of a document is not a per se proof of its authenticity.

vii) The beneficiary is to prove a written document in terms of Article 79 of the QSO and recording its scribe as well.

viii) Raising constructions at a joint property by a co-sharer is at one's own risk and cost, similarly, electricity connection is not a proof of ownership.

ix) Mere filing of a conceding Written Statement, without examination of the relevant defendant in the witness box, cannot be used in favour of a plaintiff.

x) The said presumption becomes rebuttable when anybody challenges the sanctity of the registered document and secondly the said presumption evaporates when the beneficiary fails to prove its execution.

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34. **Lahore High Court**
Khadim Hussain Chaudhry v. Punjab Cooking Oil Private Limited & others
Civil Revision No.76005 of 2019
Mr. Justice Shujaat Ali Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC568.pdf

Facts: This civil revision has been filed against concurrent findings of courts below, wherein suit instituted by the petitioner seeking declaration to the effect that he did not remain member of the Punjab Cooking Oil Private Limited, however, treating him as director of the company by Securities and Exchange Commission of Pakistan and the act of the Customs authorities putting his property to auction was illegal and void ab initio was rejected by courts below under order VII rule 11 C.P.C.

Issues: i) Who can apply to the court for rectification of register of directors?
ii) Which court has jurisdiction to deal the matters relating to addition/deletion of the name of a person from register of directors of a company?
iii) Whether the civil court established under civil procedure code, 1908 can adjudicate matters relating to Company Act,2017?
iv) Whether the civil courts established under civil procedure code,1908 have jurisdiction to try all the suits of civil nature?
v) Whether the court while deciding application under order VII rule 11 CPC can see into the contents of the plaint alone?

Analysis: i) if the name of any person is entered in or omitted from the register of directors of a company fraudulently or without any sufficient cause, the person aggrieved or the company may apply to the court for rectification of register of directors.
ii) The term court has been defined under Section 2(23) of the Companies Act, 2017 in the following words:- "Court" means a Company Bench of a High Court having jurisdiction under this Act.(…) No other forum except the Company Bench of this Court can deal with a matter relating to addition/deletion of the name of a person from the register of directors of a company.
iii) As per section 4 of the Companies Act 2017, the said enactment has overriding effect over other laws, Memorandum of Articles of Association of a Company. Moreover, according to Section 5(2) of the Act 2017, the jurisdiction of Civil Court has expressly been ousted (...) As any matter relating to addition/ deletion of the name of a person from the register of directors is exclusively amenable to the Company Bench of this Court in terms of sections 197(5) ibid, the jurisdiction of the civil court, working under Civil Procedure Code 1908, had no jurisdiction to try the suit.
iv) It is well established by now that when a matter is covered under special law, the application of general law is totally ousted (…) The courts, established under the Civil Procedure Code 1908, have the jurisdiction to try all suits of civil nature but they cannot take cognizance of a matter wherein their jurisdiction is expressly or impliedly barred.
v) Before taking cognizance of a matter, the forum concerned is bound to decide the question relating to its jurisdiction in the first instance and then to proceed further in the matter. Further, a court cannot be bound down to decide application for rejection of the plaint only on the basis of the contents of the plaint rather, it

can also take into consideration other available material while dealing with such application.

Conclusion: i) Rectification of the register of directors can be sought by aggrieved person or company.
ii) Only the Company Bench of the High Court has jurisdiction over such matters.
iii) The Companies Act, 2017, overrides other laws, ousted civil courts.
iv) Special law prevails over general law, excluding civil court jurisdiction.
v) A court must determine jurisdiction first and can consider all other relevant material.

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35. **Lahore High Court**
Palwasha Nageen v. The State
Criminal Appeal No.589 of 2024
Mr. Justice Sadaqat Ali Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC563.pdf

Facts: Appellant being juvenile has been tried by the trial Court in private complaint offences under Sections 302, 109, 148 & 149 PPC arising out of case FIR, with the allegation of murder of her husband and was convicted and sentenced.

Issues: i) Whether for giving benefit of doubt there should be many circumstances creating doubt?

Analysis: i) It is settled principle of law that for giving benefit of doubt, it is not necessary that there should be many circumstances creating doubt. If there is a circumstance which creates reasonable doubt in the prudent mind about the guilt of the accused, then he would be entitled to its benefit not as a matter of grace or concession but as of right.

Conclusion: i) Many circumstances do not require for giving benefit of doubt.

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36. **Lahore High Court**
Malik Shoukat Ali Awan v. Ghulam Hussain (deceased) through LRs. etc.
CR No.516/D of 2022
Mr. Justice Sadaqat Ali Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC558.pdf

Facts: The plaintiff filed a suit for possession through pre-emption and alleged that he made the required immediate demand (*Talb-i-Muwathibat*) upon having knowledge of the sale. He also claimed to send a formal notice (*Talb-e-Ishhad*) to confirm his intention to pre-empt. The trial court decreed the suit in his favour. However, the lower appellate court reversed the decision and dismissed the suit. The plaintiff then filed this civil revision.

Issues: i) Whether date of attestation of mutation trigger the limitation period under Section 30 of the Punjab Pre-emption Act, 1991?

ii) What are the mandatory requirements for valid performance of *Talb-e-Ishhad* under the Punjab Pre-emption Act, 1991?
iii) Does mere signing and sending of notice fulfill the requirements of *Talb-e-Ishhad* under Section 13(3) of the Punjab Pre-emption Act, 1991?

Analysis: i) Date of attestation of mutation can be considered for filing suit of pre-emption within four months (Section 30 of the Act).
ii) Section 13(3) of Punjab Pre-emption Act, 1991 (**"the Act"**) provides mode of making of "Talb-e-Ishhad"… To establish "Talb-e-Ishhad", four formalities; (a) written notice (b) attested by two truthful witnesses (c) sent under registered cover (d) acknowledgement due, if facility of post office is available as in present case are to be fulfilled being mandatory provision of law [13(3)]. Plaintiff had also to prove through solid evidence that notice was personally served upon the vendee.
iii) Non performance of "Talb-e-Ishhad" in accordance with law is fatal to the case of the plaintiff… "Talb-e-Ishhad" is confirmation of intention to exercise a right of pre-emption…In present case, petitioner being plaintiff and his witnesses have simply stated before the trial Court that notice in writing attested by them was sent to defendant but have not stated that plaintiff had confirmed his intention to exercise right of pre-emption which was requirement of Section 13(3) of the Act… mere signing and sending of notice cannot be held to be a substantive compliance with the provisions of Section 13(3) of the Act. In view of the above, plaintiff has failed to substantiate "Talb-e-Ishhad". (PLJ 2014 SC 787) "Muhammad Zahid Vs. Dr. Muhammad Ali".

Conclusion: i) See above analysis No i.
ii) See above analysis No ii.
iii) Mere signing and sending of notice cannot be held to be a substantive compliance with the provisions of Section 13(3) of the Act.

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37. **Lahore High Court**
Manzur-ul-Haq v. The Federation of Pakistan and others
ICA No.155 of 2024.
Mr. Justice Shams Mehmood Mirza, Mr. Justice Abid Hussain Chattha
https://sys.lhc.gov.pk/appjudgments/2025LHC443.pdf

Facts: The appellant challenged the imposition of capital gains tax on the disposal of securities, arguing that a vested right to exemption had accrued before the legislative amendments. The learned Single Judge in Chambers dismissed the constitutional petition, prompting the present Intra-Court Appeal.

Issues: i) Does an amendment in fiscal statutes have retrospective effect in the absence of clear legislative intent?
ii) Can a proviso in a tax statute nullify the substantive provision it modifies?
iii) Does the imposition of different tax rates on similar transactions constitute discrimination under the law?
iv) How should tax statutes imposing liabilities be interpreted?

Analysis: i) It is a cardinal principle that where an amendment is brought about in fiscal statutes it shall not be given a retrospective construction by applying to past transactions unless the intention is expressed with irresistible clearness… It is nonetheless a clear position of law and one that is supported by a long chain of respectable authority that clear and unambiguous words are required before a statutory provision will be construed as displaying a legislative intent to abolish or modify rights.

ii) A proviso is a legislative technique by the draftsman to qualify the generality of the main provision by adding an exception to and for taking out from the main clause, a part of it which, but for the proviso, would fall within the main clause.

iii) Notwithstanding the above changes brought about in Division VII, the legislature through Finance Act, 2024 again revived 0% rate of tax on disposal of securities acquired between 01.07.2022 and 30.06.2024 where the holding period exceeded six years. Even more significantly, the disposal of securities acquired before 01.07.2013 were again held liable to 0% tax as per the second proviso to the table of Division VII. These amendments completely nullified the effect of the offending proviso added through Finance Act, 2022. This lends credence to the allegation of discrimination by the appellant. Keeping in view the amendments made in Division VII up to the year 2021 and in the year 2024, there does not appear to be any rational basis for giving a different treatment to the disposal of securities acquired before 01.07.2013 through the amendments made in Division VII through Finance Act, 2022. The policy for imposition of a tax ought not to concern the Courts. Similarly, the classification of persons who are made liable to pay different rates of tax cannot be impugned on account of the fact that the tax burden from such classification is unequal. There must, however, be some rational criteria for such classification and if a similar property in the hands of similar persons is imposed different rates of tax at different periods, the law may be struck down on the ground of discrimination. The reintroduction of 0% tax on disposal of securities acquired prior to 01.07.2013 makes the imposition of capital gain tax on the appellant discriminatory.

iv) It is well settled that tax laws are to be construed strictly particularly the provisions which levy tax to avoid imposing any liabilities that are not explicitly outlined by law.

Conclusion: i) No, a fiscal amendment does not have retrospective effect unless explicitly stated.

ii) No, a proviso cannot nullify the substantive provision it modifies.

iii) Yes, the differential tax treatment of similar transactions amounts to discrimination.

iv) Tax laws imposing liabilities must be strictly interpreted to prevent unstated obligations.

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38. **Lahore High Court**
Choudhry Muhammad Nisar and 2 others v. Waqar Ali Khan and another
F.A.O. NO.121 of 2014
Mr. Justice Mirza Viqas Rauf
https://sys.lhc.gov.pk/appjudgments/2025LHC669.pdf

Facts: The facts of the case are a dispute among business partners operating a registered firm. Due to differences, one party sought court intervention to refer the matter to arbitration, to which the opposing party initially consented. An arbitrator was appointed, and an award was submitted, but objections were raised which were turned down and award was made rule of court.

Issues: i) Whether a formal reference from the court is a sine qua non for arbitration proceedings under Section 20(4) of the Arbitration Act, 1940?
ii) Whether an arbitration award can be made rule of the court in the absence of a formal reference under Section 20(4) of the Arbitration Act, 1940?

Analysis: i) It clearly manifests from the bare perusal of the above noted provision of law that before referring the matter to the arbitrator an order of reference by the court is sine qua non.
ii) The above discussion leads me to an irresistible conclusion that framing of reference in terms of Sub-Section (4) of Section 20 of the Act, 1940 and referring it to the arbitrator is a necessary corollary and pre-condition for the arbitrator to start the arbitration proceedings. Thus, leaving aside the worth and credence of the objections to the award, it is observed that when the vary basis of the arbitration proceedings are suffering with patent illegalities, the superstructure built thereupon would automatically crumble. The trial court thus has erred in law while making award rule of the court.

Conclusion: i) A court reference is mandatory before arbitration.
ii) Without a court reference, the arbitration award is invalid.

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39. **Lahore High Court**
Board of Intermediate and Secondary Education Rawalpindi through its Chairman, Morgah Road, Rawalpindi v. Sadia Iqbal and another
Civil Revision No.124-D of 2022
Mr. Justice Mirza Viqas Rauf.
https://sys.lhc.gov.pk/appjudgments/2025LHC739.pdf

Facts: This petition, along with the connected petitions stems from suits filed by students of institutions under the Board of Intermediate and Secondary Education, seeking corrections in their date of birth or name. Several students obtained favorable decrees, others were denied relief due to jurisdictional objections. The Board has challenged these decrees through revision petitions, while some students have also appealed their unsuccessful claims. The primary issue before the Court is

whether the civil court has the jurisdiction to decide such matters, a question considered in some cases but overlooked in others.

Issues: i) Is statutory bar ousting civil court jurisdiction absolute?
ii) Under what circumstances can civil courts exercise jurisdiction despite a statutory bar?
iii) Why is the question of jurisdiction crucial in determining the legality of court proceedings and when it must be settled?

Analysis: i) It is trite law that even if there is any bar in the statute ousting the jurisdiction of civil court, it cannot operate as absolute.
ii) Civil courts are courts of ultimate jurisdiction and unless jurisdiction is either expressly or impliedly barred, the final decision with regard to a civil right, duty or obligation, shall be that of the civil courts, where allegation of *mala fide* action has been made in the plaint, the civil court despite the bar placed on the relevant statue can examine acts on account of being tainted with *mala fide, coram non judice* or void.
iii) Needles to mention that question of jurisdiction is always pivotal because if a court or tribunal having no jurisdiction proceed with a matter and decide it, the entire proceedings would be illegal and *coram non judice*. It is thus obligatory for the court or tribunal to settle the question of jurisdiction at the very outset.

Conclusion: i) Bar in the statute ousting the jurisdiction of civil court does not operate as absolute.
ii) See above analysis No.ii
iii) See above analysis No.iii

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40. **Lahore High Court**
Commissioner Inland Revenue, Zone-VIII, Regional Tax Office-II, Lahore v. M/s Sika Paint Industries (Pvt.) Ltd.
STR No.256 of 2015
Mr. Justice Shahid Karim, Mr. Justice Muhammad Sajid Mehmood Sethi
https://sys.lhc.gov.pk/appjudgments/2017LHC5929.pdf

Facts: A show cause notice was issued to the taxpayer for alleged tax evasion based on a contravention report spanning 2007-08 to 2013-14. The assessing officer confirmed the liability, which was partially upheld by the CIR(Appeal). However, the Appellate Tribunal later set aside the order. Hence; this reference application filed by the tax department.

Issues: i) Does the Sales Tax Act, 1990 require adherence to the search procedures outlined in the Code of Criminal Procedure, (CrPC) 1898?
ii) Whether non-appearing of two witnesses on recovery memo as required under Section 102 & 103 of CrPC is not a procedural / technical infirmity?
iii) Do the amendments introduced through the Finance Acts 2004 aim to regulate and limit the powers of sales tax authorities to prevent taxpayer harassment?

Analysis: i) Section 40 of the Act of 1990 authorizes an Officer of Inland Revenue to enter a place, after obtaining a warrant from a Magistrate, to search any documents or items, that in his opinion may be useful or relevant to any proceedings under the Act. The use of word "shall" in subsection (2) of Section 40 of the Sales Tax Act, 1990, makes the procedure outlined in the Criminal Procedure Code, 1898 as mandatory. (…) All searches made under the Act of 1990 are to be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898. The procedure regarding search has been provided in Sections 96, 98, 99-A and 100 of the Cr.P.C. whereby firstly, a search warrant is to be obtained from the Illaqa Magistrate when search of the premises is to be conducted.

ii) The provisions of Section 103 Cr.P.C. require that a search be conducted in the presence of two or more respectable inhabitants of the locality (…) In accordance with the Section 103 of the Cr.P.C., it is mandatory to involve two or more respectable inhabitants of the locality in which the place to be searched is situated to attend and witness the search and a list of all articles taken into possession shall be prepared and a copy thereof shall be delivered there and then.

iii) Needless to observe, Section 38-A (inserted through the Finance Act, 2004), Section 40 (substituted through the Finance Act, 2004) and Section 40-A (omitted by the Finance Act, 2006) are meant to curtail and monitor the unlimited and unbridled powers of the sales tax authorities, which were resulting in undue harassment and humiliation of taxpayers.

Conclusion: i) A Magistrate's warrant and Cr.P.C. procedures are mandatory for searches.

ii) Searches require two local witnesses, and a seizure list must be provided.

iii) Finance Act amendments limit sales tax authorities' powers to prevent harassment.

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41. **Lahore High Court**
Rana Aamir Ijaz v. The State and others
Criminal Revision No. 187/2023.
Mr. Justice Tariq Saleem Sheikh
https://sys.lhc.gov.pk/appjudgments/2024LHC6532.pdf

Facts: In a trial under Anti-Corruption law learned Special Court struck off the right to cross examination due to default in payment of diet money imposed.

Issues: i) Whether the accused could be burdened with the diet money or travel expenses of prosecution witnesses?

ii) Who is to bear the expenses of witnesses in criminal cases?

iii) Whether the court could refuse compensation to victim or legal heirs u/s 544 CrPC, without assigning valid reasons?

iv) The compensation awarded u/s 544 CrPC, how to be disbursed?

v) What is the importance of cross examination in the administration of justice?

vi) What is the way out, if the accused fail to cross examine the prosecution witnesses?

Analysis: i) The Code of Criminal Procedure does not contain any provision that allows the court to close an accused's right to cross examine a prosecution witness if the accused fails to pay the witness's diet money or travel expenses. Reference in this regard may also be usefully made to Ghulam Nabi and others v. Shaukat Ali and another (PLD 2007 Lahore 368). The statutory framework governing diet money in criminal trials ensures that financial burdens do not obstruct an accused's right to a fair defence.

ii) Section 244(3) states that the magistrate may, before summoning any witness on such an application, require that the witness's reasonable expenses incurred in attending the trial be deposited in court. However, the accused is not required to deposit such expenses if he is charged with an offence punishable with imprisonment exceeding six months… Section 544 Cr.P.C. provides that, subject to any rules made by the Provincial Government, any criminal court may, if it deems appropriate, order the government to pay the reasonable expenses of any complainant or witness attending an inquiry, trial, or other proceeding before the court under the Code of 1898.

iii) It is pertinent to point out that the Code allows the court to impose fines or order compensation to the victim while convicting an accused. Section 544-A(1) Cr.P.C. mandates that when a person is convicted of an offence that results in death, harm, injury, mental anguish, or psychological damage to another person or causes damage, loss, or destruction of property, the court must, at the time of conviction, order the convict to pay compensation to the victim or their heirs, unless it gives reasons in writing for not doing so. The amount is determined based on the circumstances of the case.

iv) Section 544-A(3) Cr.P.C. further states that this compensation is in addition to any sentence imposed for the offence. Section 545(1) Cr.P.C. provides that whenever a criminal court imposes or confirms a fine, it may direct that the recovered fine be used for (a) covering the proper expenses of prosecution, (b) compensating any person for loss, injury, mental anguish, or psychological damage caused by the offence, if such compensation could be recoverable in a civil court, or (c) compensating a bona fide purchaser of stolen property when the offender is convicted of theft, misappropriation, breach of trust, cheating, or receiving stolen property, and the property is returned to its rightful owner.

v) The concept of a fair trial is central to the administration of justice, and the right to cross-examine witnesses is a component of the right to a fair trial. Cross-examination is "the greatest legal engine ever invented for the discovery of truth." 7 In an adversarial legal system, it is a "primary evidentiary safeguard", 8 an acid test of the truthfulness of a statement made by a witness on oath in examination-in-chief.

vi) An accused cannot be permitted to abuse the legal process or obstruct court proceedings. If they deliberately fail to bring their lawyer, the court must appoint a defence counsel at state expense and proceed with the trial. In Abdul Ghafoor v. The State (2011 SCMR 23), a murder case, the prosecution examined 13

witnesses, including two eyewitnesses. The accused-appellant failed to produce his counsel for their cross-examination despite repeated opportunities. In the circumstances, the trial court required him to cross-examine the witnesses himself and then proceeded to decide the case. The Supreme Court held that it is the primary duty of a trial court to ensure the discovery of truth and the fair administration of justice. If the accused's counsel repeatedly sought adjournments and failed to appear, the court should have either appointed a defence counsel at State expense or provided the accused a final opportunity to arrange legal representation, failing which the trial could proceed. Since the trial court failed to follow these steps and unexpectedly required the accused to cross-examine witnesses despite his lack of legal expertise, the Supreme Court ruled that this approach led to a miscarriage of justice and allowed the accused another opportunity for cross-examination.

Conclusion: i) No, an accused could be burdened with the diet money or travel expenses of prosecution witnesses.
ii) any criminal court may, if it deems appropriate, order the government to pay the reasonable expenses of any complainant or witness attending an inquiry, trial, or other proceeding.
iii) The court must award compensation to victim or legal heirs u/s 544 CrPC, unless assigning valid reasons for otherwise.
iv) See above analysis (iv)
v) Cross-examination is "the greatest legal engine ever invented for the discovery of truth.
vi) The court must appoint a defence counsel at state expense and proceed with the trial.

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42. **Lahore High Court**
Fauji Cement Company Limited v. Govt. of Punjab etc.
W.P.No.2838/2024
Mr. Justice Jawad Hassan
https://sys.lhc.gov.pk/appjudgments/2025LHC685.pdf

Facts: The petitioner received a show-cause notice from the Punjab Revenue Authority under Section 52 of the Punjab Sales Tax on Services Act, 2012, for alleged non-payment of Punjab Sales Tax on taxable services. The petitioner challenged the same show cause notice in a writ petition contending that the notice was issued without fulfilling procedural requirements and also alleged that same notice violated constitutional guarantees under Articles 4 and 10-A, which ensure the right to be treated in accordance with the law and the right to a fair trial.

Issues: i) Whether a tax officer must consider objections before determining liability under Section 52 of the Punjab Sales Tax on Services Act, 2012?
ii) Which different legal provisions apply to withholding agents and tax collection procedures?

iii) Comparison between "Section 52" and "Section 14" of Punjab Sales Tax on Services Act, 2012

iv) Judicial Precedent regarding definition of Tax payer, his liabilities, principles for issuance of show cause notice and the jurisprudence developed by different courts.

v) Whether the rights of a taxpayer are determined based on the legal framework governing tax administration?

vi) Scope of Article 10 A of the Constitution of Islamic Republic of Pakistan, 1973

vii) Whether Article 4 of the Constitution guarantees that all actions by public authorities must be in accordance with the law?

viii) Whether the interpretation of tax laws should be limited to their plain language without considering intent of the Legislature ?

Analysis: i) It is pertinent to mention here that in the judgment reported as Rahat Café, Rawalpindi versus Government of Punjab through Secretary Finance and others (2024 PTD 898), this Court has already interpreted provisions of Section 52 of the Act by observing that the officer concerned shall determine the tax liability after considering the objections of the person served with notice as per Sub-Section (3) of Section 52 of the Act.

ii) Sub-Section (2) of Section 14 of the Act discusses the powers of the Authority in connection with a withholding agent whereas Section 14A(2) of the Act describes a special procedure for collection and payment of tax in respect of any service or class of services, as may be specified.

iii) It would be appropriate if a minute comparison is made between the relevant provisions of law, the Act, which in this case are "Section 52" and "Section 14" of the Act. When a quick glance is taken on Chapter VIII of the Act, which also comprises Section 52, it would clarify that this Chapter describes the procedure regarding offences and penalties, including the procedure meant for (i) exemption from penalty and default surcharge and (ii) recovery of tax not levied or short-levied. Whereas, Section 14 comes within the purview of Chapter II of the Act, which is most relevant here because it mentions the scope of tax with charging sections/provisions by giving a complete mechanism regarding (i) person, who is liable to pay tax [Section 11]; (ii) liability of a registered person [Section 11A]; exemptions [Section 12]; (iii) effect of change in the rate of tax [Section 13]; (iv) special procedure and tax withholding provisions [Section 14]; (v) special procedure for collection of tax, etc. [Section 14A]; (vi) delegation of power to collect, administer and enforce tax on certain services [Section 15]; (vii) deduction and adjustment of tax on inputs to the business [Section 16]; (viii) certain transactions not admissible [Section 16A]; (ix) tax credit not allowed [Section 16B]; (x) extent of adjustment of input tax [Section 16C] and (xi) refunds [Section 16D].

iv) It would also be beneficial to note here that in the judgment reported as Reliance Commodities (Private) Ltd. versus Federation of Pakistan and others

(PLD 2020 Lahore 632=2020 PTD 1464) this Court has already defined the taxpayer and also vastly discussed his/her/its liabilities. In the said case, this Court has set-aside the show cause notice, being illegal and without lawful, after discussing in detail (a) the principles for issuance of a show cause notice; (b) relevant law and (c) the jurisprudence developed by superior Courts of the country on different occasions.

v) In another judgment reported as Chenab Flour and General Mills versus Federation of Pakistan and others (PLD 2021 Lahore 343), the rights of a taxpayer have been further elaborated by this Court by discussing in detail legal anthropology of the Federal Board of Revenue under provisions of the fiscal laws prevailing in Pakistan

vi) Scope of Article 10-A has recently been further expanded by the Supreme Court of Pakistan in the case of Federal Government Employees Housing Authority through Director General, Islamabad versus Ednan Syed and others (PLD 2025 SC 11) in which it has been held that "…Article 10A of the Constitution requires that everyone is entitled to a fair trial and due process, which includes the basic right to be heard. The principle of 'audi alteram partem' is one of the foundational principles of natural justice. It necessitates the requirement of being heard so that the judicial order reflects the contention of every party before the court. To fulfill the requirements of being heard, it is settled that the relevant party must be issued first a notice and then be allowed a hearing. These two (notice and hearing) are basic pre-requisites, which satisfy the test of being heard as well as fair trial and due process within the ambit of Article 10A of the Constitution…"

vii) Moreover, Article 4 of the Constitution clearly states that it is an inalienable right of every citizen to be treated in accordance with law and no action detrimental to his/her life, liberty, reputation or property shall be taken except as per law. No public functionary/authority is allowed, under the Constitution, to act in a manner infringing upon fundamental rights or exceeding statutory limits, as has been held by the Supreme Court of Pakistan in various cases, from time to time.

viii) In Reliance Commodities Case (supra) (PLD 2020 Lahore 632), this Court has already held that tax laws are divided into parts in the form of various Chapters, which also include Definition Sections, Charging Sections, Collection Sections, Recovery Sections and some other miscellaneous Sections in which the purpose as well as method regarding assessment (of tax) has been specifically provided. If this view is read with the Doctrine of Textualism developed by this Court in the case of Service Global Footwear Limited and another versus Federation of Pakistan and others (PLD 2023 Lahore 471) then it would also clear that a statute should be interpreted according to its plain meaning and not as per the intent of the legislature, the statutory purpose or the legislative history.

Conclusion: i) Officer concerned shall determine the tax liability after considering the objections of the person served with notice as per Sub-Section (3) of Section 52 of the Act.
ii) See above analysis No ii.
iii) See above analysis No iii.
iv) See above analysis No iv.
v) See above analysis No v.
vi) See above analysis No vi.
vii) No public functionary/authority is allowed, under the Constitution, to act in a manner infringing upon fundamental rights or exceeding statutory limits.
viii) See above analysis No viii.

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43. **Lahore High Court**
Muhammad Afzal v. Judge Family Court, etc.
Writ Petition No.43280 of 2022
Mr. Justice Ahmad Nadeem Arshad
https://sys.lhc.gov.pk/appjudgments/2025LHC495.pdf

Facts: Through this constitutional petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner has called in question the validity and legality of judgment and decree passed by learned Judge Family Court; whereby suit of respondent No.2 (alleged biological daughter of the petitioner) for recovery of maintenance allowance was decreed.

Issues: i) What is Biological Child?
ii) What is legitimate child?
iii) What is illegitimate child?
iv) How a status of child can be determined?
v) Whether it is essential for court to establish paternity in case of dispute of paternity prior to fix the maintenance allowance?
vi) Whether biological father is morally bound to maintain biological child?
vii) Whether the Family Court has jurisdiction to hear the case and whether the maintenance can be awarded to an illegitimate child.

Analysis: i) "Biological Child" refers to a child who is genetically related to the parents. This term focuses on the genetic link between the child and the parents, rather than the legal or social status. A "biological child" can be born within a marriage or outside of it.
ii) A "legitimate child" refers to a child born to parents who are legally married to each other at the time of the child's birth. This term primarily has legal significance and is used to distinguish children born within a lawful marriage from those born outside of marriage (historically referred to as "illegitimate" or "illegitimate children").

iii) An illegitimate child is a child born out of wedlock either as a result of adultery or rape and he is not from *Syubhah* intercourse or not from a child of slavery.

iv) In Islam, a child's status can be determined through several methods. First, through legal marriage or *Fasid* marriage between both parents. Second, through *Syubhah* intercourse. The third is a father's acknowledgment that a child is his biological child. Forth, evidence by two fair male witnesses. The fifth, *Qiyafah*, is the recognition by experts who specialized in determining descent base on physical characteristics and likeness. The sixth is through Deoxyribonucleic Acid or DNA tests on samples such as blood, hair, bone and sliva. The final method is through laboratory testing which has 99.99% accuracy in the determination of descent and can also be used to identify hereditary genealogy for inheritance. All the methods mentioned above are based on Hadiath of the prophet.

> *"(Descent) the child belongs to the span (legal marriage). While there is no right for adultrers." (Al-Bukhari, 2000 Hadiath No.2092)"*

v) In view of the above, the Court has erred in law by granting maintenance for the child without first ensuring, through the proper process of evidence, that the child is indeed the biological offspring of the petitioner. In cases where paternity is disputed, it is essential for the Court to first establish, beyond a reasonable doubt, the biological relationship between the child and the defendant. Without recording sufficient evidence, the Court's decision to grant maintenance prematurely bypasses a critical step in determining legal responsibility. This failure undermines the principles of fairness and due process in family law proceedings.

vi) In view of the above discussion, equity, fair-play and justice demands that the respondent No.2, if proves to be a biological child of the petitioner, then she must be compensated and maintained by him. The person, having begotten the child, is bound to provide for its maintenance. The biological father is also morally under obligation to maintain his illegitimate child.

vii) In view of the above discussion, this Court does not feel any hesitation to hold that while the Act specifically references "family affairs and marriage," its broader interpretation allows it to cover cases involving the maintenance of children, including disputes over biological paternity. Hence, the Family Court has jurisdiction to adjudicate upon the matter.

Conclusion: i) See above analysis No.i

ii) See above analysis No.ii

iii) See above analysis No.iii

iv) See above analysis No.iv

v) see above analysis No.v

vi) The biological father is also morally under obligation to maintain his illegitimate child.

vii) the Family Court has jurisdiction to adjudicate upon the matter.

44. **Lahore High Court**
The State vs. Atif Pervaiz
Murder Reference No. 23 of 2023
Atif Pervaiz vs. The State etc.
Crl. Appeal No. 293-J of 2023
Mr. Justice Tariq Saleem Sheikh, Mr. Justice Muhammad Tariq Nadeem
https://sys.lhc.gov.pk/appjudgments/2025LHC639.pdf

Facts: The deceased was shot and killed, initially, an FIR was registered however, a supplementary statement later implicated some other accused persons. The trial court convicted one of the accused, sentencing him to death, while acquitting the co-accused. The convicted accused assailed the judgment regarding his conviction and simultaneously the murder reference was also referred for confirmation of the death sentence.

Issues: i) Whether delay in reporting the incident to the police undermine the credibility of the prosecution's case?
ii) Does the prolonged delay in the post-mortem examination weaken the prosecution's case by indicating possible manipulation of evidence?
iii) What is the effect of significant delay in filing the private complaint?
iv) What is the effect if the witnesses fail to justify their presence at the crime scene?
v) Whether the failure of the eyewitnesses to describe specific injuries on the deceased undermine their credibility?
vi) What is the legal and evidentiary value of a supplementary statement in Pakistani law?
vii) Can a supplementary statement be relied upon if it alters the initial version of events without a plausible explanation?
viii) Does the belated implication of the appellant by related witnesses undermine the credibility of the prosecution’s case?
ix) Whether absence of the names of eyewitnesses to be listed in the inquest and post-mortem reports undermine their credibility?
x) Whether the testimony of prosecution witnesses credible against one accused if it has already been disbelieved for a co-accused, in the absence of independent corroboration?
xi) Whether recovery of a pistol from an open and accessible place diminish its evidentiary value?
xii) Whether CDR, without proof of the conversation's content, conclusively establish the accused's involvement in the crime?
xiii) Whether the recovery of the motorcycle is inconsequential due to the lack of it’s details in the FIR and its non-recovery from the appellant's possession?
xiv) Does the failure to prove the alleged motive weaken the prosecution's case against the accused?
xv) whether the accused can be granted benefit of doubt due to a single

circumstance creating doubt in the prosecution's case?

Analysis: i) There is a delay of 02 hours and 35 minutes in reporting the matter to the police. No reasoning has been described by complainant (PW.1) to the effect that why he recorded his statement (Exh.PA) with the delay of one and half hour after the arrival of police. This fact is sufficient to hold that that supra-mentioned eye witnesses were not present at the time and place of occurrence, even otherwise, there was no justification for the above-mentioned delay. Therefore, we hold that this delay in setting the machinery of law into motion speaks volume against the veracity of prosecution version.

ii) Postmortem on the dead body of deceased was conducted with the delay of 09 hours and 50 minutes, after the occurrence. Keeping in view, the above-mentioned gross delay in the post mortem examination, an adverse inference can be drawn that the prosecution witnesses were not present at the time of occurrence and the intervening period had been consumed in fabricating a false story after preliminary investigation, otherwise there was no justification of delay for conducting post-mortem examination on the dead body of the deceased.

iii) We have further noted that complainant (PW.1) being dissatisfied with the police investigation, while changing the prosecution version as reproduced supra, filed private complaint (Exh.PD) with the delay of almost 04 months and 20 days of the occurrence. Prosecution has not given any plausible reasoning qua such delay meaning thereby that the private complaint has been filed after due deliberation and consultation just to fill up the lacunas left in the FIR.

iv) It was, therefore, mandatory for the above-mentioned eye witnesses to justify their presence at the place of occurrence at the relevant time through some cogent reason but they have failed to establish their presence at the relevant time and place of occurrence rather they are related and chance witnesses.

v) Occurrence took place in broad daylight at 01:40 p.m. but the alleged eye witnesses, complainant (PW.1) and PW.2 have not described any specific injury to any of the accused persons. Had they present at the time of occurrence, they must have described the exact locale of injuries on the body of deceased, this fact further negates the version of the prosecution qua the presence of supra-mentioned eye witnesses at the time and place of occurrence.

vi) It is settled by now that a supplementary statement is a statement made by a complainant or witness after the initial First Information Report (F.I.R.) has been recorded. It is typically used to provide additional information or clarify details that were not included in the original F.I.R. However, the legal standing and evidentiary value of supplementary statements can be quite limited. In the context of Pakistani law, supplementary statements are not considered equivalent to the F.I.R. and do not carry the same weight in legal proceedings.

vii) The courts have also noted that supplementary statements should not be relied upon if they change the initial version of events without a plausible explanation for change. In nutshell, while supplementary statements can provide additional

context or details, their legal significance is often scrutinized, and they are treated with caution in judicial proceedings.

viii) In this way, it is abundantly clear that above-mentioned PWs have implicated the appellant after due deliberation and consultation; even otherwise, due to the close relationship of the eye witnesses with the appellant being residents of adjacent houses, there was no occasion for not mentioning the name the appellant and his co-accused in the F.I.R. Even otherwise, the courts have always deprecated such kind of statement, which is made with the purpose to strengthen the case of the prosecution at the behest of the police officials or some other ulterior motives to get the suspect convicted by hook or crook.

ix) Complainant (PW.1) and PW.2 are not witnesses of inquest report (Exh.CW-2/B/5) and postmortem report (Exh.CW-2/B) pertaining to deceased. If they were present at the scene of the occurrence at the relevant time, they must have been the witnesses of inquest report. Similarly, they should have escorted the dead body to the hospital being the close relatives and their names should have been incorporated in the post mortem report in the column of identification of the dead body. This fact has constrained us to hold that supra mentioned PWs were not present at the time and place of occurrence.

x) It is a trite principle of law and justice that once prosecution witnesses are disbelieved with respect to a co-accused then, they cannot be relied upon with regard to the other co-accused unless they are supported by corroboratory evidence coming from independent source and shall be unimpeachable in nature but that is not available in the present case.

xi) With regard to the recovery of pistol 30 bore (P-4) taken into possession by ASI/I.O (CW.11) at the pointation of the appellant vide recovery memo (Exh.PJ) concealed near the bridge by wrapping in shopper under the gumarabic tree and positive report of the Punjab Forensic Science Agency, Lahore (Exh.PL), we are of the view that the same are not helpful to the prosecution, because the pistol was recovered from an open place, which was easily accessible to all… In this way, abovementioned recovery of pistol at the instance of the appellant is highly doubtful in nature and the same cannot be relied upon.

xii) As far as recovery of CDR of mobile phone (P-7) being used by co-accused Mst. Abida Perveen (since acquitted) through recovery memo (Exh.CW11/J) and CDR of mobile phone (P.9) of appellant through recovery memo (Exh.CW3/C) are concerned the same simply depict the number of caller as well of recipient, location, duration of call and not more than this, even there is no evidence that what was the conversation made between the caller and recipient. It is well settled by now that CDR is not conclusive proof of involvement of accused in the commission of crime.

xiii) So far as the recovery of motorcycle CD-70 (P-9) allegedly used by the appellant during the occurrence is concerned, admittedly, no registration number, colour, its company name have been described in the F.I.R. Moreover, abovesaid recovery was not made from the possession of the appellant. In this way, recovery of motorcycle is inconsequential and not helpful to the prosecution case.

xiv) Although, the prosecution is not under obligation to establish a motive in every murder case but it is also well settled principle of criminal jurisprudence that if prosecution sets up a motive but fails to prove it, then, it is the prosecution who has to suffer and not the accused.

xv) It is, by now well-established principle of law that it is the prosecution, which has to prove its case against the accused by standing on its own legs, but in this case the prosecution remained failed to discharge its responsibility. It is also well-established principle of law that if there is a single circumstance which creates doubt regarding the prosecution case, the same is sufficient to give benefit of doubt to the accused.

Conclusion: i) Delay in setting the machinery of law into motion speaks volume against the veracity of prosecution version.

ii) An adverse inference can be drawn that the prosecution witnesses were not present at the time of occurrence and the intervening period had been consumed in fabricating a false story.

iii) Suh delay would suggest that the private complaint has been filed after due deliberation and consultation just to fill up the lacunas left in the FIR.

iv) See above analysis No iv.

v) This fact negates the version of the prosecution qua the presence of supra-mentioned eye witnesses at the time and place of occurrence.

vi) See above analysis No vi.

vii) Supplementary statements should not be relied upon if they change the initial version of events without a plausible explanation.

viii) See above analysis No viii.

ix) See above analysis No ix.

x) Once prosecution witnesses are disbelieved with respect to a co-accused then, they cannot be relied upon with regard to the other co-accused unless they are supported by corroboratory evidence.

xi) Recovery of pistol at the instance of the appellant from an open accessible place is highly doubtful in nature and the same cannot be relied upon.

xii) It is well settled by now that CDR is not conclusive proof of involvement of accused in the commission of crime.

xiii) See above analysis No xiii.

xiv) If prosecution sets up a motive but fails to prove it, then, it is the prosecution who has to suffer and not the accused.

xv) If there is a single circumstance which creates doubt regarding the prosecution case, the same is sufficient to give benefit of doubt to the accused.

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45. **Lahore High Court**
Muhammad Ramzan v. The State and another
Crl. Appeal No. 577 of 2022
Mr. Justice Tariq Saleem Sheikh, Mr. Justice Muhammad Tariq Nadeem
https://sys.lhc.gov.pk/appjudgments/2025LHC626.pdf.

Facts: The appellant was convicted under the Drugs Act, 1976, and the Drug Regulatory Authority of Pakistan Act, 2012, for allegedly stocking and selling drugs without a license, without warranties, and spurious alternative medicines. The conviction was challenged on the ground of procedural violations in prosecution.

Issues: i) Whether the initiation of prosecution for offences under the Drugs Act, 1976, and Drug Regulatory Authority of Pakistan Act, 2012, requires the issuance of show cause notice?
ii) Whether recovery proceedings under the Drugs Act, 1976, are required to be conducted in accordance with section 103 of the Code of Criminal Procedure, 1898?
iii) Whether benefit of doubt arising from non-compliance with statutory procedures is to be extended to the accused?

Analysis: i) The use of word "shall" between the lines in the above quoted Rule makes it mandatory for the District Quality Control Board to serve the show cause notice upon the concerned person and afford him an opportunity of hearing before taking any action about the prosecution of such person.
ii) Since the above-referred provisions of The Drugs Act, 1976 and Drug Regulatory Authority of Pakistan Act, 2012 with regard to the search and seizure of drugs are consistent with the provisions contained in section 103 of the Code of Criminal Procedure (Act V of 1898), therefore, the latter provisions are also fully applicable to the case in hand in the light of section 18(2) of The Drugs Act, 1976 as well as Para (2) in Schedule V of Drug Regulatory Authority of Pakistan Act, 2012…
iii) It goes without saying that if there is single circumstance which creates doubt regarding the prosecution case, the same is sufficient to give benefit of doubt to the accused.

Conclusion: i) Yes, mandatory compliance regarding issuance of show cause notice is essential before initiating prosecution.
ii) Yes, recovery proceedings must comply with section 103 Cr.P.C. along with the provisions of Drugs Act, 1976.
iii) Yes, benefit of doubt must be extended to the accused in case of non-compliance with legal procedures.

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46. **Lahore High Court**
Muhammad Arif v. The State and another
Crl. Appeal No. 175 of 2021
Wali Muhammad v. The State and another
Crl. Revision No. 66 of 2020
Mr. Justice Muhammad Tariq Nadeem
https://sys.lhc.gov.pk/appjudgments/2025LHC762.pdf

Facts: A young woman went missing while collecting fodder and was later found dead in a sugarcane field with her throat slit. The case was registered based on a

complaint by a family member, initially against an unknown person. During the investigation, the accused was implicated based on circumstantial evidence, including last-seen testimony, forensic reports, and alleged confessions. The trial court convicted the accused and sentenced him to imprisonment under multiple charges.

Issues

i) What is the evidentiary value of circumstantial evidence in a criminal trial?
ii) How reliable is 'last seen' evidence in the absence of corroborative proof?
iii) What is the legal standing of DNA evidence in criminal cases?
iv) Can DNA evidence be the sole basis for conviction in a capital case?
v) What is the evidentiary value of medical reports in the absence of direct evidence?
vi) Under what circumstances can a recovery memo be considered inadmissible?
vii) Can a conviction be sustained solely on the basis of recovery of a weapon?
viii) What is the principle regarding benefit of doubt in criminal trials?

Analysis:

i) It is well settled by now that in such like cases, prosecution is required to link each circumstance to the other in a manner that it must form a complete, continuous and unbroken chain of circumstances, firmly connecting the accused with the alleged offence and if any link is missing then obviously benefit is to be given to the accused.

ii) Even, it is well settled by now that last seen evidence is always considered to be week type of evidence, unless corroborated by some other independent evidence

iii) Although, in terms of section 510 Cr.P.C. the DNA report is per se admissible in evidence and it is high degree corroborative piece of Crl. Appeal No. 175 of 2021 and Crl. Rev. No. 66 of 2020 8 evidence, which plays very significant role in the safe administration of justice. Moreover, it gives a passage to the Courts of law to reach at a just conclusion but at the same time this court has to observe whether DNA report has been issued in accordance with law. In this regard, court should be very conscious about the safe transmission of sealed sample parcels to the office of the Punjab Forensic Science Agency

iv) I have also observed that DNA is considered a type of expert evidence in criminal proceedings; therefore, it cannot be accepted as primary evidence and may only be used for corroboration. In any event, it is an expert opinion, and even if it was accepted as evidence and relied upon, it would not be adequate to link the appellant's neck to the commission of the crime when I have found all the other evidence to be implausible. As a result, it cannot be relied upon to impose conviction on a capital charge. In this way, this piece of evidence is also not helpful to the prosecution case.

v) It is well settled by now that the medical evidence may confirm the ocular account with regard to seat of injuries and its duration, nature of injuries and kind of weapon used for causing such injury but it cannot connect the accused with the commission of crime.

vi) in order to apply Article 40 of the Qanoon-e-Shahadat Order, 1984, the prosecution must establish that information given by the accused led to the recovery or some fact deposed by him must be of some fact which the police had not previously learnt from any other source and that the knowledge of the fact was first derived from the information given by the accused. I have noted that the place of occurrence was already in the knowledge of the prosecution witnesses and police.

vii) More so, when the evidence qua last seen had already been disbelieved by this Court, due to the reasons mentioned earlier, I am of the view that conviction cannot be sustained merely on the ground of op-cit recovery of weapon of offence.

viii) The Supreme Court of Pakistan time and again held that in the event of a doubt, the benefit must be given to the accused not as a matter of grace, but as a matter of right.

Conclusion: i) Circumstantial evidence must form a complete and unbroken chain; any missing link benefits the accused.

ii) Last seen evidence weak unless corroborated by independent proof.

iii) DNA evidence admissible but requires a secure chain of custody to be reliable.

iv) DNA as expert opinion cannot be sole evidence for conviction; needs corroboration.

v) Medical evidence confirms injuries but does not establish the accused's guilt.

vi) Recovery evidence must be based on new, exclusive knowledge from the accused.

vii) Weapon recovery alone, it cannot sustain a conviction.

viii) Benefit of doubt must be given to the accused when reasonable doubt exists.

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47. **Lahore High Court**
Parks & Horticulture Authority v. Punjab Labour Appellate Tribunal, etc.
Writ Petition No.78987 of 2023
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC463.pdf

Facts: The respondents were employed as daily wage workers for over a decade in a public authority responsible for horticultural maintenance. They approached the Labour Court seeking recognition as permanent workmen and regularization of their services. The Labour Court declared them permanent workmen but denied regularization, a decision later overturned by the Tribunal, leading to the present constitutional petitions.

Issues: i) Does the nature of duties determine a worker's status under labour laws?

ii) Is Parks & Horticulture Authority (PHA) a 'Commercial Establishment' under labour laws?

iii) Does a daily wage worker employed for over 10 years qualify as a'workman'?

iv) What is the distinction between the regularization of service and the declaration as a permanent workman and whether the Tribunal was justified in directing the regularization of services of the respondents?

Analysis: i) Suffice to observe that the nature of the duties performed is crucial in determining the status of a workman irrespective of the employment terms. Mere existence of the statutory rules does not exempt an organization from the application of labour laws if the employment conditions align with the definition under the relevant statutes.

ii) This Court is of the opinion that the definition of an 'Industrial or Commercial Establishment' under the Ordinance, broadly includes any entity engaged in systematic economic activities that involve labour and service delivery. The PHA Act establishes the petitioner-PHA as a regulatory and operational body for maintaining public parks and green spaces. While its primary function may not be industrial or commercial in the conventional sense, the engagement of petitioner-PHA in systematic horticultural maintenance falls within the scope of 'Commercial Establishment', particularly, given its structured employment model and the revenue-generating activities.

iii) Based on the legislative definitions under the PIRA, the Ordinance and the above referred judicial pronouncement of Supreme Court of Pakistan in case of Ahmad Hussain supra, I am of the opinion that for the purposes of the Ordinance, the petitioner PHA is a commercial establishment and the respondents are workmen. Consequently, they are entitled to the rights and protections outlined in the Ordinance and/or the PIRA. The respondents having demonstrated continuous service and engagement in functions integral to the objectives of the PHA Act as outlined in Section 4 thereof and hence, were rightly held entitled to be recognized as permanent workmen by the Labour Court(s). Suffice to observe that for a workman to be declared as permanent, it is nowhere mandated under the law that the said post should be a sanctioned post rather a workman working on a post for a statutory recognized period ipso facto becomes a permanent workman, by operation of the law. Therefore, permanent status of a workman cannot be made contingent upon the existence of a sanctioned post as the same would amount to reading into law what the law does not provide for.

iv) This Court is of the opinion that the Labour Courts do not have the authority to introduce the regularization, which applies to the contractual, ad-hoc, or daily wage employees in public authorities under the civil service rules and/or a specific government policy. Courts cannot lose sight of the fact that the workmen engaged in non-administrative roles, are covered by the Ordinance and the PIRA and are entitled to certain statutory rights as permanent workmen, as held in case of Ahmad Hussain, supra. These rights include job security, fair wages, gratuity and the ability to form or join trade unions. On the contrary, regularization is an administrative discretion rather than a statutory or vested right. Employees, like the respondents, in semi-autonomous bodies such as the petitioner-PHA, cannot claim an automatic right to regularization inasmuch as if such employees are not

carrying out manual work, their regularization is subject to the government policies and availability of sanctioned posts and if they are engaged in manual work their rights are determined by the Ordinance, which does not include regularization.

Conclusion: i) A workman's status depends on job duties, not employment terms, and statutory rules do not override labour laws.
ii) PHA's horticultural work makes it a Commercial Establishment under labour laws.
iii) PHA workers qualify as workmen and gain permanent status by law, regardless of sanctioned posts.
iv) Labour Courts cannot grant regularization; it is an administrative decision, but workmen still get statutory protections.

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48. **Lahore High Court**
Liaqat Ali v. Shahnaz Akhtar
C.R. No.58611 of 2019
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC693.pdf

Facts: This civil revision has been filed against concurrent findings of courts below, wherein suit for declaration along-with permanent injunction instituted by the respondent regarding gift/hiba in favour of petitioner being illegal and unlawful was decreed.

Issues: i) What are essential elements of a valid gift?
ii) What is meant by undue influence?
iii) What are the powers of Revisionary Court in matters of concurrent findings of Courts below?

Analysis: i) The essential elements of a valid gift are, a declaration of gift by the donor; acceptance of the gift by the donee; and the delivery of possession.
ii) "undue influence" as a circumstance in which one party is able to dominate the will of another, either through actual authority or by exploiting a fiduciary or other vulnerable relationship, including instances where mental or bodily distress compromises a person's capacity for rational decision-making.
iii) the revisionary power of this Court is limited in matters of concurrent findings of the Courts below and this Court would, as a settled law, not interfere in the concurrent findings of the Courts below unless the same are found to be illegal, materially irregular, infected with misreading of evidence, jurisdictional defect or procedural impropriety.

Conclusion: i) See analysis No.i.
ii) See analysis No.ii.
iii) See analysis No.iii.

49. **Lahore High Court**
Bashir Ahmad v. Shaukat Ali and 13 others
Civil Revision No. 4749 of 2015
Mr. Justice Sultan Tanvir Ahmad
https://sys.lhc.gov.pk/appjudgments/2025LHC674.pdf

Facts: A civil revision was filed challenging the dismissal of an application under Section 12(2) of the Code of Civil Procedure, 1908. The applicant alleged that after obtaining a decree in a suit for declaration, the original decree-holder sold the disputed property to the applicant and later colluded with other parties to have the decree set aside without the applicant's knowledge. The lower court dismissed the application without framing issues or recording evidence, holding that the rule of lis pendens applied and that no fraud had been committed with the court.

Issues: i) Whether doctrine of lis pendens apply when the provisions of Section 41 of the Transfer of Property Act, 1882 are applicable to a case?
ii) Whether a compromise obtained through collusion or fraud excludes the application of Section 52 of the Transfer of Property Act, 1882?
iii) Whether fraud between parties, without misrepresentation before the court, sufficient to invoke Section 12(2) of the CPC?
iv) Can a non-party invoke provisions of Section 12(2) of the CPC if a decree is obtained through fraud affecting their rights?
v) Can an application under Section 12(2) of the CPC be summarily dismissed when it involves a mixed question of law and facts?
vi) Can an application under Section 12(2) of the CPC be dismissed summarily if no fraud, misrepresentation, or jurisdictional defect is established?

Analysis: i) The application of doctrine of lis pendens is circumscribed by certain conditions One of the well recognized exception is when the provisions of section 41 of the Transfer of Property Act-1882 (the Act) are squarely applicable to the case.
ii) The Honourable Supreme Court has already settled that a genuine compromise is a normal conduct of parties but a compromise entered into by collusion or fraud excludes the application of section 52 of the Act .
iii) If the fraud is inter se the parties and no fraud with the Court is committed or no misrepresentation is made before the Court, the provisions of section 12(2) of the CPC are not applicable, in absence of jurisdictional defect . However, the position is different when consent decree is obtained to have the premium of the fraud.
iv) Argument was also raised that section 12(2) of the CPC does not apply because petitioner was not party to the suit or the appeal. This argument has no force as fraud alleged is not only amongst the parties or out of the Court but it is an attempt to take shelter of judicial proceeding and decree…facts of the case attract the view adopted by learned Peshawar High Court in Abdur Rauf case

(PLD 1982 Peshawar 172), which is also approved by the Honourable Supreme Court in 1984 SCMR 586.
v) The case is not that required summary dismissal… Nevertheless, when facts require determination, recording evidence and question being a mixed question of law and facts would need proper determination.
vi) When no case of fraud or misrepresentation or jurisdiction is made out and it is apparent from the record that application under section 12(2) of the CPC is filed just to derail the proceedings, superfluous or it is to cause delay in execution; such attempt requires summary dismissal.

Conclusion: i) See above analysis No i.
ii) A compromise entered into by collusion or fraud excludes the application of section 52 of the Act.
iii) See above analysis No iii.
iv) See above analysis No iv.
v) When mixed question of law and facts are involved application under section 2(2) of CPC cannot be summarily dismissed.
vi) See above analysis No vi.

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50. **Lahore High Court**
The State v. Wasif Saeed
Wasif Saeed v. The State
Jannat-ul-Firdous v. The State, etc.
Murder Reference No.208 of 2021
Criminal Appeal No.56099 of 2021
Criminal PSLA No.56097 of 2021
Mr. Justice Shehram Sarwar Ch., Mr. Justice Sardar Akbar Ali
https://sys.lhc.gov.pk/appjudgments/2025LHC773.pdf

Facts: The appellant, along with his co-accused persons, was tried by the learned Sessions Judge in Lahore in a private complaint under sections 302, 148, and 149 PPC, which arose from a case registered under FIR for offences under sections 302 and 34 of the PPC. Upon conclusion of the trial, the co-accused were acquitted, while the appellant was convicted and sentenced. Aggrieved by his conviction and sentence, the appellant filed a Criminal Appeal. Additionally, the trial court submitted a reference for the confirmation or otherwise of the death sentence awarded to the appellant. Meanwhile, the complainant filed an appeal challenging the acquittal of the co-accused persons.

Issues: i) What is the effect of dishonest improvements made by a witness in his statement?
ii) If prosecution withheld the best piece of evidence, what adverse inference can be drawn?
iii) What purpose can be served by medical evidence?
iv) What is the role of motive in criminal proceedings?

Analysis: i) It is settled by now that dishonest improvements made by a witness in his statement to strengthen the prosecution case casts serious doubt about veracity of his statement and makes the same untrustworthy and unreliable.
ii) The prosecution has withheld the best piece of evidence, hence an adverse inference within the meaning of Article 129(g) of Qanun-e-Shahadat Order, 1984 can validly be drawn against the prosecution that had the abovementioned witnesses been produced in the witness box then their evidence would have been unfavourable to the prosecution.
iii) The medical evidence only being corroborative piece of evidence, cannot be made basis to record or sustain conviction because medical evidence could only give details about the locale, dimension, kind of weapon used, the duration between injury and medical examination or death and autopsy, etc. but never identify the real assailant.
iv) We cannot ignore the legal position that motive even if proved, depending upon the facts and circumstances of the case, may act as a double-edged weapon. If it can be a reason for the accused to commit the crime, it can also be used by the prosecution as a tool to implicate an innocent person.

Conclusion: i) It makes the statement untrustworthy and unreliable.
ii) That evidence would have been unfavourable to the prosecution.
iii) It gives details about the locale, dimension, kind of weapon used, the duration between injury and medical examination or death and autopsy, etc.
iv) It is double-edged weapon, it can be used by both prosecution and defence.

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51. **Lahore High Court**
Iqbal Ahmad v. Additional District Judge, etc.
W.P.No.15171 of 2022
Mr. Justice Syed Ahsan Raza Kazmi.
https://sys.lhc.gov.pk/appjudgments/2025LHC488.pdf

Facts: Through this Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 the petitioner has challenged the Orders passed by learned Courts below whereby his application for amendment in the plaint of suit for specific performance and permanent injunction was partially allowed and certain other amendments were declined concurrently.

Issues: i) Whether discretionary powers of Courts to allow the amendments in pleadings are subject to certain conditions/limitations?
ii) Whether a party can be allowed to amend a pleading qua a fact already in its knowledge?

Analysis: i) There is no cavil to the legal proposition that the Court always has the jurisdiction under Order VI rule 17 of the Code and enjoys vast discretionary powers to allow the amendments in pleadings at any stage of the proceedings. However, such powers are subject to certain conditions/limitations. The main

conditions/limitations are as following: Firstly, the amendments should not cause prejudice to the other side, meaning thereby that while allowing amendment(s) in the plaint the defendants' rights should also be kept in mind and no amendment should be permitted which is aimed at changing the complexion of the suit while introducing a new case based on different cause of action. Secondly, any right accrued in favour of other party would not be allowed to be snatched away by permitting any am`endment in a cursory manner. Thirdly, if it is moved with mala fide intention or it is already in the knowledge of the party at the time of instituting the suit.

ii) One cannot be allowed to seek amendment regarding any fact which was in one's knowledge before filing of the pleading(s)

Conclusion: i) See above analysis No.i

ii) A party is barred to amend a pleading qua a fact already in its knowledge.

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52. **Lahore High Court**
Ashfaq Ahmad v. District and Sessions Judge/Presiding Officer District Consumer, Multan & another
F.A.O. No. 12 of 2025.
Mr. Justice Malik Javaid Iqbal Wains.
https://sys.lhc.gov.pk/appjudgments/2025LHC432.pdf

Facts: The appellant has preferred this appeal under Section 33 of the Punjab Consumer Protection Act against the order passed by the learned District Consumer Court, Multan, whereby the court proceeded to partly accept the claim of respondent No.2/claimant. Learned counsel for the appellant submitted that at the time of passing impugned order the appellant was not available in Pakistan. The office reported that this appeal is barred by 41 days; moreover, the Honourable court observed that appeal is time-barred which is accompanied by C.M. seeking condonation of delay.

Issue: i) What is the period provided for filing of an appeal against the order passed by District Consumer Protection Court and the rationale behind Section 33 of The Punjab consumer Protection Act 2005?

ii) What constitute sufficient cause and how the courts should exercise discretion to condone the delay?

iii) What is the finality clause provided by The Punjab Consumer Protection Act, 2005?

Analysis: i) In terms of Section 33 of the Act any person aggrieved may file an appeal within 30 days against final order of the consumer court passing such an order. The rationale behind this provision is to ensure that judgments become conclusive within a reasonable timeframe to prevent indefinite litigation and fair opportunity for Appeal. Granting an aggrieved party adequate time to challenge an order while maintaining procedural discipline that statutory limitation periods are not mere technicalities but substantive provisions that

serve to promote finality in litigation and judicial efficiency.
ii) The law mandates strict adherence to limitation period, courts possess discretion to condone delay in exceptional circumstances. This discretion, however, must be exercised sparingly and cautiously. A party seeking condonation must prove that the delay resulted from circumstances beyond its control, such as: Force majeure events (e.g., natural disasters, unforeseen emergencies), Court closures due to extraordinary circumstances, legal impediments preventing timely filing. A casual approach or mere administrative lapses do not constitute sufficient cause for condonation of delay. If the delay is found to be intentional, avoidable or due to negligence, the appeal must be dismissed. The doctrine of limitation is based on the principle that "condonation of delay is an exception, not the rule".
iii) Section 34 of the Act deals with the finality of order. This provision in consumer law is acknowledged as finality clause which stipulates that once the statutory appeal period, typically 30 days expires, the judicial order issued by the consumer court attains finality and becomes legally enforceable. This provision is crucial for upholding judicial discipline, preventing the misuse of appellate mechanisms, and ensuring that justice is not indefinitely delayed. Without such a clause, courts would be susceptible to an influx of untimely or repetitive appeals, which could obstruct the prompt enforcement of consumer remedies and exacerbate judicial backlog.

Conclusion: i) See above analysis No. i
ii) See above analysis No. ii.
iii) See above analysis No iii.

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53. **Lahore High Court**
Fida Hussain and another v. The State and another
Criminal Appeal No. 1035 of 2023
Mr. Justice Muhammad Jawad Zafar
https://sys.lhc.gov.pk/appjudgments/2025LHC656.pdf

Facts: The appellants were sentenced to life imprisonment and to pay compensation to the legal heirs of the deceased persons under section 302(b) PPC by the Trial Court; hence this Criminal Appeal before the High Court.

Issues: i) Whether a single doubt reasonably shaking the credibility of the presence of a witness at the venue of the crime suffices to discard the testimony of witness?
ii) What is effect of withholding best evidence?
iii) What is effect of conflict between medical and ocular accounts upon the case of prosecution?
iv) Whether confession of co-accused before police is as statement of accomplice before court?
v) Whether PFSA report on CCTV footage without photogrammetry test is insufficient to decipher identity of unknown assailant?

vi) Whether the trial court is duty bound to to check the admissibility of evidence, i.e., before it was allowed to come on record and its omission does not beneficial to the prosecution and cause prejudice to the accused?

Analysis: i) All the said omissions are conspicuous by their absence and in absence of physical proof or the reason for the presence of the witnesses at the crime scene, their presence at the venue of occurrence at the time of commission of offence becomes highly doubtful and the same cannot be relied upon. Consequently, the purported eyewitnesses were, at best, chance witnesses.[6] It is trite that a single doubt reasonably shaking the credibility of the presence of a witness at the venue of the crime suffices to discard the testimony of said witness in its entirety.[7]

ii) Furthermore, Mr. Rabnawaz, in whose defense the complainant and witnesses purportedly went to office of DSP *Jatoi* and sustained injuries on the way back, was withheld by the prosecution, meaning thereby that he did not support the prosecution version. Illustration (g) of Article 129 of the Qanun-e-Shahadat 1984 ("QSO") provides that if any best piece of evidence available with the parties is not produced by them, then it shall be presumed that *had that evidence been produced, the same would have gone against the party producing the same.*[8]

iii)… When the aforementioned number of injuries and time lapse(s) are put in juxtaposition, it becomes rather obvious that there was no plausible explanation as to why the autopsy was conducted with the delay[9] and there is an apparent conflict between medical and ocular accounts due to which no other opinion could be formed but to hold that the incident did not occur at the time as stated by the witnesses of the ocular account and the occurrence remained unwitnessed.[10] …The medical and ocular conflict,[11] when culminated with the difference between the time of death and lack of justification *qua* presence at the scene of the alleged occurrence, lends credence to the view that the purported eyewitnesses were neither present when the deceased sustained injuries nor did they witness the occurrence and the narration of the FIR version, due to delayed post-mortem examinations,[12] is nothing but an afterthought, benefit whereof would go to the appellants.

iv)…it was averred by the learned Deputy Prosecutor General that statement of Muhammad Ramzan before the Investigating Officer has evidentiary value, in the light of the Articles 16 and 43 of the Qanun-e-Shahadat 1984 ("QSO") and that the plea of appellants *qua* dishonestly substituting the name of co-accused Muhammad Ramzan with appellant Muhammad Shan is misconceived. This contention fails to take into consideration due to the following:

a. Firstly, it is an admitted fact that appellant Muhammad Shan was not nominated in the Crime Report. His nomination through an affidavit on 12.03.2022 is nothing but a supplementary statement, and such statements have always been considered to be afterthoughts carrying no evidentiary value;[13]

b. Secondly, there is a stark difference between a statement of an accomplice and a confession of a co-accused. The statement of

an accomplice has to be recorded under Section 164 of the Code for it to be used, and such an accomplice has to depose in terms of subsection (2) of Section 337 of the Code;[14] a mere statement before the police simpliciter cannot be considered as such;[15]

c. Thirdly, albeit under Article 16 of Qanun-e-Shahadat 1984 ("QSO") an accomplice[16] is a competent witness; however, illustration (b) to Article 129 provides a rider '*that an accomplice is unworthy of credit unless he is corroborated in material particulars*'. Since, the evidence of an approver being that of an accomplice is *prima facie* of a tainted character, it should be scrutinised with utmost care and accepted with caution and to this end, Rule 5 of Chapter 14, Volume-III, of the Rules and Orders of the Lahore High Court stipulates that '*As a matter of law, pure and simple, a conviction is not bad merely because it proceeds upon the uncorroborated testimony of an accomplice (vide *[Article 16 of the Qanun-e-Shahadat 1984]. But it has now become almost a universal rule ***[…] not to base a conviction on the testimony of an accomplice unless it is corroborated in material particulars. As to the amount of corroboration which is necessary, no hard and fast rule can be laid down. It will depend upon various factors, such as the nature of the crime, the nature of the approver's evidence, the extent of his complicity, and so forth. But, as a rule, corroboration is considered necessary not only in respect of the general story of the approver, but in respect of facts establishing the prisoner's identity and his participation in the crime.]*',[18] which is squarely lacking in this *lis*, as explained hereinbelow;

d. Fourthly, if the argument is accepted and the statement is considered as a confession, then it would have no intrinsic evidentiary value for being an extra-judicial confession given to police because co-accused Muhammad Ramzan was never taken to any Magistrate for recording of his confession in terms of Section 164 of the Code;[17]

e. Fifthly, the value of a statement made to police with regard to the niceties of Articles 38, 39 and 40 of QSO has already been enunciated in exceptional detail by the honourable Supreme Court of Pakistan in "*Akhtar v. Khwas Khan and another*" (2024 SCMR 476) in the following words:

> '*the niceties of Article 38 of the Qanun-e-Shahadat Order, 1984 are quite lucid that no confession made to a police officer shall be proved as against a person accused of any offence, while Article 39 emphasizes that, subject to Article 40, no confession made by any person*

whilst he is in the custody of a police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person. Seemingly, a confession made before the police is not made admissible by dint of the aforesaid provisions of the Qanun-e-Shahadat Order, 1984 in order to preserve and safeguard the philosophy of safe administration of criminal justice and is also based on public policy';[18]

f. Sixthly, notwithstanding its lack of evidentiary value, the so-called confession does not support the prosecution case as it is trite that confession of a co-accused could not be used against another accused.[21] It is clarified that Article 43 of QSO pertains to confession, not statements of co-accused or accomplice, and the Article itself provides that in clause (b) thereof, the confession of co-accused will be considered as a mere circumstantial piece of evidence against such other person. Meaning thereby that the same cannot be a stand-alone reason to convict someone; rather, it would require corroboration. Furthermore, it is settled by now that two corroborative pieces of evidence cannot corroborate each other, but corroboration must come from an independent source;[19]

g. Lastly, if all of these factors are taken out of consideration, even then the statement of co-accused Muhammad Ramzan merely states that appellant Muhammad Shan was with the others, and not for a moment states that the appellant committed the commission of *qatl-e-amd*. As a consequence thereof, this contention is repelled.

v) By the same token, the PFSA report obtained against the CCTV footage does not confirm or deny the identity of the person(s) in the video by way of conducting a photogrammetry test;[21] rather, it merely affirms that the video is not forged or tampered with. The submissions of the learned law officer could have been taken with a pinch of salt, had a photogrammetry test been conducted to identify the assailant, but even then due to the admission of Safdar Ghafoor (PW-6) and aberrant conduct of Faiz Rasool (PW-3), the same would have been futile to the prosecution case. In order to confirm the identity of culprit, it was mandatory for the Investigating Officer to refer the culprit or his picture, and video for photogrammetry test to the PFSA.

vi) The learned Trial Court was under a bounden duty to check the admissibility of evidence, i.e., before it was allowed to come on record,[20] but miserably failed to do so. Benefit of omission of the learned Trial Court does not help the prosecution case as under the maxim of "Actus Curiae Neminem Gravabit", the appellants cannot be prejudiced due to an act of court.

Conclusion: i) a single doubt reasonably shaking the credibility of the presence of a witness at the venue of the crime suffices to discard the testimony of said witness in its entirety.
ii) Witness was withheld by the prosecution, meaning thereby that he did not support the prosecution version
iii) See above analysis No.iii
iv) See above analysis No.iv
v) See above analysis No.v
vi) See above analysis No.vi

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54. **Lahore High Court**
Hafeez Ahmad v. The State, etc.
Criminal Revision No.400 of 2018
Mr. Justice Muhammad Jawad Zafar
https://sys.lhc.gov.pk/appjudgments/2025LHC752.pdf

Facts: The petitioner was tried by the learned Judicial Magistrate 1st Class, in crime case for offences under Articles 3 and 4 of the Prohibition (Enforcement of Hadd) Order 1979 and the trial court convicted and sentenced the petitioner. Hence, this Criminal Revision before the High Court

Issues i) What is scope and conditions to invoke revisional jurisdiction?
ii) What is effect of non-exhibition of articles/document in evidence during the trial?
iii) Whether non-production of witness transmitting samples to the PFSA is fatal to prosecution?
iv) What is effect of material or evidence not put to the accused in his statement under section 342 Cr.P.C?
v) Whether the failure to establish the identity of accused is fatal to the prosecution?
vi) Whether the Court can exercise its revisional jurisdiction suo motu?

Analysis: i) The scope of revision is inherently limited and may only be invoked when a finding of fact that influences the decision is either unsupported by evidence or results from misreading or non-reading of the material available on record. Upon the fulfillment of either of these conditions, it is incumbent upon this Court to exercise its revisional jurisdiction. In order to invoke the revisional jurisdiction, two conditions precedent constituting jurisdictional facts would require to be fulfilled: first, it should relate to proceedings, and second, the said proceedings should be before subordinate criminal Court.[3]
ii)…it was straightaway observed that none of the recovered materials were exhibited in evidence by the prosecution before the learned Trial Court. Rule 14-H, Part B, Chapter 24, Volume III, of the Rules and Orders of the Lahore High Court ("**High Court Rules and Order**") pertains to exhibits and provides a self-explanatory procedure for exhibiting a document and article to be read in evidence, which has been blatantly overlooked in the instant case by the learned

Trial Court… Under the aforementioned Rule of the High Court Rules and Order, both documents and articles have to be exhibited. Since the recoveries were never produced and exhibited before the learned Trial Court, the same cannot be used to prove the case against the present petitioner despite the existence of positive report. Conversely, had the article been exhibited but the report was not, the effect would remain the same.

iii)…the prosecution failed to produce the witness Muhammad Khalid, who, according to the PFSA report (Exh.PE), transmitted the samples to the PFSA. This omission raises concerns regarding the safe transmission of the parcel to the PFSA, thereby disrupting the chain of custody for the sample parcel. In "*Muhammad Adnan and another v. The State and others*" (2021 SCMR 16), the Honourable Supreme Court observed that the positive report of the Forensic Science Laboratory was of no legal consequence because the police constable who transmitted the empty allegedly secured from the spot was not produced by the prosecution. In view thereof, the non-production of witness Muhammad Khalid suffices to break the chain of custody and is sufficient to cast serious doubt about the integrity of the sample parcel, ultimately compromising the credibility and reliability of the PFSA report (Exh.PE).

iv)… the recoveries were not put to the petitioner in his statement under Section 342 of the Code. The statement of the petitioner recorded under Section 342 of the Code depicts that the incriminating material, i.e., the recovered articles, were not put to the petitioner to extract his explanation thereon during his examination. It is trite that the incriminating material and the circumstances from which inferences adverse to the accused sought to be drawn should be put to the accused when he is questioned under Section 342 of the Code, else the same cannot be considered as a piece of evidence against the accused.[4] Akin to the principle enunciated hereinabove that any non-exhibition of article or document cannot be used against the accused person, similarly, any incriminating article or document which was not put to accused in his statement under section 342 of the Code cannot be used against him.[5]

v)…according to the prosecution's narrative, the petitioner fled from the crime scene. Pertinently, it is not the prosecution's case that the petitioner was known to them. Since the petitioner was not known to the prosecution witnesses and no identification parade was conducted in terms of Article 22 of the Qanun-e-Shahadat Order 1984 ("**QSO**"), nor were the features of the petitioner disclosed in the Crime Report, with a lack of explanation from the complainant as to how he identified the petitioner, the identity of the petitioner remains unclear and shrouded in mystery.

vi)…the objection of the learned law officer that the petitioner cannot be acquitted in *absentia* is misconceived. It is trite that this Court can exercise its revisional jurisdiction *suo motu* to ensure effective superintendence and visitorial powers to make sure of the strict adherence to the safe administration of justice and to correct any error unhindered by technicalities.

Conclusion: i) See above analysis No.i
ii) See above analysis No.ii
iii) See above analysis No.iii
iv) any incriminating article or document which was not put to accused in his statement under section 342 of the Code cannot be used against him.
v) See above analysis No.v
vi) Court can exercise its revisional jurisdiction *suo motu*.

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55. **Lahore High Court**
Haji Mehboob Alam v. Rana Khalid Mehmood & 03 others
Civil Revision No. 1214 of 2017
Mr. Justice Khalid Ishaq
https://sys.lhc.gov.pk/appjudgments/2025LHC701.pdf

Facts: The case involves a dispute over multiple agreements to sell a commercial property, where the petitioner sought specific performance based on a chain of transactions. The lower court rejected the petitioner's plaint and subsequent appeals and review petitions were also dismissed. The petitioner later filed an application challenging the withdrawal of a related suit, alleging fraud and collusion, but the application was dismissed. The petitioner then sought to set aside this dismissal, which was also rejected, leading to the present civil revision petition where petitioner sought condonation and delay and the court's suo motu jurisdiction.

Issues i) Whether the right to file an appeal or revision is governed by the law prevailing at the date of institution of the suit or by the law in force at the time of its decision or filing?
ii) Whether the ratio decidendi of 'Hafeez Ahmad v. Civil Judge, Lahore and others' applies to the present case regarding the suo motu exercise of revisional jurisdiction beyond the prescribed limitation period?
iii) What are the legal grounds for condonation of delay, and does the ratio decidendi of 'Khushi Muhammad v. Mst. Fazal Bibi' apply in this case?
iv) Does wrong legal advice from a counsel constitute a sufficient cause for condonation of delay?
v) Does the principle of unjust enrichment provide a legal basis for invoking suo motu revisional jurisdiction?
vi) Does Rule 10 of Order XXII of CPC allow suit continuation upon assignment of interest during litigation?

Analysis: i) Thus, the application under section 5 of the Limitation Act is caught by mischief of section 29 read with Section 3 of the Limitation Act due to settled position of law that the institution of the suit carries with it the implication that all rights of appeal or revision then in force are preserved to the parties thereto till the rest of the career of the suit and a right to file an appeal or revision, if so conferred by the statute, accrues to the litigant and exists as on and from the date

when the lis commences and although it may be actually exercised when the adverse judgment is pronounced, such right is to be governed by the law prevailing at the date of the institution of the suit or proceeding and not by the law that prevails at the date of its decision or at the date of the filing of the appeal or revision.

ii) It is settled by respectable authority that a case is only authority for what it actually decides and cannot be cited as precedent for a proposition that may be inferred from it.5 Considering the foregoing, one cannot escape to consider the facts which necessitated formation of larger bench of the Supreme Court for determinations handed by Hafeez Ahmed's case; the ratio of Hafeez Ahmad is unequivocally clear for its facts. At the relevant time the docket of the Supreme Court was inundated by the petitions involving questions arising from civil revisions filed in High Courts beyond the period of ninety days, which were all dismissed without exclusion of time consumed for obtaining certified copies. The Hon'ble larger bench assembled '[t]o consider 'inter alia whether the time consumed for obtaining certified copies of the judgment, decree or other documents could be excluded under section 12 read with section 29 of the Limitation Act'

iii) The true import of statute of limitation, its significance and essence has conclusively been settled by the Supreme Court of Pakistan13 while answering multiple questions urged as basis for condonation of delay. While considering various provisions of the Limitation Act, the Hon'ble larger Bench of the Apex Court in Khushi Muhammad's case summed up the issues in the following terms:-

(i) The law of limitation is a statute of repose, designed to quieten title and to bar stale and water-logged disputes and was to be strictly complied with. There is no scope in law of limitation for any equitable or ethical construction to get over them. Justice, equity and good conscience do not override the law of limitation;

(ii) The hurdles of limitation cannot be crossed under the guise of any hardships or imagined inherent discretionary jurisdiction of the Court. Ignorance, negligence, mistake or hardship does not save limitation, nor does poverty of the parties;

(iii) There is absolutely no room for the exercise of any imagined judicial discretion vis-a-vis interpretation of a provision, whatever hardship may result from following strictly the statutory provision. There is no scope for any equity. The Court cannot claim any special inherent equity jurisdiction;

(iv) The law of limitation is an artificial mode conceived to terminate justiciable disputes. It is therefore to be construed strictly with a leaning to benefit the suitor;

v) The conduct of counsel, his failure to discharge his obligations of due prudence, diligence and professionalism, as sought to be agitated in this case, has long been settled as a matter between 'counsel & client', the list of such precedents is so long and established that it will be a burden for this judgment to mention the same, however, if an authority was required due to some divergent views, the same was supplied by Khushi Muhammad's judgment, wherein, while answering the precise question as to whether the wrong advice of counsel

constitutes a sufficient cause for condonation of delay, the Supreme Court held as under:

> "Therefore, we are fortified in our view that mistaken advice of counsel does not constitute a sufficient cause for condonation of delay as a matter of course and routine and/or is automatic and per se rather as mentioned above, the appellant has to specify the reasons with clarity and precision which prevailed with the counsel and led him to commit the mistake and such application must also be supported by an affidavit.

vi) In common law systems, five key questions underpin the 'skeleton of principle' on which the law of unjust enrichment and restitution are based: (1) was the payment received by mistake; (2) was the defendant enriched; (3) at the expense of the plaintiff; (4) in the circumstances where there is a recognised reason (an 'unjust factor') why the defendant should not be permitted to retain the benefit; and (5) is there a defence? (...) The above leads to inescapable conclusion that [unjust enrichment] is an edifice for laying a claim of restitution; involving factual determinations after granting an opportunity to the defendant. (…) this Court is not inclined to treat the ground of unjust enrichment as a basis for exercising suo motu revisional jurisdiction as divulging into such question at this stage might prejudice anyone's case, if a separate suit is advised for restitution.

vii) Rule 10 postulates that in case of an assignment or creation of any interest during pendency of suit, the suit may, by leave of the court, be continued by or against the person to or upon whom such interest has devolved. Sine qua non for such right would be an acceptance by a litigant party that it has transferred or assigned its interest to the applicant seeking leave of the court for continuation of the suit.

Conclusion: i) The right to appeal or revise is governed by the law at the suit's institution, not at its decision or filing.

ii) See analysis No.ii.

iii) See analysis No.iii.

iv) Wrong legal advice alone is not a sufficient ground for condoning delay; specific reasons must be provided with supporting evidence.

v) The principle of unjust enrichment alone does not justify invoking suo motu revisional jurisdiction, as it requires a separate claim for restitution and factual determination.

vi) Rule 10 allows suit continuation upon assignment of interest, but only with court approval and acceptance by the litigant party.

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56. **Lahore High Court**
Munnza Bibi v. Government of Punjab, etc.
Mr. Justice Malik Muhammad Awais Khalid
https://sys.lhc.gov.pk/appjudgments/2025LHC518.pdf

Facts: Petitioner, a Civil Servant, working as Headmistress, challenged her transfer order through writ petition arguing that the same was in violation of the Transfer Policy, 2024.

Issues: Whether a Civil Servant can challenge his transfer directly before High Court without first exhausting the available departmental and statutory remedies?

Analysis: The impugned order is a transfer of petitioner whereas transfer is the part of terms and conditions by virtue of Sec.3 and Sec.9 of the Punjab Civil Servant Act, 1974 (the Act, 1974)... Being a civil servant, the petitioner at first avail the departmental remedy, and it is the duty of public functionaries to decide the grievance of their subordinate after application of mind with cogent reasons within reasonable time.. After availing departmental recourse, the aggrieved petitioner can resort the remedy under Section 4 of the Punjab Service Tribunal Act, 1974 by filing appeal before the Tribunal... Being a civil servant, petitioner's grievance in respect of terms and conditions of service could be adjudged by Service Tribunal under the law. The August Supreme Court of Pakistan specifically observed relating to the jurisdiction of Service Tribunal in such like matters, as reported in case titled as *Chief Secretary, Government of Punjab, Lahore and others Vs. Ms. Shamim Usman* (2021 SCMR 1390). Relevant extract is reproduced as under: ―Jurisdiction of all other courts was ousted because of the provisions contained in Article 212 of the Constitution and orders of departmental authorities, even though without jurisdiction could be challenged only before Service Tribunal. Moreover, Service Tribunal had full jurisdiction to interfere in such like matters. The learned Service Tribunal has ample power to decide the appeal of civil servant under the law. Vires of this issue comes under the ambit of Service Tribunal, therefore, petitioner may avail alternate remedies available to her supra under the law.

Conclusion: Civil servant cannot challenge his transfer directly before High Court without first exhausting the available departmental and statutory remedies.

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57. **Lahore High Court**
Dr. Samia Altaf v. Lahore University of Management Sciences etc.
R.F.A. No.11082 of 2025
Mr. Justice Masud Abid Naqvi, Mr. Justice Malik Muhammad Awais Khalid
https://sys.lhc.gov.pk/appjudgments/2025LHC510.pdf

Facts: Appellant brought his suit for damages against the respondents (defendants). In pursuance of the process, respondents turned up and filed their statements while raising certain legal as well as factual objections. Issues were framed and evidence of the parties was invited. Despite affording various opportunities, appellant did not produce his evidence. Accordingly, her suit was dismissed for want of evidence. The appellant preferred an appeal before District Judge but the same was dismissed as withdrawn in order to avail proper remedy before

appropriate forum as value of the suit exceeds from the jurisdiction of the District Court. Hence, the instant appeal.

Issues: i) Whether a court must strictly enforce its final opportunity order when a party fails to produce evidence despite multiple chances?
ii) What is the impact of repeated adjournments on the judicial systems, and should courts refrain from granting them liberally?
iii) What are the necessary conditions before applying the penal provision of Order XVII Rule 3 CPC to close the right of a party to produce evidence?
iv) How does the 'adjournment culture' affect the efficiency of the judicial system?
v) Should courts permit further adjournments once a final opportunity has been granted with a warning?
vi) Does the failure to act diligently in producing evidence constitute an abuse of the legal system?

Analysis: i) it becomes crystal clear that the trial court ordered a specific warning and imposition of cost therefore once the final opportunity was granted along with a clear warning, the court must enforce its order strictly and without exception
ii) The case law reported as *'Duniya Gul and another Vs. Niaz Muhammad and others'* (PLD 2024 Supreme Court 672) wherein it has been held as under:-

> *" 7.---In our view, it is imperative for the court to exercise vigilance and refrain from granting adjournments so liberally and without any compelling reasons. Such a cautious approach is necessary to prevent abuse of the legal system, ensure a fair and timely resolution of cases, and optimize the use of judicial resources."*

iii) in the case of Moon Enterpriser CNG Station, Rawalpindi v. Sui Northern Gas Pipelines Limited through General Manager, Rawalpindi, and another (2020 SCMR 300). The Court, after considering the case law available on the subject, held that the following two conditions must be satisfied before applying the above penal provision to close the right of a party to produce evidence:

i. that time must have been granted at the request of a party to the suit to adduce evidence with a specific warning that said opportunity will be the last and failure to adduce evidence would lead to closure of the right to produce evidence; and
ii. that the same party on the date which was fixed as the last opportunity fails to produce its evidence.

iv). The August Supreme Court of Pakistan in case reported as *Lutfullah Virk Vs. Muhammad Aslam Sheikh* (PLD 2024 Supreme Court 887) observed as under:-

> *"7.---It is unfortunate that adjournments have become a plague for the country's justice system. On 31 December 2023, a net pendency of 2.26 million cases was reported in the country and 1.86 million of the cases out of the total pendency, which is around 82%, are pending adjudication before the District Judiciary and despite this mammoth pendency, which undoubtedly has only grown since 31 December 2023, the adjournment*

culture continues unabated - which robs litigants of the right to speedy justice and further exacerbates the inefficient judicial system crisis."

v) The case law reported as *'Duniya Gul and another Vs. Niaz Muhammad and others'* (PLD 2024 Supreme Court 672) wherein it has been held as under:-

10. It is relevant to observe here that when the last opportunity to produce evidence is granted and the party has been duly warned of the consequences, the court must execute its order consistently and strongly, without exceptions. Such a measure would not only realign the system and reaffirm the authority of the law but also curb the trend of seeking multiple adjournments on frivolous grounds, which serve to needlessly prolong and delay proceedings without valid or legitimate justification.

vi) The appellant could not produce her evidence before the trial court despite availing reasonable opportunities. The lis was prolonged on one pretext or the other despite clear orders of the trial court. In such manner the cases must be decided promptly which causes heavy backlogs of controversies between the parties, otherwise this amounts to abuse of legal system and a hurdle in fair and timely disposal of cases.

Conclusion: i) See above analysis No.i

ii) See above analysis No.ii

iii) A party's right to produce evidence can only be closed if last opportunity with a warning is given and still failed to produce evidence on the given date.

iv) The unabated culture of adjournments, worsen case backlogs, depriving litigants of speedy justice.

v) Once a last opportunity is granted, Courts must execute it strictly without exception.

vi) See above analysis No. vi

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58. **Lahore High Court**
The province of Punjab through Secretary, Sports & Youth Affairs Department Lahore and 2 others v. Sabir Ali and 8 others.
R.F.A.NO.10975 of 2025
Mr. Justice Masud Abid Naqvi, Mr. Justice Malik Muhammad awais Khalid
https://sys.lhc.gov.pk/appjudgments/2025LHC794.pdf

Facts: Through instant application filed under Section 5 of the Limitation Act, 1908 read with Section 151 of the Code of Civil Procedure, 1908, the applicants/appellants has sought condonation of delay of 318 days in filing of the main appeal preferred under section 54 of the Land Acquisition Act, 1894, against a consolidated judgment dated 19.01.2024 passed by learned Senior Civil Judge (Civil Division), Kasur.

Issues: i) Whether communication and correspondence inter se the departments can be considered a ground for condonation of delay?

ii) Whether any extraordinary clemency, compassion or preferential treatment

may be accorded to the Government department, autonomous bodies or private sector/organizations to condone the delay?
iii) Whether government departments may be treated differently from the ordinary litigants, while deciding the question of limitation?

Analysis: i) The communication and correspondence inter se the departments cannot be considered a valid and reasonable ground for condonation of delay. While dealing the limitation for filing of the appeal under Section 54 of the Act, 1894.
ii) While considering the grounds for condonation of delay, whether rational or irrational, no extraordinary clemency or compassion or preferential treatment may be accorded to the Government department, autonomous bodies or private sector/organizations, rather their case should be dealt with uniformly and in the same manner as cases of ordinary litigants and citizens. No doubt the law favours adjudication on merits, but simultaneously one should not close their eyes or oversee another aspect of great consequence, namely that the law helps the vigilant and not the indolent.
iii) The appellants being government departments cannot be treated differently from the ordinary litigants. The government departments are not entitled to any leniency while deciding the question of limitation. Their cases must be assessed on the same standards applicable to public litigants and application for condonation of delay requires same scrutiny.

Conclusion: i) See above analysis No. i
ii) See above analysis No. ii.
iii) see above analysis No.iii.

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59. **Lahore High Court**
Muhammad Waseem. v. The State and another
Criminal Appeal No.448 of 2023/BWP.
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Ch. Sultan Mahmood
https://sys.lhc.gov.pk/appjudgments/2025LHC732.pdf

Facts: The appellant preferred this appeal against his conviction under the CNSA.

Issues: i) Whether a previous statement of a witness could be used to impeach his credit and how?

Analysis: i) It is a method recognized by law under 151(3)1 of the Qanoon-e-Shahadat Order 1984 that the credit of a witness can be impeached by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted. If former statement was in writing or was reduced to writing, the attention of witnesses must be called to those part of it which are used for purpose of contradicting him. It is also admitted position of law that previous statement can be relied for the purpose of contradiction but not as substantive evidence, so applying the above principles this Court has noted that defence has exhibited the

previous statement of the witness and has confronted him with the same, so while it has been used for contradiction and has not been used as substantive, as not tendered in the statement of the Appellant, therefore, it is safe to use the contradiction as it passes the judicially approved standards of evidence.

Conclusion: i) A previous statement of a person recorded could be used to impeach his credit by confronting him to that part of statement. Such former statement could not be used as substantive evidence.

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60. **Lahore High Court**
Muhammad Ameer v. Member(J-VII), Board of Revenue, etc
Writ Petition No.234510 of 2018.
Mr. Justice Ch. Sultan Mahmood
https://sys.lhc.gov.pk/appjudgments/2025LHC621.pdf

Facts: The petitioner was allotted land under the Horse Breeding Scheme, which was later challenged by the respondent before the Board of Revenue. The Member (J-VII), Board of Revenue, set aside the allotment based on purported admissions of private partition, remanding the case for fresh allotment. Through this petition, the petitioner seeks the setting aside of the impugned order and restoration of his allotment. The connected writ petition, filed by the contesting respondent, also assails the same order but seeks the allotment in his favour instead.

Issues: i) What is the difference between the revisional powers under Section 164 of the Land Revenue Act, 1967, and Section 115 of the Civil Procedure Code?
ii) What are the types of admissions, and where are they provided in the law of evidence?
iii) Whether a statement recorded without administering an oath is admissible in evidence?
iv) Whether a party can retract an admission made during proceedings?

Analysis: i) It is correct that the Section 164 of the Land Revenue Act, 1967 confers very wide power of revision as any order made by the subordinate officer can be interfered, the only condition being that the Board considers the case 'fit' for its interference. The only other condition is of a prior notice unlike revisional jurisdiction contained in the section 115 of Civil Procedure Code. However, the power so vested has to be exercised under the law and not otherwise.
ii) The law on the subject is the Qanun e Shahadat Order 1984(QSO), it embodies two genres of admissions: one contained in the Article 113 of the QSO it is a rule of pure procedure; and the second one is the Article 45 of the QSO, which is to give effect to the rule of evidence. Plainly speaking the Article 113 of the QSO applies to the admissions made in the pleadings while the Article 45 of the QSO applies to evidentiary admissions.
iii) The omission to administer oath to the persons giving evidence before the forum below is an illegality which cannot be cured and such statements cannot be used to the detriment of makers. It is settled law that it is obligation of a Court to

record testimony of a witness on oath and statement of witness recorded without oath is inadmissible in evidence.
iv) *It is well-settled law that parties may resile all admissions except those made in the pleadings.*

Conclusion: i) Section 164 grants wider revisional powers than Section 115 CPC but is conditioned on a "fitness" test and prior notice
ii) See Above Analysis No.ii
iii) A statement recorded without administering an oath is inadmissible in evidence.
iv)See Above analysis No.iv

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61. **Lahore High Court**
Phaphi alias Fatima and another v. The State and another
Crl. Misc. No.7172-B/2025.
Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC788

Facts: Petitioners seek pre- arrest bail in case FIR registered under Section 406 and 420 PPC as their earlier pre-arrest bail application was declined by Court of Sessions.

Issue: i) What are the essential ingredients to constitute offence under section 406 PPC
ii) Whether malafide can always be proved through direct evidence?

Analysis: i) Under section 406 PPC, the essential ingredients are:- i) There should be an entrustment by a person who reposes confidence in the other, to whom property is entrusted. ii) The person in whom the confidence is placed, dishonestly misappropriates or converts to his own use, the property entrusted. iii) He dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged. iv) He dishonestly uses or disposes of that property in violation of any legal contract, express or implied, which he has made touching the discharge of such trust.
ii) Malafide being a state of mind could not always be proved by direct evidence. In most of the cases it has always to be inferred from the facts and circumstances of the case.

Conclusion: i) See analysis No.i.
ii) See analysis No.ii.

LATEST LEGISLATION/AMENDMENTS

1. Vide Notification No. SO(REV)/IRR/12-70/23(ALL CEs)-959 dated 27-01-2025 published in the Punjab Gazette, The Adjustment of Canal Command Areas Rules, 2024 are made.

2. Vide Notification No. SO(REV)/IRR/12-70/23(ALL CEs)-959 dated 27-01-2025 published in the Punjab Gazette, The Punjab Canal Water Supply Rules, 2024 are made.
3. Vide Notification No. SO(REV)/IRR/12-70/23(ALL CEs)-959 dated 27-01-2025 published in the Punjab Gazette, The Punjab Irrigation (Appeal and Revision) Rules, 2024 are made.
4. Vide Notification No. SO(REV)/IRR/12-70/23(ALL CEs)-959 dated 27-01-2025 published in the Punjab Gazette, The Punjab Irrigation Review Board Rules, 2024 are made.
5. Vide Notification No Legis: 5-22/2024/897 dated 26-02-2025 published in the Punjab Gazette, The Punjab Defamation (Tribunal) Rules, 2025 are made.
6. Vide Notification No.147-2025/233-RS(II) dated 06-03-2025 published in the Punjab Gazette, amendments are made in The Punjab Agricultural Income Tax Rules, 1997.
7. Vide Notification No.148-2025/234-RS(II) dated 06-03-2025 published in the Punjab Gazette, amendments are made in The Punjab Agricultural Income Tax Rules, 2001.

SELECTED ARTICLES

1. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/what-is-an-interpol-arrest-warrant-and-how-does-it-affect-citizens-in-the-uae--17524.asp

   What is an Interpol Arrest Warrant and How Does It Affect Citizens in the UAE? By Yaksh Sharma

   An Interpol arrest warrant, commonly known as a Red Notice, is an international request for the detention of a wanted person. While it is not an arrest warrant in itself, it signals law enforcement agencies worldwide to locate and provisionally detain an individual for potential extradition. In the UAE, Interpol Red Notices can significantly impact a person's legal status, including travel restrictions, frozen bank accounts, and the risk of detention while legal proceedings unfold.

2. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/understanding-probation-violations-in-colorado-and-their-consequences-17521.asp

   Understanding Probation Violations in Colorado and Their Consequences by Yaksh Sharma

   Probation is a common alternative to incarceration for those navigating the criminal justice system in Colorado. Understanding the nuances of probation violations is essential for individuals on probation and their families, as these violations can lead to serious legal repercussions, including the possibility of jail time. In Colorado, probation

violations can occur for a variety of reasons, including failure to complete mandated programs, issues with reporting to a probation officer, or engaging in illegal activities. Each of these violations carries specific consequences that can dramatically impact a person's life and future.

3. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/data-breach-as-personal-injury-17520.asp

   Data Breach as Personal Injury by Yaksh Sharma

   In today's digital age, the potential for personal data breaches is alarmingly high. Individuals often underestimate the severity of how these breaches can affect their lives, both financially and emotionally. A data breach can be considered a form of personal injury, as it compromises personal security and can lead to significant harm. Victims of data breaches may experience real consequences, such as identity theft, financial losses, and emotional distress. As organizations increasingly store sensitive information online, the responsibility to protect that data is paramount. Those impacted must understand their rights and the implications of such breaches on their personal well-being. As society becomes more aware of data privacy, discussing the concept of data breaches as personal injuries opens a vital conversation. It encourages individuals to take proactive steps in safeguarding their information, while also holding companies accountable for failures in data protection.

4. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/what-to-do-after-a-car-accident-when-it-s-not-your-fault-17519.asp

   What To Do After a Car Accident When It's Not Your Fault? By Yaksh Sharma

   After a car accident, especially when it's not your fault, knowing the right steps to take can make a significant difference. The immediate priority should be ensuring everyone's safety, exchanging information with the other driver, and documenting the scene thoroughly. These actions are essential for protecting one's rights and establishing a clear record of the incident. After ensuring safety, it's crucial to notify the insurance companies involved. This step initiates the claims process, allowing for repairs and medical expenses to be addressed. Gathering evidence, such as photos of the damage and witness statements, can further support a claim and clarify the circumstances of the accident.

5. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/what-do-lawyers-do-when-they-know-their-client-is-guilty-17518.asp

   What Do Lawyers Do When They Know Their Client is Guilty? By Yaksh Sharma

When a criminal defense attorney knows their client is guilty, they face a complex ethical dilemma. The primary responsibility of the attorney is to provide a robust defense, ensuring that the legal rights of the client are upheld, regardless of their guilt. This role emphasizes the importance of the legal principle that everyone deserves a fair trial. Attorneys maneuver through this challenging situation by focusing on the facts, evidence, and legal standards present in the case. They may seek to negotiate plea bargains, look for procedural errors, or highlight mitigating circumstances that could impact sentencing. By doing so, they not only fulfill their duty to their client but also maintain the integrity of the legal system.
