

# LAHORE HIGH COURT B U L L E T I N



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## FORTNIGHTLY CASE LAW BULLETIN

(01-05-2025 to 15-05-2025)

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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1. **Supreme Court of Pakistan**  
**Sher Asfandiyar Khan, Sajida Naeem, M/s of space (Pvt.) Ltd., Karachi & Alamgir Khan v. Neelofar Shah etc.**  
**Civil Appeals No.1843 to 1846 of 2019 and Civil Miscellaneous Application No.1138 of 2020**  
**Mr. Justice Yahya Afridi CJ, Mr. Justice Amin-ud-Din Khan & Mrs. Justice Ayesha A. Malik**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.a.\\_1843\\_2019.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.a._1843_2019.pdf)

**Facts:** The parties were shareholders in a (Pvt.) Ltd. Company. The respondent side claimed that the appellant group illegally transferred his 30% shares in violation of two Shareholders' agreements. The respondent Group filed a petition under the Companies Ordinance, seeking remedy for oppression. The Company Judge ruled in favor of the respondent Group, which order was upheld by the Sindh High Court. Hence, the appeals were filed before the Hon'ble Supreme Court.

**Issues:**

- i) How the summary proceedings under Companies Act can be distinguished from a civil trial.
- ii) How and in which cases the summary procedure can be adopted?
- iii) Whether summary proceedings impose an absolute bar on the Company Judge from receiving oral or documentary evidence where necessary?
- iv) When a party challenges the existence of a document, whether such allegation can be resolved in a summary manner?
- v) Whether a claim as to trust is tenable under Pakistan company law?
- vi) What is importance of a company's register as to legal ownership?
- vii) Whether a fact proved in accordance with a prescribed legal standard can be considered by the court of law?
- viii) Whether the provisions of QSO also extend to summary proceedings before the Company Court?
- ix) In which situation the secondary evidence becomes admissible?
- x) Whether mere assertion regarding the loss or unavailability of the original document is sufficient to seek, by a party, to rely upon secondary evidence?
- xi) How the judicial discretion can be exercised?
- xii) What is the effect of failure to subject the documents to the necessary evidentiary scrutiny, particularly in case of serious allegations?

**Analysis:**

- i) It is noteworthy that by its very nature, a summary proceeding is abundantly distinct from a civil trial, which is structured around a more comprehensive fact-finding process, involving the framing of issues, the recording of detailed evidence, and the examination and cross-examination of witnesses.
- ii) While under Section 9(3) of the Companies Ordinance, it is permissible to adopt summary procedure, the procedure adopted should be fair and just, ensuring equal opportunities for the contesting parties. As such, it is clear that Section 9 of the Companies Ordinance is not to be interpreted in a manner that overrides fundamental principles of fairness, particularly where intricate factual disputes arise.

iii) The requirement to follow summary procedure does not impose an absolute bar on the Company Judge from receiving oral or documentary evidence where necessary. The Court reaffirmed that, while summary proceedings are designed for expeditious resolution, they do not preclude a factual inquiry where allegations of fraud, forgery, or misrepresentation arise, provided that such an inquiry is necessary to reach a just conclusion. It was clarified that the reference to ‘summary procedure’ in Section 9(3) does not deprive the Company Judge of the authority to receive and assess evidence, where the nature of the dispute so requires.

iv) The present case is not a mere matter of contractual enforcement but one where the very authenticity of the Shareholders’ Agreements is in dispute. The Khan Group has not merely challenged the interpretation or implementation of these agreements; they have challenged their very existence. Such allegations require procedural safeguards, including oral testimony, forensic examination, and cross-examination, none of which were undertaken by the courts leading to the impugned judgment. The omission of these safeguards raises serious concerns regarding fairness and due process, particularly in a case where the validity of the underlying documents is directly contested.

v) In the present case, the Shah Group asserts that the 30% shareholding initially allocated to Alamgir Khan was held in trust for the benefit of Nazeer Shah. However, in light of the statutory framework discussed above, such a claim is untenable under Pakistani company law. Section 148 of the Companies Ordinance explicitly prohibited the recognition of any trust; express, implied, or constructive, on the company’s register of members. Consequently, even if a private arrangement existed between the parties regarding the beneficial ownership of these shares, the Company Judge could not take cognizance of such a claim. Thus, the claim of the Shah Group of having a trust over the disputed shares is legally untenable and cannot be sustained in these proceedings.

vi) The legal ownership, as recorded in the company’s register, must be regarded as conclusive, and any assertion of an equitable interest cannot override the statutory bar.

vii) A fundamental principle of the law of evidence is that a fact, to be considered by a court of law, must not only be relevant but also admissible and proved in accordance with the prescribed legal standards.

viii) Section 1(2) explicitly states that the QSO extends to the whole of Pakistan and applies to all judicial proceedings before any court. By necessary implication, its provisions also extend to summary proceedings before the Company Court, ensuring that evidentiary standards remain uniform across all judicial fora.

ix) A plain reading of Article 76 of QSO makes it clear that secondary evidence, such as photocopies or duplicates of a document, is only admissible in strictly circumscribed situations. The provision sets out a limited set of circumstances in which reliance may be placed on copies or reproductions of documents, including where the original has been lost, destroyed, unlawfully withheld by an adverse party, or is otherwise unobtainable.

x) The admission of secondary evidence is contingent upon strict compliance with statutory conditions prescribed under Article 76 of the QSO. It was emphasized that a mere assertion regarding the loss or unavailability of the original document is insufficient; rather, the party seeking to rely on secondary evidence must first establish, through credible and independent proof, that the original is unavailable due to a reason explicitly recognized under the law. Any deviation from this requirement, or the admission of secondary evidence without such justification, constitutes a material irregularity warranting judicial interference.

xi) However, it is well-settled that judicial discretion, while broad, is not unfettered and must be exercised within the parameters prescribed by law. Where a determination is reached without adherence to the procedural and evidentiary safeguards essential to a fair adjudication, it ceases to be a matter of discretion and instead becomes a question of legal propriety.

xii) The failure to subject the documents to the necessary evidentiary scrutiny, particularly in light of the serious allegations raised, rendered the adjudication procedurally deficient.

- 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) A claim as to trust is not tenable under company law.
  - vi) See above analysis No. vi
  - vii) See above analysis No. vii
  - viii) See above analysis No. viii
  - ix) See above analysis No. ix
  - x) See above analysis No. x
  - xi) See above analysis No. xi
  - xii) See above analysis No. xii

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- 2. Supreme Court of Pakistan**  
**District Education Officer (Female), Charsadda, etc. v. Sonia Begum**  
**C.R.P. 5/2023 In C.P.L.A. 448-P/2017**  
**Secretary S.S.D., FATA Secretariat, FATA, Peshawar (Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar) and others v. Shakila Chaman**  
**C.R.P. 6/2023 In C.P.L.A. 651-P/2019**  
**Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Peshawar and others v. Saira Amin**  
**C.R.P. 7/2023 In C.P.L.A. 655-P/2019**  
**Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Peshawar and others v. Syed Amjad Rauf Shah**  
**C.R.P. 8/2023 In C.P.L.A. 658-P/2019**  
**Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Peshawar and others v. Raz Muhammad**  
**C.R.P. 9/2023 In C.P.L.A. 666-P/2019**

**Director Education Officer (Female), Peshawar, etc v. Mehak Sajawal  
C.P.L.A No. 402-P of 2023**

**Mr. Justice Syed Mansoor Ali Shah (Acting Chief Justice), Mr. Justice Muhammad Ali Mazhar, Mr. Justice Shahid Bilal Hassan**

[https://www.supremecourt.gov.pk/downloads\\_judgements/c.r.p. 5 2023.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.r.p. 5 2023.pdf)

**Facts:** Through the present petitions, the petitioners seek review of the judgment of this Court (reported as Director Education Officer (Female) Charsadda and others v. Sonia Begum and others (2023 SCMR 217) wherein the Court affirmed that under Section 3 of the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011, it is the domicile certificate, and not the CNIC address, that determines a candidate's permanent residence for employment purposes.

**Issues:**

- i) Is the constitutional right to access the courts an unqualified or limitless right?
- ii) How is the right to access the courts to be exercised?
- iii) Which Article of the Constitution empowers the Supreme Court to review any judgment pronounced or order made by it?
- iv) On what grounds, may a review petition be filed before the Supreme Court?
- v) Can the term "mistake or error apparent on the face of the record" be defined with precision?
- vi) What is the condition for determination a mistake or error apparent on the face of the record?
- vii) When can a decision, order, or judgment not be corrected?
- viii) What is a party filing a review petition prohibited from doing?
- ix) Is the power of review similar to that of an appeal?
- x) Can a judgment be revisited in the exercise of the power of review?
- xi) What are the criteria for exercising review jurisdiction?
- xii) In what ways, do frivolous claims waste the Court's time and resources?
- xiii) What are the benefits of imposing of costs?
- xiv) What function does the imposition of costs serve?
- xv) How do cost sanctions contribute to maintaining fairness in judicial proceedings?
- xvi) What are the consequence of denying the cost imposition?
- xvii) Is the legal framework governing the imposition of costs in Pakistan rooted in statutory law and procedural rules?
- xviii) What factors may courts consider to determine whether a case is frivolous?
- xix) What ethical and procedural obligations must lawyers fulfill in various jurisdictions before filing a case?
- xx) What rules makes it obligatory for the Advocates signing the review petitions in Pakistan?
- xxi) For what purpose, is the consistent imposition of meaningful and proportionate costs essential?

**Analysis:** i) The right of access to courts is a cornerstone of our constitutional framework, it is not an unqualified or limitless right.



- ii) Such access must be exercised with due responsibility and in a manner that upholds the dignity and finality of judicial proceedings.
- iii) Article 188 of the Constitution of the Islamic Republic of Pakistan, 1973 (“Constitution”) empowers the Supreme Court to review any judgment pronounced or order made by it.
- iv) Order XXVI, Rule 1 of the Rules stipulates that a review petition may be filed on grounds similar to those mentioned in Order XLVII, Rule 1 of the Code of Civil Procedure, 1908 (“CPC”), which provides that a review may be sought where there is (1) discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of, or could not be produced by, the third party seeking review at the time when the decree was passed or order made; (2) some mistake or error apparent on the face of the record, and (3) any other sufficient reason.
- v) The term “mistake or error apparent on the face of the record” cannot be defined with precision or exhaustiveness, and there would always remain an element of indefiniteness inherent in its very nature.
- vi) The critical condition is that it must be self-evident, immediately apparent, and not require extensive discussion or reasoning. If an error is not self-evident and its detection demands prolonged debate or analysis, it cannot be classified as an error apparent on the face of the record.
- vii) A decision, order, or judgment cannot be corrected simply because it is erroneous in law, or because a different view could have been taken by the court or tribunal on a point of law or fact.
- viii) A party filing a review petition cannot be allowed to repeat previously overruled arguments in an attempt to reopen the conclusions reached in the judgment.
- ix) It is well established law that the power of review should not be confused with the appellate power, which permits a superior court to correct errors made by a subordinate court. Review proceedings are distinct from appeals and must be strictly confined to the scope and parameters outlined in Order XLVII Rule 1 of the CPC.
- x) Power of review, as articulated in Article 188 of the Constitution and governed by the Rules and the CPC, is not an open invitation to revisit judgments merely on the basis of dissatisfaction with the outcome.
- xi) It is a limited jurisdiction, exercised with great caution and circumspection. The conditions for filing a review petition are specifically enumerated, and they do not extend to re-arguing points of law or fact that have already been conclusively determined.
- xii) Frivolous claims serve no purpose other than to waste the Court’s time and resources. The repeated filing of such petitions, especially when the issues have already been conclusively settled, clutters the judicial process with baseless assertions. This compels the Court to divert its valuable time and attention to matters devoid of merit. Frivolous litigation is costly not only for the judicial system but also for litigants. Such cases consume limited court resources and require parties to expend substantial time and financial resources defending

unwarranted claims. This imposes an undue burden on both the judiciary and the litigants, leading to avoidable expenses and procedural delays. Moreover, frivolous litigation delays justice for deserving litigants by diverting the Court's focus from meritorious cases<sup>8</sup>, thereby disrupting the efficient administration of justice and impeding the timely resolution of genuine disputes.

xiii) The imposition of costs, as authorized under Order XXVIII, Rule 3 of the Rules<sup>13</sup>, serves as a critical deterrent against the abuse of judicial process. It reinforces judicial discipline, promotes expeditious adjudication, and protects the integrity of the legal system.

xiv) The imposition of costs functions as a crucial corrective mechanism within the justice system, simultaneously deterring meritless claims and preserving court access for genuine litigants.

xv) Cost sanctions in frivolous and vexatious matters are thus essential to fulfilling the constitutional mandate of a fair trial under Article 10A of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution").

xvi) Failure to impose costs effectively denies genuine claimants access to justice under Article 9 and impairs the constitutional goal of expeditious justice outlined in Article 37(d) of the Constitution. In recognition of this, the Supreme Court has consistently directed all tiers of the judiciary to impose appropriate costs to check the abuse of process, prevent unwarranted adjournments, curb procedural delinquency, and preserve the judiciary's efficiency and integrity.

xvii) The legal framework governing the imposition of costs in Pakistan is rooted in both statutory law and procedural rules. In addition to Order XXVIII, Rule 3 of the Rules, Section 35 of the CPC empowers courts to determine by whom and to what extent costs are to be paid. Section 35-A further authorizes compensatory costs against parties who raise false or vexatious claims or defences. More recently, the Costs of Litigation Act, 2017 enacted for the Islamabad Capital Territory has fortified the cost regime by mandating the imposition of compensatory, special, and adjournment costs. This transforms cost sanctions from a discretionary tool into a mandatory judicial duty. Although this statute currently applies only in the Islamabad Capital Territory, it offers a viable legislative model for adoption across provinces to standardize and strengthen deterrence against frivolous litigation nationwide.

xviii) In this context, courts may consider a set of non-exhaustive factors to assess whether a case is frivolous. These *inter alia* include: (i) Conduct of the parties: Any behaviour that unnecessarily prolongs or delays the proceedings, (ii) Margin of success or failure: Whether the claim was reasonably arguable or plainly untenable from the outset, (iii) Falsehood or fraud: If a party or its witnesses lied under oath or submitted forged or fabricated document, (iv) Compliance with legal obligations: Whether the party has scrupulously complied with the Code of Civil Procedure, the Evidence Act, and other applicable substantive or procedural laws, (v) Unnecessary denials: If a party refused to admit facts or documents that ought reasonably to have been admitted, and (vi) Violation of court processes: Failure by a party or its legal representative to comply with court rules, practice directions, or lawful court orders.

xix) In various jurisdictions, including the United States, lawyers are ethically and procedurally obligated to certify, before filing a case, that the action is not initiated for improper purposes such as to harass, delay, or increase litigation costs unnecessarily. They must also certify that the claims, defences, and legal contentions are warranted by existing law and that factual contentions are supported by evidence. Courts have the discretion to penalize not only litigants but also legal representatives who violate these duties. This reinforces professional accountability and deters frivolous litigation.

xx) In Pakistan, a similar obligation exists specifically in the context of review petitions. Under the Rules, it is mandatory that the Advocate signing the review application briefly state the precise grounds on which the review is sought. Furthermore, the Advocate must provide a reasoned certificate affirming that, in their professional opinion, the case warrants review. This safeguard ensures the limited jurisdiction of review is not misused, thereby conserving judicial time for matters of genuine substance.

xxi) The consistent imposition of meaningful and proportionate costs rooted in statutory authority, judicial discipline, and constitutional imperatives is essential to deter abuse of process and restore procedural integrity. It is imperative that courts across all tiers actively embrace cost sanctions as a necessary tool for judicial economy, procedural fairness, and the delivery of timely and effective justice. Only by weeding out vexatious and baseless claims can the judiciary ensure that its limited resources are directed toward those causes that truly deserve legal redress.

- Conclusion:**
- i) The right of access to courts is not an unqualified or limitless right.
  - ii) The right of access to courts must be exercised responsibly, ensuring respect for judicial dignity and finality.
  - iii) Article 188 of the Constitution empowers the Supreme Court to review any judgment pronounced or order made by it.
  - iv) See above analysis No. iv
  - v) No, the term “mistake or error apparent on the face of the record” cannot be defined with precision or exhaustiveness.
  - vi) If an error is not self-evident, it cannot be classified as an error apparent on the face of the record.
  - vii) A decision, order, or judgment cannot be corrected when it is erroneous in law and a different view could have been taken by the court or tribunal.
  - viii) A party filing a review petition is prohibited from repeating previously overruled arguments.
  - ix) See above analysis No. ix
  - x) A judgment cannot be revisited in the exercise of the power of review.
  - xi) Review jurisdiction is a limited jurisdiction and it is to be exercised with great caution and circumspection.
  - xii) Frivolous claims wastes the Court’s time and resources.
  - xiii) The imposition of costs serves as a deterrent against the abuse of judicial process.

- xiv) The imposition of costs functions as a corrective mechanism deterring meritless claims and preserving court access for genuine litigants.
- xv) See above analysis No. xv
- xvi) Consequence of refusal of imposition of costs is the denial of genuine claimant's access to justice.
- xvii) Yes. The legal framework governing the imposition of costs in Pakistan is rooted in both statutory law and procedural rules.
- xviii) See above analysis No. xviii
- xix) See above analysis No. xix
- xx) Order XXVI, Rule 4 of Supreme Court Rules, 1980
- xxi) In order to maintain judicial discipline and constitutional imperatives, the consistent imposition of meaningful and proportionate costs is essential.

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**3. Supreme Court of Pakistan**  
**Aatika Hina Mushtaq v. Secretary Special Education Government of the Punjab, Special Education Department Lahore, etc.**  
**C.P.L.A No. 3116 of 2022**  
**Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Shahid Bilal Hassan**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.p.\\_3116\\_2022.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p._3116_2022.pdf)

**Facts:** The petitioner while working as a Physical Education Teacher (BS-09) in the Punjab Special Education Department was considered for promotion for the post of Lecturer Physical Education (BS-17) under the Special Education Department (Directorate of Special Education) Service Rules, 2006. Her case was recommended for promotion through a working paper submitted by the Department. However, the Departmental Promotion Committee deferred the promotion of the petitioner on the pretext that the Rules required amendment, and promotions would be considered thereafter. The petitioner's representation against the decision of the DPC was rejected, while her departmental appeal was dismissed. Consequently, the petitioner challenged both these orders by filing a service appeal before the Punjab Service Tribunal, Lahore, which too was dismissed. Hence, the instant petition for leave to appeal.

**Issues:**

- i) Whether the Departmental Promotion Committee (DPC) is legally justified in deferring the promotion of a civil servant on the ground that the existing service rules require amendment?
- ii) Whether a civil servant, though not having a vested right to promotion, possesses an enforceable right to be considered for promotion in accordance with the existing service rules?
- iii) Whether the arbitrary or indefinite deferral of promotion consideration violates the fundamental right to livelihood and the right to live with dignity as guaranteed under Article 9 of the Constitution?

**Analysis:** i) The Rules provide a clear mechanism for determining seniority (...) any proposed future amendments of the Rules cannot bind the DPC to lay their hands off and defer promotions on this pretext. The DPC does not possess the mandate

or the authority to question the Rules or refuse their enforcement.

ii) While a civil servant does not have a vested right to promotion, he or she certainly has an enforceable right to be considered for promotion in accordance with law. The denial or deferral of promotion, if not supported by lawful and cogent reasons, violates this expectation and reduces constitutional guarantees to mere rhetoric.

iii) Article 9 of the Constitution guarantees the right to life, which, through consistent judicial interpretation, has evolved beyond mere animal existence to encompass the right to live with dignity and purpose. Integral to this dignified existence is the right to livelihood, a concept that extends mere employment to include the genuine opportunity for growth, progress, and advancement in one's career in accordance with law.

- Conclusion:**
- i) The decision of the DPC of withholding the promotion till such time that the Rules are suitably amended is not sustainable.
  - ii) See analysis ii above.
  - iii) It is axiomatic that fair, transparent, and merit-based consideration for promotion forms an essential facet of the right to livelihood, and thus, of the right to life itself.

**4. Supreme Court of Pakistan**  
**Federal Public Service Commission through its Secretary, Islamabad v. Kashif Mustafa and others**  
**C.R.P No. 292/2024 in C.P.L.A. No. 4449/2021**  
**Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.r.p. 292 2024.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.r.p. 292 2024.pdf)

**Facts:** The petitioner has filed a review petition against the judgment wherein the conclusion of the High Court was upheld by this Court, which deemed the intra-court appeal (ICA) not maintainable under Section 3(2) of the Law Reforms Ordinance, 1972. The Court ruled that since the Federal Public Service Commission Ordinance, 1977 provides for an appeal against the original order, the ICA cannot be pursued. The availability of a legal remedy, regardless of whether it was utilized, bars the right to file an ICA.

**Issues:**

- i) What obligations do public bodies have when engaging in litigation?
- ii) How should they approach courts who have been entrusted with public functions and legal stewardship?

**Analysis:**

- i) When public bodies initiate litigation, they do so not as private litigants pursuing personal interests, but as custodians of the law and fiduciaries of the public interest. They are under an onerous obligation to act fairly, responsibly, and in accordance with the Constitution.
- ii) Courts are not to be approached mechanically or defensively, especially by those entrusted with public functions and legal stewardship.

- Conclusion:** i) They are under an onerous obligation to act fairly, responsibly, and in accordance with the Constitution.  
 ii) They should not approach courts mechanically or defensively.

**5. Supreme Court of Pakistan, National Bank of Pakistan through its President, Karachi and others v. Muhammad Shafiq & Muhammad Tahir C.P.L.As.121 and 122 of 2024 and C.M.As.507 and 509 of 2024 Mr. Justice Munib Akhtar, Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi.**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 121 2024.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 121 2024.pdf)

**Facts:** The Respondents / employees of the petitioner Bank were dismissed after disciplinary proceedings. The employees challenged their termination through civil suits, seeking reinstatement. The suits were decreed in their favor, and reinstatement was ordered. The Bank's appeals and revision petitions were dismissed, prompting the current leave petitions.

**Issues:** i) What is the court's view on employment relationships in the gig economy?  
 ii) Whether the traditional master-servant legal framework remains suitable in light of modern corporate structures and decision-making processes?  
 iii) Whether the equitable rule in *Shamsul Islam Chowdhury* (PLD 1961 SC 531) requires flexibility and judicial discretion to ensure the law evolves over time?  
 iv) Whether termination by a large corporation can render an individual unemployable, even if deemed unlawful by a court?

**Analysis:** i) This is also now the age of the Internet and even in relation to what is called the "gig economy" (where the position of the hired/engaged person is at its most precarious) the courts in many jurisdictions have held that the relationship cannot be reduced to that of master and servant.  
 ii) The "master" now may well not be some identified person or small group of persons who themselves rely on the personal skill of the "servant" but rather an impersonal corporation containing many layers of employment and management, and where decisions of service (and in particular termination thereof) may well be taken by persons some levels below what would, in law (in traditional terms) be regarded as the "mind" of the "master". It therefore appears to us, with respect, that the law in this area may have ossified and become outmoded, being no longer congruent with the demands and requirements of modern times.  
 iii) The rule laid down in *Shamsul Islam Chowdhury* is ultimately of an equitable nature and it is of the essence of equity that it must retain flexibility and the discretion of the Court (in the judicial sense) so that the law can appropriately develop, and continue to develop, with the passage of time.  
 iv) It should also be noted that in the context of the modern economy the termination of service, in particular by a large corporation, may well in practical terms make a person effectively unemployable even if the termination is later found to be unlawful by a court and compensated by an award of damages.



- Conclusion:**
- i) In the gig economy, courts in many jurisdictions have ruled that the relationship cannot be reduced to master and servant.
  - ii) See above analysis No.ii
  - iii) The rule in *Shamsul Islam Chowdhury* is equitable, requiring flexibility and judicial discretion for the law to evolve with time.
  - iv) See above analysis No.iv

**6. Supreme Court of Pakistan, M/s WAK Limited Multan Road, Lahore v. Collector Central Excise & Sales Tax, Lahore (Now Commissioner Inland Revenue, LTU, Lahore) and others C.As.634 to 636-L of 2022**  
**Mr. Justice Munib Akhtar, Mr. Justice Irfan Saadat Khan, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Shakeel Ahmad, Mr. Justice Miangul Hassan Aurangzeb**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.a. 634 2018.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.a. 634 2018.pdf)

**Facts:** These review petitions are meant to examine the correctness of the judgment in *Collector of Sales Tax, Gujranwala v. Super Asia Mohammad Din* (2017 SCMR 1427) whereby certain provisions of the Sales Tax Act, 1990 were held to be mandatory rather than directory.

**Issues:**

- i) Would the exercise of statutory power to grant an extension under S.11 G of Sales Tax Act, 1990 be lawful without recording reasons?
- ii) Whether treating both uses of “shall” in S.11 G of Sales Tax Act, 1990 as mandatory is the only interpretation that gives full effect to the legislative intent?
- iii) Whether mere non-provision of penal consequences would regard a provision as directory?
- iv) How do the words “in no case” used in Section 11G of the Sales Tax Act, 1990 impact its interpretation?
- v) How does Section 74 of the Sales Tax Act, 1990 provide discretion to the FBR regarding the time period for an adjudicating officer to perform the required act?
- vi) Whether under Section 74 of the Sales Tax Act, 1990 FBR can grant extension for the period so long as it thinks fit?
- vii) Whether the legal principles enunciated in *Super Asia* (2017 SCMR 1427) are correct?

**Analysis:**

- i) The exercise of the statutory power in favor of granting the extension would be unlawful without the recording of reasons.
- ii) It is therefore our conclusion, with respect, that even on a bare textual analysis it is only the first possibility, where both uses of “shall” are mandatory, that can “work” in any sensible or reasonable manner. That possibility must therefore be the only one that aligns fully with the legislative intent.
- iii) It is however but one device among many available in the judicial toolkit in this regard. It is, with respect, neither universal nor determinative in and of itself.
- iv) The hard edge provided by these words is a clear indication that if the thing here required to be done (i.e., the issuance of the order-in-original) goes beyond

the prescribed time limits there is indeed a penal consequence that ensues, i.e., its invalidity.

v) Section 74 statutorily empowers (but does not bind, i.e., confers a discretion on) the FBR to, as here relevant, allow an adjudicating officer (since he is one of the officers specified in s. 30) to do the act or thing required of him (i.e., issue the order-in- original) for which a time period has been specified (i.e., the relevant provisions) to do that act or thing within such time or period as FBR may consider appropriate.

vi) Section 74 does not, because as a matter of law it cannot, confer an open-ended power in this regard. In other words, FBR cannot, on the basis of its own subjective assessment, grant an extension for however long a period it thinks fit. The matter must, and if it comes before a court certainly will, be looked at objectively.

vii) The decision of this Court in *Collector of Sales Tax, Gujranwala and others v Super Asia Mohammad Din and others* 2017 SCMR 1427, 2017 PTD 1756 is hereby confirmed and the principles enunciated therein are affirmed as correctly stating the law on all points.

- Conclusion:**
- i) Granting the extension without recording reasons would make the exercise of statutory power unlawful.
  - ii) See above analysis No.ii)
  - iii) See above analysis No.iii)
  - iv) See above analysis No.iv)
  - v) Section 74 grants the FBR discretion to allow an adjudicating officer, specified under Section 30, to issue the order-in-original within a time period deemed appropriate by the FBR.
  - vi) Section 74 does not grant FBR open-ended power to extend time; any extension must be objectively assessed, especially in court.
  - vii) see above analysis No.vii)

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**7. Supreme Court of Pakistan**  
**Commissioner Inland Revenue, Lahore vs M/s Educational Services (Private) Limited, Lahore**  
**C.P.L.A.109-L/2024**  
**Mr. Justice Munib Akhtar, Ms. Justice Ayesha A. Malik, Mr. Justice Aqeel Ahmad Abbasi**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.p.\\_109\\_1\\_2024.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p._109_1_2024.pdf)

- Facts:** The respondent taxpayer, a company based in Pakistan, entered into various franchise agreements within the country, thereby providing dutiable services classified as franchise services. The dispute centered on determining whether the liability to pay excise duty for these services lay with the franchiser or the franchisees. The Appellate Tribunal held that the respondent was not liable to pay the excise duty, and this conclusion was upheld by the High Court through the impugned judgment rendered on a tax reference filed by the Department.



**Issues:**

- i) Who is responsible to pay Excise duty under the Federal Excise Act, 2005?
- ii) Whether the Federal Board of Revenue (FBR), through Rule 43A, can validly alter the legal incidence of tax in the absence of express delegation in the parent statute.?

**Analysis:**

i) The charging section of the Act is s. 3 and subsection (5) thereof, as presently relevant, is in the following terms... The subsection sets out the legal liability to pay the duty, i.e., specifies on whom lies the legal incidence of the tax. Excise duty is of course a species of indirect taxation, and it is a characteristic of such taxes that the expectation is that the economic incidence or burden of the levy will normally be passed on to the consumer (or, as the case may be, especially where the tax is being levied in the VAT mode, on the person next in the supply/consumption chain). However, there is in law a distinction between the legal incidence of an indirect tax and its economic or commercial incidence. The State is of course interested in the recovery of the levy, and for this purpose the relevant statute may set out the person who must bear the legal incidence. It is that person against whom the State will act (by way, e.g., of coercive recovery provisions) if the tax remains unpaid. Whether such person can successfully pass on the economic burden onto someone else is, in terms and for purposes of its legal incidence, usually not relevant. We may caution however, that this is the general position which, as will be seen, suffices for present purposes. There can be exceptions to this in the statutory scheme itself, either set out expressly or as may be found to exist by way of necessary implication or otherwise. However, that aspect need not be considered further here... Applying the foregoing principles to the facts and circumstances at hand it is, in our view, clear from a bare reading of subsection (5) that the legal incidence of the levy is to fall on the franchiser, here the respondent. Clause (c) can be regarded as comprising of two parts. The general rule in relation to the legal incidence is set out in the first part. To this an exception is carved out in the second part (as indicated by the word “provided”), in relation to the situation where the franchiser is outside Pakistan. Then, the legal incidence falls on the franchisee.

ii) Rule 43A must (now, and as relevant for present purposes) be regarded as geared towards ensuring that the exception or second part of clause (a) of s. 3(5) is given effect to, i.e., the situation where the franchiser is outside of Pakistan and the parent statute expressly imposes the legal incidence of the duty on the franchisee. The references to the State Bank in subrule (5) and deduction from “remittance[s]” in sub-rule (7) (which term is generally used for foreign banking transactions) make clear that the concern being addressed is that the local franchisee of the foreign franchiser is fulfilling its legal obligation to pay the duty. Finally (and again, subject to the clarificatory observation made below), to read Rule 43A in the manner as found favor with the learned High Court would allow the FBR, in exercise of rule making power, to alter the legal incidence of the duty in a manner contrary to what is expressly stated in the parent statute. This is impermissible. In the presence of a position embedded in the parent Act itself no

such power of delegated legislation vests, or can vest, in the FBR or for that matter any other person except by way of express grant by the statute.

- Conclusion:** i) See above analysis (i).  
ii) See above analysis(ii).

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**8. Supreme Court of Pakistan**  
**Asjad Ullah v. Mst. Asia Bano and others.**  
**Civil Petition No. 3920 of 2024**  
**Mr. Justice Syed Hasan Azhar Rizvi, Mr. Justice Shakeel Ahmaad & Ms. Justice Musarrat Hilali**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 3920 2024.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3920 2024.pdf)

**Facts:** The marriage between the parties was ended with divorce pronounced by the petitioner from Greece. Then he/petitioner filed an application for custody of minor daughter which was dismissed upto the High Court. Hence, Civil Petition filed before the Hon'ble Supreme Court of Pakistan.

- Issues:**
- i) What should be the prime and overriding consideration of the courts in determining a custody matter?
  - ii) What constitutes the welfare of a minor and how it can be established?
  - iii) What includes in the expression "welfare of minor" and to which factor should be given the due weight in determining the welfare?
  - iv) What should take into account while determining the welfare of the minor?
  - v) What to focus by the courts in determining the welfare of a minor?
  - vi) Whether the custody of minor can be refused to father even he would become entitle under the Islamic law but welfare of minor so demands?
  - vii) What is the effect of an agreement between the parents contrary to the interest of the minor?
  - viii) Whether the concept of welfare of child is internationally recongnized?
  - ix) What is distinction between the concepts of custody and guardianship?
  - x) Who is under the obligation to maintain the children, whether the mother can be deprived from custody due to her inability to maintain?
  - xi) Whether remarriage of mother ipso facto disentitle her from custody of minor?
  - xii) Whether under Muhammad Law the principle of disqualification of mother from custody of minor on mother's remarriage is an absolute rule?
  - xiii) How and to what extents the removing of custody of child from mother disrupts their relationship and deprive the child from love and care?

- Analysis:**
- i) It is a settled principle of law that the welfare and best interests of the minor(s) shall be the prime and overriding consideration in determining an application for custody, with no other factor taking precedence.
  - ii) Now determination that what constitutes welfare of a minor is a question of fact that must be established through cogent and reliable evidence in each case rather than presumptions.

- iii) The expression "welfare of the minor" includes the minor's moral, spiritual, physical, psychological, educational, and material well-being. It further encompasses considerations relating to the minor's health, academic progress, religious upbringing, and overall emotional development. In determining welfare, due weight must also be given to the minor's happiness and emotional attachment to the proposed custodian.
- iv) Thus, while determining the welfare of the minor, the Court shall take into account the age, sex, religion, and other relevant circumstances of the minor, the character and capacity of the proposed guardian, as well as the preference of the minor, provided the minor is of sufficient maturity to express an intelligent preference.
- v) It is the duty of the Court to ensure that the welfare of the minor is of paramount concern, and that the actions of the litigating parties are not motivated by personal vendettas, vanity, or emotional desires for affection, but solely in the best interest of the minor. In matters concerning the custody of a child, the Family Court is not obliged to delve into the intricacies or technicalities of the case but must focus on determining what is in the best interest of the minor.
- vi) Under Islamic law, the father is generally entitled to custody of a boy after the age of seven years and of a girl after puberty. This Court, however, in the case of *Tahira v. Additional District Judge, Rawalpindi and others* (1990 SCMR 852) has categorically held that this entitlement is subject to the overriding consideration of the minor's welfare. Even where custody would otherwise shift to the father upon attainment of the prescribed age, the Court may refuse custody if the welfare of the minor so demands.
- vii) The court is not bound by any agreement between the parents if it is contrary to the interests of the minor.
- viii) The concept of the welfare of the child is internationally recognized as being embodied in the principle of the "best interests of the child." This principle, affirmed under Article 3(1) of the United Nations Convention on the Rights of the Child, 1989 ("UNCRC") serves as a paramount consideration in all actions concerning children, whether undertaken by public or private institutions, courts of law, or administrative authorities. (---) The UNCRC constitutes an international treaty that sets forth the rights guaranteed to children. The Islamic Republic of Pakistan ratified the UNCRC on 12.11.1990.
- ix) Custody, within the meaning of the Act, primarily involves the right to the upbringing of the minor, whereas guardianship entails an overarching responsibility for the welfare of the minor, including in situations where the guardian does not have actual physical possession of the minor.
- x) A father, by virtue of being the natural guardian, remains obligated to provide financial support for the minor even after separation from the mother and even when the custody of the minor is granted to the mother. It is well-settled that the liability of the father to maintain the minor is not only religious and moral but is also a legal obligation. It has been consistently held that the right to custody is subordinate to the paramount consideration of the welfare of the minor. The

inability of the mother to financially maintain the minor cannot, by itself, deprive her of custody, as the primary duty to provide maintenance rests upon the father.

xi) It is by now a settled principle of law that the mere fact of a mother's remarriage does not ipso facto disentitle her from the custody of the minor.

xii) As per D.F. Mulla's Principles of Muhammadan Law (Paragraphs 352 and 354), a mother's right of custody continues after divorce but may be forfeited upon remarriage, particularly if she marries a person not related to the minor within the prohibited degrees. However, Section 17 of the Act requires that the welfare of the minor must be of the paramount consideration. This Court has consistently held that the rules in Muhammadan Law regarding disqualification of a mother upon remarriage are not absolute. (---) In such cases, if the welfare of the minor is best served by awarding custody to the mother, even after remarriage, the court may grant her custody.

xiii) The critical importance of the mother-child bond, stating that removing a child from the mother disrupts their relationship and deprives the child of the love and care essential for his/her upbringing.(---) At this delicate and formative stage of adolescence, when emotional security, proper moral upbringing, and a strong educational foundation are of paramount importance for the minor's future growth and development, any unwarranted disturbance or change in her environment would likely cause irreversible harm to her personality and career.

- Conclusion:**
- i) Welfare of minor is the prime and overriding consideration for the courts in determining a custody matter.
  - 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 custody of minor can be refused to father even he would become entitle under the Islamic law if welfare of minor so demands.
  - vii) The court is not bound by any agreement between the parents if it is contrary to the interests of the minor.
  - viii) See above analysis No.viii
  - ix) See above analysis No.ix
  - x) See above analysis No.x
  - xi) Remarriage of mother ipso facto does not disentitle her from custody of minor.
  - xii) Disqualification of mother from custody of minor on her remarriage is not an absolute rule.
  - xiii) See above analysis No.xiii

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9.

**Supreme Court of Pakistan**

**Muhammad Asghar v. The State**

**Jail Petition No. 868 of 2017**

**Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan**

[https://www.supremecourt.gov.pk/downloads\\_judgements/j.p.\\_868\\_2017.pdf](https://www.supremecourt.gov.pk/downloads_judgements/j.p._868_2017.pdf)

**Facts:** Through the instant jail petition, petitioner has challenged the judgment of High Court whereby his convictions for offences under sections 302, 354 and 452 PPC were maintained, however, the sentence for the offence under section 302(b) PPC was altered from death to life imprisonment, while the remaining sentences were upheld.

**Issues:**

- i) What is the effect of variance in the statements of witnesses?
- ii) What will be the legal impact of non-production of reports of the Chemical Examiner and Serologist?
- iii) Can the assertion of a vague motive, unsupported by credible material, be treated as conclusive proof?
- iv) What is the law as to extension of benefit of doubt?

**Analysis:**

- i) Variance in the statements raises doubt not only about the credibility of the PWs' account but also their very presence at the scene.
- ii) No report of the Chemical Examiner or Serologist has been brought on the record. In such a situation, the recovery, stripped of scientific support, stands materially weakened and does not advance the prosecution's case in any meaningful way.
- iii) The mere assertion of a vague motive, unsupported by credible material, cannot be treated as conclusive proof.
- iv) The law is obvious and trite that where the prosecution's case contains doubts such as those mentioned in the foregoing paragraphs, the benefit of such doubts accrues in the accused's favour. Furthermore, even a single doubt creating circumstance is sufficient to form the basis of an acquittal.

**Conclusion:**

- i) It raises doubt about the credibility of the witnesses and their presence at the scene.
- ii) The recovery is clearly weak and does not help the prosecution's case.
- iii) No. The mere assertion of a vague motive cannot be treated as conclusive proof
- iv) The benefit of doubts accrues in the accused's favor.

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**10. Supreme Court of Pakistan**  
**Obaidullah v. The State**  
**Jail Petition No. 14/2020**  
**Zubair Ahmed v. Obaidullah and another**  
**Jail Petition No.17/2020 and Criminal Petition No.1322/2019**  
**Wali Jan v. Zubair Ahmed and another**  
**Criminal Petitions No.1322 & 1323/2019**  
**Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat**  
**Khan, Mr. Justice Malik Shahzad Ahmad Khan**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/j.p.\\_14\\_2020.pdf](https://www.supremecourt.gov.pk/downloads_judgements/j.p._14_2020.pdf)

**Facts:** The deceased was found dead after being reported missing. The petitioners, initially not named in the FIR, were later implicated based on a co-accused's

disclosure and their retracted confessions. The Trial Court convicted both petitioners, and the High Court upheld their convictions while converting one death sentence to life imprisonment. Hence; these petitions.

- Issues:**
- i) What is the evidentiary requirement in cases based on circumstantial evidence?
  - ii) Whether a conviction can be based solely on a retracted judicial confession and under what circumstances it is admissible and reliable?
  - iii) Whether a piece of evidence not put to the accused under Section 342 Cr.P.C. can be used against him for conviction?
  - iv) Is the prosecution evidence regarding recovery of pistol and forensic report reliable when the empties and pistol are kept and deposited together?
  - v) What are the legal requirements for recording a valid judicial confession to ensure its voluntariness and reliability?
  - vi) What is the legal effect of a single doubt arising in the prosecution's case?

- Analysis:**
- i) It is settled law that in such like cases every circumstance should be linked with each other and it should form such a continuous chain that its one end touches the dead body and the other to the neck of the accused. But if any link in the chain is missing then its benefit must go to the accused.
  - ii) It is true that the conviction and sentence of an accused can be maintained on the basis of a retracted judicial confession provided the said evidence appears to be trustworthy and the same is corroborated by some independent evidence. However, if the retracted judicial confession of an accused is not corroborated by any independent evidence or the same has been recorded in violation of the law on the subject then conviction and sentence of an accused cannot be sustained on the basis of said confession.
  - iii) It is by now well settled that if a piece of evidence is not put to accused in his statement recorded under Section 342 Cr.P.C, in order to provide him a chance to produce his defence against the said evidence then such evidence cannot be used against the accused.
  - iv) It is, thus, clear that the empties and the pistol were kept together at the Police Station and were deposited together in the office of Forensic Science Laboratory, therefore, the prosecution evidence qua the recovery of pistol and positive report of Forensic Science Laboratory is not worthy of reliance.
  - v) Moreover, in his statement before the Court or in his reports, he has not mentioned that as to how much time was given to the petitioners to think over before making their judicial confession and after how much time they were again called and he (PW-8) satisfied himself that the petitioners were making their judicial confessions with their free will and without any pressure or coercion. It is, therefore, evident that judicial confessions of the petitioners were not recorded in accordance with the law and as mentioned earlier even otherwise, there is no independent corroboration of the said judicial confessions.
  - vi) It is by now well settled that if there is a single circumstance, which creates doubt in the prosecution case then the same is sufficient to acquit the accused,



- Conclusion:**
- i) Circumstantial evidence must form an unbroken chain linking the accused to the crime.
  - ii) A retracted judicial confession is only reliable if corroborated by independent evidence and recorded lawfully.
  - iii) Evidence not put to the accused under Section 342 Cr.P.C. cannot be used against him.
  - iv) Recovery of pistol and forensic evidence is unreliable when the pistol and empties are kept and deposited together.
  - v) Judicial confession lacking proper procedure and independent corroboration is legally inadmissible.
  - vi) A single doubt in the prosecution's case is sufficient to acquit the accused.

**11. Supreme Court of Pakistan**  
**Iftikhar ud Din (decd.) through L.Rs. v. M/s Askari Bank Limited and others**  
**Civil Appeal No.470 of 2022**  
**Mr. Justice Syed Mansoor Ali Shah & Mr. Justice Aqeel Ahmed Abbasi**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.a. 470 2022.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.a. 470 2022.pdf)

**Facts:** An ejectment Petition of the Petitioner, filed before Additional Rent Controller under section 17 of the Cantonment Rent Restriction Act, 1963, was allowed but the same was dismissed by the High Court in RFA filed by the respondents. Hence an appeal was filed before the Supreme Court.

**Issues:** i) Whether non-compliance of the Tentative Rent Order itself is sufficient ground for ejectment of the tenant?

**Analysis:** i) It will not be out of place to observe that non-compliance of the Tentative Rent Order itself was sufficient ground for ejectment of the tenant without further inquiry into merits as it constitutes wilful default. Reference in this regard can be made to the cases of M.H. Mussadaq v. Muhammad Zafar Iqbal and another (2004 SCMR 1453) and Misbahullah Khan v. Mst. Memoona Taskinuddin (1995 SCMR 287).

**Conclusion:** i) Non-compliance of the Tentative Rent Order itself is sufficient ground for ejectment of the tenant.

**12. Supreme Court of Pakistan**  
**Hidayat Khan and others v. Mst. Nasreen and others**  
**C.P.L.A.No.287-P of 2025**  
**Mr. Justice Syed Hasan Azhar Rizvi, Ms. Justice Musarrat Hilali, Mr. Justice Mr. Justice Shahid Bilal Hassan**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 287 p 2025.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 287 p 2025.pdf)

**Facts:** Petitioners claimed title over property through a gift deed allegedly executed by their predecessor-in-interest. They challenged inheritance mutations in favour of Mst. Nasreen. The suit, appeal, and revision were dismissed concurrently by the Courts below..

**Issues:** i) What are the principles to be considered when transactions in contour of gift, tamleek are put under challenge for determination?

**Analysis:**

- i) a) Beneficiary of the impugned transaction of gift/transfer of immovable property(s) bears the heavy onus to prove the transaction;
- b) The beneficiary of a gift has to plead and prove three mandatory ingredients of gift i.e. declaration/offer by the donor, acceptance of gift by the donee and delivery of possession in pursuance of the gift;
- c) The possession of immovable property by one of the siblings/L.Rs. to the exclusion of other legal representatives will be treated as constructive possession on behalf of all others unless proved otherwise;
- d) In case of oral transactions, it is compulsory for a beneficiary of oral transaction to prove the same through unimpeachable evidence by stating and averring mandatory material particulars in the pleadings i.e. time, date, venue/place, the witnesses in whose presence the alleged transaction was brought about;
- e) The oral transaction of transfer of immovable property (original transaction), be it sale, gift/tamleek, relinquishment or will etc. has to be proved separate from its incorporation/attestation in revenue record by way of sanctioning of the mutation since a mutation cannot by itself be considered a document of title;
- f) Where a gift, which excluded a legal heir, irrespective of whether such transaction is in the form of registered deed, the donee is required to prove original transaction and must justify the exclusion of a legal heir from the estate;
- g) Parties are bound by their pleadings; no amount of evidence can be led beyond the scope of pleadings; and in case any such evidence is brought on record, the Court cannot consider and rely upon the same and has to discard it;
- h) Mere efflux of time does not extinguish the right of inheritance, therefore, the question of limitation in case of inheritance and fraud is not attracted and becomes insignificant.

**Conclusions:** i) See above analysis No.i.

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**13. Supreme Court of Pakistan**  
**Khizar Hayat v. The State**  
**Criminal Appeal No. 181/2022**  
**Mr. Justice Muhammad Hashim Khan Kakar**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/crl.a. 181 2022.pdf](https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 181 2022.pdf)

**Facts:** Petitioner was sentenced to death as Ta'azir under section 302(b) PPC by the trial court. Petitioner assailed the conviction and sentence before Lahore High Court, Lahore through appeal, which was partly allowed and sentence was reduced to life imprisonment, hence this appeal was preferred, wherein leave was granted to reappraise the evidence.



- Issue:**
- i) Whether the prosecution proved the identification of the accused during a night-time occurrence without recovery of torches allegedly used by eyewitnesses?
  - ii) Whether the delayed FIR without justification affected the credibility of the prosecution's case?
  - iii) Whether disbelieving prosecution witnesses for some co-accused impacts the reliability of their evidence against others charged with similar roles?
  - iv) Whether the non-production of medical officer and acquittal of a co-accused having attribution of causing injury to the same injured/star witness undermines witness's credibility to the extent of other accused?
  - v) What are the legal consequences of not proving motive set up by the prosecution?

- Analysis:**
- i) The occurrence in this case had taken place during the night and although the prosecution had mentioned availability of torch with the prosecution witnesses at the spot yet admittedly no torch had been secured during the investigation of this case. Thus, the claim of the above alleged eyewitnesses regarding identification of culprits with graphic details of the incident appears to be a claim which can be accepted only with a lump of salt.
  - ii) The matter was brought to the notice of local police through the statement of Muhammad Ramzan (PW-10) recorded on 01.12.2009 at about 1:05 p.m. after a delay of about 14 hours without any justifiable explanation, thus, a possibility regarding deliberations before lodging of the FIR could not safely be ruled out of consideration.
  - iii) The law is settled that if the eyewitnesses have been disbelieved against some accused persons attributed effective roles then 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
  - iv) ..... is being portrayed by the prosecution as a star witness on account of injuries on his body, which fact is projected by the prosecution as stamp of his presence at the time of occurrence. We are mindful of the fact that prosecution witness had allegedly sustained injuries on his head and shoulder caused by co-accused however, due to non-production of the concerned Doctor as well as acquittal of one of the accused no reliance can be placed on his evidence being shaky in nature. Even otherwise, it is not necessary that the injured witness had spoken the whole truth, it cannot be relied upon unless corroborated, which is lacking in the instant case.
  - v) It is by now settled that the prosecution though is not obliged to prove the motive in each and every case, however, once the motive is set up then it must be established and in case of failure to prove the same, then prosecution must suffer its consequences and not the defence.

- Conclusion:**
- i) See analysis No i.
  - ii) In case of delayed FIR possibility regarding deliberations before lodging of the FIR could not safely be ruled out of consideration.

iii) See analysis No iii.

iv) See analysis No iv.

v) Once the motive is set up by the prosecution then it must be established and in case of failure, prosecution must suffer its consequences and not the defence.

- 14. Supreme Court of Pakistan**  
**Khurshed Ali Khan v. Muhammad Ayub and others**  
**Civil Petition No. 3875 of 2024**  
**Mr. Justice Yahya Afridi (Chief Justice), Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 3875 2024.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3875 2024.pdf)

**Facts:** The petitioner filed a suit which was dismissed for non-prosecution due to his absence, although the defendants were present. A belated restoration application was filed citing illness of the petitioner's father, but the trial court and appellate court both found the explanation unsatisfactory and dismissed the applications accordingly.

**Issues:** i) When is a suit considered ripe for hearing and the court dismiss it at that stage?  
 ii) Can a suit be dismissed for non-prosecution even if applications are listed, once issues have framed and the case is fixed for evidence?

**Analysis:** i) In the suit the issues were framed and the moment issues are framed in a suit, it (suit) become ripe for hearing. (...)It is well within the discretion of court to dismiss the suit if it is ripe for hearing i.e. after settlement of issues.  
 ii) Notwithstanding the listed applications on the fateful day, the suit has also listed for hearing as the issues have been framed and case was adjourned for evidence of petitioner/plaintiff. This argument therefore is not convincing that suit was not ripe for hearing or that it should not have been dismissed for non-prosecution and/or at the most the application fixed could have been dismissed.

**Conclusion:** i) Once issues are framed, the suit becomes ripe for hearing and may be dismissed for non-prosecution at the court's discretion.  
 ii) The presence of other listed applications does not preclude dismissal of the suit, which was rightly set for hearing after framing of issues.

- 15. Supreme Court of Pakistan**  
**Shahzad v. The Collector of Customs & another**  
**C.P.L.A.690-K/2022**  
**Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 690 k 2022.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 690 k 2022.pdf)

**Facts:** Question of law was proposed in the reference jurisdiction exercised by the High Court whether the Tribunal misinterpreted sections 2(s) and 157 of the Act, thereby defeating the intent of the law while releasing the vehicle seized for transporting smuggled foreign-origin high-speed diesel (HSD).

- Issue:** Whether a conveyance used in the removal of goods liable to confiscation can be released pending adjudication under Section 157 of the Act, subject to conditions prescribed by the authorized customs officer?
- Analysis:** Section 157 of the Act unambiguously talks about the confiscation of the conveyance of whatever kind used in the removal of any goods liable to confiscation under this Act. Proviso to sub-section (2) of section 157 of the Act only caters for its release by an authorized officer of the customs as required by the prescribed rules pending adjudication of the goods involving its confiscation, subject to furnishing sufficient guarantee from the scheduled bank for due production of the conveyance at any time and place it is required by the appropriate officer to be produced. Sub-section (3) of section 157 of the Act also related to confiscation of vessel which includes, tackle, apparel and furniture.
- Conclusion:** Proviso to sub-section (2) of section 157 of the Act caters for release of confiscated conveyance by an authorized officer of the customs subject to furnishing sufficient guarantee from the scheduled bank for due production of the conveyance any time.

**16. Supreme Court of Pakistan**  
**Commissioner Inland Revenue, Lahore and others v. Salman Butt and others.**  
**Civil Petition No. 2135-L of 2020**  
**Mr. Justice Yahya Afridi (The Chief Justice), Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 2135 1 2020.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2135 1 2020.pdf)

- Facts:** A notice issued by the tax department was challenged on the ground that it violated established legal precedent (2016 PTD 2074). The High Court held that while audit proceedings could continue, the taxpayer could not be compelled to produce records due to the expiry of the statutory record retention period under Section 174(1) of the Income Tax Ordinance, 2001. The matter reached the Supreme Court, where the central question was whether the taxpayer remained under a legal duty to retain records in light of a reassessment notice and ongoing proceedings.
- Issues:**
- i) Timeframe prescribed under section 174(1) of the Income Tax Ordinance, 2001 for retaining documents.
  - ii) Whether proceedings against a taxpayer can be initiated on the basis of tax records maintained beyond the six-year period prescribed under Section 174 of the Ordinance, in the absence of any pending proceedings?
- Analysis:**
- i) A timeframe is prescribed under the law i.e. section 174(1) of the Ordinance for retaining the documents however it is supplemented by the proviso along with an explanation inserted by Finance Act, 2010.
  - ii) Such proposition came for consideration before this Court in the case reports as 2022 SCMR 1133 when this Court observed, “Reading of the Ordinance and

Rules envisages that any proceedings against a taxpayer that is based on the tax record maintained by the taxpayer should be initiated within a fixed timeframe. Section 174 creates an obligation on the taxpayer to maintain such accounts, documents and records as prescribed for a period of six year, except in case of pending proceedings, where the obligation of a taxpayer to maintain the record is till the final decision of the proceedings (exception is not attracted the present case), while the same provision protects the taxpayer from being asked to produce the record beyond the said period.”

**Conclusion:** i) See above analysis No i.  
ii) Section 174 creates an obligation on the taxpayer to maintain records as prescribed for a period of six year, except in case of pending proceedings.

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**17. Supreme Court of Pakistan**  
**Zunair Younas v. The State thr. P.G, Pb. & another**  
**Civil Petition No. 146-P/2015**  
**Mr. Justice Jamal Khan Mandokhail, Mr. Justice Athar Minallah, Mr. Justice Salahuddin Panhwar**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/crl.p.532.2018.pdf](https://www.supremecourt.gov.pk/downloads_judgements/crl.p.532.2018.pdf)

**Facts:** The accusation against the petitioner and his co-accused was of committing unnatural offence (sodomy) and thereafter murdering the son of the complainant. the learned Sessions Court, vide judgment, convicted the petitioner under Section 302(b) read with Section 34 PPC and sentenced him to death. Co-accused was similarly convicted under Section 302(b) read with Section 34 PPC, albeit sentenced to imprisonment for life. The learned High Court, while maintaining the conviction of the petitioner, was however persuaded to alter the sentence of death into imprisonment for life. The sentence of compensation and the sentence in default thereof were maintained. However, co-accused was acquitted by the learned High Court by extending to him the benefit of doubt. Hence, this criminal petition before Hon’ble Supreme Court of Pakistan.

**Issues:** i) What is evidentiary scope of Article 40 of Qanun-e-Shahadat Ordinance, 1984?  
 ii) What is doctrine of confirmation by subsequent facts?  
 iii) Whether Article 40 of Qanun-e- Shahadat Ordinance, 1984 carves out a limited evidentiary window for statement under section 161 Cr.P.C which leads to the discovery of a relevant fact?  
 iv) Whether an object may constitute a “fact” in itself, discovery under Article 40 QSO entails a broader cognitive element than simple recovery?  
 v) What are essential elements and parameters to invoke the provisions of Article 40 of Qanun-e-Shahadat Ordinance, 1984?  
 vi) What is principle of “last seen together”?  
 vii) Whether the conviction of a co-accused resting upon the same evidence can be sustained?  
 viii) Whether each link in the chain must be proven to the exclusion of every reasonable doubt?

ix) What are to be measures to ensure adherence to due process, safeguard the principles of justice, and uphold the equitable application of the rule of law?

**Analysis:**

i) Article 40 QSO, though succinct in its text, embodies a distinct and carefully delineated exception to the general exclusionary provisions found in Articles 38 and 39 of QSO. Whereas the latter provisions proscribe reliance on confessional statements made either to a police officer or while in police custody unless made in the presence of a Magistrate, Article 40 QSO permits a qualified and narrow admission into evidence of only that portion of a statement which directly relates to a fact discovered in consequence thereof. This limited admissibility is not predicated on the veracity of the statement per se, but on the objective and verifiable consequence that ensues from it... It needs to be emphasized that the jurisprudence under Article 40 QSO does not lend itself to an expansive reading. The evidentiary admissibility permitted under this Article must not be employed as a device to sidestep the overarching protections enshrined in Articles 38, 39 QSO and Section 162 Cr.P.C.

ii) Dean Wigmore<sup>1</sup> formulated this doctrine to explain the probative value of a confession which, although otherwise inadmissible, leads to the discovery of real and material evidence. According to Wigmore, "the doctrine was that where, in consequence of a confession otherwise inadmissible, search is made and facts are discovered which confirm it in material points, the possible influence which through caution had been attributed to the improper inducement is seen to have been nil, and the confession should be accepted". Commentators Cowen and Carter<sup>2</sup> also recognized this principle and referred to it as the doctrine of confirmation by consequently discovered facts. This approach reflects the underlying rationale of Article 40 of QSO, where the discovery of a fact in consequence of a statement serves to validate that limited portion of the statement which led to the discovery. The confirmatory nature of the discovered fact enhances the reliability of that specific part of the information, rendering it admissible within the limits prescribed by law.

iii) Section 161 Cr.P.C. authorizes the police to record statements of persons acquainted with the facts of the case, whereas Section 162 imposes an evidentiary bar against their substantive use during trial. Statements under Section 161 Cr.P.C. are, therefore, not admissible except for the limited purpose of contradiction under Article 140 of QSO. In contrast, Article 40 QSO carves out a limited evidentiary window, not to admit the statement in its entirety, but only to the extent that it leads to the discovery of a relevant fact, such as the recovery of a weapon or article, and only that fragment of the disclosure which is causally connected to the said recovery becomes admissible.... Even where a discovery is made on the basis of such a disclosure, the resultant recovery must be independently evaluated on the touchstone of credibility, reliability, and corroboration through forensic or circumstantial material. The limited admissibility under Article 40 QSO does not, by itself, prove guilt, but only allows a fact to be brought on record which might, when considered in conjunction with other evidence, contribute to the chain of circumstances.

iv) Firstly, the term “fact” as used in the law of evidence includes both physical and psychological states or mental conditions. Secondly, a critical distinction must be drawn between the term’s “discovery” and “recovery”, which are often

mistakenly used interchangeably. According to Black’s Law Dictionary, “discovery” refers to the act or process of finding or learning something that was previously unknown, whereas “recovery” means the regaining or restoration of something lost or taken away. For instance, where an accused discloses, “I have kept the firearm concealed behind the old house in a heap of wood,” the fact discovered is not merely the firearm, but the accused’s knowledge of its location and act of concealment. The discovery thus lies in the disclosure of the place and manner in which the article is hidden. Although an object may constitute a “fact” in itself, discovery under Article 40 entails a broader cognitive element than simple recovery.

v) In order for this provision to be validly invoked, the following essential elements must be satisfied:

(i) The accused must be in lawful police custody in that particular case at the time of making the disclosure. A voluntary disclosure made outside the custodial context does not attract the operation of Article 40. (ii) The information must be specific and must distinctly relate to the fact discovered. Generalised or vague statements are not covered; the discovery must be directly traceable to the information furnished.

(iii) There must be a tangible discovery of a material fact, such as the recovery of an object, article, weapon, or place, which was previously unknown to the investigating agency.

(iv) There must be a clear causal link between the disclosure and the discovery. The fact must be discovered as a direct and immediate consequence of the information provided by the accused.

(v) Only that portion of the statement which relates distinctly to the fact discovered is admissible. The remainder of the statement, including any confessional or incriminating parts not tied to the discovery, remains inadmissible.

(vi) The recovery must be genuine, verifiable, and documented through credible and preferably independent witnesses. The authenticity of the discovery is not presumed and must be established through cogent evidence.

(vii) The evidentiary value of the discovery must be assessed in conjunction with other corroborative evidence. A discovery alone, even if admissible, is insufficient to sustain conviction unless it fits into an unbroken chain of circumstances.

vi) While the principle of “last seen together” is recognised in the jurisprudence of this Court as a relevant circumstance, it is equally well-settled that such evidence must satisfy strict legal scrutiny before it can be relied upon as a basis for conviction. In order for this doctrine to have probative value, it must be established that (i) the accused and the deceased were last seen together in such



proximity of time and place to the occurrence that no possibility of the deceased having met any other person in the interval can reasonably be entertained, and (ii) the time of death must be established with sufficient medical or circumstantial clarity so as to correlate with the alleged last seen incident.

vii) This Court has consistently espoused the principle that where the prosecution evidence has been found unreliable or insufficient by the High Court qua certain accused sharing an identical role, the conviction of a co-accused resting upon the same evidence cannot be sustained.

viii) Where the motive has not been established, the last seen evidence is unreliable, the recoveries are doubtful, and the medical and forensic links are either suppressed or infirm, the chain of circumstantial evidence stands fractured. It is a trite principle of criminal law that where the prosecution's case rests entirely on circumstantial evidence, each link in the chain must be proven to the exclusion of every reasonable doubt. The failure to establish any one link is sufficient to vitiate the entire case.

ix) Therefore, this Court in view of criterion as outlined in Para 16, judicial propriety demands that: the following measures to ensure adherence to due process, safeguard the principles of justice, and uphold the equitable application of the rule of law:

- (i) Inspectors General of Police of all Provinces and the Islamabad Capital Territory shall ensure that all disclosure statements leading to the discovery of facts under custody are:
  - reduced to writing;
  - signed by the Investigating Officer;
  - attested by at least two independent witnesses; and
  - recorded with a corresponding departure entry from the relevant police station.
  - These documents must be placed on record and produced during trial proceedings.
- (ii) The Police Rules of each province and territory shall be amended, in consultation with the appropriate executive and legislative stakeholders, to institutionalize the above-mentioned procedural safeguards.
- (iii) The Prosecutor Generals of all Provinces and the Islamabad Capital Territory shall ensure dissemination of this judgment to all public prosecutors under their jurisdiction. Prosecutors must scrutinize the case files received under Section 173 Cr.P.C. for compliance with these requirements and advise the Investigating Officers accordingly.
- (iv) The Registrars of all High Courts are directed to circulate this judgment to all Criminal Courts and Special Courts functioning under their administrative control for guidance and judicial implementation.
- (v) The Legislature is earnestly urged to consider appropriate statutory amendments to codify the procedural safeguards for custodial disclosures and recoveries, ensuring mandatory documentation, transparency, and accountability.



- Conclusion:**
- i) See above analysis Para No.i
  - ii) See above analysis Para No.ii
  - iii) Article 40 of Qanun-e- Shahadat Ordinance, 1984 carves out a limited evidentiary window for statement under section 161 Cr.P.C which leads to the discovery of a relevant fact
  - iv) See above analysis Para No.iv.
  - v) See above analysis Para No.v
  - vi) See above analysis Para No.vi
  - vii) See above analysis Para No.vii
  - viii) See above analysis Para No.viii
  - ix) See above analysis Para No.ix

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**18. Supreme Court of Pakistan**  
**Aziz Ahmad and others v. Mst. Musarat & another**  
**C.P.L.A.181/2023**  
**Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Shakeel Ahmad**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 181 2023.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 181 2023.pdf)

**Facts:** Petitioner(S) in this leave to appeal challenged the entitlement of the respondent to inherit from the estate of the deceased on the ground that she had been divorced prior to his death; courts below held that the respondent, having been divorced, was no longer a legal heir, however, High Court, while setting aside the concurrent findings, held that the succession opens on the death of the deceased and since the iddat period had not lapsed at the time of death, the respondent remained legally wedded and entitled to inherit.

**Issues:**

- i) Whether talaq takes legal effect without fulfilling the procedural requirement of notice and a ninety-day period under Section 7(3) of the Muslim Family Law Ordinance, 1961?
- ii) Whether divorce becomes final and absolute without observing the iddah period?

**Analysis:** i) The concept of triple talaq, not finding its roots in the Holy Quran or the authentic Hadith, has been a subject of considerable controversy among various schools of Islamic thought. Notably Fiqah Jaffaria and the Maliki School do not recognize its validity, a view also shared by the Shafi School. The Hanbali School of thought, however, treats triple talaq as a single divorce if the marriage was consummated and the pronouncement made in a specific form. This divergence of interpretation and the social consequences of a unilateral and instant divorce have given rise to legislative intervention and compassion in the form of Sub-section 3 of Section 7 of the Muslim Family Law Ordinance, 1961 (the “Ordinance”). This provision mandates that a talaq shall not take effect unless a period of ninety-days has elapsed from the date on which notice is given to the Chairman of the Union Council.

ii) The Quran prescribes a structured procedure for when divorce becomes final and absolute, which necessarily includes the observance of Iddah, that is, a waiting period a woman must observe following the death of her spouse or a divorce. Iddah is not merely symbolic but serves a substantive purpose, for it allows for reflection, potential reconciliation, and the possible retraction of the pronouncement of divorce.

**Conclusion:** i) Talaq shall not take effect unless a period of ninety- days has elapsed from the date on which notice is given to the Chairman of the Union Council.  
ii) See analysis No. ii.

**19. Supreme Court of Pakistan**  
**District Officer Frontier Constabulary Hayatabad, Peshawar v. Haji Amir Badshah and others**  
**C.P.L.A.2478/2024**  
**Mr. Justice Naeem Akhter Afghan, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Shakeel Ahmad**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 2478 2024.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2478 2024.pdf)

**Facts:** A decree was passed for enhanced compensation in a land acquisition case. A dispute arose over the limitation period applicable for filing a fresh execution petition following an appellate judgment affirming a trial court's decree. The execution petition was initially dismissed as time-barred but later restored by the High Court based on the principle of merger and Section 48 CPC.

**Issues:** i) Is a fresh execution petition after an appellate judgment governed by Section 48 CPC or Article 181 of the Limitation Act?  
ii) Is a fresh execution petition within six years of the appellate decree governed by Section 48 CPC?

**Analysis:** i) Following the judgments quoted above, we are of the view that the principle of merger applies not only to cases involving reversal and modification but also to all those cases in which the judgment of a lower Court is affirmed in appeal or revision by a higher forum. Therefore, for the purposes of limitation, the starting point for filing a fresh Execution Petition, subsequent to an earlier one, is the date of the final judgment rendered by the final court of appeal. By applying the principle of merger, we hold that, in the instant case, the judgment and decree of the Trial Court stood merged with that of the Appellate Court. Accordingly, it is the appellate decree which becomes operative and executable. As a result, the High Court was correct in treating the fresh application for execution of the appellate decree as being within the limitation period specified under Section 48 of the Civil Procedure Code (CPC), and not governed by Article 181 of the Limitation Act, 1908.  
ii) we hold that the fresh Execution Petition filed by the petitioner subsequent to the first one was well within the limitation, as it falls within six years after the decree of the Appellate Court's judgment. The bar of limitation under Article 181 of the Limitation Act does not apply due to the specific application of Section 48

CPC and the principle of merger.

- Conclusion:** i) Yes, the fresh execution petition is governed by the six-year limitation under Section 48 CPC due to the principle of merger.  
 ii) Yes, the execution petition was within limitation under Section 48 CPC due to the appellate decree and the principle of merger.

**20. Supreme Court of Pakistan**  
**Ghazi Khan Pathan & Marzak Khan v. The State**  
**Jail Petition No. 27/2019**  
**Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/j.p. 27\\_2019.pdf](https://www.supremecourt.gov.pk/downloads_judgements/j.p. 27_2019.pdf)

**Facts:** The petitioners were tried, convicted and sentenced u/s 9 (c) Control of Narcotic Substances Act, 1997 by the learned special judge CNS. They filed criminal appeal before High Court which maintained the findings of Sessions Judge/Special Judge (CNSA), hence the instant jail petition.

**Issues:** i) What is the legal principle governing the competency of official witnesses?  
 ii) What is the statutory presumption concerning a driver's knowledge of contraband narcotics discovered in a vehicle under his charge?

**Analysis:** i) It is a settled principle of law that official witnesses are competent unless mala fide, enmity, or ulterior motive is convincingly established on the record.  
 ii) It is significant to note that in other jurisdictions such as the United States, the Court in *State v. Wallace* [372 Md. 137, 812 A.2d 291 (2002)] opined that drivers of vehicles are perceived to have heightened control over the contents of their vehicles supporting the idea of presumption of knowledge or constructive possession. It therefore is a settled principle of law that in such circumstances, the driver is deemed responsible for the contraband found in the vehicle under his charge, and it is presumed that he had knowledge of its presence.

**Conclusion:** i) Official witnesses are competent unless otherwise mala fide, enmity, or ulterior motive is established on the record.  
 ii) A driver is presumed that he had knowledge of presence of contraband narcotics in vehicle.

**21. Supreme Court of Pakistan**  
**Zakir Ali v. The State**  
**Jail Petition No. 343 of 2023**  
**Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/j.p. 343\\_2023.pdf](https://www.supremecourt.gov.pk/downloads_judgements/j.p. 343_2023.pdf)

**Facts:** Through this Jail Petition, the petitioner has called in question the legality and propriety of the judgment passed by the learned High Court, whereby appeal filed

by the petitioner against his conviction and sentence recorded by the learned Special Judge CNS/Sessions Judge, in criminal case registered under Section 9(c) of the Control of Narcotic Substances Act, 1997 (CNSA), was dismissed, thereby maintaining his conviction and sentence.

**Issues:** i) Whether the prosecution has to establish an unbroken, secure, and reliable chain of custody of the recovered contraband from the point of seizure to its receipt at the forensic laboratory?

**Analysis:** i) The law by now is well-settled that in narcotics cases, due to the severity of punishment involved, the prosecution must establish an unbroken, secure, and reliable chain of custody of the recovered contraband from the point of seizure to its receipt at the forensic laboratory. Any lacuna or discrepancy in this regard renders the entire process suspect and the report of the chemical examiner inadmissible or at the very least unreliable... The sanctity of the chain of custody serves as the linchpin of evidentiary reliability in narcotics prosecutions. Where the prosecution fails to conclusively establish the movement and security of narcotic samples at every stage, from the point of recovery to chemical analysis, the benefit of such material lapses must be extended to the accused, in line with the fundamental principle that in case of doubt, the benefit must go to the accused... Consequently, the chemical examiner's report becomes unsafe to rely upon and cannot be made the sole basis for conviction.

**Conclusion:** i) The prosecution must establish an unbroken, secure, and reliable chain of custody of the recovered contraband from the point of seizure to its receipt at the forensic laboratory.

**22. Supreme Court of Pakistan**  
**Altaf Hussain v. The State**  
**Criminal Petition No.507 of 2023**  
**Mr. Justice Muhammad Hashim Khan Kakar,**  
**Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/crl.a. 507\\_2023.pdf](https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 507_2023.pdf)

**Facts:** The appellant was convicted by the Trial Court for committing murder and causing injuries for an attempt to settle a monetary dispute. The appellant allegedly opened fire, fatally injuring one individual, while another was also injured by a co-accused; the accused fled the scene but were identified by eye witnesses. The trial court convicted the accused and the decision was upheld by the High Court with minor modifications in sentence. Hence; this appeal.

**Issues:** i) Whether relationship of eye witnesses with deceased is sufficient to discard their testimony?  
 ii) Whether acquittal of co-accused undermines the prosecution case against accused whose role was established through reliable evidence?

**Analysis:** i) Admittedly, the complainant and injured Muhammad Yasin are real brothers of the deceased but their mere relationship with the deceased is not a sufficient ground for discarding their testimony, especially in the absence of any established animus or motive for false implication. The principle that substitution of the actual perpetrator in place of innocent individual particularly where close relatives are killed in the presence of family members is an improbable proposition and finds consistent affirmation in the jurisprudence of this Court... In the absence of any mala fide intent or ulterior motive to falsely implicate the appellant, the testimony of the eyewitnesses being confidence inspiring and having remained consistent throughout cannot be discredited merely on the basis of their relationship with the deceased...

ii) Thus, the acquittal of the co-accused does not in any way undermine the prosecution's case against the appellant, whose role was categorically established through cogent and reliable evidence. This court in its judgment dated 25.02.2025, rendered in Criminal Appeal Nos.229 & 230 of 2021 titled, "Sher Afzal vs the State" held that the application of "'falsus in uno, falsus in omnibus'^ does not render the principle "to sift the grain out of the chaff" redundant, since the judge now still has to sift the grain out of chaff whilst he differentiates between the materiality of the fact in appraisal of evidence.

"The doctrinal principles applied in west cannot strict sensu be applied in Pakistan for multiple reasons which I shall discuss hereafter, a prime example is that "falsus in uno, falsus in omnibus" principle which is that witness who lies about any fact must be disbelieved as to all other facts, considering the social circumstances of the subcontinent, the rule's application has been modified by this court in the Khizar Hayat case (PLJ SC (Cr C) 265) to the extent that the contradiction must be regarding "material facts" only. However, the application of ^falsus in uno, falsus in omnibus'^ does not render the principle of "to sift the grain out of the chaff" redundant, since the judge now still has to sift the grain out of chaff whilst he differentiates between the materiality of the fact in appraisal of evidence. This court has held numerous times, that the primary duty of the judge is to sift the grain out of the chaff e.g. in the Khadim Hussain case (2010 SCMR 1090), Muhammad Afzal case (2017 SCMR 1645) and Munir Ahmad case (2019 SCMR 79) and one shall not lose sight that the criminal case is to be decided in its totality of its circumstances as held in the case of Muhammad Kakki (2021 SCMR 1672) and recently in Sadaruddin case (Criminal Jail appeal No.S-26 of 2019)."

**Conclusion:** i) Testimony of the eyewitnesses cannot be discredited merely on the basis of their relationship with the deceased.

ii) Acquittal of the co-accused does not undermine the prosecution's case against the co-accused whose role was categorically established through cogent and reliable evidence.

**23. Supreme Court of Pakistan**  
**Iftikhar Kiyani alias Khara v. The State**  
**Criminal Appeal NO. 703 OF 2020**  
**Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/crl.a. 703 2020.pdf](https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 703 2020.pdf)

**Facts:** The appellant was tried for a murder of the deceased. The incident was witnessed by the complainant and a relative. The appellant was convicted and sentenced to death under Section 302(b) PPC by the Trial Court. The High Court declined to confirm the death sentence and upheld the conviction but altered the sentence to life imprisonment. The appellant then approached the Supreme Court, which granted leave to appeal.

**Issues:**

- i) Whether the possibility of wrongful substitution by closely related eyewitnesses is plausible in cases of murder of a family member?
- ii) Who is an interested Witness?
- iii) Whether trustworthy and confidence-inspiring ocular evidence can be preferred over medical evidence to sustain a conviction despite minor inconsistencies?
- iv) Whether minor discrepancies in a witness's testimony affect its admissibility and reliability in criminal trials?
- v) What kind of discrepancies can undermine the prosecution's version?
- vi) Whether the credibility of a witness depends on the intrinsic value of their testimony rather than their status or relationship to the parties?

**Analysis:**

- i) The proposition of wrongful substitution, in such circumstances where close relatives have witnessed the murder of their kin, is inherently implausible and rarely encountered in criminal jurisprudence. This view finds support from the judgments of this Court in *Asfandiyar v. The State and others* (**2021 SCMR 2009**) and *Muhammad Abbas and another v. The State* (**2023 SCMR 487**), wherein it was held that substitution of the actual culprit in place of an innocent person, particularly by the witnesses who have lost their loved ones before their eyes, is an extraordinary and improbable occurrence.
- ii) It is by now a settled proposition of law that an "interested witness" is one who is motivated by some extraneous consideration or harbours an ulterior motive to falsely implicate an accused.
- iii) Minor inconsistencies in the testimony of the eyewitnesses with the medical evidence would not be sufficient for acquittal of the appellant. This Court in case titled, "*Ali Taj and another Vs the State*" (2023 SCMR 900), held that where ocular evidence is found trustworthy and confidence inspiring, the same is given preference over medical evidence and the same alone is sufficient to sustain conviction of an accused.
- iv) It is by now a well-settled principle of criminal jurisprudence that minor discrepancies or omissions, which do not go to the root of the prosecution's case, are to be treated as inconsequential. Such discrepancies are inbuilt proof of



truthfulness of witnesses as a human being cannot be expected to give tape recorded statement. Courts are guided by the rule that if the core of the witness's testimony carries the ring of truth and inspires confidence, minor incongruities must not detract from its probative value. The test for the admissibility and reliability of a witness's evidence is not the mere presence of trivial inconsistencies but whether the testimony, taken as a whole, resonates with truth and credibility

v) Only those discrepancies which impinge upon the material aspects of the case, those which strike at the very heart of the prosecution's narrative may be taken advantage of by the defence.

vi) In adjudging the credibility of a witness, the courts are to assess the intrinsic worth of the evidence rather than apply rigid or mechanical standards based solely on the status or character of the witness. This Court in the case of "Abid Ali v. The State" (2011 SCMR 208), reaffirmed the principle that belief or disbelief in the testimony of a witness hinges upon the intrinsic value of the statement made. There exists no universal rule that interested witnesses are invariably to be disbelieved or that disinterested ones are to be believed without scrutiny. Each case must be decided with reference to prudence, reasonableness, and the surrounding circumstances to ascertain whether the witness was present at the scene of occurrence and is narrating events truthfully. Furthermore, it must be borne in mind that under the cardinal principles of criminal law, the evidence of the prosecution is to be evaluated on the touchstone of quality rather than quantity. It is not the identity or status of the person testifying that determines the credibility of the evidence, but the content and coherence of the testimony itself. It is, therefore, the statement that is to be judged and not the person and it must be weighed on the scales of logic, consistency, and truthfulness.

- Conclusion:**
- i) The wrongful substitution where close relatives have witnessed the murder of their kin, is inherently implausible.
  - ii) See above analysis No ii.
  - iii) Ocular evidence if found trustworthy can be given preference over medical evidence and the same alone is sufficient to sustain conviction of an accused.
  - iv) Minor discrepancies or omissions, which do not go to the root of the prosecution's case, are to be treated as inconsequential.
  - v) See above analysis No v.
  - vi) See above analysis No vi.

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**24. Supreme Court of Pakistan**  
**M/s Kassim Textile (Pvt) Ltd. v. Commissioner Inland Revenue and other cases**  
**C.A.743/2014**  
**Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb**  
[https://www.supremecourt.gov.pk/downloads\\_judgements/c.a.\\_743\\_2014.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.a._743_2014.pdf)

**Facts:** The appellant challenged the tax authority's denial of credit for minimum tax paid



during years of assessed losses. The central question involved in the case is whether Section 113(2)(c) of the Income Tax Ordinance, 2001 permits carry forward of such tax where no actual tax was payable.

- Issues:**
- i) Is carry forward of minimum tax credit allowed when no actual tax is payable due to assessed losses under Section 113(2)(c) of the Income Tax Ordinance, 2001?
  - ii) Can a beneficial tax provision be applied retrospectively without express legislative intent?
  - iii) Can fiscal statutes be interpreted equitably to extend relief where the statutory language is clear?
  - iv) Can administrative circulars override or expand the scope of express statutory provisions in tax law?

- Analysis:**
- i) Section 113(2)(c) as it stood in 2009, speaks of the ‘actual tax payable’. This implies that a quantum of tax should actually be payable in the relevant fiscal year for the benefit of carry forward for adjustment against a tax liability... Therefore, we find ourselves in agreement with this view expressed by the High Court of Sindh... It is well settled that the literal approach is to be adopted while interpreting fiscal or taxing statutes, and the court cannot read into or impute something when the provision of a taxing statute are clear... While interpreting a taxing statute, the Court must look to the words of the statute and interpret it in light of what is clearly expressed therein, it cannot imply something which is not expressed.
  - ii) This relief can, in our view, be availed by tax payers having no tax payable only after the substitution of the first proviso to Section 113(2)(c) through the Finance Act, 2021 and not earlier. It is well settled that no statute shall be construed so as to have retrospective operation, unless its language so directs. Every Statute is deemed to be prospective, unless by express provision or necessary intendment, it is given retrospective effect... In the case of Zila Council Sialkot Vs. Abdul Ghani (PLD 2004 SC 425), this Court has held that a fiscal statute would ordinarily operate prospectively unless by express enactment or necessary intendment retrospective operation is given to it.
  - iii) There is no scope for equity or judiciousness if the letter of the fiscal law is clear and unambiguous. We have read and re-read Section 113(2)(c) and neither find any ambiguity or obscurity or doubt in its language, nor is it in conflict with any other provision of the 2001 Ordinance. The language of Section 113(2)(c) and its proviso as it stood in the year 2009 is such which does not admit interpretation in more than one way. The principles of statutory interpretation are well settled. Where the words of the statute are clear and unambiguous, the provision should be given its plain and normal meaning, without adding or rejecting any words. Departure from the literal rule, by making structural changes or substituting words in a clear statutory provision, under the guise of interpretation will pose a great risk as the changes may not be what the Legislature intended or desired. The Court cannot recast or reframe the legislation for the very reason it has no power

to legislate. The Court cannot add words to a statute or read words into it which are not there unless the principles of interpretation of statute require otherwise. The legislature means what it says and says what it means. It is the obligation of the Courts of law to further the clear intendment of the legislature and not to frustrate it by ignoring the same. Legislative wisdom cannot be replaced by the Judge's views.

iv) The circular does not state that the benefit of such carry forward would also be available to companies paying minimum tax but having no tax payable due to losses. The circular also does not state that the law had been amended to allow the facility of carry forward of minimum tax on turnover for next five years to those companies paying minimum tax but having no tax payable due to losses. Even otherwise, circulars issued by the FBR do not and cannot override the explicit language of the statute.

- Conclusion:**
- i) Carry forward of minimum tax credit is not allowed, where no actual tax is payable due to assessed losses.
  - ii) Beneficial tax provisions cannot be applied retrospectively without express legislative intent.
  - iii) Fiscal statutes cannot be interpreted equitably, when their language is clear and unambiguous.
  - iv) Administrative circulars cannot override or expand the scope of express statutory provisions in tax law.

**25. Lahore High Court**  
**Muhammad Waqas alias Vicky v. The State**  
**Murder Reference No. 134 of 2020**  
**Criminal Appeal No. 59064 of 2020**  
**Ms. Justice Aalia Neelum Chief Justice, Mrs. Justice Abher Gul Khan**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2972.pdf>

**Facts:** The appellant was involved in case registered under Sections 302, 324, 34 P.P.C., and was tried by the learned Additional Sessions Judge/Judge MCTC. The trial court seized with the matter, convicted the appellant under Section 302 (b) PPC, and sentenced to Death as Tazir for committing Qatl-e-Amd of the deceased, with the direction to pay compensation of Rs.2,00,000/- to the legal heirs of the deceased as envisaged under section 544-A of Cr.P.C and in case of default thereof, to undergo 06- months S.I further. Feeling aggrieved by the trial court's judgment, the appellant, has assailed his conviction and sentence by filing the instant jail appeal. The trial court also referred the Murder Reference to confirm the death sentence awarded to the appellant.

**Issues:**

- i) Whether an unexplained and suspicious delay in the lodging of the FIR, coupled with signs of ante-dating, renders the prosecution case unreliable?
- ii) Whether the omission to follow medico-legal protocols, including timely police intimation and documentation from the hospital, affects the evidentiary value of the postmortem report and related medical evidence?

iii) Whether a recovery of weapon of offence is admissible and reliable when the chain of custody is compromised and forensic examination is incomplete or inconclusive?

**Analysis:**

- i) The mandatory requirements under the law to inform the police of the unnatural death of the deceased were not fulfilled. No record indicates that the deceased was admitted to or referred to Jinnah Hospital, Lahore, or that the medical examination was conducted. The application for postmortem examination reveals that on “the face of the application”, the FIR number was tampered with, and at the bottom of the application, under the signature of the investigating officer, the date was overwritten. Similarly, the injury statement also shows overwriting of the date. The deposition of (PW-4) reveals that the prosecution witnesses deliberately concealed the facts and that the FIR was not registered as stated. It is also revealed that the inquest report bears signs of interpolation and mentions names of witnesses who were not actually present. This creates doubt about the time of occurrence and suggests that the FIR was ante-dated. Due to the above infirmities, the FIR has lost its value and authenticity. It would seriously and adversely affect the prosecution's story and creates serious doubt about the time of occurrence and the presence of witnesses, thereby rendering the prosecution case unreliable.
- ii) It is not possible that if a police case comes to the hospital, the medical officer will not inform the police about it. The doctors neither informed the police about receiving the injured in serious condition nor intimated to the police about the unnatural death of deceased. Instantly, they allowed PW-11-the complainant to take away the dead body from the hospital. The complainant was unable to refer to any document or slip of admission, discharge, or handing over of a dead body by the hospital authorities. The medical officer PW-2 confirmed during cross-examination that the police papers were not produced before him when the dead body was received, and those papers were only received later.
- iii) A pistol 30-bore along with two live bullets was allegedly recovered on the pointing of the appellant. However, the Firearms & Tool Marks Examination Report reveals that the parcel submitted to the Punjab Forensic Science Agency only contained the pistol, and the live bullets were not included in the parcel. This discrepancy indicates that the parcel which was prepared at the time of recovery was not the same one sent for forensic examination. The safe custody of the said parcel has thus been compromised and not proved. As a result, the report becomes inconclusive and inconsequential.

**Conclusion:**

- i) See analysis i above.
- ii) The failure to follow mandatory medico-legal formalities seriously undermines the evidentiary value of the postmortem report and renders the prosecution's medical evidence unreliable and questionable.
- iii) Due to the compromised chain of custody and the failure to submit the recovered bullets for forensic comparison, the recovery of the weapon of offence is rendered unreliable and of no evidentiary value.

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26. **Lahore High Court**  
**The State v. Mubashir**  
**Murder Reference No.140 of 2020**  
**Mubashir v. The State**  
**Crl. Appeal No.65436-J of 2020**  
**Shafqat Abbas v. Mubashir, etc.**  
**P.S.L.A No.65434 of 2020**  
**Shafqat Abbas v. Zahoor, etc.**  
**P.S.L.A No.65435 of 2020**  
**Ms. Justice Aalia Neelum (The Chief Justice), Mrs. Justice Abher Gul Khan**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC3004.pdf>

**Facts:** The complainant along with others was sitting at a dera when the accused persons arrived, armed with weapons, and upon exhortation, one of them opened fire causing the death of one individual and injuries to others. The incident was allegedly motivated by a prior grudge stemming from a criminal case in which the deceased had supported the complainant party. The trial court convicted the main accused for intentional murder and sentenced him to death, while acquitting him and co-accused on other charges.

**Issues**

- i) Can a contradiction between the inquest report and prosecution's version about the place of death cast doubt on the prosecution's case?
- ii) Does mention of FIR details in the inquest report prepared before FIR registration creates doubt about the FIR's authenticity?
- iii) Does absence of FIR attestation by the doctor raise doubt about the actual time of FIR registration?
- iv) Does unexplained delay in post-mortem examination indicate that the FIR was lodged later than claimed?
- v) Can evidence of the deceased's questionable character undermine the prosecution's motive and witness credibility?
- vi) Is the accused entitled to benefit of every reasonable doubt under the law?
- vii) Is it a golden principle of law that convicting an innocent must be avoided at all costs?
- viii) Can an acquittal order be interfered with when an accused earns double presumption of innocence?

**Analysis:** i) The column of a brief history of the inquest report (Ex. PN) further revealed that the dead body was lying on the ground. Whereas, as per the prosecution's case, soon after the incident (...) the complainant, after the incident, he, along with his witnesses, brought Mehr Mukhtar Sargana and Mukhtar (given up being won over), son of Zulfiqar, to DHQ Hospital Jhang by car. Mehr Mukhtar Sargana died on reaching the hospital. If, shortly after the incident, Mehr Mukhtar was shifted to the hospital, and on reaching the hospital, he expired. The lying of the dead body on the ground within the area of "Mauza Rustam Sargana" raises questions about the mode and manner of the incident.

- ii) When the inquest report (Ex.PN) was prepared, the FIR had not been registered, and its details were not written on its face. However, at the end of the brief history column, the details of the FIR are mentioned. It creates doubt about the registration of the FIR.
- iii) The inquest report (Ex.PN) contains details of the FIR; however, the doctor who conducted the post-mortem did not state that he had also attested the FIR. (...) Till 08:50 p.m. on 18.06.2013, the FIR was not registered. If the FIR had been registered by 8:50 p.m., the doctor would have stated in his testimony that he had also attested a copy of the FIR, along with the inquest report (...) This also threw a cloud of doubt about the time when the incident took place and was reported to the police. Was it because no FIR had been registered at the time, as alleged by the prosecution, and after some consultations and deliberations, it came into existence?
- iv) There is no plausible explanation as to why the post-mortem of the dead body was delayed for five hours. Delay in conducting post-mortem examination also leads to the conclusion that the F.I.R. was recorded with a delay, and the F.I.R. had not been recorded at the time at which it is claimed to have been recorded. This aspect of the matter is sufficient to cast doubt on the authenticity of the F.I.R.
- v) Defence also relied on FIRs, Ex.DK/1 to Ex. DO. Criminal cases registered against the deceased, Asad Abbas. From the above, it is revealed that the deceased Mehr Mukhtar was a man of questionable character. Therefore, the evidence led by the prosecution in connection with motive is not sufficient for placing reliance on the testimonies of the witnesses. As the evidence on the motive part and suggestions put by the defence regarding the questionable character of the deceased (...) This again adversely affects the credibility of the prosecution's version.
- vi) As per the dictates of law, the benefit of every doubt is to be extended in favour of the accused.
- vii) It is a golden principle of law that the Court should let off a hundred guilty but should not convict one innocent person.
- viii) This court has also taken note of the settled principle of criminal jurisprudence that unless it can be shown that the lower court's judgment is perverse or that it is entirely 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, 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) See analysis No.i.
- ii) The mentioning of FIR details at inquest report creates doubt about the registration of the FIR.
- iii) The absence of FIR attestation by the doctor threw a cloud of doubt about the time when the incident took place and was reported to the police.

- iv) The unexplained delay is sufficient to cast doubt on the authenticity of the F.I.R.
- v) Deceased questionable character adversely affects the credibility of the prosecution's version.
- vi) The benefit of every doubt is to be extended in favour of the accused.
- vii) The Court should let off a hundred guilty but should not convict one innocent person.
- viii) The acquittal order cannot be interfered with, whereby an accused earns double presumption of innocence.

**27. Lahore High Court**  
**Muhammad Amir alias Aneel v. The State, etc.**  
**Crl. Appeal No.83064 of 2023**  
**Salamat Ali v. Muhammad Amir alias Aneel, etc.**  
**Crl. Revision No.2545 of 2024**  
**Ms. Justice Aalia Neelum, The Chief Justice**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2952.pdf>

**Facts:** The appellant was convicted by the trial court under Section 302(b) PPC and sentenced to life imprisonment for committing murder. The case revolves around eyewitness identification, timing of FIR registration, and evidentiary recoveries.

**Issues:**

- i) How the adjournments to be managed by trial court during recording evidence?
- ii) What would be the impact of a mistake due to faded memory of witnesses?
- iii) Whether minor contradictions in witness testimony regarding presence and timing are sufficient to discredit the ocular account?
- iv) What is the responsibility of accused, if he sets out any specific defence?

**Analysis:**

- i) The trial court must ensure that the trial is conducted in accordance with the law and that no adjournments are granted in a manner that would be tantamount to violating the rule of law. It is necessary for the trial court that if the examination-in-chief is over, the cross-examination should be completed on the same day. If recording on the same day is impossible due to running out of time, the trial can be adjourned to the next day for cross-examination.
- ii) It is necessary to mention that no witness can mathematically reproduce what he stated earlier. With the passage of time, the human memory fumbles and falters. Certain contradictions would appear in the testimony of a most truthful witness due to a slip of the tongue, which has no negative impact on the testimony of the witnesses, as the same must be analyzed to see whether it is confidence-inspiring or otherwise. The variation in the statement occurs due to a lapse of time... It is also admitted that the incident occurred on 12.06.2019, whereas cross-examination of the prosecution witnesses was conducted in June 2021, after the lapse of two years. With time, the person's memory is affected, and there could be some variations in the facts that were not directly connected with the incident.
- iii) Normal discrepancies are bound to occur in the depositions of witnesses due to normal errors occurring in memory due to lapse of time. Where the omissions



amount to a contradiction, creating serious doubt about the witness's truthfulness, and other witnesses also make material improvements while deposing in the court, such evidence cannot be safely relied upon. But, if the contradictions and inconsistencies are not so material to create doubt about the appellant's involvement in the instant case or embellishments and improvements are trivial, they do not affect the core of the prosecution case. The same cannot be grounds for rejecting all the prosecution's evidence.

iv) It is an established position of law that the accused need not take any defence in a criminal case. If the accused introduces a definite version of the defence and establishes the said defence, he must show that the preponderance of probabilities is in favor of such a plea based on the material available on record. The accused cannot rely on it without sufficient material supporting such a defence. The accused may take advantage of the information from the prosecution witnesses to create doubt in the court's mind about whether the prosecution's version is true and may take the benefit of such doubt... The appellant had not appeared under Section 340 (2) of Cr.P.C. nor produced any defence witness in his favour to prove his defence plea.

- Conclusion:**
- i) It is necessary for the trial court to record the examination-in-chief and cross-examination same day. If, due to time shortage needed to be adjourned, must be fixed for the next day.
  - ii) The memory of a witness fades with the lapse of time and contradictions may occur due to slip of tongue, which has no negative impact on testimony of witness. The same must be analyzed to see whether it is confidence-inspiring or otherwise. The variation in the statement occurs due to a lapse of time
  - iii) Normal discrepancies occur due to normal errors in memory due to lapse of time. Contradictions and inconsistencies which are not so material to create doubt about the involvement of the accused person in the case, or embellishments and improvements are trivial, they do not affect the core of the prosecution case
  - iv) If the accused introduces a definite version of the defence, he must produce his evidence. The accused cannot rely on it without sufficient material supporting such a defence.

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28.

**Lahore High Court**

**Ghulam Abbas v. The State**

**Murder Reference No. 116 of 2020 & Criminal Appeal No. 58516-J of 2020**

**Miss. Aalia Neelum Chief Justice & Mrs. Justice Abher Gul Khan.**

<https://sys.lhc.gov.pk/appjudgments/2025LHC3021.pdf>

**Facts:**

The Sessions Court convicted the appellant under section 302(b) PPC, on the charge of murder of complainant's son and niece, and sentenced him to death. Hence the jail appeal was filed by the appellant/convict and Murder reference was also sent to the Hon'ble Lahore High Court.

**Issues:**

- i) Whether non-availability of thumb-marked statements raises doubts about statements?



- ii) How the prompt FIR is a vital and valuable piece of evidence?
- iii) What are effects of a delayed FIR?
- iv) Whether in case of doubtful recovery of weapon the positive report of PFSA would have any value?
- v) In whose favour, the benefit of doubt in prosecution case, can be extended?

**Analysis:**

- i) It is necessary for the investigating officer to promptly record the statements of prosecution witnesses under u/s 161 of the Cr.P.C. to avoid creating a new story. Therefore, the non-availability of thumb-marked statements recorded by the I.O. of both prosecution witnesses, i.e., Muhammad Yar (PW-15) and Mst. Shamim Mai (PW-16) raises doubts about their statements made before the police.
- ii) In a criminal case, particularly in a murder case, the First Information Report (FIR) is a vital and valuable piece of evidence that helps to appreciate the evidence presented at the trial. The objective of promptly lodging the FIR is to obtain the earliest information regarding the circumstances in which the crime was committed, including the names of the actual perpetrators and the roles they played, the weapons, if any, used, as well as the names of eyewitnesses if witnessed. The first information report is not an encyclopedia of the entire case, nor is it a substantive piece of evidence. It undoubtedly has value, but only to corroborate or contradict the maker.
- iii) Delay in lodging FIR often results in embellishment, which is a creature of an afterthought. Because of the delay, FIR not only loses the advantage of spontaneity but also introduces the danger of a colored version of an exaggerated story.
- iv) As per the Firearms & Tool marks Examination Report (Ex. PX), the weapon of offence, i.e., 12-bore repeater and four empty cartridges, were received in the office on the same day, i.e., 17.01.2014, which creates doubt about the recovery of the weapon of offence. So, the positive report of the Punjab Forensic Science Agency (Ex. PX) is of no consequence to the prosecution.
- v) We also found that the prosecution has miserably failed to prove the accused's guilt beyond a reasonable doubt. According to the dictates of the law, the benefit of every doubt must be extended in favor of the accused.

**Conclusion:**

- i) The non-availability of thumb-marked statements recorded by the I.O. raises doubts about their statements made before the police.
- ii) See above analysis No. ii
- iii) See above analysis No.iii
- iv) In case of doubtful recovery of weapon, the positive report of PFSA has no value.
- v) The benefit of every doubt must be extended in favor of the accused.

**29.**

**Lahore High Court**

**Aamir Nazir v. The Federation of Pakistan etc.**

**Writ Petition No.10509 of 2025**

**Mr. Justice Shujaat Ali Khan.**

<https://sys.lhc.gov.pk/appjudgments/2025LHC2868.pdf>

- Facts:** The petitioner alongwith others initially filed appeals before the Federal Service Tribunal (FST), seeking ante-dated promotions, which were allowed through a consolidated judgment. The department's appeal and review before the Supreme Court were dismissed. Despite FST's directions for implementation, the department delayed and later initiated disciplinary proceedings against the petitioners for alleged misstatements. The petitioners challenged this, and the High Court directed the department to treat their objections accordingly, but those were rejected by the Controller General of Accounts leading to the present petitions.
- Issues:**
- i) Whether the proper course for challenging a misstatement or concealment in pleadings is to file an application under Section 12(2) CPC?
  - ii) Whether a forum can invoke Section 195 Cr.P.C. to refer the matter for criminal proceedings if it finds that a party misled it through misstatement or concealment of material facts?
  - iii) Whether disciplinary action can be taken against a government servant for private acts not covered by the applicable code of conduct?
  - iv) Whether a forum must first determine the maintainability of proceedings before assuming jurisdiction?
  - v) When are departmental proceedings against civil servants subject to interference by this Court?
- Analysis:**
- i) Firstly, if there was any question of misstatement or concealment in the pleadings, filed by the petitioners before the FST, the department could conveniently file application under Section 12(2) CPC *ibid* for setting aside the judgment of the FST or initiation of any action against the petitioners on said score before approaching the Hon'ble Supreme Court of Pakistan.
  - ii). As per Section 195 Cr.P.C., a forum is authorized to refer the matter to Police for initiation of criminal proceedings in case it has come to the conclusion that a party was guilty of misstatement or concealment of any material fact with a view to misguide the said forum.
  - iii). Every government servant is governed under the code of conduct applicable to him and in case of violation of such code the competent authority reserves right to proceed against him but in my humble opinion, the competent authority cannot proceed against a government servant on the basis of his private acts.
  - iv). It is well established by now that an authority or forum before assuming jurisdiction in a matter would decide the question *qua* maintainability of the proceedings.
  - v). This Court is cognizant of the fact that this Court rarely exercises its constitutional jurisdiction to interfere in the matters relating to departmental proceedings against civil servants but when the same are found to be void *ab-initio* or are tainted with *mala-fide* the same are to be quashed while following the

principle to nip the evil in the bud and the employees cannot be made to suffer the rigors of unending disciplinary proceedings.

- Conclusion:**
- i) In case of a misstatement or concealment in pleadings proper course is to file an application under Section 12(2) CPC.
  - ii) As per Section 195 Cr.P.C., a forum can refer a matter to the Police for criminal proceedings if it finds that a party deliberately misled it through false statements or material concealment.
  - iii) A govt servant's code of conduct binds only official acts; private acts, do not invite disciplinary action
  - iv) A forum must first determine maintainability before assuming jurisdiction in a matter.
  - v) Judicial interference in departmental proceedings only if void ab initio or mala fide.

**30. Lahore High Court**  
**Mst. Razia Bibi, etc. v. Zulfiqar, etc.**  
**Civil Revision No.144 of 2017**  
**Mr. Justice Shujaat Ali Khan**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2880.pdf>

**Facts:** A suit for specific performance of an agreement to sell and for permanent injunction was filed, which was dismissed by the Trial Court. The appeal was also dismissed by the Appellate Court, leading to the filing of the instant revision petition.

- Issues:**
- i) Does the non-registration of an agreement to sell render it legally inexecutable under the Registration Act, 1908?
  - ii) Is a suit for specific performance time-barred if filed beyond the limitation period prescribed under Article 113 of the Limitation Act, 1908?
  - iii) Is it permissible to prove signatures/thumb impressions of deceased or untraceable marginal witnesses without prior court permission?
  - iv) Can evidence outside pleadings be considered while adjudicating civil suits?
  - v) Can concurrent findings of fact by lower courts be interfered with in revision?

- Analysis:**
- i) It is well established by now that every document conveying title of immovable property worth more than Rs.100/- is compulsorily registerable under section 17 of the Registration Act, 1908 but non-registration of agreement to sell, subject matter of this petition, with the Sub Registrar concerned, rendered it inexecutable.
  - ii) As per Article 113 of Limitation Act, 1908, a vendee can file suit for specific performance of an agreement to sell within three years starting from the date fixed for its performance.
  - iii) There is no cavil with the fact that in cases where marginal witnesses die before recording of evidence or they are untraceable, a person acquainted with their handwriting/thumb impression, including his family members, can be produced to prove their signatures/thumb impression on the relevant document

but the same is subject to the condition that firstly it is to be proved by the party concerned that they are no more live or untraceable and secondly, the same can only be done with permission of the court.

iv. It is well entrenched by now that parties cannot be allowed to lead evidence beyond pleadings and if they succeed to do so said portion cannot be read while deciding a lis between the parties.

v. Even otherwise, concurrent findings of facts recorded by the courts below cannot be upset by this Court in exercise of its revisional jurisdiction in a casual manner until and unless the same are proved to be perverse, arbitrary or based on misreading or non-reading of evidence which is not the position in the case in hand.

- Conclusion:**
- i) Yes, non-registration renders the agreement to sell legally inexecutable.
  - ii) Yes, a suit filed beyond the limitation period is time-barred.
  - iii) No, prior court permission is required to prove such signatures/thumb impressions.
  - iv) No, evidence beyond pleadings is not admissible.
  - v) No, not unless such findings are perverse, arbitrary, or based on misreading/non-reading of evidence.

**31. Lahore High Court**  
**Rasheeda Saigol v. Zarai Taraqiati Bank Limited etc.**  
**Civil Original Suit No.33828/2021.**  
**Mr. Justice Abid Aziz Sheikh**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2656.pdf>

**Facts:** Applicant/defendant filed application under Order VII Rule 11 of the CPC seeking rejection/return of the plaint in hand for lack of jurisdiction of this Court.

**Issues:**

- i) What are essential elements to maintain a suit under section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001?
- ii) Whether definition of ‘obligation’ as contained in section 2(e) of the Ordinance is exhaustive and include mortgage as well as General Power of Attorney?
- iii) Whether the mortgage of property, confer right to institute suit under section 9 of the Ordinance?
- iv) Whether a separate application under Order VII Rule 11 is maintainable?

**Analysis:**

- i) In order to maintain Suit under Section 9 *ibid*, the essential elements that must be established are: (i) the existence of a ‘customer’, (ii) a ‘financial institution’, and (iii) a ‘default’ in the discharge of an obligation with regard to any finance.
- ii) The plain reading of definition of “obligation” shows that clause (i) of Section 2(e) of the Ordinance is not relevant to the matter in hand and only the clause (ii) of Section 2(e) *ibid* is applicable in the present case. In terms of aforesaid sub-clause (ii) although a mortgage deed falls in the definition of “obligation”, however, a GPA does not specifically constitute an obligation within the meaning of Section 2(e) of the Ordinance. No doubt, the term “include” in Section 2(e) *ibid*

signifies that the definition is not exhaustive but the obligation imposed by the provision of Section 2(e) pertains specifically to representations, warranties, and covenants made by the customer and not by the financial institutions, as rightly held by this Court in the case of Amtex Ltd. *supra*.

iii) The mere fact that the plaintiff had mortgaged the property as well does not, by itself, confer upon the plaintiff the right to institute Suit U/S 9 of the Ordinance, particularly in circumstances where the Mortgage Deed was neither invoked nor any proceedings were initiated against the plaintiff in the capacity of a mortgagor. In the forgoing circumstances, this Court cannot proceed with the instant Suit for declaration, cancellation of auction proceedings and Sale Deed in the banking jurisdiction.

iv) Further, the plaintiff's plea that a separate application under Order VII Rule 11 of CPC for rejection/return of the plaint is not maintainable, has also no legs to stand because the issue of jurisdiction was already raised by the defendant-Bank in the PLA and on 28.11.2023 Issue No.1 was specifically framed on maintainability of the Suit, hence, this Court is competent to examine the question of maintainability/ jurisdiction.

- Conclusion:** i) the existence of a 'customer', (ii) a 'financial institution', and (iii) a 'default' in the discharge of an obligation with regard to any finance are essential for such suit under section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001.
- ii) Section 2(e) *ibid* signifies that the definition is not exhaustive, but the obligation imposed by the provision of Section 2(e) pertains specifically to representations, warranties, and covenants made by the customer and not by the financial institutions. A mortgage deed falls in the definition of "obligation", however, a GPA does not specifically constitute an obligation
- iii) The mere mortgage of property, *dos* does not confer right to institute suit under section 9 of the Ordinance.
- iv) A separate application under Order VII Rule 11 is maintainable.

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### 32. Lahore High Court

**Muhammad Tufail Thakur v. Asia Insurance Company Limited.**

**C.O.S (Insurance) No.41188 /2023**

**Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Waqar Haider Awan**

<https://sys.lhc.gov.pk/appjudgments/2025LHC2812.pdf>

**Facts:** The petitioner filed an insurance claim before the Insurance Tribunal, which framed legal issues and made a Reference under Order XLVI Rule 1 C.P.C. to the High Court for guidance. The High Court examined whether the Reference was legally maintainable given the availability of an appellate remedy.

**Issues:** i) Whether a Reference under Order XLVI Rule 1 C.P.C. is maintainable when an appeal is provided under Section 124(2) of the Insurance Ordinance, 2000?

**Analysis:** i) Perusal of the above provision shows that where before or on hearing of a suit

or appeal certain material question of law, usage having force of law arises or points embosomed significant doubts in which “decree is not subject to appeal”, the Court trying the lis drawing up a statement of facts along with its own opinion may send a Reference to this Court and absence of above traits which are condition precedent shatter the very maintainability of the Reference.(...) the claim has been filed under Insurance Ordinance, 2000 before the learned Insurance Tribunal...and against any decision / decree likely to be render by the Tribunal a manifest remedy of appeal is provided under Section 124(2) of the Ordinance ibid as such instant Reference wear no sanction of law.(...) Thus, from the conjoint reading of Order XLVI Rule 1 CPC & Section 124(2) of the Insurance Ordinance, 2000 it evinces that the very Reference is not maintainable.

**Conclusion:** i) A Reference is not maintainable where an appeal lies under Section 124(2) of the Insurance Ordinance, 2000.

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**33. Lahore High Court**  
**Shahbaz Akmal Jandran v. Province of Punjab through Director General, Excise and Taxation, Lahore etc.**  
**I.C.A.No.22041/2025**  
**Mr. Justice Malik Waqar Haider Awan, Mr. Justice Ch. Muhammad Iqbal,**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2944.pdf>

**Facts:** The appellant filed two complaints through email under Article 19-A of the Constitution of the Islamic Republic of Pakistan, 1973 read with Section 3 of the Punjab Transparency and Right to Information Act, 2013 the Information Commission seeking information of Excise & Taxation Department regarding Excise & Taxation Officer, Inspectors. The Commissioner directed the respondent-department to provide the sought for information but the said order was partially complied. The respondent-department provided further information regarding number of appeals admitted, decided, remanded and pending cases etc. The appellant vide e-mail requested the respondent department to provide column-wise annotated information including certain information about property tax payer. The Commission directed the respondent department to provide two sets of certified copies of the information to the appellant. The Information Officer of the respondent department intimated the Commission that information requested by the appellant is exempted under Section 13(1) (b) of the Act ibid as it involves privacy of individual taxpayers. The Department challenged the orders of the Commission through Writ Petition No.70457/2023 which was allowed by the learned Single Judge in Chamber. Hence, this appeal.

**Issue:**

- i) Whether every request under Article 19-A of the Constitution of the Islamic Republic of Pakistan, 1973 read with Section 3 of the Punjab Transparency and Right to Information Act, 2013 should be allowed in toto?
- ii) What are the meanings of legitimate privacy or interest?
- iii) What are the protections to privacy and confidentiality of an individual



provided by Qa'an, Sunnah and the Constitution of the Islamic Republic of Pakistan, 1973?

**Analysis:**

i) Request could validly be regretted under Section 13(1)(b) of the Act *ibid*. For ready reference, aforesaid provision is reproduced as under:

**“13. Exceptions.** (1) A public information officer may refuse an application for access to information where disclosure of the information shall or is likely to cause harm to—

(a) ....

(b) a legitimate privacy interest, unless the person concerned has consented to disclosure of the information;”

The aforesaid provision gives the power to Public Information Officer to refuse the application for access to information where such disclosure of information is likely to harm the ‘legitimate privacy or interest of individual unless the person concerned has consented to disclosure of information.

ii) The term ‘legitimate interest’ has not been defined in the Act *ibid* as such its literal meaning are being taken from the dictionaries. In *Justia Legal Dictionary*, it has been defined as under:

“A preference to be free from interference or intrusion by the government in matters that one can reasonable expect to be private.”

*Merriam-Webster Dictionary of Law* defines the terms in following words:

“An interest in freedom from governmental intrusion into matters in which one has a reasonable expectation of privacy.”

In *Words and Phrases*, Volume No.33-C, it has been defined as:

“Privacy interest in constitutional lexicon, consists of reasonable expectation that uninvited and unauthorized persons will not intrude into particular area: one may freely admit guests of one’s choosing, or be legally obliged to admit specific person, without sacrificing one’s right to expect that space will remain secure against all others.”

iii) It also emphasizes on the importance as a mandatory injunction qua spying on others or unwarranted intrusion into their private personal affairs. In this regard, a straightaway reference is made to Ayat No.12 of Surah Al-Hujurat. The translation of relevant portion of said Ayat in Urdu language is reproduced as under:

”اے ایمان والو! دور رہا کرو بکثرت بد گمانیوں سے بلا شبہ بعض بد گمانیاں گناہ ہیں اور نہ جاسوسی کیا کرو اور ایک دوسرے کی غیبت بھی نہ کیا کرو۔“

سورت الحجرات: آیت نمبر 12

(ترجمہ: پیر محمد کرم شاہ: ضیاء القرآن پبلیکیشنز، لاہور)

The Last Holy Prophet Muhammad (ﷺ) has also guided in this regard. For ready reference, translation of two Hadiths is reproduced as under: **I.C.A. No.22041/2025 4**

”حضرت ابو ہریرہ رضی اللہ عنہ سے مروی ہے کہ رسول اللہ ﷺ نے فرمایا: (برے) گمان سے بچو کیونکہ برا گمان جھوٹی بات ہے۔ ایک دوسرے کی ٹوہ نہ لگاؤ۔ ایک دوسرے کی جاسوسی نہ کرو، قیمت چڑھانے کے لئے بولی نہ دو، ایک دوسرے سے حسد نہ کرو، ملاقات کے



وقت بیٹھ نہ پھیرو اور اللہ کے بندے بن کر بھائی بھائی بن جاؤ۔"

(بخاری شریف : جلد سوم : حدیث نمبر 5606)

ایڈیشن ستمبر 2014 ، بار چہارم : ضیاء القرآن پبلیکیشنز ، لاہور)

"حضرت ابو ہریرہ رضی اللہ عنہ نے بیان کیا کہ رسول اللہ (ﷺ) نے ارشاد فرمایا:

اے ان لوگوں کے گروہ جو اپنی زبان کے ساتھ ایمان لائے ہو اور ابھی تک ایمان ان کے

دل میں داخل نہیں ہوا، تم مسلمانوں کی غیبت نہ کرو۔ کیونکہ جس نے ان کے عیوب تلاش

کیے ( اور ان کی عزت میں دست درازی کی کوشش کی ) تو اللہ تعالیٰ اس کے عیوب کا پیچھا

کرے گا اور جس کے عیوب کو اللہ تعالیٰ نے تلاش کیا، تو یقیناً وہ اسے اس کے گھر میں رسوا

کر دے گا۔"

(سنن ابی داؤد : جلد سوم : حدیث نمبر 4236)

ایڈیشن سوم، فروری : 2015 ضیاء القرآن پبلیکیشنز ، لاہور)

Further the solemnity of privacy of a person has been guaranteed under Article 14(1) of the Constitution of the Islamic Republic of Pakistan, 1973 [hereinafter referred as "Constitution"] which is reproduced as under:

"14 (1) The dignity of man and, subject to law, the privacy of home, shall be inviolable."

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

**34.**

**Lahore High Court**

**M/s Madina Steel Mills Vs. Federation of Pakistan through Secretary, Revenue Division**

**Chairman, FBR, Islamabad & others**

**W.P. No. 17285 of 2025**

**Mr. Justice Muhammad Sajid Mehmood Sethi**

<https://sys.lhc.gov.pk/appjudgments/2025LHC2627.pdf>

**Facts:**

Petitioner filed Writ Petition challenging an order by the Commissioner Inland Revenue, which denied their representation against the levy of extra and further tax during the suspension of their Sales tax registration number (STRN). The suspension, caused by departmental error and not attributable to the petitioner, was previously reversed following the Lahore High Court's direction in earlier writ petition. Despite furnishing all required documentation, the petitioner was denied tax relief, prompting fresh litigation.

**Issues:**

- i) Whether a tax-payer is entitled to tax benefit which has been wrongfully denied to him due to some error on part of the tax authorities?
- ii) Whether discrimination amongst tax-payers regarding tax liabilities amounts to violation of Article 25 of the Constitution of Islamic Republic of Pakistan?
- iii) Whether arbitrary exercise of administrative discretion violates the principle of legitimate expectation?

**Analysis:**

- i) In legal terms, where a person is deprived of a tax benefit due to an error or unlawful act committed by the tax authorities, and the said error is subsequently

recognized and rectified by the authorities themselves, the general legal position—particularly under the principles of administrative law, restitution, and legitimate expectation—is that the individual is entitled to have such benefits restored, subject to fulfillment of applicable conditions. Restitution, in this context, refers to the restoration of benefits wrongfully denied or compensation for the unjust deprivation suffered. Its objective is to reinstate the affected party to the original position prior to the wrongful act... Once the error is admitted and rectified, the petitioner acquires a legitimate right to restitution, as the tax authority cannot retain benefits arising from its own mistake. Such entitlement is firmly grounded in the principles of fairness, equity, and the doctrine against unjust enrichment. Reference can be made to *Woolwich Equitable Building Society v. Inland Revenue Commissioners* [1993] A.C.

ii) *Ubi eadem ratio, ibi idem jus*— Where there is the same reason, there is the same law – is a foundational legal maxim that encapsulates the principle that justice demands the consistent treatment of similarly situated individuals. This principle finds constitutional backing in Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973, which provides that: (1) All citizens are equal before the law and are entitled to equal protection of the law. (2) There shall be no discrimination on the basis of sex. (3) Nothing in this Article shall prevent the State from making any special provision for the protection of women and children. Article 25, thus enshrines equality before the law as a fundamental right. When tax authorities treat similarly situated taxpayers differently—particularly in the assessment or adjustment of tax liabilities—such conduct may amount to a violation of this constitutional guarantee.

iii) It is well-settled that administrative discretion must be exercised fairly, consistently, and without arbitrariness or caprice. The principle of legitimate expectation further reinforces this notion, as taxpayers in comparable circumstances reasonably expect similar treatment from revenue authorities. This position is supported by the judgment of the Division Bench of this Court in *Misbah Masood v. Principal Government College For Women* (1997 MLD 2397) where the Court emphasized that arbitrariness must be avoided at all levels of governance, besides observing that legal instruments must be interpreted in a manner that prevents arbitrary use of power, and any provision that permits or facilitates such arbitrariness is incompatible with constitutional principles... In the United Kingdom, the House of Lords in *the Council of Civil Service Unions v. Minister for the Civil Service*, commonly referred to as the *GCHQ* case [(1985) AC 374], established that even discretionary powers exercised by high executive authorities are subject to judicial review when they are used arbitrarily or unfairly. The Court rejected the idea of unfettered discretion, affirming that the rule of law requires the exercise of power to be rational, just, and transparent.

- Conclusion:**
- i) Yes. Once the error is admitted and rectified, the tax payer acquires a legitimate right to restitution.
  - ii) Yes. It amounts to violation of Article 25 of the Constitution.

iii) Yes. Arbitrary exercise of administrative discretion violates the principle of legitimate expectation

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- 35. Lahore High Court**  
**M.S. 555 Tobacco Merchant (SMC Pvt. Ltd.) etc. v. Federation of Pakistan, etc.**  
**Writ Petition No.665/2025**  
**Mr. Justice Asjad Javaid Ghural**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2801.pdf>

**Facts:** The petitioners filed the writ petition under Article 199 of the Constitution after a criminal complaint was registered against them by the respondent department alleging tax fraud. This was done without any prior tax adjudication or determination of liability by the competent authority under the Sales Tax Act, 1990. The petitioners contended this was unconstitutional and beyond the scope of the law.

**Issues:**

- i) Whether, for safe administration of justice, criminal proceedings dependent on the outcome of civil adjudication (tax liability determination) could be stayed till such civil rights are determined?
- ii) Whether criminal proceedings under Section 37A of the Sales Tax Act, 1990 can be initiated without prior adjudication and determination of tax liability by the competent authority under Section 11 of the Act?
- iii) Whether launching criminal prosecution under Section 2(37) read with Section 33 and 37A of the Sales Tax Act, 1990, without assessment of "tax due", violates the taxpayer's right to compound the offence under Section 37A(4) of the Act?

**Analysis**

- i) There is no cavil to the proposition that civil and criminal proceedings can run side by side but at the same time it is also a time honoured principle of law that where the criminal liability dependent upon or connected with the result of civil adjudication, for safer administration of justice, criminal proceedings can be stopped till the outcome of civil matter.
- ii) it is manifestly clear that any tax payer, who was found to have contravened the provisions of Section 2(37) of the Act *ibid* was liable to, *inter-alia*, pay sentence of "fine" which is dependent on the "amount of tax involved". It is not disputed by the learned counsel for the respondents that the Special Judge/Trial Court is not vested with any authority to assess the tax or determine the amount or loss of tax involved, which falls in the exclusive domain of the Officers of Inland Revenue, against whose decision a tax payer can prefer a departmental appeal and then knock the door of Appellate Tribunal of Inland Revenue by way of filing appeal and that of the High Court in the shape of Tax Reference. (See Sections 45-B, 46 & 47 of the Act). Mechanism for recovery of arrears of Tax provided in Section 48 of the Act would come into play only once the Tax was finally assessed and penalties imposed continued to be unpaid. From the above scheme of law, we can easily draw the conclusion that until the determination of liability of a tax payer by the Adjudicator under the Act *ibid*, no criminal proceedings can

be launched against him, as in the absence whereof, the Special Judge/Trial Court could not pass the sentence of fine which is the “amount of tax involved” and part of the penalty provided under the law.

iii) It is well settled law that “tax due” means amount duly determined under the law through an independent process of adjudication (...) Seeing from this angle, if the amount of tax due against a tax payer was not assessed prior to launching of criminal proceedings, then it would amount to shut the window of compoundability for a tax payer, as without determination of amount of tax due, the Commissioner would not be able to compound the offence. (...) As has been discussed supra without determination of “amount of tax due against the petitioner” by the competent Adjudicator, against whose decision the petitioners have remedy of appeal, no criminal proceedings can be launched against them.

- Conclusion:**
- i) criminal proceedings can be stopped when outcome of the same is dependent upon civil adjudication.
  - ii) No criminal proceedings can be launched unless the adjudicator determines the tax liability.
  - iii) Criminal prosecution without assessment of tax due effect the privilege of tax payer to compound offence..

**36. Lahore High Court**  
**Imran Ahmed Malik and 2 others v. Sohawa Flour and General Mills (Pvt.) Limited and 3 others**  
**Civil Original No.06 of 2021**  
**Mr. Justice Jawad Hassan.**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2634.pdf>

**Facts:** The Petitioners through this Civil Original Suit filed under section 126(1)(b) of the Companies Act, 2017 (the Act) seek rectification in register of share of respondent No.1/ “company”. They claim that Respondents No.2 & 3 sold their entire shareholding in the “company” to the Petitioners through agreements dated 20.01.2020 & 04.01.2021, but the transfer has not been recorded. They request the transfer to be updated in both the Company’s register and SECP’s records.

- Issues:**
- i) Whether the Company Bench, under Section 5 of the Act, has exclusive jurisdiction over company-related disputes with overriding authority?
  - ii) Who can apply to the Court for rectification of the register under Sections 126(1)(a) and (b) of the Act, in case of fraudulent or improper entries or delays in updating the register?
  - iii) What right does Section 126(1)(a) of the Act provide for rectification of the register if a name is fraudulently or improperly entered or omitted?
  - iv) Whether the terms “member” and “shareholder,” have distinct legal meanings?
  - v) When a person becomes a shareholder in a company?
  - vi) What is the requirement to treat a person as a member of a company?
  - vii) What is the remedy for a person, not being a member, shareholder, or debenture-holder, in case of delay or default in registration affecting their rights?

- viii) Whether the Board of a private company is bound under Sections 74 and 75 of the Act, to register a duly executed share transfer, and failure to do so gives the aggrieved party the right to seek rectification under Section 126?
- ix) Whether Section 76 of the Act requires notice to the Board and offer to existing shareholders before executing a share transfer deed?
- x) Who can seek transfer rectification under Section 126(1)(b) of the Act?
- xi) Who can be considered an “aggrieved person” under Section 126(1)(b) of the Act?
- xii) When does the cause of action arise under Section 126 of the Act?

**Analysis:**

- i) It is imperative to add that the Company Bench established under Section 5 of the “Act”, has special civil jurisdiction to adjudicate company-related disputes; Section 4 whereof grants the “Act” overriding authority over other laws, making the Company Bench a specialized civil court.
- ii) Above provision of law makes it clear that any aggrieved person or any member of the company, or debenture-holder of the company, or the company may apply to the Court for rectification of the register in case name of any person is fraudulently or without sufficient cause entered in or omitted from the register of members in terms of Section 126(1)(a) of the “Act”, or there is default or unnecessary delay in entering on the register of members the fact of the person having become or ceased to be a member in terms of Section 126(1)(b) of the “Act”.
- iii) Primarily, Section 126(1)(a) of the “Act” provides a right to make an application before the Court for the purposes of rectification of register of members or register of debenture holders of a company in a case where name of a person “fraudulently” or “without sufficient cause” was entered in or omitted from said registers.
- iv) The terms “member” and “shareholder” are often used synonymously, yet both are different.
- v) For a person to become a shareholder, allotment or purchase of shares from another shareholder is enough.
- vi) A person may not be treated as a member of the company until his name is entered in the register of members of the company.
- vii) If a person, outside the scope of member, debenture-holders or shareholders, believes that default or unnecessary delay has happened in registering members, shares, or debenture-holders affecting his claimed rights, he has certain options depending on his status which may include lodging of a complaint with the “SECP” (which can conduct an inspection, investigation or even can issue orders to a company to correct the defaults, if necessary) and may avail remedy in the Civil Court due to breach of a contract.
- viii) Furthermore, the Petitioner No.1, in the alleged agreement dated 27.12.2019, has claimed the ownership of the land but no transfer deed or any instrument of transfer of shares has been produced which is mandatory requirement of Section 74 of the “Act” according to which, the execution of transfer shall be submitted to the “Company” to register the same and to add and omit the name of the

transferee and the transferor as the case may be. Subsequently, when a duly executed transfer deed signed and stamped by the transferor and transferee is tendered to the Board of Directors of a private limited Company, then in such circumstances the Board as per Sections 74 and 75 of the Act is bound to register the transfer of shares i.e. to add and omit the name of the transferee and the transferor respectively, and failure of the board to register the same shall grant the aggrieved party the right to move the Court under Section 126 for rectification of the register of members.

ix) The process for transfer of shares as per Section 76 must be complied with i.e. a notice must be issued to the Board of Directors by the prospective selling member indicating an intention to sell the shares, the Board of Directors upon such a requisition shall offer the shares to all the shareholders in proportion to their existing shareholding, upon acceptance by the shareholders of the offer so made a duly recognized instrument of transfer shall be executed between the parties (a share transfer deed).

x) The requirement of transfer of shares as envisaged under Section 126(1)(b) of the “Act” is that the person has to be an “aggrieved person”.

xi) The expression "aggrieved person" would include a transferor of shares who had handed over the transfer documents to the transferee who lodged them with the company and the same were rejected by the company as bad delivery.

xii) The cause of action to invoke the provisions of section 126 of the “Act” arises only when the fact of any member having ceased to be a member is brought before the company or its board and there is default or delay in taking decision.

- Conclusion:**
- i) The Company Bench, established under Section 5 of the Act, has special civil jurisdiction to adjudicate company-related disputes, with the Act overriding other laws.
  - ii) Under Section 126 of the Act, any aggrieved person, company member, debenture-holder, or the company may apply to the Court for rectification of the register in cases of fraudulent or improper entries or delays in updating membership status.
  - iii) Section 126(1)(a) of the Act grants the right to apply to the Court for rectification of the register if a name is fraudulently or improperly entered or omitted.
  - iv) The terms “member” and “shareholder” are different.
  - v) See above analysis No. v).
  - vi) See above analysis No. vi).
  - vii) A person, who is not member, debenture-holder, or shareholder in case of delay or default in registration affecting their rights, can lodge a complaint with SECP or pursue a remedy in Civil Court.
  - viii) See above analysis No. viii).
  - ix) See above analysis No. ix).
  - x) An “aggrieved person under Section 126(1)(b) of the “Act” can ask for transfer of share;
  - xi) See above analysis No. xi).



xii) See above analysis No. xii).

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**37. Lahore High Court**  
**Ghulam Qadir v. The State and another**  
**Criminal Appeal No.79724/2021**  
**Kashif v. The State and another**  
**Criminal Appeal No.79726/2021**  
**Muhammad Asif v. The State, etc.**  
**Criminal Revision No.2871/2022**  
**Muhammad Asif v. The State, etc.**  
**(P.S.L.A. No.2870/2022**  
**Mr. Justice Farooq Haider**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2815.pdf>

**Facts:** The appellants/convicts have filed appeals their conviction and sentence. Whereas, the complainant filed revision for enhancement of sentence of convicts and appeal against acquittal of one of the accused persons.

**Issues:**

- i) What is the effect of delay in reporting the incident to the police?
- ii) Whether an injured witness is always stamped as a truthful witness?
- iii) What is the evidentiary value of testimony of a witness, who introduces dishonest improvements?
- iv) What is the nature of medical evidence?
- v) Whether acquittal could be reversed on the ground that another view was also possible?

**Analysis:**

- i) It is well settled that when there is delay in reporting the incident to the police, then prosecution is under obligation to explain such delay and failure to do that will badly reflect upon the credibility of prosecution version.
- ii) By now it is also well settled that mere presence of injury on the person of prosecution witness does not stamp him to be a truthful witness.
- iii) It is trite law that if prosecution witness including injured witness introduces dishonest improvement in order to strengthen the case, then his evidence is to be thrown away altogether and cannot be relied upon.
- iv) It is trite law that medical evidence is mere supportive/ confirmatory type of evidence; it can tell about locale, nature, magnitude of injury and kind of weapon used for causing injury but it cannot tell about identity of the assailant who caused the injury.
- v) By now it is well settled that acquittal cannot be disturbed for the reason that another view was equally possible.

**Conclusion:**

- i) The prosecution is under obligation to explain the delay in reporting the occurrence, failure to that would badly affect the credibility of prosecution case.
- ii) The presence of injury on a witness does not stamp him with credibility of truthfulness.
- iii) Evidence of a witness who makes dishonest improvements is to be thrown away altogether and cannot be relied upon.



- iv) The medical evidence is mere supportive/ confirmatory type of evidence; it can tell about locale, nature, magnitude of injury and kind of weapon used. It cannot tell about identity of the assailant.
- v) Acquittal cannot be disturbed for the reason that another view was equally possible.

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**38. Lahore High Court**  
**Mazhar Hussain Shah & another v. The State**  
**Criminal Appeal No.80490-J/2021**  
**Mr. Justice Ali Zia Bajwa, Mr. Justice Farooq Haider**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2927.pdf>

**Facts:** The appellants were tried by the learned Additional Sessions Judge/Trial Court, in respect of offences under sections 302, 109, 148, 149 P.P.C. for committing Qatl-i-Amd. The learned trial court convicted and sentenced the appellants. Feeling aggrieved, the appellant lodged this Criminal appeal through jail assailing his conviction and sentences. The learned trial court submitted Murder Reference under section 374 Cr.P.C. seeking confirmation or otherwise of the sentence of death awarded to the appellant before the High Court.

**Issues**

- i) What is impact of unexplained delay in lodging of FIR upon the case of prosecution?
- ii) Whether the testimony of chance witness, who are inimical as well as having grudge can be relied for convicting and sentencing the accused?
- iii) Whether medical evidence is mere supportive/confirmatory type of evidence but it cannot tell about identity of the assailant who caused the injury?
- iv) Whether safe custody of parcel of recovered pistol has to be proved?

**Analysis:**

- i) After delay of about three hours and five minutes of the occurrence and FIR was recorded at 12:05 p.m. on 03.10.2019....Matter has not been reported to the police promptly rather with considerable delay for which any plausible explanation has not been offered by the prosecution, which leads to the conclusion that none of the cited witnesses including complainant was present at the time and place of occurrence, time was consumed for procuring, engaging and introducing witnesses, tailoring story for the case of prosecution and then registering the case in its present form
- ii) Ocular account comprising of chance witnesses, who are inimical as well as having equal attribution of stated grudge/motive for the occurrence with the assailants, is neither convincing nor confidence inspiring, hence cannot be relied for convicting and sentencing the appellants.
- iii) It is trite law that medical evidence is mere supportive/confirmatory type of evidence; it can tell about locale, nature, magnitude of injury and kind of weapon used for causing injury but it cannot tell about identity of the assailant who caused the injury; therefore, same neither can provide any corroboration nor is of any help to the prosecution in peculiar facts and circumstances of the case.

iv) It is crystal clear that according to own case of prosecution, pistol along with two live bullets statedly recovered from the possession of appellant were sealed into parcel and similarly pistol along with two live bullets allegedly recovered from appellant were sealed into parcel. If said parcels were deposited in the office of Punjab Forensic Science Agency, Lahore, then it must have been mentioned in the report that said parcels were containing live bullets also however it is not mentioned so in said report, meaning thereby that said parcels were not those parcels which were prepared at the time of recovery of pistols containing bullets as well. Hence, safe custody of parcels of pistols has been compromised and not proved, which has ultimately made report of Punjab Forensic Science Agency, Lahore as inconclusive as well as inconsequential and of no help to the case of prosecution.

**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

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**39. Lahore High Court**  
**Yasir Shaban v. The State, etc.**  
**Criminal Appeal No.39118/2021**  
**Ali Raza & another v. The State.**  
**Criminal Appeal No.40003-J/2021**  
**The State v. Ali Raza & another**  
**Murder Reference No.152/2022**  
**Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2992.pdf>

**Facts:** The appellants were tried in a case stemming from an F.I.R. registered under Sections 394 and 302 PPC. The trial court, through its impugned judgment, convicted and sentenced both appellants. This single judgment addresses the criminal appeal filed by one appellant and the appeal filed by both appellants through jail authorities against their convictions and sentences. Additionally, it includes a Murder Reference sent by the trial court under Section 374 Cr.P.C. for the confirmation of the death sentence awarded to both appellants, as all matters arise from the same judgment issued by the trial court.

**Issues:** i) What are the mandatory features required to identify an unknown accused person?  
 ii) Can medical evidence identify the assailant responsible for an injury?

**Analysis:** i) It is well established that facial features of the unknown accused persons are mandatory to identify him on re-seeing alongwith other features i.e. height, complexion, age and stature etc.  
 ii) As far as, medical evidence is concerned, same is a type of supporting nature evidence which can tell about nature, locale, size and duration of the injury but cannot tell about identity of the assailant.

- Conclusion:** i) Facial features alongwith other features are mandatory to identify an unknown accused person.  
ii) No, it cannot identify the assailant.

**40. Lahore High Court**  
**Muhammad Iqbal and others v. Muhammad Ashraf and others**  
**C.R. No.2164 of 2011**  
**Mr. Justice Rasaal Hasan Syed.**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2719.pdf>

**Facts:** Plaintiffs preferred a suit for declaration along with specific performance of agreement of sale. One of the defendants filed an application under Order VII, Rule 11, C.P.C, which was accepted. Appeal filed there-against was accepted by Addl. District Judge, in result, the order of trial court rejecting the plaint was set aside, the suit was restored and the Civil Judge was directed to decide it after recording evidence of parties. The said order was impugned through this revision petition.

**Issues:** i) Under what circumstances can a Court reject a plaint?  
 ii) What is the starting point of limitation in a suit for specific performance of contract under Article 113 of Limitation Act, 1908?  
 iii) From when does the period of limitation begin if no specific date is given in the agreement?

**Analysis:** i) Under Order VII, Rule 11, C.P.C. the plaint could be rejected only if from the statement in plaint, it does not disclose any cause of action or is barred by law or is incorrectly valued for the purpose of court fee or insufficiently stamped and on being required to make up the deficiency within time allowed to the plaintiff to make up the deficiency.  
 ii) Article 113 of Limitation Act, 1908 contemplates the period of three years for the specific performance of contract from the date fixed in the agreement for performance or if no such date is fixed, when the plaintiff has the notice that the performance is refused.  
 iii) If specific date is not given in the agreement to perform the same, the case will fall in second part of Article 113 of Limitation Act, 1908 which provides for three years from the date of notice of refusal to perform.

**Conclusion:** i) See above analysis No.i.  
 ii) The limitation period for specific performance is three years from the date fixed in the agreement, or, if no such date is fixed, from when plaintiff learns that the performance has been refused.  
 iii) If agreement is not having the date of performance, the period of limitation will start from the date of notice of refusal to perform.

**41. Lahore High Court**  
**United Bank Limited v. President of the Islamic Republic of Pakistan, etc.**  
**Writ Petition No.983 of 2025 (along with connected petitions)**  
**Mr. Justice Asim Hafeez**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2736.pdf>

**Facts:** Petitioners challenged the orders of the Banking Mohtasib and the President of Pakistan, arising out of complaints regarding unauthorized electronic fund transfers. The central issue was whether the Mohtasib had jurisdiction under banking laws to adjudicate such complaints and order compensation.

**Issues:**

- i) Does the Banking Mohtasib have jurisdiction under the Banking Companies Ordinance, 1962 to entertain complaints involving unauthorized electronic fund transfers and related allegations of fraud or maladministration?
- ii) Can the Banking Mohtasib render findings on disputed questions of fact under its statutory mandate?
- iii) Is the Mohtasib required to assess the role of contributory negligence by complainants before awarding compensation?
- iv) Was it appropriate for the Mohtasib to apply section 41 of the Payment Systems and Electronic Fund Transfers Act, 2007 without examining the circumstances of each transaction?
- v) Does a finding by the Mohtasib require strict adherence to evidentiary procedures under the Qanun-e-Shahadat Order, 1984?

**Analysis:**

- i) Law entitles and empowers Mohtasib to adjudicate upon subject-matter complaints, wherein complainants alleged incidences of banking malpractices, violations of banking laws, rules, regulations and guidelines, instances of maladministration, fraud in relation to transfer of funds and complain against fraudulent or unauthorized withdrawals or debit entries in the accounts. Hence, assumption of jurisdiction is lawful and is in accord with the mandate of Ordinance, 1962.
- ii) Judgment had not placed any judicial clog / encumbrance on the powers, functions and jurisdiction of Mohtasib, except observing that no binding decisions to be made with respect to disputed questions of facts.
- iii) Mohtasib ignores and overlooks to consider the effect and consequence of ‘contributory negligence’ and ‘comparative negligence’. Apparently, Mohtasib shifted absolute responsibility on banks by placing reliance on section 41 of the Act 2007.
- iv) Section 41 of the Act 2007 used expression ‘unauthorized Electronic Fund Transfer’ which prima facie raised a query that whether such transactions where instructions were issued by the customer(s) authenticity whereof is though disputed, if at all application of strict rule of burden to prove is to be applied. Whether strict compliance of rule of burden of proof is warranted qua transactions where customer had issued instruction for payment, but renege afterwards and raise plea of inducement by deception or fraud. Whether any evidence could be produced by the bank in such situation to meet the test of burden of proof. I

refrain from commenting on all these issues because determination of these issues would enable the Mohtasib to reach conclusion, whether to exercise jurisdiction or avoid adjudication and suggest invocation of remedy under section 50 of the Act, 2007 or other concurrent remedies.

v) Ombudsman does not decide intricate and complex questions of law and facts; Ombudsman does not interfere in matters which are sub-judice in court(s) of law; Ombudsman does not conduct regular trials, still empowered to call for affidavits and appoint commission for recording of evidence. Jurisdiction conferred is in the nature of quasi-judicial jurisdiction, where Mohtasib is entitled to receive evidence on affidavits, without the necessity of strictly following evidentiary principles. One must not overlook, evidently the significant role of the Mohtasib, which is to act as mediator for the purposes of resolving the disputes amicably, which makes application and adoption of evidentiary principles inapplicable for such mediation proceedings. Qanun-e-Shahadat Order 1984 is not applicable to arbitration proceedings, which leads to inference that mediators are not bound by the rigours of Qanun-e-Shahadat Order 1984 – and so is the Mohtasib.

- Conclusion:**
- i) Yes, the Banking Mohtasib has lawful jurisdiction under the Ordinance, 1962.
  - ii) Yes, the Mohtasib may examine facts but cannot issue binding findings on materially disputed facts.
  - iii) Yes, contributory negligence must be considered in determining entitlement to compensation.
  - iv) No, the Mohtasib must evaluate factual context before invoking section 41.
  - v) No, the Mohtasib is not required to strictly follow the Qanun-e-Shahadat Order, 1984.

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**42. Lahore High Court**  
**Muhammad Naeem v. Judge Family Court, etc.**  
**Writ Petition No. 2313 of 2025/BWP**  
**Mr. Justice Ahmad Nadeem Arshad**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2671.pdf>

**Facts:** Respondent No.2 instituted a suit for recovery of dowry articles which was decreed in her favour. For the satisfaction of the decree, she filed an execution petition. Respondent No.3 stood surety of the petitioner and learned Executing court for the satisfaction of the decree put his property on the open auction and appointed respondent No.4 as Court Auctioneer. Respondent No.4 failed to submit report with regard to the auction proceedings. Petitioner filed an objection petition which was dismissed and appointed fresh Court Auctioneer, hence, this petition.

**Issue:** i) What is the implicit duty of the court, while exercising discretionary powers to appoint a court auctioneer, local commissioner, receiver and Liquidator ?

**Analysis:** i) The Court, while exercising its discretionary powers to appoint Advocates in such quasi-judicial roles, is under an implicit duty to take into account

following aspects:

1. Competency and Expertise: The advocate must possess sufficient legal knowledge and familiarity with the procedural aspects of the specific task (e.g., auction proceedings, asset valuation, report writing) in the light of High Court Rules & Orders.
2. Professional Integrity: The individual's past conduct, reputation in the legal community, and any pending disciplinary matters should be evaluated.
3. Accountability and Transparency: Appointees must be capable of acting independently, impartially, and with full accountability, given that they are entrusted with parties' rights and valuable assets.

**Conclusion:** i) See above analysis No. i

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<b>43.</b>	<p><b>Lahore High Court</b>  <b>Munawar Ali. v. Addl. Sessions Judge, etc.</b>  <b>Crl. Misc. No.1620-M of 2024.</b>  <b>Mr. Justice Muhammad Amjad Rafiq</b>  <a href="https://sys.lhc.gov.pk/appjudgments/2025LHC2439.pdf">https://sys.lhc.gov.pk/appjudgments/2025LHC2439.pdf</a></p>
<b>Facts:</b>	<p>The petitioner assailed the orders of learned ASJ, wherein, he overturned the order of the learned Magistrate and directed the petitioner to produce the allegedly fake certificates.</p>
<b>Issues:</b>	<p>i) What is procedure to produce a document in evidence, which is in possession of adverse party/against whom to be used?            ii) Whether such adverse party is bound to produce the required document?            iii) Whether the requirement of prior notice to produce secondary evidence, is exempted in any case?            iv) Whether the party seeking the production of document, could refuse its production upon production by the adverse party?            v) Whether the adverse party can produce such document in evidence, when it refused earlier to produce the document upon notice?</p>
<b>Analysis:</b>	<p>i) It is trite that when any document which is sought to be produced in the evidence happens to be in possession of adverse party, the law requires that a notice to produce shall be given to the party or his counsel. If on notice document is not produced, the party seeking for production of such document becomes entitled to produce secondary evidence of the document. Article 76 of the Qanun-e-Shahadat Order 1984 mentions the situations when the secondary evidence may be given of the existence, condition or contents of a document.            ii) It is discretion of such person to produce or not to produce the same. Thus, he cannot be compelled in any manner, which is in consonance with the safeguard provided by Article 13 of the Constitution of the Islamic Republic of Pakistan 1973; however, refusal thereof gives a right to the adverse party to produce secondary evidence of such document.            iii) The only requirement for secondary evidence in above case was of giving a</p>

prior notice to adverse party, as mentioned in Article 77 of the Qanun-e-Shahadat Order 1984...But requirement of giving prior notice is also exempted through the said Article 77 of the Qanun-e-Shahadat Order 1984 in following cases;

- (1) when the document to be proved is itself a notice;
- (2) when, from the nature of the case, the adverse party must know that he will be required to produce it;
- (3) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force;
- (4) when the adverse party or his agent has the original in Court;
- (5) when the adverse party or his agent has admitted the loss of the document;
- (6) when the person in possession of the document is out of reach of, or not subject to, the process of the Court.

iv) However, if the petitioner produces such certificates before the Court in compliance with the order, then respondent No.4, after perusing it, cannot refuse its production in evidence if the petitioner requires him to do so. This command of law is enshrined in Article 159 of the Qanun-e-Shahadat Order 1984, which is as under;

“159. Giving, as evidence, of document called for and produced on notice: When a party calls for a document which he has given the other party notice to produce and such document is produced and inspected by the party calling for its production, he is bound to give it as evidence if the party producing it requires him to do so”.

v) Once the secondary evidence of such certificates is produced, petitioner cannot afterwards use the certificates as evidence, without the consent of the respondent No.4 or the order of the Court, as directed through Article 160 of the Qanun-e-Shahadat Order 1984.

- Conclusion:**
- i) When any document which is to be produced in evidence, is in possession of adverse party; a notice to produce shall be given to him or his counsel. If it is not so produced the party seeking its production would be entitled to produce its secondary evidence.
  - ii) The party to whom notice is given to produce document could not be compelled to produce the same.
  - iii) Requirement of prior notice is exempted when the document required to be produced is itself a notice; when the party from the nature of the case, must know the he will be required to produce it; when it obtained the possession of original by fraud or force; when it has original in the court; when the loss of document is admitted; person in possession of original is out of reach of court etc.
  - iv) Party seeking a document from an adverse cannot afterword refuse to tender it in evidence, if the adverse party directs him to do so.
  - v) When the party in possession of document does not produce the same upon notice and secondary evidence of the same is produced; he cannot be allowed to produce the same in evidence later.



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**44. Lahore High Court**  
**Karim Bakhsh. v. The State, etc.**  
**Criminal Revision No.78 of 2025.s**  
**Mr. Justice Muhammad Amjad Rafiq**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2432.pdf>

**Facts:** The petitioner has assailed the orders of learned Special judge Anti-Corruption, whereby, it partially disagreed the cancellation report of a case FIR registered with the Anti-Corruption Establishment.

**Issues:**

- i) Whether the Punjab Anti-Corruption Establishment is to follow the Punjab Police Rules, 1934?
- ii) Whether the Rule 24.7 of the Police Rules is stricto sensu applicable upon ACE?
- iii) On what grounds the Punjab Anti-Corruption Establishment could drop a case?
- iv) Whether private individuals could be subject to Anti-Corruption Establishment?
- v) What would be the scheme of law, if ACE recommend no or droppage of judicial action?
- vi) What would be remedy to complainant when no judicial action taken or case cancelled upon his complaint?
- vii) Whether the Special Court Anti-Corruption could cancel a case partially?

**Analysis:**

- i) Under Rule 14 of the Punjab Anti-Corruption Establishment Rules, 2014 (the Rules 2014), the Establishment shall, as far as may be, follow the provisions of the Punjab Police Rules for purposes of inquiry and investigation of offences specified in the Schedule.
- ii) But the Rules 2014 itself suggest a deviation from above Rule 24.7 of the Police Rules 1934 and introduce different grounds for dropping of inquiry as well as dropping of case.
- iii) Thus, unlike ordinary regime of law, where FIR is required to be registered if the information or intelligence discloses commission of a cognizable offence, Anti-Corruption establishment shall not register the case if the “allegations are not substantiated” or “sufficient evidence is not available”. In ordinary regime of law case is dropped/cancelled on three recognized grounds mentioned in Rule 24.7 of the Police Rules 1934 as cited above but Anti-Corruption Establishment shall drop the case either on the ground that “the allegations are not established” or “judicial action is not warranted but reasonable evidence is available to initiate disciplinary action against the public servant”.
- iv) Anti-Corruption Establishment was primarily established for the investigation of offences set forth in the Schedule, and for holding preliminary inquiries for determining whether such offence shall be investigated or departmental inquiries into the conduct of any public servant concerned in such offences shall be held, as mentioned in Section-3 of the West Pakistan Anti-Corruption Establishment

Ordinance, 1961, but private individuals who are in league with the public servants in commission of such offences can also be inquired and investigated by the Anti-Corruption Establishment... Paragraph (a) [of schedule attached to West Pakistan Anti-Corruption Establishment Ordinance, 1961] specifically deals with offences relating to public servants only, therefore, abetment and conspiracies by private individuals get them into the jurisdiction of Establishment. Paragraph (b) [of schedule attached to West Pakistan Anti-Corruption Establishment Ordinance, 1961] contains offences which can be committed by both public servant as well as the private individuals; therefore, apart from abetment and conspiracies it was specifically added that person acting jointly with or abetting or attempting to abet or acting in conspiracy with any public servant as such, shall also be subject to the jurisdiction of the Establishment. Whereas paragraph (c) [of schedule attached to West Pakistan Anti-Corruption Establishment Ordinance, 1961] though deals with abetments and conspiracies of offences in relation thereto or connected with offences under the Prevention of Corruption Act, 1947, yet Section-2 of said Act makes it clearer when it says that “Act shall apply to all citizens of Pakistan and persons in the service of Government wherever they may be”.

v) Complainant then can move to the local police for further action against the private individuals because there remains no jurisdiction with Anti-Corruption Establishment to investigate the private individuals any more, and it is like situation when an offence is not committed within the jurisdiction of a Police Station, it is cancelled by the order of Superintendent of Police in the district without the order of a Magistrate as mentioned in Rule 25.7 of the Police Rules, 1934... Under Rule-14 of the Rules 2014, the Establishment is bound by law to follow the provisions of the Punjab Police Rules, therefore, in such situation, FIR shall be cancelled by the order of Director General Anti-Corruption Establishment without seeking its confirmation from the Special Judge Anti-Corruption Court which is the mandate of Rule 10(1)(a) of the Rules 2014.

vi) When the case is dropped/cancelled by the order of Director General or by the Court, the complainant can move to the local police for registration of case against the private individuals or can file private complaint before Anti-Corruption Court on the ground that sufficient evidence was also available against the public servants which was not considered by the Anti-Corruption Establishment, and in such eventuality, Special Judge Anti-Corruption Court if entertains the complaint can direct for investigation as mentioned in Section-6, Sub-section-5 of the Criminal Law (Amendment) Act 1958.

vii) Thus, under Rule 10(1)(b) of the Rules 2014, the only course available to the learned Special Judge, Anti-Corruption Court was either to confirm the cancellation report, or disagree to it in toto if considered that the allegations are established against public servants as well. There is no concept of trial of private individuals by the Special Judge Anti-Corruption Court without framing charge against the public servants, because it is like trying the abettors, instigators, conspirators, facilitators while exonerating the principal offender which is against the very spirit of criminal prosecution.

- Conclusion:**
- i) As per Rule 14 of the Punjab Anti-Corruption Establishment Rules, 2014 the provisions of the Punjab Police Rules shall be followed for the inquiries and investigations by the Anti-Corruption Establishment.
  - ii) The ACE Rules 2014 suggest a deviation from above Rule 24.7 of the Police Rules 1934 and introduce different grounds for dropping of inquiry as well as dropping of case.
  - iii) Anti-Corruption Establishment shall drop the case either on the ground that “the allegations are not established” or “judicial action is not warranted but reasonable evidence is available to initiate disciplinary action against the public servant”.
  - iv) Private individuals who are in league with the public servants in commission of such offences can also be inquired and investigated by the Anti-Corruption Establishment.
  - v) When the ACE did not recommend judicial action against Public Official or cancel the case, there remains no jurisdiction of ACE to investigate private individual. The scheme of Rule 25.7 of Police Rules would prevail, and information would be submitted to the concerned police station
  - vi) In case of droppage/cancellation of case by DG, the complainant can move to local police or move a private complaint before ACE, if still thinks that sufficient evidence is there to proceed against the Public Officials.
  - vii) The Special Court Anti-Corruption is to confirm the cancellation report or disagree to it in toto. Since, there is no concept of trial of private persons by Special Court, without framing charge against public servants.

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**45. Lahore High Court**  
**Muhammad Waqas. v. The State etc.**  
**CrI. Misc. No.2020-B/2025.**  
**Mr. Justice Muhammad Amjad Rafiq**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2421.pdf>

**Facts:** The petitioner seeks post arrest bail in a registered under Sections 324, 337-A(v), 34 PPC

**Issues:**

- i) In case of a contradiction between the text of PPC and an entry in Schedule II of the Cr.P.C., which shall prevail?
- ii) Whether an accused person has a right to bail in offences, which entail optional imprisonment?

**Analysis:**

i) Explanatory Note attached to Schedule II of CrPC makes it clear the offences and punishment cited in the schedule are just reference of respective Sections of PPC and not Sections itself or abstract of them, which means for the purpose of definition of offence and its punishment, the concerned Section of PPC shall be read and followed as per command of such Sections. Thus, despite the fact schedule-II of Cr.P.C. finds mentioned the punishment of Section 337A(v) PPC as 14 years’ imprisonment, it shall not be followed rather text of Section 337A(v) PPC, which entails punishment of 10 year’s imprisonment would be preferred. It

is however expected that legislature shall review such entry in schedule-II of Cr.P.C. or amend the Section 337A(v) PPC with corresponding punishment in the schedule.

ii) Section 337A(v) PPC entails primary punishment as arsh, therefore, petitioner may or may not be awarded optional punishment of imprisonment by the trial court depending upon the requirement of law as enshrined in Section 337N (2) PPC. This ratio has been settled by this Court in case reported as “ALI MUHAMMAD versus THE STATE” (PLD 2009 Lahore 312) and also upheld by the Supreme Court of Pakistan in a case reported as “ABDUL WAHAB and others versus THE STATE and others” (2019 SCMR 516).

**Conclusion:** i) Explanatory Note attached to Schedule II of Cr.P.C. makes it clear that in case of a contradiction between text of PPC and an entry in Schedule II of Cr.P.C., the concerned section of PPC shall prevail.  
ii) Accused person has a right to bail in offences, which entail optional award of punishment by imprisonment as Tazir in addition to Arsh or Daman, depending upon the requirements of section 337N (2) PPC.

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**46. Lahore High Court**  
**Samar Abbas v. The State etc.**  
**Crl. Misc. No. 699-B/2025.**  
**Muhammad Ramzan v. The State etc.**  
**Crl. Misc. No. 1362-B/2025**  
**Mr. Justice Muhammad Amjad Rafiq**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2726.pdf>

**Facts:** The petitioners have approached the Hon’ble High Court seeking their post-arrest bail in a murder case FIR registered against them.

**Issues:** i) What is evidentiary value of CDR without voice message/transcript?  
 ii) Under what situations press clippings are used by the courts?  
 iii) When the statements/speeches published in newspapers can be used as evidence in matters of public importance?  
 iv) What presumption is attached to press clippings in criminal jurisdiction?  
 v) Whether courts could take judicial notice of news items?  
 vi) What are the parameters to take judicial notice of newspaper reports?  
 vii) What is evidentiary value of press clippings in criminal proceedings?  
 viii) Whether the rule of hearsay has any exception?  
 ix) What approach courts should adopt at bail stage?

**Analysis:** i) Though CDR data was claimed showing connection of Samar Abbas and Muhammad Ramzan near the place of occurrence but without any voice message/transcript. Thus, it does not connect the petitioners with the commission of offence until and unless such CDR is formalized in accordance with law as enunciated in judgment of Full Bench of this Court in a case reported as “Mst. SAIMA NOREEN Versus The STATE and another” (PLJ 2023 Cr. C 371 (FB)).

ii) Press clippings have been used by the Courts in following three situations;

- a) In Constitutional jurisdiction for matters of public importance.
- b) Presumption by Courts in criminal jurisdiction.
- c) Evidence of any party in criminal jurisdiction.

iii) While dealing with political statements/speeches against the State published in newspapers attributed to political leaders, Hon'ble Supreme Court of Pakistan has held that such statements if have not been denied or repudiated could be used as evidence against them.

iv) Presumption by Courts in criminal jurisdiction, is the subject matter of the Evidence Act 1872 which with certain modifications was also applicable to the different States of India and by virtue of that Court was authorized to presume the genuineness of newspapers or journal as per Section 81 of said Act... but by the promulgation of Qanun-e-Shahadat Order 1984, Section 81 of the Evidence Act 1872 was not re-enacted rather opted to skip it in the new legislation. Thus, Courts in Pakistan by law cannot presume the genuineness of a newspaper.

v) Some misunderstanding in law prevails that Court can take judicial notice of only those facts which are listed in Article 112 of Qanun-e-Shahadat Order 1984, and of course newspaper or journal is not mentioned in such Article. Suffice it to say that such Article says that "Facts of which Court must take judicial notice" the word "must" make it obligatory for the Court to take judicial notice of all such facts listed in Article 112 *ibid* without asking for a formal proof. Whereas Article 111 *ibid* gives a discretion to the Court to take judicial notice of any fact not listed in Article 112 *ibid*, depending upon the circumstances of the case. Thus, Court can take judicial notice of a news clipping subject to the considerations that its admissibility depends on several factors, including the relevance to the case, the authenticity of the clipping, and whether the court deems it reliable.

vi) As a general principle the Supreme Court of Pakistan has held in case reported as "WATTAN PARTY through President Versus FEDERATION OF PAKISTAN through Cabinet Committee of Privatization, Islamabad and others" (P L D 2006 Supreme Court 697) that following parameters must be met for the purpose of taking judicial notice of a newspaper report and articles: -

- (i) *Where direct evidence is not available.*
- (ii) *Where it is sought to be proved that a person has notice of the contents of the newspaper report.*
- (iii) *Where it is sought to be shown that a person is an author or otherwise responsible for the statement or article published in a newspaper which is to be used against him.*
- (iv) *In cases of defamation.*
- (v) *If the issue/occurrence is rather old and eye-witnesses are either wanting or less reliable.*

vii) It is consensus that press clipping is hearsay evidence and is not admissible under the law unless the author or reporter volunteers to appear as witness to prove the authenticity of the facts stated therein.

viii) Even the rule of hearsay is not absolute, for, it is subject to certain

exceptions. One of these is that statements accompanying and explaining facts are not hit by the hearsay rule. Thus, even in the case of hearsay as observed in Halsbury's Laws of England (3rd Edn., Vol 15, at page 320) in estimating the weight to be attached to a statement "regard must be had to all circumstances from which any inference as to the accuracy or otherwise of the statement can reasonably be drawn, and in particular to the questions whether the statement was contemporaneous with the facts stated and whether the maker had any incentive to conceal or misrepresent the facts". Explanatory facts are regarded as relevant facts as per Article 22 of Qanun-e-Shahadat Order 1984 which says that *facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact....., are relevant in so far as they are necessary for that purpose.* In such situation, of course press clipping could be considered as explanatory evidence, that shall be read in conjunction with other evidence on the record, because press clipping as sole evidence cannot prove a fact beyond reasonable doubt.

ix) It is trite that while considering material at bail stage, Court always acts inquisitorially to search for avenues of further inquiry into the guilt of accused, and thus, can consider any material, that can be transformed into admissible format at a later stage, in order to grant or decline bail to the accused.

- Conclusion:**
- i) Mere CDR only shows use of SIM in territorial/geographical jurisdiction of cell phone tower; and does not disclose that who is using or carrying said SIM. Therefore, without "Voice Recording Transcript", mere "Call Data Record" (CDR) alone of the SIM is inconclusive piece of evidence regarding identity of its user/carrier.
  - ii) The courts used newspaper clippings in constitutional jurisdiction for matter of public importance; presumption in criminal matters; and as evidence by any party in criminal jurisdiction.
  - iii) The statements/speeches published in newspapers attributed to political leaders, if have not been denied or repudiated could be used as evidence against the maker.
  - iv) Previously sections 81 & 81A of Evidence Act, 1872 had presumption of genuineness of newspapers but QSO being re-enacted skipped these provisions. Thus, courts in Pakistan by law cannot presume the genuineness of a newspaper.
  - v) Court can take judicial notice of news clipping subject to the considerations that its admissibility depends on several factors, including the relevance to the case, the authenticity of the clipping, and whether the court deems it reliable.
  - vi) The courts could take judicial notice of news clips where direct evidence is not available; where it is sought to be proved that a person has notice of the contents of the newspaper report; where the news or statement is to be used against the author or person otherwise responsible; defamation cases; old issue/occurrence and eye-witnesses are either wanting or less reliable.
  - vii) Press clipping is hearsay and is not admissible in evidence unless the author or reporter appears as witness to prove the authenticity of facts stated therein.



viii) The statements accompanying and explaining create an exception to the hearsay rule. Press clipping could be considered as explanatory evidence that shall be read in conjunction with other evidence on the record.

ix) Courts at bail stage always act inquisitorially to search for avenues of further inquiry into guilt of accused.

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- 47. Lahore High Court**  
**Engro Fertilizers Limited, etc. v. Assistant Director Agriculture, etc.**  
**Writ Petition No.1957 of 2017**  
**Mr. Justice Anwaar Hussain**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2701.pdf>

**Facts:** The respondents undertook collection and testing of fertilizer samples, followed by imposition of penal measures. The petitioners challenged these actions through the writ petitions, asserting procedural improprieties and lack of jurisdiction by the respondents in certain cases.

**Issues**

- i) Is ISO a certificate-awarding body for laboratory accreditation under Pakistani law?
- ii) How do the Federal and Provincial regulatory frameworks function with respect to fertilisers, and are they legally compatible?
- iii) What is the role of Pakistan Standards and Quality Control Authority (PSQCA) and Pakistan National Accreditation Council (PNAC) at the federal level in regulating fertilisers in Pakistan?
- iv) What is the legal status of PNAC accreditation and does it guarantee market protection from substandard fertilisers?
- v) Does the existence of PSQCA and PNAC oversight exclude or displace the authority of the Provincial Government in regulating fertilisers?
- vi) Can the Provincial Government lawfully regulate and penalise substandard imported fertilisers after they enter the provincial market?
- vii) What regulatory provisions are contained in the Punjab Fertilizers (Control) Order, 1973 regarding pricing, sampling, testing, and the sale of adulterated fertilisers?
- viii) What does Section 22 of the Punjab Fertilizers (Control) Order, 1973 provide regarding laboratory reports and the right of appeal?
- ix) Does the Punjab Fertilizers (Control) Order, 1973 qualify as a valid Notified Order under Section 3 of the Punjab Essential Articles (Control) Act?
- x) Does the Punjab Fertilizers (Control) Order, 1973 serve as a valid legal basis for regulatory and penal actions without requiring repeated notifications?
- xi) Does excluding manufacturers from the testing process violate the principles of natural justice and the right to due process under Article 10-A of the Constitution?
- xii) Does the Punjab Fertilizers (Control) Order, 1973 require a test report before holding an accused culpable?



xiii) Does manufacturers entitled to notice at the time of sample collection to prevent liability based solely on batch identification or presumption of ownership?

**Analysis:**

- i) the Hon'ble Supreme Court in case of Saleem Ijaz supra wherein the august Supreme Court read down Rule 22 of the Rules by holding that the ISO is not a certificate awarding institute, rather, the same merely sets and issue international quality standards, which are to be adhered to and enforced by National Accreditation Institutes/bodies.
- ii) the regulatory landscape for fertilizers in Pakistan involves a layered mechanism where federal and provincial regimes operate in tandem. (...)Both Federal and Provincial frameworks operate in distinct but complementary spheres, ensuring a robust system of quality control.
- iii) At the federal level, the PSQCA, operating under the Act 1996, is responsible for issuing licenses to manufacturers, including importers, for products that fall under the Compulsory Certification Scheme. Fertilizers, especially those imported into Pakistan, must conform to the PSQCA mandated standards before being cleared for sale. The issuance of a license, under the Act, 1996 follows a rigorous process that includes product testing, factory audits, and compliance with prescribed Standards. Complementing this framework is the PNAC, which accredits laboratories for testing such products.
- iv) Accreditation under PNAC is valid for specific parameters and product categories and is subject to periodic reassessment to ensure technical competence and compliance with ISO/IEC 17025. (...)the adherence to PSQCA and PNAC ipso facto does not stand as a guarantee that counterfeit, substandard and/or fake fertilizers would not penetrate into the market. This check is ensured through the Provincial laws the obliteration whereof would amount to leaving the market unchecked.
- v) The presence of PSQCA standards for imported fertilizers does not displace the regulatory authority of the provincial government under the Control Order. (...)the existence of PSQCA and PNAC oversight does not displace or oust the authority of the Provincial Governments. Instead, both frameworks work in synergy.
- vi) Thus, imported fertilizers may lawfully be subjected to sampling, testing, and penal action by the provincial authorities if found to be sub-standard post-import.
- vii) Perusal of the Control Order in general and above quoted provision in particular indicates that not only the fixation of maximum price has been dealt with under the Control Order but also information to be furnished by the importers as also the distributors alongwith disposal of the fertilizers and the maximum quantity is dealt with in various provisions thereof. Section 18 prohibits sale of adulterated and fake fertilizers whereas Section 20 pertains to testing laboratories. Similarly, dispatch of samples for test or analysis has been dealt with under Section 19 read with Section 21. The power of the Controller to search and inspect has been envisaged under Section 17 of the Control Order. Section 19 pertains to the procedure of sampling, which contemplates that it should be in the

prescribed form and the person from whose possession it is taken is provided one portion thereof with effective seal and suitable marks.

viii) the report of the testing laboratory is dealt with under Section 22, which also confers the right of appeal before the Additional Secretary (Task Force), Government of Punjab Agriculture Department.

ix) The above referred analysis of Section 3 of the Act read with Preamble of the Control Order indicates that the latter legislation is the Notified Order under the law and the argument raised by the petitioners that penal provisions of the Act are inapplicable in the absence of a specific Notified Order is not tenable. The Control Order itself constitutes a valid and operative legislation under the parent statute—the Act. Its issuance satisfied the requirement of Section 3, which enables the Provincial Government to regulate or prohibit the production, supply, movement, distribution of essential articles

x) this Court is of the opinion that once such Control Orders are notified and are enforceable legal instruments, they are not required to be repeatedly re-notified for every regulatory action. (...) hence, provides the legal foundation for regulatory actions including penal consequences arising from its breach.

xi) the procedure adopted must ensure fairness. The lack of association of the manufacturers—against whom the ultimate penal action is taken—raises a serious concern regarding compliance with the principles of natural justice. This undermines the guarantees as to due process assured under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 as the manufacturer is denied right to be associated with the testing procedure and is, ultimately, roped in the consequences of such procedure.

xii) It is imperative to note that the Control Order does not envisage automatic culpability of the accused unless test report is submitted. While it is well understood that in cognizable offences, the law enforcement agencies may register an FIR without prior notice, the scheme under the Control Order operates differently.

xiii) Therefore, ends of justice require that such manufacturers be given a notice at the time the sample is collected from its distributors/dealers and the former is not implicated solely on the basis of batch identification or presumption that the goods seized in respect of which the samples are taken in fact belong to the manufacturers.

- Conclusion:**
- i) ISO does not issue certifications; it sets international standards enforced by national accreditation bodies like PNAC.
  - ii) Federal and provincial regulatory frameworks operate jointly and complement each other to ensure effective fertiliser control.
  - iii) PSQCA handles licensing under a strict process at the federal level, while PNAC accredits testing laboratories based on technical standards.
  - iv) PNAC accreditation does not guarantee market immunity from substandard fertilisers; provincial oversight remains essential.
  - v) Federal oversight through PSQCA and PNAC does not displace the regulatory authority of the Provincial Government.

- vi) Provincial authorities are legally empowered to test and penalise imported fertilisers found substandard after import.
- vii) The Control Order comprehensively governs pricing, sampling, testing, and prohibits adulterated fertilisers, with procedural safeguards.
- viii) Section 22 of the Control Order mandates issuance of test reports and provides a statutory right of appeal to aggrieved parties.
- ix) The Control Order qualifies as a valid Notified Order under Section 3 of the Act and supports enforcement actions.
- x) Once notified, the Control Order remains enforceable without repeated notifications and forms a lawful basis for penalties.
- xi) Excluding manufacturers from sampling and testing violates due process and undermines the constitutional guarantee under Article 10-A.
- xii) Culpability under the Control Order is conditional on test results, and its framework differs from ordinary cognizable offence procedures.
- xiii) To ensure fairness, manufacturers must be given notice at the time of sampling to avoid unjust implication based on presumption.

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**48. Lahore High Court**  
**Muhammad Nawaz etc. v. Muhammad Farrakh Rauf etc.**  
**Civil Revision No.1-D/2015**  
**Mr. Justice Anwaar Hussain**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2682.pdf>

**Facts:** The respondents instituted a civil suit for seeking declaration and permanent injunction regarding gift deed. Trial Court decreed the suit. Appellate Court upheld the reasoning and rational of the decree of the trial court and dismissed the appeals filled by the petitioners. Through this Civil Revision, the petitioners have challenged the concurrent findings of the lower courts before the High Court.

**Issues**

- i) Whether in the presence of competing claims regarding the identity of the donees, under a registered deed, particularly, when the donor is alive and denying the claimants as the actual donees, the registered deeds can be construed as void or whether it can still be given effect in the light of attending circumstances?
- ii) Whether oral assertions can overturn the documentary evidence?
- iii) Whether a plaintiff has to prove his case beyond a shadow of a doubt or only on a balance of probabilities?
- iv) Whether the donor can retroactively claim that the donees were not the intended beneficiaries?
- v) Whether incorrect details of parentage would invalidate the entire gift deed?
- vi) Whether once a gift is completed, it becomes irrevocable?

**Analysis:** i) Mere denial of a gift or *tamleek* by the donor even if alive does not *ipso facto* render a registered deed void, particularly, where its execution stands admitted or is otherwise proven. The Courts must examine not only the content of the document but the context in which the same was executed, *inter alia*, relationship of donor and donee, absence of fraud, so as to ascertain the identity of the donee.

ii) Oral assertions cannot overturn the documentary evidence, particularly, the registered documents executed, under the law—*Men may lie, but the documents do not*. Once a fact is reduced to writing in a registered instrument, the burden to dislodge that fact becomes extremely heavy... Suffice to mention that Article 103 of the *Qanun-e-Shahadat* Order, 1984 (—QSO) bar the introduction of oral evidence to contradict the terms of a written instrument, except under limited exceptions.

iii) Even though the oral testimony of the respondents—plaintiffs along with ancillary documentary evidence may not have been entirely forceful or free from doubt, the law does not require a plaintiff to prove his case beyond a shadow of a doubt but only on a balance of probabilities. The case of the respondents was based on registered documents whereas the defence has not only failed to bring forth independent evidence in support of its claims but has relied entirely on speculative inferences and afterthoughts, unsupported by any admissible material, which cannot take away the force of registered deeds in favour of the respondents and such defence collapses under its own weight... While both the parties exhibit certain weaknesses in their respective stances, the balance of probabilities favours the respondents. It is an admitted and undisputed fact that petitioners No. 2 and 3 were not even in existence at the time of the execution of the *tamleek* deeds. This fact alone undermines the petitioners' claim that the deeds were executed in favour of the children who were yet to be born.

iv) Petitioner No.1, having executed a gift in favor of the donees shown to be his sons, cannot now retroactively claim that the donees were not the intended beneficiaries, particularly, when he concedes that his own sons were not even born at the relevant time. The doctrine of estoppel bars a party from denying what he has previously affirmed by conduct, representation, or silence when it was his duty to speak. Furthermore, mere error in recording parentage within a registered instrument/deed is generally not fatal and does not invalidate the *tamleek*/gift deed itself, as long as the identity of the donor, donee, and the property being transferred, are clearly and correctly identified, along with the donor's intention to make a gift and the donee's acceptance.

v) Whereas the details of parentage are often included for identification purposes, these details are not considered as fundamental element that, if incorrect, would invalidate the entire gift deed as the registration of the gift deed provides legal validity and ensures that the transaction is properly documented and recognized. Moreover, an error in parentage may lead to some confusion or difficulties in proving lineage in certain situations, but it does not automatically render the gift deed invalid. If there is a dispute arising from an inaccurate recording of parentage, the parties can seek clarification or rectification of the deed through appropriate legal channels.

vi) Under Islamic law, once a *gift/hiba/tamleek* is completed—by way of declaration, acceptance, and delivery of possession, it becomes irrevocable, and any attempt to undo such a transaction is strongly discouraged. The Prophet Muhammad (ﷺ) has strongly deprecated such act of revocation, in the strongest moral terms, by stating that the revocation of a gift is

akin to a dog returning to its vomit. This Court is of the opinion that where a gift and/or *tamleek* is further recognized through a registered document, the presumption of finality and intentionality is fortified under both Islamic and statutory principles.

- Conclusion:**
- i) Mere denial of a gift or *tamleek* by the donor even if alive does not *ipso facto* render a registered deed void.
  - ii) Oral assertions cannot overturn the documentary evidence
  - iii) the law does not require a plaintiff to prove his case beyond a shadow of a doubt but only on a balance of probabilities.
  - iv) See above analysis No. iv
  - v) See above analysis No. v
  - vi) See above analysis No.vi

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**49. Lahore High Court**  
**M/s GB Security Services (PVT) Limited v. The Federation of Pakistan and 4 Others**  
**Writ Petition No. 13433 of 2023**  
**Mr. Justice Sultan Tanvir Ahmad**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2854.pdf>

**Facts:** The petitioner was providing service under item No. 26 of the second schedule to the Punjab Sales Tax on Services Act-2012, for security purposes at the sites described in the related agreement to the recipient of the services. It was the claim of the respondent-authority that the tax is leviable on the entire invoice amount including salaries or other allowances that are paid by the service providers to security personnel, labour and manpower. Service providers have argued that the claim of the respondent-authority is based on misinterpretation of different provisions of Punjab Sales Tax on Services Act-2012.

**Issue:**

- i) Whether salaries paid to employees by service providers are liable to sales tax under the Punjab Sales Tax on Services Act, 2012?
- ii) Whether the phrase “gross amount” in Section 7(1) of the PSTS-Act can be interpreted to include salaries, in light of the rules of statutory construction requiring harmonious interpretation and avoidance of redundancy?

**Analysis:**

- i) Section 6(3) of PSTS-Act has specifically excluded the activities of employees providing service in that capacity to the employer, from the purview of economic activity. A reading of the agreement clearly reflects that the individuals deployed at the sites of the recipient(s) of service retain their positions of employment with the service providers. The individuals are the employees of the service providers.
- ii) Adopting harmonized approach it is clear that the words 'gross amount' are introduced to clarify that tax is to be levied on the amount that include all the taxes or duties, Federal or Provincial besides sales tax on services. The words 'gross amount' if given construction to include the salaries results into redundancy of section 6(3) of PSTS-Act. No provision of an enactment can be treated as

redundant or surplus and should be given its meaning and effect. Courts should avoid any interpretation of an enactment or rules that flouts common sense and results into absurdity and harmonize the contradictory provision in order to give effect to both the provisions.

**Conclusion:** i) The quantum and component of service is taxable and not the amount being reimbursed by the recipient as salaries of the individuals to the service providers.  
ii) The phrase “gross amount” in Section 7(1) of the PSTS-Act cannot be interpreted to include salaries, as doing so would render Section 6(3) redundant and violate the established rules of statutory construction requiring harmonious interpretation and the avoidance of absurd or conflicting outcomes.

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**50. Lahore High Court**  
**M/s. Auto Craft v. Appellate Tribunal Inland Revenue, Lahore and another**  
**STR No.23259 of 2017**  
**Mr. Justice Sultan Tanvir Ahmad, Mr. Justice Hassan Nawaz Makhdoom**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2906.pdf>

**Facts:** This Sales Tax Reference has been filed under section 47 of the Sales Tax Act, 1990 challenging the order passed by the Appellate Tribunal Inland Revenue, whereby it has rectified its earlier decision.

**Issues:** i) What is the limitation and requirement for assessment or recovery order under section 11(5) of the Sales Tax Act, 1990?  
 ii) What is limitation for assessment order after issuance of show cause notice and under what situation extendable?  
 iii) Whether section 57 of the Sales Act, 1990 authorizes Appellate Tribunal Inland Revenue to rectify a mistake?  
 iv) Whether dismissal of a lis on limitation due to mistaken reliance on an incorrect date could be rectified under section 57 of the Sales Tax Act, 1990?

**Analysis:** i) It is observed that the aforesaid provision mandates that no assessment or recovery order shall be passed by an officer of Inland Revenue unless a show cause notice is issued within five years from the end of the financial year in which the relevant date falls, clearly specifying the grounds of action, and the taxpayer is provided a fair opportunity of being heard.  
 ii) Furthermore, the assessment order should be passed within 120 days from the issuance of the notice; however, the Commissioner may extend this period by recording reasons in writing, but such extension shall not exceed 90 days. Additionally, the period during which proceedings remain stayed by a court, are pending ADR, or are adjourned due to the taxpayer’s own request (not exceeding 60 days) shall be excluded from the computation of the prescribed limitation.  
 iii) A careful reading of the above reproduced provision of law reveals that it authorizes the Tribunal to rectify any mistake apparent from the record on its own motion or upon being brought to its notice.  
 iv) In the present case, the date of issuance of the SCN formed the sole basis of



the finding on the question of limitation. The mistaken reliance on an incorrect date led to an erroneous conclusion that the assessment order was barred by time. The correction of this error being purely factual, apparent, and fundamental squarely falls within the ambit of section 57 of the Act.

- Conclusion:**
- i) An assessment or recovery order by An Inland Revenue Officer cannot be passed without issuance of a show cause notice, within five years from the end of the financial year in which the relevant date falls.
  - ii) The assessment order should be passed within 120 days from the issuance of the notice, which is extendable by the Commissioner upto 90 years. Further the time consumed in litigation would be excluded in such computation.
  - iii) Section 57 of the Sales Act, 1990 authorizes Appellate Tribunal Inland Revenue to rectify a mistake.
  - iv) The mistaken reliance on an incorrect date led to an erroneous conclusion that the assessment order was barred by time. The correction of this error being purely factual, apparent, and fundamental squarely falls within the ambit of section 57 of the Act.

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**51. Lahore High Court**

**Tassawar Ali Khan Rana etc. v. Province of Punjab etc.**

**Writ Petition No. 42822/2021**

**Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Malik Waqar Haider Awan**

<https://sys.lhc.gov.pk/appjudgments/2025LHC2787.pdf>

**Facts:** Through this constitutional petition, petitioners have questioned the legality and validity of acts/orders/amendments made by Government of the Punjab and it has been prayed that same may be declared as ultra vires, unconstitutional, illegal and void ab initio.

**Issues:**

- i) Whether an adverse statutory rule or notification affecting a civil servant's terms and conditions falls within the exclusive jurisdiction of the Administrative Tribunal under Article 212 of the Constitution.
- ii) Whether the constitutional jurisdiction under Article 199 is ousted by Article 212 in matters relating to the terms and conditions of service of a civil servant?
- iii) Whether the term "public servant" encompasses a broader category than "civil servant"?

**Analysis:**

- i) A statutory rule or notification adversely affects terms and conditions of a civil servant, the same will be treated as a final order and for adjudicating upon the same, exclusive jurisdiction lies with an Administrative Tribunal established under the command of Article 212 of the Constitution.
- ii) The language used by the legislature in Article 212 of the Constitution makes Article 199 of the Constitution subservient to it and gives Article 212 an overriding effect over the other Articles of the Constitution qua the enforcement of terms and conditions of service of a civil servant. As the jurisdiction exercised by this Court under Article 199 of the Constitution is subject to the Constitution,



therefore, Article 212 of the Constitution ousts the jurisdiction of this Court in the cases pertaining to enforcement of terms and conditions of services of a civil servant.

iii) It would be important to mention here that “public servant” is a broader term which includes not only civil servants but also other government entities like armed forces, judiciary and statutory corporations, thus it could be said that every civil servant is a public servant because he serves the public and is paid salary from the public exchequer but every public servant is not a civil servant.

**Conclusion:** i) See analysis No i.  
 ii) Article 212 of the Constitution ousts the jurisdiction of this Court in the cases pertaining to enforcement of terms and conditions of services of a civil servant.  
 iii) “Public Servant” is a broader term which includes not only civil servants but also other government entities like armed forces, judiciary and statutory corporations.

**52. Lahore High Court**  
**Shabana Parveen v. Malik Mohsin Hassan Rasheed etc.**  
**Writ Petition No. 45912/2022**  
**Mr. Justice Malik Waqar Haider Awan**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2894.pdf>

**Facts:** The respondents No. 1 to 3 submitted an application requesting the production of a witness. Concurrently, the petitioner filed an application seeking directions for respondents No. 1 to 3 to deposit rent in the Court. Through a consolidated order, the learned Civil Judge granted the application from respondents No. 1 to 3 while dismissing the petitioner's application. Dissatisfied with this outcome, the petitioner appealed the decision, but the learned Additional District Judge dismissed the appeal. Hence this writ petition.

**Issues:** i) Whether provision of Section 22(3) of the Act is directory or mandatory in nature?  
 ii) Whether order for deposit of rent in Court can be passed by the Special Judge (Rent)/Rent Tribunal when relationship of landlord and tenant is yet to be determined?

**Analysis:** i) Although in Section 22(3) of the Act, the words “affidavits of not more than two witnesses” have been mentioned but these words are directory in nature and Court can exercise its jurisdiction keeping in view the facts of the case and can allow more witnesses to appear in the witness box and depose. The purpose of the Act is to regulate the relationship between landlords and tenants in Punjab and provide a mechanism for resolving disputes in a timely and cost-effective manner. The rationale behind mentioning of number of witnesses is actually to curtail the time spent in rent matters and expeditious disposal thereof.  
 ii) Where relationship of landlord and tenant is denied by the tenant, he cannot be compelled to deposit the rent till the relationship is established. It is, however,

observed that at the definitive end of the proceedings, if petitioner succeeds to establish the relationship of landlord and tenant with respondents No.1 and 3, rent would be recoverable through an execution petition.

**Conclusion:** i) Said provision is directory in nature.  
ii) No, until the relationship is established.

**53. Lahore High Court**  
**Province of Punjab etc. v. Syed Muhammad Ali Raza Shah**  
**ICA No. 2407/2025**  
**Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Malik Waqar Haider Awan**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2777.pdf>

**Facts:** Through the petitions, the petitioners claimed appointments under Rule 17-A of the Punjab Civil Servants (Appointment and Conditions of Service) Rules, 1974 prior to its rescission. The appellants challenged the judgment which granted such claims, arguing its inconsistency with a subsequent Supreme Court ruling.

**Issues**

- i) Who is protected under the exceptions carved out in the case of General Post Office, Islamabad and others v. Muhammad Iqbal?
- ii) Do declarations by superior courts apply retrospectively to pending, unresolved situations?
- iii) Whether Rule 17-A of the Rules becomes non est from its insertion?
- iv) What is the legal effect of the omission of Rule 17-A on persons whose appointments were still in process?
- v) What is the legal status of persons who had already taken benefit of Rule 17-A before its omission?

**Analysis:**

- i) It is very much clear from the above that only two following exceptions have been given:- (i) Appointments already made of the widow/widower, wife/husband or child of deceased or retired civil servants. (ii) The benefits given to the legal heirs of martyred personnel or the law enforcement agencies and of civil servants who die on account of terrorist activities and were protected through policies, rules or compensation packages of the Federal and Provincial Governments.
- ii) It is the principle of interpretation that declarations made by the superior courts are operative retrospectively over all the pending situations which have not been finalized.
- iii) We are not inclined to agree with the argument of learned Additional Advocate General that Rule 17-A of the Rules becomes non est from its insertion for the reason that neither malafide has been attributed to Rule 17-A of the Rules nor any violation of law has been agitated as a consequence to which Rule 17-A of the Rules becomes inoperative from the date of its omission (24.07.2024), hence the case of Shahid Pervaiz (supra) would not be attracted and applicable retrospectively over the past and closed chapter to the employees who had been appointed before the omission of Rule 17-A of the Rules.

- iv) However, the case of General Post Office, Islamabad and others (supra) will be applicable retrospectively to the persons who had not been appointed till the omission of Rule 17-A of the Rules and their appointments are still in process.
- v) The persons who have taken benefit of Rule 17-A of the Rules till its omission dated 24.07.2024, that process would deem to be a past and closed chapter.

**Conclusion:**

- i) See analysis No.i.
- ii) Superior court declarations apply retrospectively to all unresolved and pending legal matters.
- iii) Rule 17-A remains valid until its omission, and does not become void from its inception; prior appointments under it are legally protected.
- iv) Appointments not finalized before the omission of Rule 17-A are subject to the retrospective effect.
- v) Completed appointments under Rule 17-A before its omission are considered final and unaffected by subsequent legal changes.

**54. Lahore High Court**  
**Sheikh Proteins Pvt. Ltd. v. Punjab Food Authority, Lahore etc.**  
**Writ Petition No. 5943 of 2022**  
**Mr. Justice Syed Ahsan Raza Kazmi**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2696.pdf>

**Facts:** By way of filing writ petition, the respondents, being the regulatory authority, issued the impugned notice to the petitioner company, therein communicating certain instructions and requiring the petitioner company to obtain registration certificate under the Punjab Food Authority Act, 2011 for carrying out the sale of eggs for human consumption.

**Issue:** Whether the petitioner company, being licensed under the Punjab Poultry Production Act of 2016 for poultry farming is still subject to the licensing requirement under section 15 of the Act of 2011 when it engages in the sale of eggs for human consumption?

**Analysis:** The Act of 2016 deals with the registration of poultry premises, regulation of poultry production, and enhancement of biosecurity measures. The Act of 2011, by contrast, is designed as a food safety statute. Its preamble makes clear its object: to protect public health and regulate food safety and standards. It is evident that the two statutes operate in distinct but complementary spheres. The Act of 2016 regulates the production environment and standards applicable to poultry farming. The Act of 2011 intervenes at the point where food is introduced into the consumer supply chain. The sale of eggs for human consumption falls squarely within the ambit of the latter.

**Conclusion:** The petitioner, upon engaging in the sale of eggs, is operating a food business within the meaning of Section 15 of the Act of 2011. The Food Authority was, therefore, acting within its statutory mandate in requiring the petitioner to obtain a license.

**55. Lahore High Court**  
**Zain ul Abiden v. Province of the Punjab etc.**  
**W.P.No.6561 of 2024**  
**Mr. Justice Syed Ahsan Raza Kazmi**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2676.pdf>

- Facts:** Through the instant Writ Petition, the petitioner has challenged the action of the respondents whereby the respondents No.3 and 4 withheld the LL.B degree of the petitioner on the direction of respondent No.2 alleging that the petitioner obtained scholarship from respondent No.2 deceitfully and he is, therefore, liable to return the same.
- Issues:** i) How should a statutory authority / organization or an autonomous body align its actions?
- Analysis:** i) It is trite law that a statutory authority / organization or an autonomous body must ensure its actions aligned with the principles of justice and settled law, avoiding the measures that contradict these norms.
- Conclusion:** i) It must ensure its actions aligned with the principles of justice and settled law, avoiding the measures that contradict these norms.

**56. Lahore High Court**  
**Jahandad v. Additional District Judge & others**  
**Writ Petition No.1230 of 2015**  
**Mr. Justice Malik Javid Iqbal Wains**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2916.pdf>

- Facts:** The plaintiff filed a suit against the defendant alleging street encroachment between the parties, which the trial court decreed in his favour. The appellate court, while disposing of the appeal, required the municipal authority to determine the encroacher. The executing court dismissed the execution based on official reports denying the street's existence. The High Court upheld this dismissal, restoring the executing court's order.
- Issues:** i) What is meant by the term "observation" in legal context?  
 ii) What would be legal consequences when term "observation" is used alongside the term "has come to conclude"?  
 iii) What is mean by the term "disposed of"?  
 iv) What are the powers of Appellate Court while deciding an appeal?
- Analysis:** i) Let take a look into this term so as to understand its implication. In legal contexts, the term "observations" refers to comments, remarks, or opinions expressed by a judge in a judgment. These are also known as "obiter dicta" ("things said by the way"). Mere observations in judgments/decisions do not have the force of law and do not create any binding legal precedent. Furthermore, it is settled principle of law that judicial observations are not binding unless they form

part of the decision's reasoning. These observations may provide guidance but do not have the force of law unless they form part of the ratio decidendi. Black's Law Dictionary does not provide a direct definition for "observations", but it defines related terms like "obiter dictum", which is closely linked, Obiter Dictum (Dicta): "A remark, opinion, or statement in a judicial decision that is not necessary to support the ruling and therefore not legally binding as precedent. Oxford Dictionary of Law, defines judicial "observations" as "remarks or comments made by a judge in a case that do not form a necessary part of the legal decision." Wharton's Law Lexicon, describes "observations" as "judicial expressions that may be persuasive but are not legally enforceable."

ii) The use of term "observations" alongside "has come to conclude" indicates that, after thoroughly reviewing the facts, legal arguments, and evidence, the appellate court has reached a definite point, an actual bone of contention. Based on these findings, the appellate court's actions effectively amount to a modification of the trial court's decree, when, in particular, appellate court indicated root cause of controversy, touching issue of alleged encroachment over a street. Even if the term "modification" has not been explicitly used, any alterations made by the appellate court in the judgment while explaining mechanism and process of determination of defaulting- party and steps to be taken for the enforcement of decree, in a suit for injunction. These observations and findings tantamount to introduce material modification in the original judgment.

iii) Another term which was explicitly used by the appellate court in its judgment is "disposed of". "The "OXFORD PAPERBACK THESAURUS, INDIAN EDITION" at page 239 shows informal meaning of dispose of as "get shut of"... As per Cambridge dictionary, dispose of means "to get rid of someone or something or deal with something so that the matter is finished"

Taking benefit from the information mentioned supra, in view of this Court, by "disposing of" means that the Court has reached a conclusion or determination on the merits of the case.

iv) The Hon'ble Supreme Court of Pakistan in a case of BASHIR AHMED vs. Mst. TAJA BEGUM and others (PLD 2010 Supreme Court 906) while elaborating the scope of appellate court has held as under: -

"5. Section 96 of C.P.C. in relevant part provides as under:-...

This provision enables the appellate Court to take a second look at all legal and factual aspects of a case brought it by a party aggrieved of the judgment of a trial Court. The appellate Court not only can but is required to reappraise the evidence and to thereby reach its own conclusion which may be different from the one arrived at by the trial Court."

Similar view was affirmed in the case of "MUHAMMAD AKRAM vs. Haji IJAZ AHMED and others (2006 S C M R 946). In "Punjab Industrial Development Board vs. United Sugar Mills Limited" (2007 SCMR 1394), it was further held as under: - "6. It is also a settled law that Appellate Court has to decide the appeal after independent application of mind and mere reproduction of the judgment of the trial Court and thereafter dismissing the appeal is not in consonance with the law laid down by this Court in Ghulam Mohayyuddin's case PLD 1964 SC 829."

The crux of these judgments enunciates that the appellate court was fully competent to independently re-evaluate both the legal and factual aspects of the case. It must not merely adopt the trial court's reasoning, but instead apply its own judicious mind to ensure that the decree of the trial court reflects a just and fair outcome. When the appellate court finds that the trial court's order requires adjustment, it has the authority to modify the decree to better align with the principles of justice.

**Conclusion:** i) See above analysis (i)  
 ii) See above analysis (ii)  
 iii) See above analysis (iii)  
 iv) See above analysis (iv)

**57. Lahore High Court**  
**Danish Riaz Dar v. The State, etc.**  
**Crl.Misc.No.1832-B of 2025**  
**Mr. Justice Malik Javid Iqbal Wains**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2901.pdf>

**Facts:** The petitioner has sought pre-arrest bail in criminal case registered with allegations that he being employed at an Electronic Shop and assigned duty to recover installments from customers, committed criminal breach of trust by misappropriating large number of collected evidence.

**Issue:** i) What is concept of trust envisaged in Pakistan Penal Code, 1860 (PPC)?  
 ii) What are necessary ingredients to constitute the offence of criminal breach of trust under PPC?  
 iii) What are requirements of first condition as above to make out offence of criminal breach of trust under PPC?  
 iv) Which grounds can be taken into account by the Court to grant pre-arrest bail to the accused?

**Analysis:** i) The concept of trust envisages that one person (the settlor), while relying on another (the trustee) and reposing special confidence in him, entrusts property or assets to him. There is a fiduciary relationship between the two in law.  
 ii) The necessary ingredients of criminal breach of trust under the above provision are, (i) the accused must be entrusted with property or dominion over it, and (ii) he must have dishonestly misappropriated the property or converted it to his own use, or disposed of it in violation of the trust.  
 iii) The first condition under Section 405 PPC involves three key elements, entrustment, dominion, and property. "Entrustment" refers to the transfer of possession for a specific purpose without conferring ownership. "Dominion" implies control or authority over the property. The term "property" is used broadly and should not be confined to movable assets alone. However, the presence of "entrustment" and "dominion" must be assessed in the context of the relationship between the parties and the nature of the property allegedly



misappropriated. Notably, a breach of trust can only occur if the property belongs to someone other than the accused.

iv) It is a settled principle of law that pre-arrest bail is an extraordinary relief and may be granted where the petitioner can show that the accusation has been made with mala fide intent, ulterior motives, or to cause humiliation and disgrace, and where irreparable harm may result from arrest (...) It is well-settled that pre-arrest bail may be granted not only on the basis of mala fide or ulterior motives, but also where the accusation necessitates further investigation.

- Conclusion:**
- i) Trust involves one person giving property to another with confidence, creating a fiduciary duty.
  - ii) Necessary ingredients to constitute offence of criminal Breach of Trust are entrustment of property and dishonest misappropriation.
  - iii) First condition of criminal breach of trust involve entrustment, dominion and property.
  - iv) pre-arrest bail can be granted not only on the basis of mala fide or ulterior motives, but also where the accusation necessitates further investigation.

**58. Lahore High Court**  
**Muhammad Hafeez. V. Muhammad Ramzan & 17 others**  
**Writ Petition No. 10459 of 2019**  
**Mr. Justice Khalid Ishaq**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2832.pdf>

**Facts:** The petitioner filed a suit challenging a registered gift deed concerning agricultural land, alleging that the donor has lost normal prudence due to protracted illness, thereby unlawfully depriving certain heirs. The property was later transferred through registered sale deeds to third parties, and the petitioner, claiming inheritance, contested these transactions after the death of the original heir. The trial court dismissed an application under Order VII rule 11 of CPC for rejection of the plaint. The appellate court reversed the trial court's decision and rejected the plaint.

- Issues**
- i) Does a legal heir retain the right to challenge a transaction if the predecessor did not contest it during their lifetime and third-party rights have been created?
  - ii) Under what exceptional circumstances can an inheritance claim avoid the bar of limitation where the predecessor failed to challenge the impugned transaction during their lifetime?
  - iii) Can an inheritance claim be sustained despite limitation, waiver, and acquiescence, particularly where third-party rights have subsequently accrued?
  - iv) Is the question of limitation automatically inapplicable in inheritance claims by female heirs against male heirs?
  - v) Is recording of evidence necessary when the plaint is evidently barred by law?
  - vi) Whether a litigant should explain each day of delay when filing a suit beyond the limitation period?



- vii) Does Order VII Rule 11 C.P.C empower the Court to reject frivolous suits on its own motion?
- viii) Is it the Court's duty to examine limitation under Section 3 of the Limitation Act even without an objection from the parties?
- ix) Can a person who fails to timely object be later estopped from raising that objection?
- x) Does limitation apply even to the challenge of a void order?
- xi) Can the High Court interfere under Article 199 merely because a subordinate court's decision is incorrect?
- xii) Can Article 199 jurisdiction be used as a substitute for a second appeal or revision?

**Analysis:**

- i) The law has been well settled that if a predecessor has not challenged a transaction in his/her lifetime, which transaction purports to deprive the predecessor of his/her share and 3rd party rights have been created, simple claim on the basis of inheritance will not absolve the question of limitation.
- ii) the settled legal position emerges that only in the cases of exceptional facts, the question of limitation has not been treated as a statutory bar against the claims of inheritance. Those exceptional cases may be summed up in the following terms: i. Cases filed by female heirs, within their lifetime, claiming fraud and misrepresentation played against them qua the immoveable property left behind by their predecessor in interest; ii. Cases where it is pleaded and proved that the deprived female heir(s) were being paid some proportionate share from the income/lease of the immoveable property in question; iii. Cases where a co-sharer has successfully pleaded and proved that the rival heir or co-sharer was in deemed possession of immoveable property on behalf of all other heirs/siblings; iv. Cases where no third-party rights have been created in the immoveable property, which is/was subject matter of undisputed inheritance; v. Cases where the elements of acquiescence and waiver are absent on the part of the claimant legal heir or his/her predecessor in interest.
- iii) For the cases, where the element of acquiescence and waiver is depicted from the facts of the case, though the claim was based on inheritance, the argument of brushing aside the limitation on the basis of inheritance claim was not entertained, (...)The above judgments authoritatively settle the law on the subject that a claim of inheritance must cross the bridge of limitation, waiver and acquiescence. An unchecked tendency of encouraging a relief in the guise of inheritance is not warranted under the law, particularly when the property in issue changes hands and the slumber of a purported claimant of inheritance crystalizes valuable rights in favour of third party(s). The encouragement of such claims and long drawn trials in statute barred suits is counterproductive for genuine and bona fide claims of female heirs.
- iv) In various claims of inheritance brought by female legal heirs against their brothers/male heirs, the Supreme Court of Pakistan has authoritatively held that the question of limitation cannot be ignored in every such case and such question of limitation is dependent upon the facts and circumstances of each case.

- v) it is observed that when the plaint is barred by any law on the face of it, recording of evidence would be a futile exercise and meant to encourage the abuse of process of law.
- vi) Aggrieved person has to pursue his legal remedies with diligence and if a suit is beyond limitation, the delay of each and every day consumed for approaching the Court beyond the period of limitation has to be explained
- vii) By specifically incorporating the provision in terms of Order VII Rule 11 C.P.C, the legislature has empowered the Court with an independent Suo Motu and Sua Sponte power to examine the plaint by using its wisdom. The Courts always nip a frivolous suit in the bud, by rejecting such frivolous, fictitious and untenable claims in order to retain Courts' docket and time for more serious claims.
- viii) Keeping in view the mandatory provision of Section 3 of the Limitation Act, it is duty of every Court and forum itself to look into the question of limitation irrespective of the fact whether any objection in this regard has been raised or not
- ix) Moreover, where a person is aggrieved of an action and if such person did not object, he/she shall be held to have waived his/her right to object and shall be estopped from raising such objection at later stage
- x) It is also settled principle of law that the limitation runs even against a void order and a void order too has to be challenged within limitation
- xi) The extent to which the jurisdiction under Article 199 of the Constitution can be invoked has been assessed by the Supreme Court of Pakistan over the course of several decades. In the case of Muhammad Hussain Munir<sup>27</sup>, Supreme Court of Pakistan has held that High Court, while exercising Jurisdiction under Article 199 of the Constitution, in the matters arising from Appellate or Revisional orders, should only be concerned with whether or not the Courts below acted within their jurisdiction. If such a Court has the jurisdiction to decide a matter, it is considered competent to make a decision, regardless of whether the decision is right or wrong and even if the said decision is considered to be incorrect, it would not automatically render it as being without lawful authority
- xii) The object of exercising Jurisdiction under Article 199 of the Constitution is to foster justice, preserve rights and to right the wrong. The conversion of scope of exercise of constitutional jurisdiction into that of a second appeal or second revision has consistently been deprecated by the Supreme Court of Pakistan.

- Conclusion:**
- i) Inheritance claims can't bypass limitation if the predecessor didn't challenge the transaction and third-party rights exist.
  - ii) Limitation in inheritance claims is only relaxed in exceptional cases involving fraud, income sharing, constructive possession, absence of third-party rights, or no waiver/acquiescence.
  - iii) Inheritance claims must overcome limitation, waiver, and acquiescence; courts discourage misuse of inheritance claims where third-party rights have vested.
  - iv) Limitation is not automatically inapplicable in female heirs' claims; its applicability depends on the specific facts and circumstances of each case.

- v) When a suit is clearly barred by law on the face of the plaint, evidence is unnecessary.
- vi) Every day of delay in filing beyond limitation must be explained.
- vii) Courts can reject baseless suits under Order VII Rule 11 C.P.C on their own motion.
- viii) Under Section 3 of the Limitation Act, every court must independently examine limitation, even if not raised by the parties.
- ix) Failure to object in a timely manner constitutes waiver, and the aggrieved party is estopped from later challenging the action.
- x) Limitation also applies to void orders.
- xi) Under Article 199, the High Court can only intervene in lower court decisions where jurisdictional error exists, not merely for incorrect rulings.
- xii) Article 199 cannot be used as a second appeal or revision.

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**59.**

**Lahore High Court**

**The State vs. Shahid Mahmood alias Demo**

**Murder Reference No.323 of 2023**

**Shahid Mahmood alias Demo Vs. The State.**

**Criminal Appeal No. 4189 of 2024**

**Mr. Justice Muhammad Tariq Nadeem, Mr. Justice Raja Ghazanfar Ali Khan**

<https://sys.lhc.gov.pk/appjudgments/2025LHC2794.pdf>

**Facts:**

A robbery occurred at a jewellery shop during which several armed assailants looted valuables and opened fire, resulting in the deaths of a shop occupant and a passer-by. Initially, the case was registered against unknown persons. Later, a co-accused arrested on the same day disclosed the appellant's name. The appellant was arrested over a year later and was identified in a delayed identification parade held after 20 months. A Kalashnikov was recovered at his instance from an abandoned location not proven to be in his exclusive possession. He denied all allegations and claimed false implication. The trial court convicted him and awarded the death sentence, which was subsequently challenged.

**Issues:**

- i) Whether mere suspicion, however strong, can substitute legal proof in a case involving a capital charge?
- ii) Whether the statement of a co-accused can be used as evidence against another accused in a criminal trial?
- iii) Whether an identification parade conducted after an unexplained delay of over 20 months, without prior description of the accused's features, holds any evidentiary value?
- iv) Whether a piece of prosecution evidence not put to the accused in his statement under section 342 Cr.P.C. can be used against him?
- v) Whether medical evidence alone, without attributing a specific role to the accused, can be used to establish his culpability in a murder case?
- vi) Whether the recovery of a weapon, without its forensic linkage to crime empties, can be treated as incriminating evidence against the accused?

vii) Whether recovery from an open place, not in exclusive possession of the accused holds evidentiary value?

- Analysis:**
- i) In a case of capital charge, the prosecution must prove its case beyond reasonable doubt through cogent and convincing evidence. Mere suspicion, howsoever strong, cannot substitute legal proof.
  - ii) It is settled principle of law that statement of accused cannot be used against his coaccused because the same is inadmissible in the eye of law. Reliance is placed upon the following case laws titled as “Shabiul Hassan vs. The State” (PLD 1991 SC 898) and “Shafqat Abbas and another vs. The State” (2007 SCMR 162).
  - iii) The incident took place on 29.08.2018, but the identification parade was conducted after more than 20 months on 30.04.2020. No explanation has been offered for this considerable delay... Similarly, no features of the appellant and his co-accused have been described in the crime report as well as statements of PWs under section 161 Cr.P.C. In this way, identification parade has no legal worth.
  - iv) It is also worth mentioning here that the said identification parade was never put to the appellant in his statement under section 342 Cr.P.C. It is settled law that if any piece of prosecution evidence, which has not been put to accused in his statement under section 342 Cr.P.C does not have any legal sanctity.
  - v) In the present case, no specific role of inflicting the injuries on the body of any deceased has been attributed to the appellant, thus the medical evidence does not support to his extent. z. It is settled by now that the medical evidence is only a corroborative piece of evidence which can tell about nature of injuries, the kind of weapon used etc. but cannot identify the culprit.
  - vi) The said recovery is totally inconsequential in proving the guilt of the appellant for multiple reasons. Firstly, no crime empty was sent to the Punjab Forensic Science Agency (PFSA) for matching with the recovered Kalashnikov (P.15). The absence of such forensic linkage renders the recovery a disjointed event, unconnected with the actual offence in question. It is now firmly established that mere recovery of a weapon cannot by itself be treated as incriminating unless it is corroborated through forensic comparison with crime empties.
  - vii) The principle that recovery must be from the conscious and exclusive possession of the accused has been emphasized by the august Supreme Court of Pakistan in case of “*Arshad Khan vs. The State (2017 SCMR 564)*” wherein it is held that recoveries effected from open or unoccupied places, or from places not shown to be in exclusive possession of the accused, carry little evidentiary value.

- Conclusion:**
- i) See above analysis No i.
  - ii) Statement of accused cannot be used against his co-accused.
  - iii) See above analysis No iii.
  - iv) if any piece of prosecution evidence, which has not been put to accused in his statement under section 342 Cr.P.C does not have any legal sanctity.

- v) Medical evidence is only a corroborative piece of evidence which cannot identify the culprit.
- vi) mere recovery of a weapon cannot by itself be treated as incriminating unless it is corroborated through forensic comparison with crime empties.
- vii) See above analysis No vii.

**60. Lahore High Court**  
**Sheraz, etc. v. The State, etc.**  
**Criminal Appeal No.77776 of 2021**  
**Mrs. Justice Abher Gul Khan.**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2663.pdf>

**Facts:** The appellants were convicted under various sections of the Punjab Food Authority Act, 2011, as amended in 2016, for allegedly operating a unit that manufactured synthetic/adulterated milk. The prosecution's case was based on a raid by the Food Authority, during which certain materials allegedly used for producing synthetic milk were recovered. However, the appellants filed appeal against conviction in which they denied the allegations and claimed that no conclusive evidence was presented against them.

**Issues:**

- i) Importance of presenting all relevant physical evidence in court.
- ii) Quantity of the adulterated material to met the threshold requirement to constitute an offence.
- iii) What are the legal and procedural requirement of documenting and communicating the seizure of adulterated food products?
- iv) Whether the withholding of material evidence by the prosecution raises a presumption adverse to its case under the Qanun-e-Shahadat Order?

**Analysis:**

- i) It is important to mention here that Rule 14-F, Part-B, Chapter-24, Volume III of the Rules and Orders of the Lahore High Court, Lahore emphasizes the importance of presenting all relevant physical evidence in court and highlights the necessity of establishing their connection to the case and verifying their identity through witness testimony. Besides that, the rule also underscores the role of tendering tangible evidence in supporting legal arguments and ensuring a fair trial.
- ii) Under section 22A of the Punjab Food Authority Act, 2011, as amended in 2016, clearly states that the offence applies only when the quantities of adulterated food meet or exceed the specified levels outlined in the Schedule
- iii) Section 13 (2) of the Punjab Food Authority Act, 2011 envisages that a Food Safety Officer shall create a statement detailing the food, equipment, utensils, or vehicle that has been seized and shall provide a copy of this statement to the individual from whom the items were taken. If that individual is not present, a copy shall be sent to him by mail.
- iv) The Hon'ble Supreme Court of Pakistan in the case of *Muhammad Rafique, etc. v. State & others* (PLJ 2011 SC 191) held as under:-

“that if any party withholds the best piece of evidence then it can fairly be presumed that the party had some sinister motive behind it. The presumption under Article 129 (g) of Qanun-e-Shahadat Order can fairly be drawn that if PW would have been examined, his evidence would have been unfavourable to the prosecution.”

**Conclusion:** i) All relevant physical evidence should be produced in court  
 ii) See above analysis No ii.  
 iii) See above analysis No iii.  
 iv) If evidence is withheld by the prosecution, presumption under Article 129 (g) of Qanun-e-Shahadat Order can fairly be drawn that if such evidence would have been produced, that would have been unfavourable to the prosecution.

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**61. Lahore High Court**  
**Criminal Revision No.17582 of 2025**  
**(Muhammad Ashraf etc. Vs. Additional Sessions Judge etc.)**  
**Mrs. Justice Abher Gul Khan**  
<https://sys.lhc.gov.pk/appjudgments/2025LHC2763.pdf>

**Facts:** According to record Muhammad Akram, husband of Mst. Naseem Rani was murdered and FIR was got registered on the complaint of Mst. Naseem Rani who did not nominate any accused and mentioned in the complaint that three unknown accused took the life of Muhammad Akram. Petitioner No.1 got recorded statement under section 161 Cr.P.C. in which he implicated Mst. Naseem Rani (respondent No.2) for the commission of murder of his brother along with her son, during the course of investigation they got recovered the bloodstained clothes of the deceased along with weapon of offence i.e. club and shirt used for strangulating the deceased. She on the one hand was facing the trial in challan case and on the other hand filed a complaint under section 200 Cr.P.C. The learned Additional Sessions Judge, whereby summoned all of them to face trial in a private complain, hence this revision.

**Issue:** i) Which facts must be disclosed in the body of a private complaint for issuance of summons and what is the duty of a court in this regard?  
 ii) What is the purpose and objective of examination of a complaint under Section 200 of the Code of Criminal Procedure?

**Analysis:** i) The complaint is to state the facts to satisfy the Court of the existence of every ingredient of alleged offence, otherwise, complainant would not be entitled to invoke aid of the Court and to foist travails of criminal trial on a person, accused by him. In order to constitute offence, complainant must disclose existence of both basic ingredients namely unlawful act “actus rea” and criminal intent “mens rea” on the part of accused. Before issuing process, the Court is under obligation to satisfy itself for the purpose of ascertaining the truth or falsehood of the complaint as to the existence or non-existence of sufficient grounds to issue process against the accused.



ii) Main object of dealing with the examination of complaint under Section 200 Cr.P.C. is to protect the public from false, frivolous and vexatious complaints filed against them.

**Conclusion:** i) Before issuing process, the Court is under obligation to satisfy itself for the purpose of ascertaining the truth or falsehood of the complaint as to the existence or non-existence of sufficient grounds to issue process against the accused

### **LATEST LEGISLATION/AMENDMENTS**

1. The Punjab Legal Aid Agency (Appointment, Terms and Conditions of Service) Rules, 2025 dated 16-04-2025 issued by Prosecution Department.
2. The Punjab Legal Aid Rules, 2025 dated 16-04-2025 issued by Prosecution Department.
3. The Code of Conduct for Accredited Advocates, 2025 sated 16-04-2025 issued by Prosecution Department for accredited advocates.
4. Vide notification No. SOR-III(S&GAD)1-3/2023 dated 16-04-2025, amendments are made at serial Nos.1 to 3 of The Punjab Fisheries Department Service Rules, 2011.
5. Vide notification No. SO(Cab-I)2-10/2011 dated 17-04-2025, amendments are made at serial No.13 & 13A of The Punjab Government Rules of Business, 2011.
6. Vide notification No. SOR-III(S&GAD)1-4/2019 dated 22-04-2025, amendment is made in the S&GAD, Banquet Hall 90-SQA and VVIP Guest House Staff Service Rules, 2019
7. Vide notification No. SOR-III(S&GAD)1-17/2024 dated 24-04-2025, amendments are made in rule 1 & schedule of The Punjab Transport Department (Transport Authority/Technical Wing) Service Rules, 2015 (Amendment).
8. The Punjab Spatial Planning Authority Act, 2025 dated 02-05-2025 is enacted to ensure balanced growth and sustainable development of hierarchy wise settlements in the Districts.
9. Vide The Punjab Finance (Amendment) Act, 2025 dated 02-05-2025, amendment is made in section 3 of the Punjab Finance Act, 1977.
10. The Punjab Energy Efficiency and Conservation Agency Act, 2025 dated 02-05-2025 is enacted for the implementation of the provisions of Punjab Energy Efficiency and Conservation Act, 2016.
11. Nawaz Sharif Institute of Cancer Treatment and Research Act, 2025 dated 02-05-2025 is enacted for Cancer Treatment and Research, Lahore.
12. The Punjab Acid Control Act, 2025 dated 02-05-2025 is enacted to regulate and control the business of acid in Punjab.
13. The Punjab Thalassemia Prevention Act, 2025 dated 02-05-2025 is enacted to make provisions for the control and prevention of Thalassemia and other genetic orders.



14. The University of White Rock Act, 2025 dated 02-05-2025 is enacted to provide for the establishment of the University of White Rock.
15. The Nexis University Sialkot Act, 2025 dated 02-05-2025 is enacted to provide for the establishment of the Nexis University, Sialkot.
16. The Next Institute of Science and Technology Act, 2025 dated 02-05-2025 is enacted to provide for the reconstitution of the Next Institute of Science and Technology.

## **SELECTED ARTICLES**

### **1. Lawyers Club of India**

<https://www.lawyersclubindia.com/articles/rights-of-injured-workers-what-you-need-to-know-17691.asp>

#### **Rights of Injured Workers: What You Need to Know by Yaksh Sharma**

*Injuries at work can significantly impact a person's life, both physically and financially. Understanding the rights of injured workers is essential for navigating the complexities of workers' compensation and ensuring fair treatment. This knowledge empowers individuals to advocate for themselves effectively during the recovery process. Many workers are unaware of their entitlements, which can lead to missed benefits and prolonged challenges. Rights can vary by state, making it crucial for injured workers to familiarize themselves with the specific regulations that apply to their situation. With the right information, they can navigate the system confidently and secure the support they need to recover. This blog post will explore the key rights of injured workers, outlining important facts and necessary steps to take after an injury. By highlighting these critical aspects, readers will gain insight that helps them make informed decisions regarding their health and financial well-being.*

### **2. MANUPATRA**

<https://articles.manupatra.com/article-details/PROTECTED-AREAS-NATIONAL-PARKS-UNDER-THE-WILDLIFE-PROTECTION-ACT-REFERENCE-TO-CORBETT-NATIONAL-PARK-UTTARAKHAND>

#### **Protected Areas (National Parks) Under the Wildlife Protection Act: Reference to Corbett National Park, Uttarakhand by Prisha Jain**

*One of the best methods to protect the environment and conserve biodiversity, particularly endemic and threatened species, is through national parks as one of the protected areas. This research paper examines the effectiveness of the Wildlife Protection Act in protecting and managing protected areas, specifically national parks, with a special reference to Corbett National Park in Uttarakhand. It focuses on the various conservation projects implemented by Corbett National Park to protect its diverse range of wildlife species and examines the objectives of each project including habitat restoration, animal rehabilitation, and community engagement and evaluates their impact on the animal population within the park. The paper assesses the difficulties the*

*park experienced in carrying out these initiatives, including a lack of financing, conflicts between people and animals, and climate change. It also focuses on the continuation of these initiatives, as well as the exploration of new and innovative approaches to address the ongoing conservation challenges faced by the park. Overall, the research concludes that the conservation projects implemented by Corbett National Park have been effective in protecting and preserving its wildlife.*

### 3. **Lawyers Club of India**

<https://www.lawyersclubindia.com/articles/guernsey-united-kingdoms-introduces-a-new-and-updated-law-on-sexual-violence-what-has-changed--17635.asp>

#### **Mediation of International Disputes by USA: Important International Treaties in Focus by Sankalp Tiwari**

*Few international rivalries match the intensity, history, and complexity of the India–Pakistan conflict. Born from the trauma of Partition in 1947, the bilateral relationship has endured four wars, persistent border skirmishes, a bitter dispute over Kashmir, and a nuclear arms race. In such a geopolitically charged environment, external actors have often sought to mediate or influence the dialogue between the two nuclear-armed neighbours. The United States, in particular, has repeatedly acted as an informal mediator or power broker, leveraging its global influence to de-escalate crises or nudge parties toward negotiation. While some of these interventions have temporarily succeeded in averting war or restoring diplomatic channels, their legal sanctity and long-term effectiveness remain ambiguous. This article interrogates the nature of U.S. mediation between India and Pakistan, evaluates the historical instances of such involvement, and examines the enforceability and legitimacy of these diplomatic efforts through the lens of international law.*

### 4. **MANUPATRA**

<https://articles.manupatra.com/article-details/Safeguarding-Privacy-Implementing-the-Right-to-Be-Forgotten-for-Biometric-Data>

#### **Safeguarding Privacy: Implementing the Right to Be Forgotten for Biometric Data By: Kundan Kumar**

*This article explores the intricacies of biometric data and right to be forgotten with respect to biometric data. Considering the peculiar and sensitive nature of the biometric data, it requires special data protection framework as any unauthorised access of such data to miscreant would be devastating for the data subject, it is further discussed in this article. Currently most of the data protection laws around the world regulate the personal data but have not emphasised regulation of biometric data explicitly despite its crucial and vulnerable attributes. India's latest data protection act DPDP has no mention of biometric data in the entire act. This article dwells upon the current position of legislations of different jurisdictions with special focus on provisions ensuring right to be forgotten for this sophisticated form of data and challenges in ensuring such rights due to its special features.*

## 5. Lawyers Club India

<https://www.lawyersclubindia.com/articles/the-role-of-technology-in-criminal-justice-17687.asp>

### **The Role of Technology in Criminal Justice by Yaksh Sharma**

*Technology plays a crucial role in modernizing the criminal justice system, enhancing its efficiency, accuracy, and transparency. From data analytics that support crime prevention to body cameras that promote accountability among law enforcement, the use of technology is transforming how justice is administered. These advancements not only streamline operations but also improve public trust in institutions. Innovative tools, such as artificial intelligence and machine learning, are being employed to analyze vast amounts of criminal data, ultimately guiding strategic decision-making. Law enforcement agencies leverage predictive policing to allocate resources effectively, while digital forensics aids in solving complex cases. As technology evolves, the possibilities for improvement in criminal justice become increasingly expansive.*

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