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FORTNIGHTLY CASE LAW BULLETIN

(01-07-2025 to 15-07-2025)

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

JUDGMENTS OF INTEREST

	Supreme Court of Pakistan	Court Fees Act is interpreted with reference to section 2(2) CPC; court has discretionary power under section 148 CPC to enlarge time for procedural acts; court has discretionary power under section 149 CPC to allow payment of deficient court fee at any stage; expression "at any stage" in section 149 CPC permits curing of court fee deficiency at any stage of appeal; suit or appeal cannot be dismissed for court fee deficiency without granting opportunity to rectify; judges are duty-bound to apply the correct law regardless of parties' or counsels' failure to do so; concurrent findings may be reversed if they violate law or are based on jurisdictional or legal errors; Appellate or High Court may reverse concurrent findings where apparent legal or factual errors exist.		
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LATEST LEGISLATION/AMENDMENTS

SELECTED ARTICLES

1. **Supreme Court of Pakistan**
Pakistan Telecommunication Company Ltd, Islamabad v. Imran Aziz and others
Civil Appeal No.1509 of 2021
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._1509_2021.pdf

Facts: Employees transferred from a government telecommunications department to corporatized and later privatized entities sought continued pensionary benefits, claiming rights equivalent to those held by civil servants.

Issues: i) Whether the statutory framework under the PTC Act and PTCL Act preserved the evolving pensionary rights of transferred employees who were originally civil servants.
ii) Whether the Masood Bhatti review judgment was misapplied by treating the cessation of civil servant status as terminating evolving pension rights.
iii) Whether the distinction between civil servants and workmen among transferred employees was legally warranted in determining entitlement to revised pension benefits.

Analysis: i) Section 9(1) provides for all employees of T&T to stand transferred to PTC 'on the same terms and conditions to which they were entitled immediately before such transfer.' (...) Section 9(2), PTC is unequivocally barred from altering these terms and conditions, leading to the preservation and protection of the concrete set of rights of every employee(...) Section 36(1) of the PTCL Act refers to 'existing terms and conditions of service and rights, including pensionary benefits,'... indicating that what is being protected is not a static set of entitlements but one that continues through time(...)Sections 36(2) and 36(5) of the PTCL Act, as well as Section 9(2) of the PTC Act, must be maintained in full, without any reduction or modification... These provisions guarantee that pensionary benefits, as they existed and developed, would be carried forward, not reset or diminished.
ii) The misreading of the statutory framework is further compounded by a misapplication of the Masood Bhatti review judgement... this Court... drew a clear distinction between administrative status and the protection of vested rights by acknowledging that, while employees ceased to be civil servants, their pensionary entitlements, once vested, continued to enjoy statutory protection… To treat the loss of status, as also entailing a rupture in the evolving framework of pensionary rights, as the adopted view does, is to both neglect the pervasive protective intent of the legislature... and to misapply precedent set by the Court in Masood Bhatti review judgement.
iii) The statutory framework did not adopt a blanket approach to all categories of employees; rather, it preserved rights according to their pre-existing legal character… Civil servants, by virtue of their status under the civil service laws, held pensionary entitlements... governed by statutory principles allowing for periodic revision and enhancement... In contrast, workmen... did not possess

equivalent entitlements grounded in law… Recognizing this differentiation is essential to a faithful application of the statutory protections... reflecting continuity of legal entitlements rather than the imposition of a uniform standard upon legally distinct classes.

Conclusion: i) The statutory framework preserved the evolving pensionary rights of transferred employees who were originally civil servants.
ii) The Masood Bhatti review judgment was misapplied by equating loss of civil servant status with termination of pension rights.
iii) The distinction between civil servants and workmen was legally warranted to determine entitlement to revised pension benefits.

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2. **Supreme Court of Pakistan**
Ahsan Ali Dawach v. The State through Chairman NAB & others
Civil Petition No.256-K of 2024
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Aqeel Ahmed Abbasi, Mr. Justice Salahuddin Panhwar
https://www.supremecourt.gov.pk/downloads_judgements/c.p._256_k_2024.pdf

Facts: The petitioner was taken into custody during an investigation into a pension fund scam involving misappropriation through fake vouchers. A vehicle found in his custody was seized, and he later sought its release on superdari, which was denied by the Trial and High Courts, prompting the present appeal.

Issues: i) What are the permissible modes of freezing movable and immovable property under section 12 of the National Accountability Ordinance, (NAO) 1999?
ii) What legal remedy is available to an aggrieved person against a Freezing Order under section 12 of the NAO, 1999?
iii) How should the definition of 'Freezing' under section 5(m) of the NAO, 1999 be interpreted in conjunction with the operative provisions of section 12?
iv) What procedural obligations does a Court have when deciding an application under section 516-A Cr.P.C.?
v) What constitutional protections exist regarding a citizen's right to property under Articles 23 and 24 of the Constitution of Pakistan?
vi) Does granting interim custody of a vehicle on superdari affect the outcome of the trial or the legal status of the accused?
vii) What are the legal requirements under section 24-A of the General Clauses Act, 1897 for exercising statutory powers?
viii) Does failure to file an objection under section 13 of the NAO, 1999 bar an accused from seeking interim custody of property?
ix) How should courts interpret and apply general and special laws in the context of the NAO, 1999 and the Cr.P.C.?

Analysis: i) Indeed Section 12 (ibidem), inter alia provides in clear terms that if the property ordered to be frozen is a debt or other movable property, the freezing may be made: (i) by seizure; or (ii) by appointment of receiver; or (iii) by prohibiting the

delivery of such property to the accused or to anyone on his behalf; or (iv) by all or any of such or other methods as the court or the Chairman NAB as the case may be, deem fit and if the property ordered to be frozen is immovable, the freezing shall, in the case of land paying revenue, be made through the Collector of the district in which the land is situated, and in all other cases: (i) by taking possession; or (ii) by appointment of receiver; or (iii) by prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf; or (iv) by all or any of such methods as the Chairman NAB or the Court may deem fit.

ii) Section 13 (ibidem), inter alia accentuates a remedy in well-defined words that the Court shall have exclusive jurisdiction to entertain and adjudicate upon all claims or objections against the freezing of any property under Section 12 above and such claims or objection shall be made before the Court within 14 days from the date of the order of freezing such property, and in case the accused or any other aggrieved party, whose claim or objection against freezing of property, has been dismissed by the Court, he may, within ten days file an appeal against such order before the High Court.

iii) No doubt, the expression "Freezing" is provided in the definition with a long range of its fragments and components, but the fact remains that this definition cannot be read in isolation; for better understanding, it is to be read with the modes of freezing of movable property provided in the parent Section 12 of the NAO 1999,

iv) The application moved under Section 516-A Cr.P.C. must be decided expeditiously after providing a fair chance to contest the legality of the seizure and the order must be based on cogent reasons as to why the vehicle should be released or why it should not be released, rather than deferring the application for an indefinite period or disposing it of in a slipshod or cursory manner.

v) According to the command and mandate of Article 23 of the Constitution of the Islamic Republic of Pakistan, 1973, ("Constitution"), every citizen has a right to acquire, hold, and dispose of property in any part of Pakistan, subject to the Constitution and any reasonable restrictions imposed by law in the public interest. All at once, it is engrained and embedded under Article 24 of the Constitution that no person shall be deprived of his property save in accordance with the law with certain exceptions already jotted down in the Article itself.

vi) However, it is clarified that the scheme of law permitting the interim custody of vehicle on superdari neither amounts to prejudice the trial, nor gives a clean chit to the accused, nor does it relieve or exempt the owner/recipient of custody from pending legal proceedings.

vii) Section 24-A of the General Clauses Act, 1897, which provides that (1) where, by or under any enactment, a power to make any order or give any direction is conferred on any authority, office or person such power shall be exercised reasonably, fairly, justly and for the advancement of the purposes of the enactment; (2) The authority, office or person making any order or issuing any direction under the powers conferred by or under any enactment shall so far as necessary or appropriate, give reasons for making the order or as the case may be

for issuing the direction and shall provide a copy of the order or as the case may be the direction to the person affected prejudicially.

viii) There is no demonstrable restriction or prohibition in the law that if an accused or aggrieved person fails to lodge a claim or objection against the Freezing Order in terms of Section 13 of the NAO 1999, they shall be deprived and shall, perpetually or unremittingly, not be able to apply for interim custody of the vehicle/property.

ix) it is also a well-known interpretation of law that special law prevails and dominates over a general law. However, while resolving the issue by the Courts on whether a statute is a special or general law, the crucial consideration must be the legislative intent, and of course in case of divergence, the rule of harmonious construction may be adopted. It is almost transparent that by virtue of Section 17 of the NAO 1999, the legislature has expounded that by reference, the provisions of the Cr.P.C. shall mutatis mutandis apply to the proceedings under this Ordinance and Chapter XXIIA, Cr.P.C., shall apply to trials.

Conclusion: i) Property may be frozen by seizure, receiver, or prohibition, as deemed fit by NAB or the Court.

ii) Objections to Freezing Orders must be filed within 14 days; appeals lie to the High Court.

iii) 'Freezing' must be read with Section 12 to understand its practical application.

iv) Section 516-A CrPC application require prompt, reasoned decisions after fair hearing.

v) The Constitution protects the right to property, subject to lawful restrictions.

vi) Interim custody of vehicle on superdari does not affect trial or absolve the accused.

vii) Statutory power must be exercised fairly with reasons provided.

viii) Not objecting to freezing doesn't bar seeking interim custody later.

ix) Special law prevails, but Cr.P.C. applies unless inconsistent with NAO.

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3. **Supreme Court of Pakistan**
Habib-ur-Rehman and others v. Abdul Karim (deceased) through L.Rs & others
Civil Petition No.770-K of 2022
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._770_k_2022.pdf

Facts: The petitioners purchased a commercial property, which was under the tenancy of the predecessor of the respondents. The tenant was removed in eviction proceedings during the pendency of appeal. The appeal was later allowed, the tenant's successor sought restitution of possession after a considerable delay. The petitioners opposed this move, citing their ownership, but were nonetheless directed to hand over possession. Their revision was dismissed with liberty to pursue appropriate civil remedies. Subsequently, the petitioners filed a suit for declaration and possession, accompanied by an application for condonation of delay. The respondents sought rejection of the plaint on the ground of res judicata.

The trial court rejected the plaint, and the appeal was dismissed for limitation and non-payment of court fee. These concurrent findings of lower fora were upheld by the High Court, leading to the present petition.

Issues:

i) Can delay in the institution of a suit be condoned under section 5 of the Limitation Act?
ii) What is the limitation period for filing a suit for possession of immovable property under Article 142 of the Limitation Act?
iii) Whether the question of limitation is a pure question of law or a mixed question of law and fact, and can it be dismissed without judicial examination?
iv) Is the doctrine of res judicata applicable in every case where a previous decision exists, and courts must examine its applicability in depth before dismissal?
v) What are the key elements and objectives of the doctrine of claim preclusion (res judicata)?
vi) How is a "decree" defined under section 2(2) of the CPC, and what are its types and exclusions?
vii) Whether rejection of a plaint under order VII rule 11 CPC amounts to a decree and does it bar a fresh suit?
viii) Can section 149 of the CPC be read as a proviso to section 4 of the Court Fees Act to allow curing of court fee deficiency?
ix) How should the expression "having the force of a decree" in the Court Fees Act be interpreted in light of the definition of "decree" under section 2(2) CPC?
x) What discretionary power does the court have under section 148 CPC?
xi) What discretionary power does the court have under section 149 CPC?
xii) What does expression "at any stage" in section 149 CPC accentuate?
xiii) Can a suit or appeal be dismissed due to deficiency in court fee without providing the plaintiff/appellant an opportunity to make good the deficiency?
xiv) Is it the duty of the judges to apply the correct law even if the parties or their counsel fail to point it out?
xv) Can concurrent findings of fact by lower fora be reversed in second appeal if they are in violation of law or based on legal/jurisdictional errors?
xvi) Can an Appellate or High Court reverse concurrent findings if they are found to be legally flawed or based on apparent errors on the record?

Analysis:

i) If we delve into the scope of Section 5, it applies, without a doubt, only to an appeal or application for revision, review of judgment, or for leave to appeal, or any other application to which the said section may be made applicable by or under any other enactment. (...) this section is only applicable to the instances mentioned above, and no condonation can be claimed for the delay in the institution of a suit, except for the exclusion of time specifically provided under Section 14 to 16 of the Limitation Act, and so on and so forth.
ii) According to Article 142 of the Limitation Act, a suit for possession of immovable property can be filed within a period of twelve years, and the cause of action triggers from the date of dispossession.

iii) In the present controversy, the question of limitation is a mixed question of law and fact, but due to the misunderstanding of the advocate, the application was filed under Section 5. Nonetheless, it was also the responsibility of the Trial Court to examine the plaint diligently, including the cause of action vis-à-vis Section 3 of the Limitation Act.

iv) In our considerate view, what the aforesaid Section unambiguously advocates is that, before non-suiting under this doctrine, it is obligatory for the courts to carry out a diagnostic exercise to determine whether the circumstances pleaded actually attract the principle of res judicata or not, rather than summarily dismissing the lawsuits on mere contentions without judicious reasoning.

v) This doctrine also connotes “claim preclusion,” whose indispensable elements include that the erstwhile judgment must be valid and final between the parties, and the same issue must not be brought again for re-litigation. Furthermore, this rule is essential to avert repetitive litigation and to ensure justice, equanimity, and dependability in judicial proceedings by curbing frivolous and vexatious litigation, often initiated with mala fide intention or ulterior motives just to drag the opponents in courts for reopening matters already conclusively decided. Simultaneously, it also lightens the court’s docket and helps eliminate time-consuming and meritless litigation.

vi) According to the Section 2 (2), CPC, "decree" means the formal expression of an adjudication which, so far as regards the court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit, and may be either preliminary or final. It shall be deemed to include the rejection of a plaint, the determination of any question within Section 144 and an order under Rules 60, 98, 99, 101, or 103 of Order XXI, but shall not include: (a) any adjudication form which an appeal lies as an appeal from an order, or (b) any order of dismissal for default. Section 2 (2), CPC, further explains that a decree is preliminary when further proceedings have to be taken before the suit can be completely dispose of. It is final when such adjudication completely disposes of the suit and it may be partly preliminary and partly final.

vii) In line with Order VII Rule 13, the rejection of the plaint on any of the grounds, mentioned under Order VII Rule 11, CPC, shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

viii) The Court opined that Section 4 of the Court Fees Act is not the final word and the court must consider the provisions of both the Act and the Code and harmonize the two sets of provisions which can only be done by reading Section 149 as a proviso to Section 4 of the Court Fees Act by allowing the deficiency to be made good within a period of time fixed by it.

ix) It was further held that in order to understand the expression "having the force of a decree" occurring in this article of the Court Fees Act, it would be useful to derive guidance from the definition of a "decree" contained in Section 2 (2), CPC, according to the provisions of which, a decree is a formal expression of an

adjudication conclusively determining the rights of the parties with regard to all or any of the matters in controversy before the Court.

x) The provision for enlargement of time is assimilated under Section 148, CPC, which articulates that where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by the CPC, the Court may, in its discretion from time to time, enlarge such period, even though the period originally fixed or granted may have expired.

xi) Whereas, Section 149 deals with the power to make up the deficiency of court fee and provides in a translucent stipulation that where the whole or any part of any fee prescribed for any document by the law for the time being in force relating to court fees has not been paid, the Court may, in its discretion, at any stage, allow the person, by whom such fee is payable, to pay the whole or part, as the case may be, of such court fee; and upon such payment, the document, in respect of which such fee is payable, shall have the same force and effect as if such fee had been paid in the first instance even without filing any application for extension of time.

xii) The expression “at any stage” alluded to in Section 149 accentuates that the deficiency, if any, on account of court fee can be ordered to be made good by the Appellate Court at any stage of proceedings in appeal.

xiii) The provision delineated under Order VII, Rule 11 and Section 149, CPC, must be read collectively and in unison. In case of deficiency in the court fee, the Court cannot dismiss the suit or appeal without pinpointing the inadequacy and then providing a timeline for payment.

xiv) Judges are expected in all circumstances to know the law and such is their hallmark as entrenched in the principle that 'a Judge must wear all laws on the sleeve of his robes'. Courts, while dispensing justice, are duty-bound to apply the law in its true perspective, and the application of the relevant legal provisions cannot be avoided simply on the ground that such provisions were not brought to the court’s notice by the parties.

xv) If the concurrent findings recorded by the lower fora are found to be in violation of the law, or based on misreading or non-reading of evidence, they cannot be treated as so sacrosanct or sanctified that they cannot be reversed by the High Court in its revisional or constitutional jurisdiction or in a second appeal, as a corrective measure, come what may.

xvi) It is also not within the domain or function of the Appellate Court and/or the High Court to re-weigh or re-interpret the evidence, but they can examine whether the impugned judgment or order attains the benchmark of an unflawed judgment; and whether it is in consonance with the law and evidence and free from unjust and unfair errors apparent on the face of record, and if the concurrent findings are found to be in violation of law or based on flagrant and obvious defects floating on the surface of the record, then it can be reversed as a corrective measure without undue regard to the fact that the matter culminated in concurrent findings.

Conclusion: i) Section 5 does not apply to institution of suits.

ii) Limitation for possession is twelve years from dispossession.

iii) Limitation must be judicially examined by the Trial Court.
iv) Courts carry a diagnostic exercise for attraction of res judicata before dismissal.
v) Res judicata prevents repetitive and frivolous litigation.
vi) A decree conclusively determines rights and may be preliminary or final.
vii) Rejection of plaint does not bar a fresh suit.
viii) Section 149 may be read as a proviso to section 4 to cure fee deficiency.
ix) "Having the force of a decree" should be interpreted via Section 2(2) CPC.
x) Courts may enlarge time even after expiry.
xi) Court may permit court fee to be paid at any stage.
xii) Appellate Court can allow fee deficiency to be cured at any stage.
xiii) Suit/appeal cannot be dismissed without pinpointing and providing timeline to pay court fee.
xiv) Judges must apply correct law, regardless of counsel's failure.
xv) Concurrent findings can be reversed if legally flawed.
xvi) Appellate/High Court may correct judgments with legal or evident errors.

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4. **Supreme Court of Pakistan**
Commissioner Inland Revenue (Legal), Islamabad v. Pakistan LNG Limited and others
Civil Petitions No.3578 and 4598 of 2024
Mr. Justice Munib Akhtar, Mrs. Justice Ayesha A. Malik, Mr. Justice Shahid Waheed
https://www.supremecourt.gov.pk/downloads_judgements/c.p._3578_2024.pdf

Facts: The tax authorities issued immediate recovery notices to third parties under section 140 of the Income Tax Ordinance on the same day appellate orders were uploaded, without providing taxpayers any reasonable time to comply. This action was challenged and the High Court set aside the notices.

Issues: i) Whether section 140 of the Income Tax Ordinance, 2001 requires the Commissioner to set a future date for payment in the notice to third parties, or permits immediate recovery on the date of issuance?
ii) Whether Rule 210C(3) of the Income Tax Recovery Rules, 2002, which allows same-day recovery, is consistent with section 140 of the Ordinance?
Additional Note:
iii) Whether, under the doctrine of merger, a fresh notice under section 137(2) must be issued after appellate orders before any coercive recovery can be undertaken under sections 138 or 140?
iv) Whether immediate recovery under Section 140 on the same day of notice violates taxpayer rights to due process, dignity, and fair opportunity to comply?
v) Whether the Revenue's immediate coercive recovery under section 140 violated due process rights.

Analysis: i) A bare reading of Section 140(1) reveals the express condition to set a date for payment, in the notice on which the stipulated tax has to be paid. The use of the words by the date set out in the notice in Section 140(1) of the Ordinance reflects

the very clear requirement to provide for a future date in the notice on which the tax becomes payable... the very act of setting a date mandates the Commissioner to plan for a future date and notify the third-party of the date when the recovery will be effected… The condition of fixing a future date is in effect a legal safeguard which ensures that the process of recovery is protected from arbitrariness and undue haste.

ii) We have carefully examined the relevant Rules and find that Rule 210C is contrary to the requirements of Section 140 of the Ordinance. The said section requires the Commissioner to set a date in the notice for recovery purposes, hence, the requirement of the Rules for immediate recovery is against the scheme of Section 140 of the Ordinance… The requirement of notice before recovery is not merely statutory but reflects the broader guarantees of due process and fair trial under Article 10A of the Constitution, as well as the right to dignity under Article 14.

Additional Note:

iii) An essential guideline in this context is that when an appeal is properly brought before a higher authority...the order from the lower authority merges with the decision from the higher authority… it is the latter which subsists… Consequently...the Commissioner was required to issue a fresh notice under section 137(2) reflecting the amounts determined in the appellate order...Only if the taxpayer failed to pay...could the recovery mechanisms provided in sections 138 or 140 be activated.

iv) The Commissioner, without first confirming that the appellate order as stipulated in section 129(4) had been duly served on the taxpayer (respondent), rushed to issue a notice under section 140 to the Bank demanding an immediate payment by the close of that same day. This notice was fundamentally flawed for several reasons. Firstly, it was issued prematurely, as the Commissioner (Appeals) was required to serve his decision on the taxpayer (respondent) before any such notice could be sent out. Secondly, any recovery actions against a taxpayer (respondent) could not be initiated without providing them with a reasonable timeframe to settle the "amount payable" specified in the appellate order. Thirdly, failing to afford the taxpayer Civil Petitions No.3578 & 4598 of 2024 7 (respondent) sufficient time to pursue further legal options regarding the appeal was manifestly unjust. Fourthly, it caused an injury to the dignity of the taxpayer (respondent). It is important to emphasise that the right to dignity is the most central of all fundamental rights, as it is the source from which all other rights are derived. The Ordinance aims to strike a balance between ensuring tax recovery and upholding taxpayer dignity. The recovery process executed in these cases disregarded this balance. The failure to verify whether the "amount payable" had been classified as "tax due" before declaring the taxpayer (respondent) as a defaulter – and subsequently issuing a direct payment notice to the person holding money on behalf of the taxpayer (respondent) – amounted to discrediting the taxpayer (respondent) within its community and negatively affecting its business reputation. All of these factors strongly suggest that the pursuit of tax recovery took precedence over the protections afforded to the taxpayer (respondent) within

a legal framework that upholds fundamental rights, such as the right to a fair trial, access to justice, dignity, and due process. No legal standards can justify this culture of authoritative dominance in tax recovery, as it fundamentally undermines the core principles of justice. This creates an imbalance between the need for efficient tax recovery and the protection of taxpayer's rights.

v) Another significant aspect of this case highlights the excessive and autocratic exercise of the Revenue's authority, which severely impeded the taxpayer's (respondent's) ability to seek judicial remedies and breached due process rights.

Conclusion: i) Section 140 require the Commissioner to set a future date for payment in the notice; immediate recovery on the date of notice is not permitted.

ii) Rule 210C(3) is inconsistent with section 140 of the Ordinance and cannot override the statutory safeguard.

iii) A fresh demand notice under section 137(2) is required after an appellate order before invoking recovery under section 140.

iv. Immediate recovery under section 140 without providing reasonable time violates statutory safeguards and constitutional rights to dignity and due process.

v) The Revenue's immediate coercive recovery without affording fair opportunity breached due process rights.

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5. **Supreme Court of Pakistan,**
Shahid Ali v. The State
Criminal Petition No.53-K of 2021
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan.
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._53_k_2021.pdf

Facts: A minor boy was found murdered, and his body was recovered from a nearby water tank. A criminal case was registered against unknown persons, and following investigation, the accused was charged and later convicted of murder, receiving a death sentence along with compensation liability. The conviction was upheld by the High Court, but the Supreme Court later acquitted the accused by extending the benefit of doubt and ordered his release, subject to no other detention.

Issues: i) What is the legal principle underlying the "last seen together" theory, and under what condition can it be used to infer guilt?

ii) What role does the time gap between the last sighting and the crime play in applying the "last seen together" doctrine to establish guilt?

iii) Whether the sole fact of the deceased being last seen with the accused is sufficient to establish a murder charge?

iv)What essential factors must be established for the "last seen" theory to credibly link the accused to the crime?

v)Who is considered a "chance witness" in criminal law, and under what circumstances is their presence at the crime scene viewed with suspicion?

vi) Whether the admissibility and evidentiary value of a chance witness's testimony can be determined by a fixed rule or depends on the facts and circumstances of each case?

vii) Whether a confession is admissible if not made voluntarily and free from any influence?

viii) Whether a confession is admissible only if it is genuine, voluntary, and made without any coercion or influence?

ix) Whether a confession made to a police officer is admissible if it is recorded in the presence of a Magistrate?

x) Whether a confession made to someone other than a police officer, while in police custody, is inadmissible unless made in the immediate presence of a Magistrate?

xi) Whether a confession made by an accused to a journalist while in police custody is admissible as evidence against the accused?

Analysis: i) This Court, while explaining the theory of last seen together, has held that it is one where two persons are seen together alive and after an interval of time one of them is found alive and the other dead. If the period between the two is short then an inference could be drawn that the person alive was the author of the other's death.

ii) The time gap between the sighting and the occurrence should be such that the possibility of someone else committing the crime could be ruled out.

iii) It has been further held that the circumstance of the deceased being last seen in the company of the accused is not by itself sufficient to sustain the charge of murder.

iv) This court has further observed that the foundation of the last seen theory is based on the principle of probability, cause and connection. It requires cogent reasons that the deceased in normal and ordinary course was supposed to accompany the accused, proximity of the crime scene, a small gap between the sighting and the crime, no possibility of a third person's interference, motive and time of death of the victim.

v) A chance witness, in legal terms, is a witness who claims that he or she was present at the crime scene at the fateful time and that his presence there was by sheer chance while in the ordinary course of business, place of residence and in the normal course of events he or she was not supposed to be present at the scene.

vi)The admissibility and evidentiary value of the testimony of a witness who falls in the category of a chance witness essentially depends on the facts and circumstances of each case and no hard and fast rule can be laid down in this regard.

vii)The confession, therefore, whether judicial or extra judicial, must be demonstrably voluntary, made out of absolute free will and without influence of any kind, whether a threat, inducement, promise or even hope etc.

viii) The fundamental principle regarding the admissibility and assessment of a confession, judicial or extra judicial, is that it ought to be genuine voluntary and

must have been made out of one's free will. It must have been given freely and without any coercion or influence in any form.
ix) A confession made to a police officer, even in presence of a Magistrate, is inadmissible.
x) Confession of guilt made to any person other than a police officer and while in the custody of a police officer cannot be proved against the latter and thus is not admissible in evidence unless it is made in the immediate presence of a Magistrate.
xi) A statement amounting to a confession made by an accused to a journalist while in custody of a police officer and any such statement recorded and disseminated publically can also not be proved against the accused.

Conclusion: i) The "last seen together" theory applies when two individuals are last seen alive together, and shortly after, one is found dead, allowing an inference against the survivor.
ii) See above analysis No.ii.
iii) See above analysis No.ii.
iv)"Last seen" theory rests on probability and requires strong linkage through proximity, short time gap, absence of third-party involvement, motive, and timing of death.
v) A chance witness is someone who claims to have been at the crime scene by coincidence, despite having no usual reason to be there.
vi)The evidentiary value of a chance witness depends on the specific facts of each case, with no rigid rule for admissibility.
vii) A confession must be clearly voluntary, made with absolute free will and free from any threat, inducement, promise, or hope.
viii) A confession, whether judicial or extra-judicial, is admissible only if it is genuinely voluntary and made out of free will without any form of coercion or influence.
ix) See above analysis No.ix.
x) A confession made to someone other than a police officer while in police custody is inadmissible unless made in the immediate presence of a Magistrate.
xi) A confession made by an accused to a journalist while in police custody, even if recorded and publicized, is inadmissible in evidence.

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6. **Supreme Court of Pakistan.**
Noor Agha v. The State and another
Criminal Petition No.27-K of 2025
Ms. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._27_k_2025.pdf

Facts: The petitioner seeks his post-arrest bail on statutory ground, which was declined by the courts below and upheld by the High Court.

Issues: i) What material is to be considered while dealing with the bail of an accused on

statutory ground?
ii) Whether the grant of bail on statutory ground is a right of the accused?
iii) Whether the right of accused on statutory ground has any exception?
iv) What is meaning and scope of the expression 'hardened, desperate or dangerous criminal' as contemplated in 4th proviso to section 497 of the CrPC?
v) What is distinction in forming opinion by the court in deciding bail under subsection (1) and 4th proviso to the section 497 CrPC?
vi) What material facts prosecution should establish to disentitle an accused from bail of statutory ground?

Analysis: i) The prosecution did not place on record any material other than the material collected during the investigation. The prosecution had not placed before the trial court nor the High Court sufficient material to enable them to form an opinion whether the petitioner was a 'hardened, desperate or dangerous criminal'. The role attributed to the petitioner was no more than an alleged facilitator, accomplice or being part of a conspiracy to commit the alleged crime. It is not the case of the prosecution that the petitioner has a previous criminal record nor that his release could pose a threat to others. It is also not the case of the prosecution that the petitioner, after release on bail, may harm others, repeat the offence or act in any manner which may be prejudicial to the peace of the society.
ii) The 3rd proviso to sub-section (1) of section 497 of the Cr.P.C. governs the statutory right to claim release on bail on the ground of delay in the conclusion of trial. The legislature has explicitly used the expression 'shall' in the 3rd proviso and it creates a right in favour of an accused to be released on bail provided the conditions stipulated for claiming such a right have been fulfilled. The 3rd proviso sets out the conditions for being released on bail on the ground of statutory delay.
iii) The three exceptions are; if the accused is a previously convicted offender for an offence punishable with death or imprisonment for life or 'in the opinion of the court' is a hardened, desperate or dangerous criminal or is accused of an act of terrorism punishable with death or imprisonment for life. If one of the three exceptions stipulated in the 4th proviso is attracted then the right contemplated in the 3rd proviso could not be given effect to though the delay may not be attributable to the accused and the prescribed period of detention has been completed.
iv) The meaning and scope of the expression 'hardened, desperate or dangerous criminal' was considered by this Court in the case of Moundar1. It was held that the court has to form an opinion and such opinion could not be subjective but must be based upon material placed before it which reasonably supports the conclusion that the person concerned was a criminal of one of the classes described in the expression. It was further held that the expression 'criminal' used by the legislature in the 4th proviso could not be construed in its technical sense. It was not dependent on a formal charge or accusation nor that the person should have been adjudged guilty of a charge in a court of law. It was further explained that the opinion could be formed on the basis of material available in the case

before it, if that was sufficient, or it may also take into consideration any other material which may have been produced by the prosecution to enable the court in forming of the opinion regarding the character of the person as a 'hardened, desperate or dangerous criminal'.

v) It is noted that the scope and effect of the expression in the 4th proviso i.e hardened, dangerous or desperate criminal is distinct from the restriction on the power and discretion of a court under sub section (1) of section 497 of the Cr.P.C not to release an accused on bail if there appears reasonable grounds for believing that the accused may be guilty of an offence punishable with death or imprisonment for life or for ten years. This distinction highlights that the exception in the 4th proviso is not in the context of the merits of the case i.e forming an opinion whether reasonable grounds exist for believing that an accused may have been guilty of one of the offences specified by the legislature. Bail may have been declined on merits in terms of forming an opinion under sub section (1) of section 497 but if the conditions specified under the 3rd proviso are met and the case does not attract one of the exceptions specifically mentioned in the 4th proviso then it entitles an accused to claim bail on the basis of statutory delay as a fresh and independent ground.

vi) The exception of being a hardened, desperate or dangerous criminal contains four distinct expressions. Hardened, desperate or dangerous' have been used by the legislature disjunctively and cannot be construed as conjunctive and they precede the expression 'criminal'. There must be sufficient material placed before the court by the prosecution to enable it to form an opinion that if the accused is released on bail under the 3rd proviso, then there would be a substantial risk or it would be highly probable that he or she would cause serious harm to the society and its members because of being a hardened, dangerous or desperate criminal…The prosecution may place before the court material to demonstrably show that, if released, the accused could interfere with or influence the investigation by threatening or harming the witnesses or the members of law enforcement agencies. There could be several factors which the court may take into consideration in forming an opinion whether an accused seeking bail under the 4th proviso is a hardened, desperate or dangerous criminal. No general rule can be laid down as to how a court is to form an opinion because it would depend on the facts and circumstances of each case. However, the opinion cannot be based on mere presumptions, conjectures or subjective basis. The court essentially has to from an opinion that there is substantial risk or a real and high likelihood of harm to the society, if the accused is released on bail on statutory ground.

Conclusion: i) The prosecution had to place on record to show the petitioner is a "hardened, desperate or dangerous criminal," and his release would be "prejudicial to the peace of the society."

ii) The legislature has explicitly used the expression 'shall' in the 3rd proviso and it creates a right in favour of an accused to be released on bail provided the conditions stipulated for claiming such a right have been fulfilled.

iii) There are three exceptions to the right of bail on statutory ground; if the

accused is a previously convicted offender for an offence punishable with death or imprisonment for life or 'in the opinion of the court' is a hardened, desperate or dangerous criminal or is accused of an act of terrorism punishable with death or imprisonment for life.

iv) See above analysis No.iv.

v) For making opinion by the court deciding bail application under subsection (1) of section 497 CrPC, court has to look into the material placed by the prosecution after investigation. However, in dealing the bail on statutory ground otherwise material is also to be considered.

vi) The prosecution may place before the court material to demonstrably show that, if released, the accused could interfere with or influence the investigation by threatening or harming the witnesses or the members of law enforcement agencies.

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7. **Supreme Court of Pakistan**
Tahir alias Tahri v. The State
Criminal Appeal No.9 of 2023
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._9_2023.pdf

Facts: The appellant was sentenced to death on five counts for his involvement in a multiple homicide case. After over twenty-five years of incarceration, mostly in a death cell, he sought commutation of his death sentence to life imprisonment on the basis of the expectancy of life doctrine, prolonged delay in appellate proceedings, and other mitigating circumstances.

Issues: i) Whether the principle of expectancy of life, after a convict has served a period equal to or exceeding a life sentence while pursuing legal remedies, is a sufficient ground on its own to commute a death sentence under section 302(b) PPC?

ii) Whether prolonged delay in the conclusion of appellate remedies, not attributable to the convict, constitutes a mitigating factor justifying commutation of a death sentence under Article 9 and 12(b) of the Constitution?

iii) Whether the existence of mitigating factors, such as lack of prior criminal record, young age at the time of offence, and doubtful recovery of weapon, obligate the court to exercise discretion in favour of awarding life imprisonment under section 302(b) PPC?

iv) Whether the simultaneous imposition, in effect, of multiple punishments through prolonged death-cell incarceration violates the constitutional prohibition against penalties greater than or different from those prescribed by law under Article 12(b)?

Analysis: i) It is obvious from the above survey of the jurisprudence of this Court that the principle of expectancy of life is relevant in the context of section 302 (b) of the PPC when the convict who has been handed down the sentence of death has served equal to or more than the term of the other prescribed legal punishment, i.e

imprisonment for life during pendency of the legal remedies provided under the law. (…) However, this principle by itself and as a sole mitigating factor would not be sufficient for a court to exercise its discretion by commuting the sentence of death to imprisonment for life.

ii) There could be certain consequences on account of the prolonged delay in execution of the sentence of death which, in the facts and circumstances of a particular case, may become a valid mitigating factor and extenuating circumstance for a court to take into consideration along with the principle of expectancy of life for altering the sentence. (…) The delay may be so inordinate and long which may demonstrably surpass the reasonable and necessary time required for completion of the remedies (…) depending on the facts and circumstances in each case.

iii) In this case the mitigating factors have been highlighted above. The appellant has remained incarcerated for more than twenty five years. (…) He was young in 1991 when the occurrence had taken place. (…) He did not have any criminal record prior to the occurrence and, therefore, he was a first time offender. As already noted above, the recovery of the fire arm weapon is not free from doubt and the evidence brought on record in this regard is not safe to be relied upon.

iv) It would be unjust to impose a double punishment by keeping an accused in a death-cell for a long period of time when the delay is also not attributed to the latter (…) Such an unauthorized punishment amounts to a penalty greater than or of a kind different from the penalty prescribed by law for the offence at the time it was committed. (…) Depending upon the facts and circumstances of a case, the living conditions of the prison (…) could be considered as one of the mitigating factors and it can then be taken into account along with principle of expectancy of life

Conclusion: i) Expectancy of life alone is not sufficient for commutation but may be considered with other factors.

ii) The prolonged delay not attributable to the convict can be a valid mitigating factor.

iii) The existence of such mitigating factors warranted exercise of discretion in favour of life imprisonment.

iv) The prolonged death-cell incarceration combined with delay can result in an unconstitutional penalty beyond that prescribed by law.

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8. **Supreme Court of Pakistan**
Seeta Ram v. The State
Jail Petition No.51 of 2023
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p._51_2023.pdf

Facts: The petitioner was accused of committing a fatal shooting in a public place, allegedly firing twice at the victim while threatening others who attempted to intervene. The investigation had commenced prior to the formal registration of

the case, and there was a notable delay in naming the accused. The case relied on eyewitness accounts, a retracted confession, and recovery of a weapon. The trial court convicted and awarded a death sentence, which was upheld by the High Court.

Issues:

i) What is the legal status and meaning of the term 'First Information Report' (FIR)?

ii) What is the distinction between cognizable and non-cognizable offences regarding the police's power to investigate under CrPC?

iii) What is the legal effect of the expression 'shall' as used in sections 154 and 155 of CrPC?

iv) What procedural safeguards and limitations govern the police's power to investigate cognizable and non-cognizable offences under Cr.P.C?

v) Under what circumstances may a police officer decline to investigate a cognizable offence, and what procedural obligations arise?

vi) To what extent is an investigating officer bound by contents of FIR during investigation?

vii) Is it mandatory to register an FIR upon receipt of information and can the police assess its correctness before registration under Section 154 Cr.P.C?

viii) What is the distinction between 'investigation' and 'inquiry' under the Cr.P.C?

ix) What exceptions allow investigative steps before FIR registration under the Cr.P.C?

x) What is the legal consequence if the information provided for FIR registration is later found to be false?

xi) How may a previous statement be used under Articles 140 and 153 of the Qanoon-e-Shahadat Order (QSO), 1984?

xii) Is omission of a witness's name in the FIR sufficient to discard their testimony?

xiii) How does delay or promptness in FIR registration affect the presumption of credibility and risk of false implication?

xiv) What presumption does Article 91 of the QSO, 1984 create regarding statements or confessions?

xv) Is a statement made to a police officer admissible under Article 38 of the QSO, 1984?

xvi) When is a confession by an accused in custody admissible, and what legal provisions govern its recording?

xvii) Under what conditions can a judicial confession form the basis for a conviction?

xviii) Does the retraction of a judicial confession affect its admissibility and evidentiary value?

xix) What precautions should a court take when recording a confession of a juvenile?

xx) Can a confessional statement be accepted and rejected in part by the court?

xxi) When is the plea of the accused considered, and what is the prosecution's burden of proof?

xxii) When is a confession considered irrelevant under Article 37 of the QSO, 1984?

Analysis: i) 'First Information Report' is not an expression used or defined in the Cr.P.C. It refers to information received by an officer In charge of police station under section 154 or section 155 of the Cr.P.C

ii) The expressions 'cognizable' and 'non cognizable' are defined under sections 2(f) and 2(n) respectively. In case of a cognizable offence, section 156 empowers any police officer In charge of a police station to investigate without the order of a Magistrate while section 155 places a clog on the power of the police officer, who cannot investigate without a specific order of a Magistrate competent in this regard and as has been mandated under section 155(2).

iii) the legislature has used the expression 'shall' in both these sections, making it a mandatory statutory obligation of the In charge of a Police Station to enter the information in the relevant prescribed book or, in other words, to register the FIR.

iv) In case of a non-cognizable offence, it is a statutory duty to enter the information in the relevant prescribed book but investigation cannot be commenced or carried out without obtaining a specific order from a Magistrate competent in this regard. In case of a cognizable offence the powers of an In charge of a police station to investigate are also not unfettered, rather they have been circumscribed under section 157 of the Cr.P.C. Before embarking on the course of investigation, the In charge of a police station must, on the basis of the information received or otherwise, have 'reason to suspect' the commission of an offence which he is empowered under section 156 to investigate. In such an eventuality it is a statutory duty of the latter to forthwith report to the competent Magistrate and then proceed.

v) Proviso (b) of sub-section 1 of section 157 provides that if it appears to the officer In charge of a police station that there is no sufficient ground for embarking on an investigation then he may decide not to investigate the case. In such an event the officer in charge of the police station shall state in his report to the Magistrate the reasons for his decision and forthwith notify the informant that he will not investigate the case or cause it to be investigated.

vi) After registration of the FIR the occurrence is treated as a case and it enables the police officer to initiate the process of investigation under sections 156,157, and 159 of Cr.P.C. This Court has held that the investigating officer is not to be guided nor is he or she controlled in this regard by the contents of the FIR. The contents of an information under section 154 are not sacrosanct. The investigation, after registration of the case, cannot be embarked upon in a mechanical manner and the investigating officer is bound to observe the provisions of the Cr.P.C

vii) The registration of an FIR as soon as the information has been received relating to the commission of a cognizable offence is necessary for preserving the evidence and to rule out the possibility of making up a story after deliberations

and consultations. This Court has consistently held that an officer In charge of a police station has no authority, nor does such authority vest with any other person, to refuse to register an information under section 154 when it discloses the commission of a cognizable offence. Moreover, the officer In charge of a police station nor any other person is vested with the authority to embark upon an inquiry regarding the correctness or otherwise of the information which has been given for the purposes of registration of a case under section 154 of the Cr.P.C.

viii) The expression 'investigation' has been defined under section 2(l) of the Cr.P.C and it includes all the proceedings under the Code for collection of evidence conducted by a police officer, or by any person other than a Magistrate, who is authorized by a Magistrate in this behalf. Likewise, 'inquiry' is defined under section 2(k) and it includes every inquiry conducted under the Code by a Magistrate or a court.

ix) Though there are some exceptions explicitly mentioned in the Cr.P.C when steps which are part of the process of investigation could be taken before a case is registered under section 154 of the Cr.P.C e.g under sections 54, 55, 57 or 151 ibid. It is noted that, even in such an eventuality, sections 60 and 61 make it a mandatory duty of the concerned police officer to take the arrested person before or to inform the Magistrate.

x) In case the information is ultimately established to be false then it would attract the offence and its prescribed punishment under section 182 of the PPC.

xi) In terms of Articles 140 and 153 of the Order of 1984 it is no more than a previous statement which may be used for confronting its maker unless the same has been proved by the prosecution3.

xii) The non mentioning of the name of a witness in the FIR is not a fatal omission and it would not be a sufficient reason to discard the testimony in every case. The evidentiary value of a testimony depends on the facts and circumstances of each case4.

xiii) The delay gives an opportunity of prior consultation and deliberations and, therefore, the possibility of false implication and manipulation cannot be ruled out. The promptness eliminates the chances of such prior consultation and deliberations and raises a presumption of credibility and bona fides5.

xiv) Article 91 of the Qanoon-e-Shahadat Order, 1984 (‘Order of 1984’) provides that whenever any document is produced before any court, inter alia, given by a witness in a judicial proceedings or before any officer authorized by law to take such evidence or to be a statement of confession by any person or an accused person, taken in accordance with law, and purporting to be signed by any Judge or Magistrate, the court shall presume that the document is genuine and that any such statement as to the circumstances under which it was taken purporting to be made by the person signing it are true and that such evidence, statement or confession was duly taken. This presumption is essentially qualified by the expression 'taken in accordance with law'.

xv) It is noted that under Article 38 of the Order of 1984 no statement which is made to or before a police officer is admissible even if it is made in the immediate presence of a Magistrate.

xvi) a confession of an accused while in custody is also inadmissible except when it is made in the immediate presence of a Magistrate or if there is a disclosure of fact as contemplated under Article 40 of the Order of 1984. Section 164 of the Cr. P.C. sets out the mandatory conditions relating to recording a judicial confession in the course of investigation conducted under chapter XIV ibid. Section 364 prescribes the manner in which the judicial confession is to be recorded under section 164 ibid. The safeguards are provided under Chapter 13 of the High Court Rules and Orders (Vol.III) ('Rules and Orders').

xvii) It has been the consistent view of this Court that a judicial confession can be made the basis for a conviction when it is found to be true, convincing and made voluntarily without any duress, coercion, inducement or any other influence of whatever nature.

xviii) Even a retracted confession recorded in accordance with law would be presumed to be genuine as has been contemplated under Article 91 of the Order of 19846. Retraction of a judicial confession is not a sufficient ground for discarding it if it is otherwise found to be reliable7. Mere retraction would not diminish its evidentiary value if it has been corroborated by other evidence8. (…) The judicial confession, even when retracted, does not lose its evidentiary value if it is independently corroborated and the court is satisfied that the narration is true and has been made voluntarily10.

xix) A court has to exercise extra caution while recording a confessional statement in case of vulnerable classes such as juveniles. It is desirable, in their case, to provide them counseling/consultation, inter alia, of a natural guardian16.

xx) A confessional statement has to be read as a whole and its inculpatory parts cannot be relied upon while discarding the exculpatory portions17. The confessional statement must be accepted and rejected as a whole18.

xxi) The prosecution has to prove its case against an accused beyond a reasonable doubt irrespective of any plea raised by an accused in his defense and the prosecution cannot fall back on the plea of an accused to prove his or her case. If the prosecution fails in proving its case the accused has to be acquitted. The stage to consider the plea of the accused precedes proving his guilt beyond a reasonable doubt21.

xxii) Article 37 of the Order of 1984 explicitly provides that the confession made by an accused person is irrelevant in a criminal proceeding if the making of the confession appears to the court to have been caused by any inducement, threat or promise, having reference to the charge against the accused person and which proceeds from a person in authority and is sufficient, in the opinion of the court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he/she would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

Conclusion: i) FIR refers to initial information received by police but has no formal definition in the Cr.P.C.

ii) Police may investigate cognizable offences directly, but non-cognizable offences require Magistrate's approval.

iii) Recording FIR is a mandatory statutory obligation upon the police.
iv) See analysis No.iv.
v) See analysis No.v.
vi) FIR initiates the case, but investigation must follow the law, not the FIR narrative.
vii) Police cannot delay FIR registration or verify facts before recording.
viii) See analysis No.viii.
ix) Limited pre-FIR steps are allowed but require strict compliance with reporting duties.
x) Giving false information for FIR can attract criminal liability under the PPC.
xi) FIR has limited evidentiary value unless properly proved in court.
xii) A witness's credibility is not necessarily diminished by non-mention in the FIR.
xiii) Delay in FIR raises suspicion of false implication; promptness supports authenticity.
xiv) Confessions and judicial statements carry legal presumption if lawfully recorded.
xv) Statements to police have no evidentiary value, even in a Magistrate's presence.
xvi) Only confessions before a Magistrate or disclosing facts are admissible from custody.
xvii) A valid, voluntary judicial confession is sufficient for conviction.
xviii) A retracted judicial confession remains valid if made voluntarily and corroborated by other evidence; mere retraction does not nullify its value.
xix) Juvenile confessions require special care and preferably guardian consultation.
xx) Partial reliance on confessions is impermissible; courts must accept or reject entirely.
xxi) Burden of proof lies on the prosecution, independent of any defence raised.
xxii) Involuntary confessions influenced by authority figures are legally irrelevant.

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9. **Supreme Court of Pakistan.**
1.Ameenullah s/o Saadullah 2. Khairullah s/o Abdul Khair Achakzai v. The State & another
Criminal Appeal No.525 OF 2022
Ms. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._525_2022.pdf

Facts: The appellants had challenged their convictions and sentences handed down by the trial court before the High Court and their appeals were dismissed vide the impugned judgment. They had sought leave and it was granted by this Court.

Issues: i) What is the evidentiary value of positive chemical examiner report, when safe custody and transmission of contraband is not proved?

ii) What is the starting and last end of the principle of safe custody and how secured?

iii) How the presumption of guilt of accused contained in section 29 of the Control of Narcotic Substances Act, 1997 would be taken?

iv) Whether the trial court is obliged to allow request of prosecutor to give up the witness mechanically, or it has any power to record such witnesses?

v) What are the guiding principles for the trial courts in dealing with the applications under section 540 CrPC?

vi) Whether the Prosecutor General or District Public Prosecutor, under the Sindh Prosecution Service (Constitution, Function and Powers) Act, 2009; are competent to initiate or recommend disciplinary action against an public servant connected with the investigation or prosecution for any act committed prejudicial to the prosecution?

Analysis: i) The positive report of the chemical examiner loses its evidentiary value and cannot be relied upon unless the safe custody and transmission from the stage of recovery till its final transmission to the office of the chemical examiner has been established through unimpeachable evidence.

ii) This chain of custody commences from the stage of the recovery of the alleged material and ends at the delivery of the samples to the chemical examiner's office. After the alleged material has been recovered, samples are separated and sealed in accordance with the principles and law enunciated by this Court in Ameer Zeb's case1. Then the recovered material has to be taken to the Police Station and kept there in custody by the concerned law enforcement agency. The samples are then to be taken out from the place of storage and transmitted to the concerned government analyst for chemical analysis. The chain of safe custody, therefore, starts from the recovery till the samples have been received at the office of the government analyst. The integrity of this chain of custody at each stage is fundamental for proving that the material recovered and seized by the law enforcing agency is one of the narcotic drugs contemplated under the Act of 1997.

iii) This Court, while interpreting this provision in the case of Ameer Zeb (supra), after examining its earlier judgments rendered in the cases of Kashif Amir and Muhammad Noor2, has held that the initial onus to prove the offence of recovery of narcotic substance from the accused is always on the prosecution and, once it has discharged that onus to the satisfaction of the court, it is only then that the onus shifts to the accused person to establish falsity of the prosecution's allegation against him/her. It has been further observed that the initial onus on the prosecution in such cases includes the onus to prove that the entire substance allegedly recovered is in fact a narcotic substance and such onus can be discharged by the prosecution only if the samples of the recovered substance sent to the chemical examiner for analysis are representative samples of the entire quantity of the recovered substance.

iv) Section 540 of the Cr.P.C. empowers a trial court to summon or examine a person as a witness. The provision has two distinct parts. The first part is discretionary and empowers any court and at any stage of the trial to summon any

person as a witness or to examine any person in attendance, though not summoned as a witness, or recall or re-examine any person already examined. The second part makes it a mandatory obligation of the court to summon and examine or recall or reexamine any person if the latter's evidence appears to the court to be essential to the just decision of the case…The court, in our opinion, was empowered under section 540 of the Cr.P.C. to decline the prosecution's request to give up the material witnesses or to summon them even if not cited in the calendar of witnesses. It would not have amounted to filling the lacunas of the prosecution's case but to exercise its powers vested under section 540 of the Cr.P.C to enable itself to reach a just decision.

v) The provisions of section 540 of the Cr.P.C. were examined by this Court in Nawabzada Shah Zain Bugti's case6, and it was held that it gives wide powers to the court to examine any witness as a court witness at any stage of the case, rather in certain situations it imposes a duty on the court to summon witnesses who could not otherwise be brought before the court. It was observed that the court cannot summarily dismiss an application for additional evidence by merely holding that either such witness was not mentioned in the challan or that it was a belated application or that it may have the effect of filling lacunas in the prosecution's case unless the totality of the material placed before the court is considered to find out whether examination of the witness is essential for a just decision of a case. It was emphasized that the court has to keep in mind that, while trying a case, it has to find out the truth to render a judgment in accordance with the cannons of justice.

vi) Section 9-A (2) further empowers the Prosecutor General or the District Public Prosecutor to refer to the competent authority to initiate disciplinary proceedings or to take disciplinary action against any public servant working in connection with investigation or prosecution for any act committed by him or her that is prejudicial to the prosecution.

Conclusion: i) The positive report of the chemical examiner loses its evidentiary value when safe custody and transmission of contraband is not proved.

ii) This chain of custody commences from the stage of the recovery of the alleged material and ends at the delivery of the samples to the chemical examiner's office.

iii) The initial onus to prove the offence of recovery of narcotic substance from the accused is always on the prosecution and, once it has discharged that onus to the satisfaction of the court, it is only then that the onus shifts to the accused person to establish falsity of the prosecution's allegation.

iv) See above analysis No.iv.

v) The court cannot summarily dismiss an application for additional evidence by merely holding that either such witness was not mentioned in the challan or that it was a belated application or that it may have the effect of filling lacunas in the prosecution's case unless the totality of the material placed before the court is considered to find out whether examination of the witness is essential for a just decision of a case.

vi) See above analysis No.vi.

10. **Supreme Court of Pakistan**
Sher Ahmed v. The State and another
Alam Khan v. The State and another
Criminal Appeal No.674 of 2020 and
Criminal Petition No.241 of 2025
Mr. Justice Athar Minallah, Mr. Justice Malik Shahzad Ahmad Khan, Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._674_2020.pdf

Facts: Appellants were tried for committing offences under section 365-A/0302 PPC and section 7 of the Anti-Terrorism Act, 1997 and awarded capital punishment by trial court. Their appeals got dismissed from High Court and murder reference was answered in affirmative. The conviction was challenged before the Supreme Court of Pakistan

Issues: i) What is duty of police under section 154 Cr.P.C and when a case becomes "cognizable case"?
ii)What is scope of section 156 Cr.P.C. and why the legislature has empowered Magistrate under section 156(3) Cr.P.C. to order investigation?
iii) Can a Magistrate order investigation after he has taken cognizance by recording statement of complainant u/s 200 Cr.P.C.?
iv) When an order for investigation passed under section 156(3) Cr.P.C. would take effect?
v) Can an inquiry be ordered under section 156(3) Cr.P.C.?
vi) How an entry as "madd" is against scheme mandated under the Criminal Procedure Code, 1898.?
vii) Can a retracted judicial confession alone sustain a conviction if found voluntary and truthful?
viii) What are the legal principles governing the use of a judicial confession as sole basis for conviction?

Analysis: i) It is settled law that under section 154 of the Cr.P.C it is the statutory duty of an officer of a police station to enter information relating to a cognizable offence in the book kept and prescribed for this purpose. The expressions 'cognizable offence' and 'cognizable case' have been defined in section 2(f) as meaning an offence or case in which a police officer may, in accordance with the second schedule or under any other law in force, arrest without a warrant. This is distinct from the procedure in case of a non-cognizable offence dealt with under section 155. Section 154 precedes section 156 and mandates that it is the statutory duty of an officer in charge of a police station to register the information and, once the information has been entered in the book prescribed for the purpose of section 154 of the Cr.P.C then it assumes the status of a 'cognizable case' as has been interpreted and held by this Court in the case of Sughran Bibi.
ii) Section 156 follows section 154 with the heading 'Investigation into cognizable cases' It is, therefore, obvious that it explicitly relates to investigation which

ensues the registration of an FIR or a case under section 154. The section, therefore, becomes relevant in those cases where a case has been registered under section 154. Sub section 3 of section 156 provides that 'any Magistrate empowered under section 190 may order such an investigation as above mentioned'. Section 157 sets out fetters on the power of an officer of a police station relating to investigation, even if a case has been registered under section 154. The officer in charge of a police station, in order to proceed to investigate a case or to depute a person for this purpose, must satisfy the test of having 'reason to suspect' the commission of a cognizable offence. However, proviso (a) and (b) of section 157(1) empowers an officer in charge of a police station to dispense with or not to proceed with the investigation; (a) when the information is against any person by name and the case is not of a serious nature or (b) when it appears to an officer in charge of a police station that there is no sufficient ground to embark on an investigation. However, in such an eventuality there is a statutory duty to forthwith inform the Magistrate in the report required to be sent to the latter, the reasons for such a decision and also notify the informant. The Magistrate may, in exercise of powers vested under section 156(3), order an investigation. It is noted that the legislature has expressly empowered a Magistrate empowered under section 190' to order an investigation. This is significant because there could be eventualities in which information may not have been given or received under section 154 and the complainant may have approached a Magistrate empowered under section 190 to take cognizance under section 200 read with sections 201,202 and 203 of the Cr.P.C. It is noted that Chapter XIV and Chapter XVI are distinct. In case of Chapter XIV the stage of taking cognizance by a Magistrate is after a report under section 173 has been filed upon conclusion of investigation pursuant to registration of an FIR under section 154. However, the scheme under Chapter XVI is different. The Magistrate has two options when a complaint has been received under section 200, either to entertain the complaint by taking cognizance and proceed under Chapter XVI or to pass an order under 156(3). In the former eventuality the Magistrate would be required to examine the complainant under oath under section 200 and then proceed to pass an order under section 202 of the Cr.P.C. However, if he chooses to pass an order under section 156 (3) then he may also direct the officer in charge of a police station to register the case under section 154 if it relates to the commission of a cognizable offence.

iii) But once the Magistrate has examined the complainant under oath under section 200 then he has to proceed under Chapter XVI and cannot pass an order under section 153(6). This Court, in Mohammad Ramzan's case, had considered the aforementioned provisions and it was held that once a Magistrate has taken cognizance by recording the statement of a complainant then the latter can only proceed under Chapter XVI in accordance with the mandate described under sections 202 to 204. However, if the Magistrate does not take cognizance in the aforementioned manner, then it will be open for him to pass an order under section 156(3) for investigation of the case after registration of a case under section 154. The Supreme Court of India has also interpreted the para materia provisions in a similar manner.

iv) It is, therefore, implicit in section 156(3) that the order of investigation contemplated therein is relatable to registration of a case under section 154 of the Cr.P.C if the crime relates to the commission of a cognizable offence. The order of investigation would be effective when a case is already registered or has been registered pursuant to the order of the Magistrate. The expression 'investigation' has been defined in section2(l) and it includes all the proceedings under the Code for the collection of evidence, conducted by a police officer or by any authorized person other than a Magistrate. Inquiry has been defined under section 2(k) and it includes every inquiry other than a trial conducted under the Cr.P.C by a Magistrate or a court. The exceptions to carry out an investigation before the registration of a case have been explicitly mentioned in the Cr.P.C e.g in sections 54,55,57 or 151 etc. However, even in such eventualities the powers of the police officer are not unfettered. Section 60 and 61 make it mandatory for a police officer to notify the Magistrate or produce the arrested person before such Magistrate. The order of 'investigation', therefore, in the context of section 156(3) refers to investigation in a case which has already been registered or it would follow after the required entry under section 154 has been made pursuant to the order.

v) Moreover, an inquiry cannot be ordered by a Magistrate under section 156(3) because in that case one will have to read in the section something the legislature has not intended.

vi) The scheme of the Cr.P.C contemplates external supervision of a Magistrate over the executive functions of an officer in charge of a police station. As an example, even when it appears to an officer in charge of a police station or the investigation officer that sufficient evidence or reasonable grounds of suspicion exist, this does not justify the forwarding of an arrested accused to a Magistrate and such an accused has to released, but in such an eventuality the mandatory provisions set out under section 169 have to be complied with. The investigation that follows the registration of a case under section 154 has to be conducted in accordance with the provisions of the Cr. P.C. This is crucial in order to uphold the integrity of the criminal justice system on the one hand and on the other to protect the accused as well as the victim from the abuse of the coercive powers vested in an officerin charge of a police station. The 'madd' is an entry in the daily or station diary. This enables an officer in charge of a police station to circumvent the scheme mandated under the Cr.P.C and to avoid the external supervision against abuse of the coercive police powers. This could have extreme debilitating effects on an accused.

vii) This Court, in Major (Retd.) Tariq Mehmood’s case has observed that if the confession is not confidence-inspiring then it cannot be made a basis to convict a person without independent corroboration. It is a general trend of the courts to refrain from basing the convictions solely on the basis of a retracted confession. The rule of abundant caution is to look for independent corroboration in material particulars to ensure the safe administration of justice. However, a judicial confession does not always lose its evidentiary value if there is no independent corroboration. This Court has further held that it is for the court to be satisfied that

the retracted judicial confession was true and voluntary and that it can safely be made a basis for conviction. The true test to judge the evidentiary value of a retracted confession would be that it must be voluntary, truthful and free of any duress and coercion. The retraction of a judicial confession in itself is not a ground to discard it. This Court has, therefore, held that the retracted judicial confession, if found to be voluntary, true and confidence-inspiring, then it alone would be sufficient to sustain a conviction and, further, that the rule of corroboration being a rule of abundant caution is not an inflexible rule to be insisted in each case. If in particular circumstances of the case the court is satisfied that the judicial confession was voluntary, true and confidence-inspiring then it may also justify sustaining a conviction.

viii) In a recent judgment this Court, after surveying the precedent law, has summarized the principles; a solitary judicial confession, if it is made a basis for conviction, then it has to be relied upon in toto without any pick and choose; when there is no other evidence and the confessional statement is the only material for convicting an accused then it has to be either accepted as a whole or rejected accordingly; the exculpatory portion of a confession cannot be discarded while proceeding to rely upon the same for decision of the case; a confession has to be read as a whole and not by relying only on the inculpatory part of the statement; the confessional statement of a person can only inculpate himself and no other person can be inculpated merely because some other person has made any admission; the admission of occurrence by the accused with a different version is not a confession of guilt and the court, without splitting it, has either to accept or reject it as a whole. However, if the admission in parts or full is of a nature which supports the case of the prosecution which is proved through reliable evidence, only then such statement or confession can be used for the purpose of corroboration and supporting evidence. This Court has also held that a judicial confession made by a co-accused is a valid piece of evidence which could be taken into consideration and used as circumstantial evidence against a co-accused of such a confessing accused. Moreover, delay in recording a confessional statement by itself is not sufficient to adversely affect its validity. No hard and fast rule can be laid down to determine the period for recording such confessional statements during the investigation6. A delayed confessional statement loses its evidentiary value the longer an accused remains in the custody of the police.

Conclusion: i) Under section 154 of the Cr.P.C it is the statutory duty of an officer of a police station to register information relating to a cognizable offence and once the information has been entered in the book prescribed for the purpose of section 154 of the Cr.P.C then it assumes the status of a 'cognizable case.'

ii) Section 156 Cr.P.C. empowers police to investigate cognizable offences after registration of FIR, while section 156(3) enables a Magistrate to order such investigation—even without an FIR—to ensure that complaints (including those filed directly before the Magistrate under section 200) are properly investigated when warranted.

iii) Once a Magistrate takes cognizance by examining the complainant under

section 200, he must proceed under Chapter XVI, but if he has not taken cognizance, he may instead order investigation under section 156(3) Cr.P.C.
iv) An order under section 156(3) Cr.P.C. directs investigation only in respect of a cognizable offence after registration of a case under section 154, either already made or to be made pursuant to the Magistrate's order.
v) An inquiry cannot be ordered by a Magistrate under section 156(3) Cr.P.C.
vi) An entry as "madd" circumvents the Cr.P.C. scheme by avoiding mandatory registration, investigation procedures, and Magistrate's supervision, enabling unchecked police coercive powers.
vii) Yes, a retracted judicial confession alone can sustain a conviction if the court finds it voluntary, truthful, and confidence-inspiring.
viii) See above analysis No.viii.

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11. **Supreme Court of Pakistan.**
Rahim Shah Mian v. Muhammad Iqbal
Civil Appeal N0.6O-P/2016
Ms. Justice Musarrat Hilali, Mr. Justice Shakeel Ahmed, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/c.a._60_p_2016.pdf

Facts: This direct appeal is filed against the judgment passed by the Peshawar High Court, whereby the civil revision petition filed by the respondent was allowed, the concurrent judgments and decrees of the Courts below were set aside, and the appellant's suit for pre-emption was dismissed.

Issues: i) Whether the High Court can overturn the concurrent findings of lower courts, in Revisional Jurisdiction under section 115 CPC?
ii) What is the effect of non-production of informer of alienation of property to the pre-emptor, in a suit for Pre-Emption?

Analysis: i) It is by now well settled that a revisional Court is fully empowered under Section 115 of the Code of Civil Procedure, 1908 ('the Code') to do so where such findings are based on misreading, non-reading, or misinterpretation of the evidence on record…Where findings suffer from misreading or non-reading of material evidence or are otherwise perverse, the High Court is fully empowered under section 115 of the Code to rectify such errors.
ii) This Court has consistently held that non-production of the informer may be fatal and may result in an adverse inference being drawn against the pre-emptor. The requirement of Talb-iMuwathibat under Section 13 of the Act, therefore, remained unproved.

Conclusion: i) Where findings suffer from misreading or non-reading of material evidence or are otherwise perverse, the High Court is fully empowered under section 115 of the Code to rectify such errors.
ii) Non-production of informer, to pre-emptor about transaction of property, is fatal to plaintiff and the requirements of Talb-i-Muwathibat reains unproved.

12. **Supreme Court of Pakistan**
Abdul Sattar Khan v. Umar Ayar
Civil Appeal No.79-P/2016
Ms. Justice Musarrat Hilali, Mr. Justice Shakeel Ahmad, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/c.a_79_p_2016.pdf

Facts: Suit for Pre-emption was dismissed from the Trial Court but was decreed by the First Appellate Court. High Court reversed the findings of the First Appellate Court and dismissed the suit. Hence; this appeal.

Issues: i) In a suit for Pre-emption, whether it is essential to produce informer of sale transaction as a witness to prove Talb-i-Muwathibat?
ii) Whether the High Court, in its revisional jurisdiction, is competent to interfere with and set aside concurrent findings of courts below?

Analysis: i) The omission to produce the person through whom knowledge of the sale was acquired is a significant shortcoming in the evidentiary chain. The requirement of Section 13of the Act is not merely procedural but foundational to the enforceability of the right of pre-emption. It mandates that the first demand (Talb-i-Muwathibat) be made immediately upon acquiring knowledge of the sale and be proven through unimpeachable evidence. The appellant's version remained uncorroborated at the most critical point, how and when he came to know' of the sale. The lapse of more than three months between the date of mutation (10.04.2010) and the claimed knowledge (25.07.2010) further undermines the promptness and credibility of the alleged Talb…This Court has consistently held that non-production of the informer may be fatal and may result in an adverse inference being drawn against the pre-emptor.
ii) It is by now well settled that a revisional court is fully empowered under Section 115 of the Code of Civil Procedure, 1908 (the Code') to do so where such findings are based on misreading, non-reading, or misinterpretation of the evidence on record…The second aspect requiring further consideration is whether the High Court, in the exercise of its revisional jurisdiction, was competent to interfere with and set-aside the concurrent findings of the two Courts below on the issue of Talb-i-Muwathibat. The answer is in the affirmative. Where findings suffer from misreading or non-reading of material evidence or are otherwise perverse, the High Court is fully empowered under section 115 of the Code to rectify such errors.

Conclusion: i) Yes. It is essential to produce informer of sale transaction as a witness to prove Talb-i-Muwathibat
ii) Yes. The High Court, in its revisional jurisdiction, is competent to interfere with and set aside concurrent findings of courts below.

13. **Supreme Court of Pakistan**
Muhammad Juman & Arab v. The State
Jail Petition No.50/2023
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p._50_2023.pdf

Facts: The complainant alleged that his son was fatally attacked with deadly weapons by the accused following a dispute over passage on a public road. The incident was witnessed by the complainant and his relatives, and the victim succumbed to his injuries at the hospital. The trial and appellate courts convicted the accused and affirmed the sentences, while co-accused were acquitted on benefit of doubt.

Issues: i) Is delay in lodging the FIR fatal if reasonably explained by the prosecution?
ii) Is the testimony of witnesses living near the scene of occurrence reliable if their presence is natural and remains unshaken under cross-examination?
iii) Does forensic confirmation of human blood on recovered weapons support the prosecution case?
iv) Can absence of premeditation and unproven motive be considered mitigating factors for reducing a capital sentence?

Analysis: i) Under the circumstances, the abovementioned delay in reporting the matter to the police has been plausibly explained by the prosecution and the same is not fatal to the prosecution case.
ii) The said witnesses being residents of the houses situated near the place of incident were the natural eyewitnesses of the occurrence and their presence at the spot at the relevant time, i.e. 02:15 p.m., is neither unnatural nor improbable. Furthermore, they were cross-examined at length but their evidence could not be shaken. They corroborated each other on all material aspects of the case, and their evidence is reliable, trustworthy and confidence inspiring.
iii) According to the report of chemical examiner and serologist, the above-mentioned weapons were stained with human blood. It is, therefore, evident that the prosecution case is further corroborated by the recovery of the weapons of offence from the possession of the petitioners, as well as, by the reports of the chemical examiner and serologist.
iv) In the case of Muhammad Yasin and another vs. The State and others (2024 SCMR 128), while elaborating on the issue of motive, this court observed as under: "10. It is a well-settled proposition of the law that in the absence of premeditation to commit murder where motive is not proved by the prosecution, the same may be considered as the mitigating factor in order to reduce the quantum of sentence in cases involving the capital punishment.

Conclusion: i) The delay in lodging the FIR was satisfactorily explained and does not weaken the prosecution's case.
ii) The eyewitnesses, being natural and reliable, provided consistent and unshaken testimony.

iii) Recovery of blood-stained weapons, confirmed through forensic reports, corroborates the prosecution's version.
iv) Absence of premeditation and failure to prove motive may serve as mitigating factors in reducing a capital sentence.

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14. **Supreme Court of Pakistan**
Rajesh alias Rajoo v. The State
Jail Petition No.243 of 2023
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p._243_2023.pdf

Facts: This jail petition arose from the conviction and death sentence awarded by the Trial Court, upheld by the High Court, for the offence of setting the wife on fire resulting in her death. The accused challenged these findings, primarily contesting the reliance on the deceased's purported dying declaration.

Issues: i) Whether a conviction for murder can safely rest on a dying declaration not properly corroborated and surrounded by doubts regarding its voluntariness, authenticity, and admissibility under Article 46 of the Qanun-e-Shahadat Order, 1984?
ii) Whether the failure to establish the authenticity of an electronic dying declaration through forensic examination (FSL) affects its admissibility and probative value in a criminal trial?

Analysis: i) Here it must be explained that a 'dying declaration' is the statement which is made by the victim of homicide offences as to the cause of their death. The rule relating to dying declaration and its admissibility is provided in Article 46 of the Qanun-e Shahadat Order, 1984, which explains that the statement of a dying person is relevant and admissible in evidence, however, for recording such declaration no particular mode has been provided. The principles laid down by this Court are that a dying declaration is a weaker type of evidence, which needs corroboration and that a conviction can be based on the basis of such a declaration when fully corroborated by the other reliable evidence. Thus, the facts and circumstances of each case, have to be kept in view and also the credibility, reliability and acceptability of such a declaration, by the Court… While such a statement may constitute an exception to the general rule of direct evidence, thereby permitting its admissibility in a criminal trial even in the absence of cross-examination of the declarant, the superior courts have consistently maintained that a dying declaration is, at best, a weaker type of evidence which requires cautious appraisal and must ordinarily be corroborated by other reliable and confidence-inspiring material… The video recording of the dying declaration shows the Mst. Radha deceased had not made any statement at her own rather she was being dictated and tutored by her relatives to make a statement against the petitioner... No certificate of the concerned Medical Officer has been produced... None from the Hospital staff appeared in the witness box to affirm that any dying declaration

was made by the deceased as claimed by the prosecution… If all these factors are read in conjunction with each other and in juxtaposition it would reveal that the instant case is not free from doubts and surmises... the dying declaration admittedly not being properly audible could not be relied upon keeping in view the principles elaborately discussed."

ii) Moreover, the video recording of the dying declaration of Mst. Radha-deceased was never sent to the office of the FSL to determine its genuineness, therefore, it is not safe to rely upon said recording.

Conclusion: i) The conviction cannot rest on such a dying declaration without sufficient corroboration under the law.

ii) In the absence of forensic verification, the admissibility and reliability of the video dying declaration is not safe to rely on and warranting benefit of doubt to the accused.

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15. **Supreme Court of Pakistan**
Muhammad Sadiq (deceased) through LRs. v.
Additional District Judge, Toba Tek Singh etc.
C.A. No. 636-L of 2012 In C.P.L.A No.1637-L of 2010
Mr. Justice Shahid Bilal Hassan, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.a._636_l_2012.pdf

Facts: Suit for pre-emption was decreed from the District Court in view of conceding statement of defendant. The High Court, while deciding writ petition, set aside the order and remanded the case to the Trial Court. Hence; this appeal.

Issues: i) Whether principle of lis-pendens is applicable to suits for pre-emption and is there any exception to it?

ii) What legal developments have, so far, taken place regarding section 52 of the Transfer of Property Act, 1882 and possible defence provided under section 41 of the Act?

iii) What is the principle regarding applicability of doctrine of lis-pendens if a suit is dismissed and then restored?

Analysis: i) Considering the arguments advanced at bar and going through the record, it is observed that for the determination of this appeal it must be noted that the doctrine of lis pendens is fully applicable to suits for pre-emption as has been held by this Court in judgment reported as Basit Sibtain vs. Muhammad Sharif (2004 SCMR 578) that the validity of a pre-emption decree is not affected by any sale made during litigation and is binding on the purchaser. The only exception to the doctrine of lis pendens applicable to pre-emption claims is in one situation, where the sale by the vendee is to one who has a superior right of pre-emption provided that the sale is within the period of limitation when such right can be exercised.

ii) ... , it will be appropriate to discuss this Court's position and the significant developments therein concerning Section 52 of the Transfer of Property Act, 1882, ("the Act") and possible defence to the Section 52 of the Act provided

under Section 41 of the Act through which the bona fide purchaser can claim protection... This Court's stance on Sections 41 and 52 of the Act is encapsulated in Muhammad Nawaz Khan vs. Muhammad Khan (2002 SCMR 2003) wherein it was held that a transfer by ostensible owner does not automatically become void simply because it was made pendente lite but such transfer cannot affect the rights of the other parties in the suit... In Muhammad Ashraf Butt v. Muhammad Asif Bhatti (PLD 2011 SC 905), this Court considered the ambit of the doctrine of lis pendens and held as under: The rule unambiguously prescribes that the rights of the party to the suit, who ultimately succeed in the matter are not affected in any manner whatsoever on account of the alienation, and the transferee of the property shall acquire the title to the property subject to the final outcome of the lis... In Tabassum Shaheen vs. Uzma Rahat (2012 SCMR 983), this Court placing reliance on Muhammad Ashraf Butt emphasised that even a bona fide purchaser without notice of litigation is bound by the result of the suit. This principle was reinforced in Aasia Jabeen vs. Liaqat Ali (2016 SCMR 1773), wherein the pre-emptor sold the land during pendency of proceedings before the Supreme Court. In light of this the Court held that any person who purchased the land during pendency of the proceedings before this Court or raised construction thereon did so at his own risk and cost.

iii) So far as the arguments that the petitioner(s) purchased the land during the period when the suit was dismissed, therefore, the principle of lis pendens does not apply to the case of the petitioner; the said argument has no force, because it a settled principle of law by now that if a suit is dismissed and then restored, the restoration order relates to back period and a transfer/sale after dismissal and before restoration is subjected to the principle of lis pendens embodied in Section 52 of the Transfer of Property Act, 1882.

Conclusion: i) The doctrine of lis pendens is fully applicable to suits for pre-emption. The only exception is the sale by the vendee to one who has a superior right of pre-emption.

ii) See above analysis No.ii.

iii) Transfer/sale after dismissal and before restoration is subjected to the principle of lis pendens embodied in section 52 of the Transfer of Property Act, 1882.

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16. **Supreme Court of Pakistan**
Muhammad Amin Saqib v. Judge Family Court, Toba Tek Singh and others
CPLA No. 919-L of 2016
Mr. Justice Shahid Bilal Hassan, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.p._919_l_2016.pdf

Facts: The petitions are filed against the judgment of High Court, where the suit for maintenance of minor daughters of the petitioner was decreed and then enhanced by the Appellate Court and by the High Court as well. Now the minors approached this court for further enhancement through a connected petition and present petitioner against the enhancement made by High Court.

Issues: i) Whether Family Court can look into the enhancement of maintenance allowance already decreed by invoking section 151 of the CPC?

Analysis: i) Therefore, to keep the door open for the parties to further challenge and agitate, if aggrieved of the order of enhancement or otherwise, it seems appropriate that in view of the above development, the matter be remanded to the learned trial Court to consider the request of the respondent(s) for enhancement of the maintenance allowance, treating the same as an application under section 151, Code of Civil Procedure, 19081. Operative part of the referred judgment is reproduced infra:

> *'Family Court had exclusive jurisdiction relating to maintenance allowance and the matters connected therewith. Once the decree by the Family Court in a suit for maintenance (for minors) was granted, thereafter, if the granted rate for monthly allowance was insufficient and inadequate, in that case, institution of fresh suit was not necessary rather the Family Court may entertain any such application (under section 151, C.P.C.) and if necessary make alteration in the rate of maintenance allowance.'*

Conclusion: i) The institution of fresh suit for enhancement of maintenance is not necessary; rather the Family Court may entertain any such application under section 151, C.P.C.

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17. **Supreme Court of Pakistan**
Naseem Mai and another v. Malik Muhammad Shah Aalam and others
CPLA No.2872-L of 2022
Mr. Justice Shahid Bilal Hassan, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2872_l_2022.pdf

Facts: The petitioners instituted a suit for recovery of maintenance allowance along with a prayer for marriage expenses. The trial Court partly decreed the suit but the High Court set aside the decree to the extent of marriage expenses while deciding the writ petition. Hence, this petition.

Issues: i) Is there a statutory obligation for a father to pay advance marriage expenses**?**
ii) Can courts grant relief based on hypothetical or premature claims not founded on existing rights?

Analysis: i) However, law does not create a statutory obligation on a father to bear advance or indefinite marriage expenses, especially when: no marriage date is fixed; no engagement or preparation is underway and, the claim is speculative and indeterminate in nature.
ii) Courts are forums of law and not speculation as well as supposition. Relief may only be granted on the basis of existing rights and actual infringement thereof, not of imaginary and hypothetical causes. It has time and again been held by this Court that Courts must be cautious in entertaining claims which are

premature, uncertain or not ripe for adjudication.

Conclusion: i) Not a statutory obligation for a father to pay advance marriage expenses.
ii) Courts must be cautious in entertaining claims that are premature, uncertain, or not ripe for adjudication.

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18. **Supreme Court of Pakistan**
Muhammad Ashraf Anjum v. Sabir Hussain & others
Civil Appeal No. 239-L of 2018
Mr. Justice Yahya Afridi, Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/c.a._239_l_2018.pdf

Facts: The appellant filed a suit for specific performance of an agreement to sell immovable property. The suit was decreed by the Trial Court and the decree was upheld by the Appellate Court. Aggrieved by the concurrent findings, the respondents filed a civil revision before the Lahore High Court, which was allowed. Hence; this appeal.

Issues: i) Whether a party seeking specific performance must approach the Court with clean hands?
ii) Whether time can be treated as the essence of the contract in agreements for sale of immovable property, particularly in commercial transactions, and what are the legal consequences of non-performance within the stipulated time?

Analysis: i) It is an admitted fact that vide the agreement to sell, the vendors had agreed to sell the suit shop on the terms and conditions mentioned therein. It was admitted during cross-examination by the vendee that no earnest money was paid to the vendors, which clearly demonstrates that he had misstated in the plaint about the factum of payment of earnest money. At this juncture, it is relevant to reiterate the settled equitable maxim that *'he who comes into equity must come with clean hands.'* In this regard, the Court, while applying the aforementioned principle laid down in Justice Khurshid's case, categorically held that relief cannot be extended to a party who approaches the Court with unclean hands or seeks to secure an unethical or un-merited advantage.
ii) The vendee's failure to perform his obligations within the stipulated time raises the question whether the vendors can validly raise the defence that, since time was the essence of the contract, the Court cannot decree specific performance in favour of the vendee who failed to fulfil his part of the contract within the agreed timeframe (…) It is observed that in cases relating to specific performance, equity, which governs the rights of the parties, does not rigidly adhere to the express terms of the contract. Instead, the Court examines the substance of the agreement to ascertain whether the parties intended that performance be completed within a specific time period… A bare perusal of the terms of the agreement, which have been discussed earlier in this order, clearly reveals that time was the essence of the contract, and this was understood by both parties. (…) The present case obviously relates to a contract in commercial transaction and the

Court can take judicial notice of the fact that the price of real estate is constantly escalating. … Exercise of jurisdiction, under these circumstances in favour of the vendee when character of the property or other circumstances would render such exercise likely to result in injustice, would be against the settled norms of justice.

Conclusion: i) Yes, a party seeking specific performance must approach the Court with clean hands.
ii) See above analysis No.ii.

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19. **Supreme Court of Pakistan,**
Ehsan-ul-Haq and others v. Muhammad Nawaz and others`
C.A No. 184/2013 IN C.P.L.A.1297/2012
Mr. Justice Shahid Waheed, Mr. Justice Shakeel Ahmad, Mr. Justice Aamer Farooq.
https://www.supremecourt.gov.pk/downloads_judgements/c.a._184_2013.pdf

Facts: The dispute concerns inheritance of property initially owned by a deceased male ancestor and later transferred to his daughter through a Will. The appellants claim that she held the property as a limited owner under customary law, and upon her death, it should have devolved partly to her heirs and partly to the heirs of the original male owner's family. The suit was decreed by the trial court, but the appellate court set aside the judgment and dismissed the suit, which was later upheld by the revisional court, prompting the filing of the instant Civil Appeal.

Issues: i) What is the evidentiary value of a pedigree table?
ii)Whether customary law applies only to ancestral property only?
iii)Whether a Muslim under Hanafi law can validly make a Will for more than one-third of the surplus estate?
iv)Whether section 2-A of The Muslim Personal Law (Shariat) Application Act, 1962 recognizes male heirs who inherited land under customary law before 1948 as absolute owners under Islamic law?

Analysis: i) There is ample case law on the subject that pedigree table alone has little or no probative value and has to be corroborated through independent cogent evidence.
ii)It is also an admitted position that customary law applies only to ancestral property and not acquired land.
iii)The Will under the Hanafi Muslim Law may either be verbal or in writing, however a Muslim cannot, by Will, dispose of more than 3rd of surplus of his estate after payment of funeral expenses and debt.
iv)In a nut-shell, section 2-A clarifies that male heirs who inherited land under customary law before 1948 are recognised as full owners under Islamic law, ensuring absolute rights to the entire property.

Conclusion: i) Pedigree table alone carries little evidentiary value unless supported by independent and reliable evidence.

ii) Customary law is applicable only to ancestral property, not to acquired land.
iii) See above analysis No.iii.
iv) Section 2-A affirms that male heirs who inherited land under customary law before 1948 are deemed absolute owners under Islamic law.

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20. **Supreme Court of Pakistan**
Muhammad alias Ahmad v. The State
Criminal Appeal No. 499 of 2020
Mr. Justice Naeem Akhter Afghan, Mr. Justice Muhammad Hashim khan kakar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._499_2020.pdf

Facts: An FIR was registered against the appellant and a co-accused for murder. After trial, both were convicted by the Sessions Court under section 302(b) PPC; the appellant was sentenced to death and the co-accused to life imprisonment. On appeal, the High Court acquitted the co-accused but upheld the appellant's conviction, commuting the death sentence to life imprisonment. The appellant challenged this decision before the Supreme Court.

Issues: i) Whether conviction can be sustained solely on the basis of ocular testimony when it is contradicted by medical and forensic evidence?
ii) Whether unexplained delay in lodging the FIR and shifting the deceased to the hospital can create doubt about the prosecution's version?

Analysis: i) The sole basis for the conviction of the appellant, as recorded by both courts below, rests upon the ocular testimony of complainant (PW.3) and witness (PW.6), who claimed to have witnessed the occurrence coupled with the medical evidence furnished by (PW.4), who conducted post-mortem examination on the dead body of the deceased. It is rather surprising that (PW.4) observed blackening around firearm entry wounds No.1 and No.2 on the body of the deceased, which strongly suggests a close-range between the appellant and the deceased. Such blackening is not possible from a distance of over 20 feet, thereby materially contradicting the prosecution's version. The eyewitnesses claim that the appellant fired upon the deceased with a 12-bore repeater, ordinarily discharging pellets, not bullets, which is inherently inconsistent with the recovery of intact bullets from the body of the deceased. This fundamental inconsistency further weakens the veracity of the ocular account.
ii) The occurrence in this case was taken place on 24.04.2011 at 10:30 a.m. However, it was reported by the complainant with a delay of 2 hours and 10 minutes at 12:40 p.m. No explanation for this delay, much less a plausible or satisfactory one, has been offered by the complainant either in the FIR or in his deposition. The conduct of the alleged eyewitnesses in not shifting the deceased to the hospital or the Police Station immediately after the incident is inconsistent with normal human behaviour. In cases of homicidal assault, it is expected that

the kith and kin of the injured or deceased would make every effort to shift him to the nearest medical facility, particularly, with the hope that he may still be alive.

Conclusion: i) It is unsafe to maintain the conviction on the basis of contradictory medical and forensic evidence.
ii) The inordinate delay in the preparation and transmission of police papers coupled with the failure to shift the dead body of the deceased promptly to the hospital or police station, creates serious doubt about the presence of the alleged eyewitnesses at the scene at the relevant time.

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21. **Supreme Court of Pakistan**
Suleman v. The State
Criminal Petition No. 297-L of 2025
Mr. Justice Muhammad Hashim khan kakar, Mr. Justice Ishtiaq Ibrahim, Mr. Justice Ali Baqar Najafi
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._297_l_2025.pdf

Facts: The petitioner, a 13-year-old juvenile, was tried under section 376 of the Pakistan Penal Code (PPC) for the alleged rape of a 10-year-old girl. He was convicted by the Trial Court, and sentenced to life imprisonment with a fine. The conviction and sentence were upheld by the High Court. Hence; this criminal petition.

Issues: i) Whether a child between 10 and 14 years of age can be held criminally liable without establishing sufficient maturity under section 83 PPC?
ii) Whether trial courts are required to conduct a meaningful inquiry into the maturity of juvenile accused under section 83 PPC?
iii) Whether juvenile accused can be subjected to adult punitive procedures in light of the Juvenile Justice System Act, 2018?
iv) Whether handcuffing and failing to record age of a juvenile accused violates statutory and constitutional safeguards?

Analysis: i) The statutory prerequisites encapsulated in Section 83 PPC may thus be bifurcated into two distinct elements: (i) The child's maturity of understanding to judge the 'nature' of the act; and (ii) The child's maturity of understanding to judge the 'consequences of the act committed. It is manifest that mere understanding of the nature of an act, unaccompanied by an appreciation of its consequences, does not suffice to establish criminal liability (…) the term ‘consequences of the act’, as envisaged in Section 83 PPC, is to be interpreted not merely in terms of familial or societal effects but as encompassing knowledge that the act constitutes a criminal offence and may attract penal consequences prescribed by law (…) These considerations lie at the heart of the statutory presumption of *doli incapax* — a common law doctrine embedded within Section 83 PPC.
ii) It is deeply alarming that in the instant case, no meaningful attempt was made by the learned trial Court, the prosecution, or even the defence to assess the petitioner’s level of maturity or to determine whether he fell within the exception

provided by Section 83 PPC. No questions were posed to the petitioner to examine his cognitive awareness or comprehension of the consequences of his act. Despite the gravity of the offence (…) the learned trial Court proceeded in a casual and mechanical manner. (…) Age is a crucial factor in assessing the reliability, credibility, and maturity of a witness or accused, and its absence reflects a serious procedural lapse.

iii) The Juvenile Justice System Act, 2018 represents a vital legislative effort to bring into line Pakistan's juvenile justice framework with the aforementioned international standards. (…) It stipulates that no sentence of imprisonment may be imposed upon a juvenile unless it carries with it the possibility of release, thereby rejecting retributive punishment in favour of a reformative approach. Subjecting them to adult punitive procedures undermines the very philosophy of juvenile justice. It is paradoxical that a person deemed too immature to vote or contract civil obligations may, nevertheless, be exposed to the full rigor of criminal prosecution and sentencing without any assessment of his mental maturity.

(iv) It is also a disturbing and unfortunate revelation that the petitioner, a child of merely around 13 years, was handcuffed while in custody. The act of restraining a child in such a degrading manner not only undermines the legislative intent of affording dignity and care to minors in conflict with the law but also reflects a troubling disregard for the statutory safeguards specifically designed to protect their physical and psychological well-being. Astonishingly, the age of the petitioner was not recorded in the charge sheet. (…) We deem it essential to reiterate that the recording of age is not a discretionary matter or a juvenile-specific safeguard alone, but should be treated as a mandatory requirement that should be uniformly followed in all criminal proceedings.

Conclusion: i) No, a child between 10 and 14 years of age cannot be held criminally liable unless the prosecution proves that the child had sufficient maturity to understand both the nature and consequences of the act, as required under Section 83 PPC.

ii) Yes, trial courts are legally bound to conduct a meaningful inquiry into the cognitive maturity of the juvenile accused under Section 83 PPC, and failure to do so amounts to a serious procedural lapse.

iii) See above analysis No.iii.

iv) See above analysis No.iv.

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22. **Supreme Court of Pakistan**
Faheem Arshad & others v. Manzoor-ul-Haq and others
C.P.L.A.55/2025
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._55_2025.pdf

Facts: The directly inducted Tehsildars challenged the promotion call letters issued to promotee Tehsildars before the Service Tribunal, contesting the promotion process and demanding their inclusion in the seniority list with request that amendments be made in rules for equal treatment; Tribunal ordered the

preparation of a revised seniority list and suspended the promotion process pending the outcome of departmental representation, hence the instant petition.

Issues: i) Whether rules made or amended under section 23 of the Punjab Civil Servants Act, 1974 have the same legal force as the parent statute?
ii) Whether sanctioned posts in public administration must be filled promptly to ensure institutional efficiency and service delivery?

Analysis: i) Section 23(i) of the Punjab Civil Servants Act, 1974 provides that the Governor, or any person authorized in this behalf may make such rules as appear to him to be necessary or expedient for carrying out the purposes of the said Act. The 2004 Rules have been made by the Governor in exercise of the powers conferred on him under Section 23, and so has the amendment in Schedule-I to the said Rules through notification dated 21.08.2019. These Rules have the same force as the provisions of the statute under which they are framed.
ii) "Post" denotes the number of posts in the cadre, whether filled or vacant. "Vacancy" means a vacant post available for appointment, through recruitment / promotion, on the creation of new post(s) or retirement. working on death or resignation or removal of the incumbent the post. In public administration, every post in the organizational hierarchy is created after due deliberation and approval, taking into account the functional requirements of the department, the workload, and the efficient delivery of services to the public. This process ensures that each sanctioned post is essential for the functioning of public institutions.

Conclusion: i) Rules made or amended under section 23 of the Punjab Civil Servants Act, 1974 have the same legal force as the provisions of the statute under which they are framed.
ii) Total sanctioned posts promptly is essential for proper functioning of public institutions.

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23. **Supreme Court of Pakistan**
Muhammad Yaqoob (deceased) through legal heirs and others v. Saeeda Bibi (deceased) through legal heirs and …. Other
Civil Petition No.1841 of 2025
Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1841_2025.pdf

Facts: The petitioners being legal heirs of one of the defendants have impugned the judgment of High Court, whereby the civil revision of the petitioners against the concurrent findings of the courts was dismissed.

Issue: i) What is the legal effect of section 3 of the West Pakistan Muslim Personal Law (Shariat) Application Act,1962.
ii) If the actual parties accept status of a party to a suit and the decrees in favour of plaintiff, whether same question can be agitated again before a higher forum?
iii) Whether concurrent findings of facts recorded by three courts can be

questioned, if so under what circumstances?

Analysis: i) Her status as limited owner was terminated under Section 3 of the West Pakistan Muslim Personal Law (Shariat) Application Act, 1962. After termination of her status as limited owner, the property occupied by her would be considered as the property of last male -owner and in this case last male owner was her late husband Siraj Din and according to the Act of 1962, the property has to be reverted back to his legal heirs.
ii) Since the actual defendants (Respondents No.3-9) have accepted the decrees in favour of plaintiff (Respondent No.1) and the status of Defendant No. 10 (predecessor of the petitioners) is simply that of a purchaser who legally cannot challenge/question the legal and sharai status of Respondent No.1 or the other respondents. He, (the petitioners) for that matter, has no locus standi and cause of action to challenge the same.
iii) The concurrent findings of facts recorded by three Courts cannot be questioned in absence of any misreading or non-reading of material evidence or any other material irregularity or illegality.

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

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24. **Lahore High Court**
Gharibwal Cement Limited & another v. The Province of Punjab & others
W.P No.7572 of 2024.
Mr. Justice Shahid Karim
https://sys.lhc.gov.pk/appjudgments/2025LHC4940.pdf

Facts: The petitioners, through writ petitions, challenged the orders of D.G Mines &Minerals as well as the orders of Secretary Mines & Minerals regarding imposition of markup under rule 68(2) and 73(3) of the Punjab Mining Concession Rules, 2002. The Court allowed the petitions, set aside the orders and also declared the rules ultra vires and struck down the same.

Issue: i) Whether section 2 of the Regulation of Mines and Oil-fields and Minerals Development (Government Control) Act, 1948 empowers the appropriate Government to frame rules to impose markup for non-payment of royalty or annual rental within stipulated time period?
ii) What would be the status of delegated legislation when it goes beyond the rule making power conferred by the statute?
iii) What are constituent elements of the cause of action on the basis of unjust enrichment?

Analysis: i) The rule-making power does not encompass the granting of power to levy mark up in the Rules. The making of Rules is a circumscribed and derived power. It can neither be expanded nor enlarged to impose additional burdens which are not

contained in the main enactment. The determination of rates only has been left to the Provincial Government owing to peculiar and varying nature of transactions in each case for which recourse to the legislature may be cumbersome. It is more efficient to do so by means of rule-making or by agreements as determined by the Government. Apart from determination of rates, the Provincial Government may prescribe conditions subject to which royalties, rentals and taxes shall be paid. The term conditions does not clothe the Provincial Government with power to amplify the amount of royalty etc. by levying mark up on any unpaid amount. The two concepts viz. determination of rates and the condition subject to which royalties etc. shall be paid, are distinct concepts and cannot be confused one with the other. If the legislature intended to include the imposition of mark up in the broader power to determine rates, a precise clause could have been added to section 2. It will be noticed that the various clauses of section 2 enjoin clear and specific powers which does not include the levy of mark up. Such a power, therefore, cannot be derived unilaterally to enrich the Provincial Government…There is no doubt in my mind that the term 'any matter ancillary or incidental to the matters set out in the forgoing clauses' will not cover the imposition of markup in case of failure to pay the principal amount of royalty or rentals. These matters would perhaps have connection with the powers of the Government to recover the amount of royalty, rentals and for this purpose provisions have been made in rules 70 and 71 which give power to the Provincial Government to recover the amount of royalty in case of failure by any person to make the payment. Clause (8) of section 2 cannot be extended or interpreted to mean that by rule-making power an additional levy of markup can be imposed on a person whereas the primary enactment does not authorize such a payment to be made.

ii) It is a rule vouched by respectable authority that delegated legislation is intended to advance the purpose of primary legislation and if a rule goes beyond the rulemaking power conferred by the statute or if a rule supplants any provision for which power has not been conferred it becomes invalid…So the rule is that a charge must be imposed by clear and unambiguous language in the statute itself. If there is none, then no power vests in the delegatee to do so by implication through Rules…In short, the delegated power to make rules is circumscribed by the strict periphery of powers defined in the statute itself which cannot be exceeded to assume more powers than granted by the delegator. In particular, no such power can be deemed to have been conferred on the delegatee which brings into existence additional obligations such as in the present case whereby substantial amount of markup is sought to be levied and recovered by the respondents on the misplaced notion that rule-making power included the power to enact such additional burdens.

iii) Another principle which flows out of the above rule against excessive delegation would be the concept of unjust enrichment. There is a substantial body of case law in our jurisprudence which has not only accepted but also applied this concept of unjust enrichment which is a species of the law of restitutionary remedies. There is a discussion regarding concept of unjust enrichment in Orient

Power Company (Pvt.) Ltd through Authorized Officer v. Sui Northern Gas Pipelines Limited through Managing Director (2021 SCMR 1728) and the recent decisions of the superior courts have also been referred. The judgment of the Canadian Supreme Court in the case Garland v. Consumers Gas Co. [2004] 1 S.C.R 629 was referred which laid down that there were three elements to the cause of action on the basis of unjust enrichment; i) an enrichment of the defendant; ii) a corresponding deprivation of the plaintiff; and iii) an absence of juristic reason for the enrichment. On the basis of above criteria it was held by the Supreme Court that: "96. Upon analysis of the above cases, it must be seen that for a claim of unjust enrichment to succeed, there must be enrichment at the expense of the plaintiff and this enrichment must be unjust in such a way that there should be no lawful justification for the same…" Similarly, there is an erudite discussion regarding unjust enrichment in Haider Industries through Managing Partner and others v. Federation of Pakistan through Secretary, Law Division at Islamabad and others (2016 PTD 2004) and Sui Northern Gas Pipelines v. Deputy Commissioner Inland Revenue and others (2014 PTD 1939). The definition of unjust enrichment given in the American Restatement (Third) of Restitution & Enrichment (AM LAW INST.) 2011 states that: "Any unequal transfer of value without an adequate legal basis" The general principles can also be gleaned from a judgment of the Supreme Court of United Kingdom 2015 UKSC

Conclusion: i) Section 2 of the Regulation of Mines and Oil-fields and Minerals Development (Government Control) Act, 1948 does not empower the concerned Government to frame rules to impose markup for non-payment of royalty or annual rental.
ii) Delegated legislation, which goes beyond the rule making power conferred by the statute, is invalid.
iii) See above analysis No.iii.

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25. **Lahore High Court**
Muhammad Imran v. Shahbaz Ali Khan and others
Writ Petition No.2913 of 2024
Mr. Justice Mirza Viqas Rauf
https://sys.lhc.gov.pk/appjudgments/2025LHC4495.pdf

Facts: Respondent No.1's two eviction applications under section 19 of the Punjab Rented Premises Act, 2009 (hereinafter referred to as "Act, 2009") were allowed upon completion of the prescribed procedure. Feeling aggrieved, the petitioners preferred their respective appeals before the appellate forum but the same were dismissed *in limine*, being barred by time. Resultantly, the instant constitutional petitions were preferred, which are being decided through this single judgment.

Issues: i) Which law governs the exclusion of time in legal proceedings for the purpose of computing the period of limitation for instituting a suit, appeal or application?
ii) What types of period are excluded while computing the period of limitation?
iii) Which period will be regarded as *'time requisite'* for obtaining a copy of

decree, sentence, order, judgment or award?

iv) When was sub-section (5) incorporated into section 12 of the Limitation Act, 1908?

v) What is the period of limitation available to an aggrieved person for filing an appeal against a final order?

Analysis: i) Section 12 of the Limitation Act, 1908 (hereinafter referred to as "Act, 1908") provides a mechanism for exclusion of time in legal proceedings for the purpose of computing the period of limitation for instituting a suit, preferring an appeal or moving an application.

ii) From the perusal of Sub-Section (2) above, it is manifestly clear that in computing the period of limitation prescribed for an appeal, the day on which the judgment complained is pronounced, and the *'time requisite'* for obtaining a copy of the decree, or order appealed from shall be excluded.

iii) Sub-Section (5), on the other hand, ordains that for the purposes of Sub-Sections (2), (3) and (4), the 'requisite time' for obtaining a copy of decree, sentence, order, judgment or award shall be deemed to be the time intervening between the day on which an application for the copy is made and the day actually intimated to the applicant to be the day on which the copy will be ready for delivery (…) Section 12 of the Act, 1908 more specifically Sub-Section (5) though mandates that for the purposes of Sub-Sections (2), (3) and (4), *'time requisite'* for obtaining a copy of the decree, sentence, order, judgment or award shall be deemed to be the time intervening between the day on which an application for the copy is made and the day actually intimated to the application to be the day on which the copy will be ready but it does not say in clear words that limitation shall be counted from the dated of delivery of order or judgment.

iv) It would not be out of context to mention herein that initially Sub-Section (5) was not part of Section 12 of the Act, 1908 and it was introduced as part of the said provision in the year 1991 through Limitation (Amendment) Act, XIII of 1991, keeping in view the observations recorded by the Supreme Court of Pakistan in the case of *Ahmad Nawaz (supra)*.

v) As the ejectment applications were filed under the Provisions of the Act, 2009 so the order passed therein is appealable under Section 28 of the Act, 2009, which provides 30- days' time period to an aggrieved person to prefer an appeal against the final order.

Conclusion: i) Section 12 of the Limitation Act, 1908.

ii) The day of pronouncement of judgment and the time requisite for obtaining a copy of the decree, or order.

iii) See above analysis No. iii.

iv) In the year 1991.

v) 30- days.

26. **Lahore High Court**
Munir Ahmed, etc. v. District Judge Attock, etc.
W.P. No2157 of 2025
Mr. Justice Mirza Viqas Rauf.
https://sys.lhc.gov.pk/appjudgments/2025LHC4882.pdf

Facts: This constitutional petition arises from a judgment modifying a penalty imposed on the petitioners for unauthorized medical practice. The relevant authority inspected a clinic operated by the petitioners and found one of them engaged in allopathic treatment without the required qualifications or registration. This led to sealing of the premises and imposition of a fine by the regulatory body under the Punjab Healthcare Commission Act, 2010. On appeal, the fine was subsequently reduced by the appellate court.

Issues: i) What powers are conferred upon the Punjab Healthcare Commission under section 40 of the Act, 2010 regarding the framing of regulations?
ii)What authority does the Punjab Healthcare Commission have under S.28 of the Act, 2010 to impose fines for contravention of its provisions, and what is the maximum limit prescribed?
iii)What is the role of a Committee nominated by the Punjab Healthcare Commission under the Act, 2010, and how is it defined in terms of exercising the Commission's powers?

Analysis: i) Section 40 of the Act, 2010 empowers the Commission to make regulations for carrying out the purposes of the Act by notification in the official gazette.
ii) There is no cavil from the bare reading of the above referred provision that in terms thereof, it is the Commission, who on contravention of any provision of the Act, 2010, rules or regulations, impose fine which may extend to five hundred thousand rupees in accordance with the provisions of the Act, 2010, keeping in view the gravity of the offence.
iii)Any Committee nominated by the Commission is termed as 'Competent Authority' for the purposes mentioned therein which includes the exercise of all or any powers of the Commission as provided for in the Act, 2010.

Conclusion: i) Section 40 empowers the Commission to frame regulations through official gazette notifications for implementing the Act.
ii) The Commission is authorized to impose fines up to Rs.500,000 for violations of the Act, rules, or regulations, considering the gravity of the offence.
iii) A Committee nominated by the Commission is deemed the 'Competent Authority' empowered to exercise any or all powers of the Commission under the Act.

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27. **Lahore High Court**
Mst. Nosheen Ali Nasir v. Additional Sessions Judge and others
Crl. Misc. No. 46048/M/2024
Justice Tariq Saleem Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4430.pdf

Facts: The Petitioner (who is the complainant of the case) moved an application before the Judicial Magistrate praying that witness be allowed to record his evidence through a video link which was declined. The revision petition was also dismissed. Both courts held that a "fugitive from law loses his normal rights." Hence; this criminal miscellaneous petition.

Issues i) What is meaning and scope of term "fugitive"?
ii) What is meaning and scope of term "proclaimed offender"?
iii) What is meaning and scope of term "absconder"?
iv) What is video conferencing and its use in judicial proceedings?
v)Whether the testimony of a witness may be recorded through a video link in criminal proceedings?
vi)Who is competent to testify under Article 3 of Qanun-e-Shahadat Ordinance, 1984?
vii) Whether competency of witness is distinct from credibility of witness?
viii) Whether the testimony of witness may be recorded in one case even if the witness is a proclaimed offender in another case?

Analysis: i) A fugitive is a person who evades arrest, detention, or prosecution at any stage of the criminal process. The term is broad and may apply before or after indictment or even after conviction. The defining feature is the wilful evasion of lawful authority. A fugitive may forfeit certain rights, such as the right to appeal while at large, and courts may restrict access to legal remedies.
ii) A proclaimed offender is a person who has been formally declared as such by a court, typically under section 87 Cr.P.C. This occurs when a court has issued an arrest warrant, made repeated attempts to apprehend the person, and found that he is intentionally avoiding arrest or legal proceedings. This declaration entails more serious legal consequences than being a fugitive. Once someone is declared a proclaimed offender, his property may be attached under section 88 Cr.P.C., and he may face further restrictions in both criminal and civil matters. While absconding may precede proclamation, the latter requires formal judicial determination and results in broader procedural restrictions. iii) An absconder is a person who deliberately avoids appearance after legal proceedings have been initiated, typically by failing to attend court after the process has been served. Although both fugitive and absconder describe evasion, the distinction lies in context. A fugitive refers to anyone attempting to escape justice at any stage, while an absconder refers explicitly to an individual who has already been summoned and then deliberately fails to comply with court orders. Legal consequences for absconding may include cancellation of bail and denial of certain procedural protections.
iv) Video conferencing is a technological development that enables real-time visual and auditory communication between individuals in different places. Its use in judicial proceedings, including criminal trials, has expanded considerably in recent years. Courts have adopted it to reduce delays, protect vulnerable witnesses, and address logistical or security challenges while maintaining

procedural fairness. However, its use is subject to each jurisdiction's legal framework and judicial discretion.

v) To sum up, the use of video conferencing for the recording of evidence is well established in comparative and domestic jurisprudence. The legal frameworks in various jurisdictions, including Pakistan, permit its use where appropriate, subject to judicial discretion and procedural safeguards.

vi) Article 3 of the QSO provides that all persons are competent to testify unless the court considers that they are prevented from understanding the questions put to them or from giving rational answers due to tender years, extreme old age, disease, or any similar cause. A person convicted of perjury or giving false evidence is not competent unless the court is satisfied that he has since repented and reformed. The court must also assess the competence of a witness in light of the qualifications prescribed by the Injunctions of Islam as laid down in the Holy Quran and Sunnah. However, where such a witness is not forthcoming, it may record the testimony of any available witness.

vii) It is necessary to emphasize that competency is distinct from credibility. Competence relates to a witness's legal capacity to testify, which is determined at the threshold. On the other hand, credibility concerns the weight attached to that testimony and is assessed by the court in light of the surrounding circumstances.

viii) Article 3 of the QSO sets out an exhaustive framework for determining the competence of a witness. It does not disqualify a fugitive, absconder, or proclaimed offender from testifying. Courts are bound to apply that provision as enacted and may not introduce new disqualifications or conditions, as the Supreme Court affirmed in Tahir Sadiq's case, supra. Accordingly, the mere fact that a person has been declared a proclaimed offender in one case does not render him incompetent to testify in another.

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) The legal frameworks in various jurisdictions, including Pakistan, permit its use where appropriate, subject to judicial discretion and procedural safeguards.

vi) See above analysis No.vi.

vii) See above analysis No.vii.

viii) The mere fact that a person has been declared a proclaimed offender in one case does not render him incompetent to testify in another.

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28. **Lahore High Court**
Naseem Kousar v. The State and another
Criminal Appeal No. 351/2024
Mr. Justice Tariq Saleem Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4744.pdf

Facts: The appellant through this appeal has challenged her conviction in a case FIR registered for the offences under section 9(1)-6(d) of the Control of Narcotic

Substances Act, 1997.

Issues: i) How the Ameer Zeb case (PLD 2012 SC 380) change the approach of courts in narcotics cases?
ii) What are the guiding principles in interpretation of statutes to know that a provision is mandatory or directory?
iii) What is the nature of registers no. II, XIX and XXI of the police station; which information must be incorporated in register no. II?
iv) What is the importance of registers no. II, XIX and XXI of the police station in trial of cases under Control of Narcotics Substances Act, 1997?
v) What are two important and necessary steps in proof of narcotics cases?
vi) Whether the judgments of august Supreme Court are prospective or have any retrospective application?
vii) In the light of Section 29 of the CNSA how and when the burden of proof would be shifted?

Analysis: i) In all criminal cases, the prosecution must prove the charge against the accused beyond a reasonable doubt. At the same time, the principle that "the harsher the sentence, the stricter the standard of proof" 1 must be kept in view. Until 2012, our courts generally held that procedural technicalities could be overlooked in cases involving possession or transportation of narcotics, and a conviction could be recorded if, upon consideration of the entire material, the court was satisfied that the charge had been proved. However, in Ameer Zeb v. The State (PLD 2012 SC 380), the Supreme Court of Pakistan ruled that courts must exercise greater care when trying offences under the CNSA due to the severity of the punishments prescribed.
ii) A provision is mandatory if non-compliance renders the related proceedings illegal or void; it is directory if substantial compliance is sufficient to preserve their validity. A key consideration is whether non-compliance causes inconvenience or injustice. The courts often apply three tests in this regard: (i) the scope and object of the enactment; (ii) considerations of justice and balance of convenience; and (iii) whether the provision relates to the performance of a public duty or the protection of an individual right. Provisions relating to public duties are generally considered directory, while those involving individual rights or privileges are treated as mandatory.
iii) The registers listed in Rule 22.45 of the Police Rules, inter alia, include the Station Diary/Daily Diary (Roznamcha) (Register No. II), the Store Room Registrar (Register No. XIX), and the Bound Book of Road Certificates (Register No. XXI). Register No. II (the Station Diary) is a complete record of all events that take place at the police station. Rules 22.48 and 22.49 of the Police Rules prescribe the procedure for maintaining Register No. II and the matters to be entered therein. Register No. II should record not only the movements and activities of all police officials and officers but also the visits of outsiders, whether officials or non-officials, coming or brought to the police station for any purpose whatsoever. In narcotics cases, Register No. II must reflect when the

police proceed for a raid or other proceedings. Thus, Register No. II is an authentic way to verify the genuineness of various prosecution claims and procedural steps of the case.

iv) Register Nos. II, XIX and Road Certificates greatly help foster public trust and provide credibility to the raid and recovery proceedings. They also help establish the chain of custody of case property and the transmission of sample parcels to the PFSA/Government Analyst, which is essential for convicting an offender under section 9 of the CNSA.

v) It is necessary to highlight two things: firstly, safe custody of the case property is pivotal in prosecutions based on the recovery of contraband material. The prosecution must establish that the chain of custody, including both the sample parcels and the remaining bulk, remained intact at every stage… Secondly, the prosecution must produce the recovered narcotics before the court during the trial and have them exhibited through a competent witness.

vi) The Deputy Prosecutor General referred us to some cases which seem to take the view that the Supreme Court's judgments are always prospective.14 However, the decision in Malik Asad Ali's case, which 10 Hon'ble Judges rendered, prevails over contrary rulings delivered by Benches of lesser strength… We may now refer to some cases which affirm the principle that the Supreme Court's interpretation and declaration of law applies to all pending cases, other than the one in which the ruling is delivered.

vii) Section 29 of the CNSA creates a statutory presumption of guilt and shifts the burden of proof onto the accused once the prosecution has established certain foundational facts. This principle of reverse burden is not unique to the CNSA. Similar provisions exist under the Offences in Respect of Banks (Special Courts) Ordinance, 1984,19 and previously under the National Accountability Ordinance, 1999.20 However, this reverse burden does not absolve the prosecution of its initial duty. The Supreme Court has consistently held that such presumptions are not automatic but are triggered only after the prosecution establishes a prima facie case. Therefore, the ordinary burden of proof remains with the prosecution until that threshold is met.

Conclusion: i) Until 2012, our courts generally held that procedural technicalities could be overlooked in cases involving possession or transportation of narcotics. However, in Ameer Zeb v. The State (PLD 2012 SC 380), the Supreme Court of Pakistan ruled that courts must exercise greater care when trying offences under the CNSA due to the severity of the punishments prescribed.

ii) A provision is mandatory if non-compliance renders the related proceedings illegal or void; Provisions relating to public duties are generally considered directory, while those involving individual rights or privileges are treated as mandatory.

iii) Station Diary/Daily Diary (Roznamcha) (Register No. II), the Storeroom Registrar (Register No. XIX), and the Bound Book of Road Certificates (Register No. XXI). Register No. II (the Station Diary) is a complete record of all events that take place at the police station.

iv) See above analysis No.iv.
v) It is necessary to highlight two things: firstly, safe custody of the case property is pivotal in prosecutions based on the recovery of contraband material. Secondly, the prosecution must produce the recovered narcotics before the court during the trial and have them exhibited through a competent witness.
vi) See above analysis No.vi.
vii) The reverse burden does not absolve the prosecution of its initial duty. The Supreme Court has consistently held that such presumptions are not automatic but are triggered only after the prosecution establishes a prima facie case.

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29. **Lahore High Court**
Muhammad Azam v. The State
Criminal Appeal No.36927-J/2022
The State v. Muhammad Azam
Murder Reference No.145/2022
Shahid Hussain v. The State, etc
P.S.L.A. No.35019/2022
Mr. Justice Ali Zia Bajwa, Mr. Justice Farooq Haider
https://sys.lhc.gov.pk/appjudgments/2025LHC4586.pdf

Facts: The appellant, along with others, was tried in a private complaint alleging he lured the deceased to a location where armed assailants opened fire, fatally shooting the deceased in a vehicle while his family members narrowly escaping injury. The trial court acquitted the co-accused but convicted the appellant, sentencing him to death with additional imprisonment and fines. The case reached this Court for sentence confirmation and review of the co-accused's acquittal.

Issues i) What is the legal effect of unexplained delay in registration of FIR on the credibility of the prosecution's case?
ii) Can dishonest improvements in witness statements undermine their credibility?
iii) What is the evidentiary value of medical evidence in establishing the identity of the assailant in a criminal case?
iv) What is the legal effect of recovery made during the accused's illegal detention on the evidentiary value of forensic reports?
v) Is a single flaw or circumstance in the prosecution's case sufficient to justify an acquittal?
vi) Under what circumstances can an appellate court interfere with an order of acquittal?

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 well settled that witness who introduces dishonest improvement or omission for strengthening the case, cannot be relied;
iii) medical evidence is mere supportive/confirmatory type of evidence; it can tell about locale, nature, magnitude of injury, duration of the 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) empties were sent to Punjab Forensic Science Agency after arrest of the accused and it also goes without saying that if accused was arrested on 12.11.2020 then after the statutory period provided under Section: 61 read with Section: 167 Cr.P.C., further detention of the appellant with the police was illegal and so pistol was allegedly recovered on 04.12.2020 from the appellant when he was in illegal custody which also raises question mark about legal efficacy of the recovery and all these factors make the report of Punjab Forensic Science Agency as non-conclusive and recovery as inconsequential.

v) It is well established principle of law that single dent/ circumstance in case of prosecution is sufficient for acquittal;

vi) By now it is well settled that acquittal cannot be disturbed for the reason that another view was equally possible; (...) Furthermore, after acquittal, accused attains double presumption of innocence and same can only be disturbed/interfered with if it is capricious/fanciful/ perverse/speculative/ artificial or arbitrary, however, without these factors, order of acquittal cannot be interfered with

Conclusion: i) Unexplained delay in lodging the report undermines the credibility of the prosecution's version.

ii) Witnesses making dishonest improvements or omissions cannot be deemed reliable.

iii) Medical evidence cannot establish the identity of the assailant and is thus unhelpful.

iv) Recovery made during illegal detention renders forensic findings unreliable and legally ineffective.

v) Even a single flaw in the prosecution's case suffices to warrant acquittal.

vi) Acquittal cannot be overturned unless shown to be arbitrary or grossly unreasonable.

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30. **Lahore High Court**
Muhammad Gulzar v. The State, etc
Writ Petition No.2760/2025
Mr. Justice Farooq Haider, Mr. Justice Ch. Sultan Mahmood
https://sys.lhc.gov.pk/appjudgments/2025LHC4983.pdf

Facts: The petitioner was convicted in two separate criminal cases and sentenced accordingly. In both cases, his death sentence was modified to life imprisonment on appeal, with other sentences maintained. He sought a direction from the High Court through this petition to treat the sentences in both cases as running concurrently, as the jail authorities were treating them consecutively.

Issues: i) Whether the High Court has jurisdiction to order that sentences awarded in separate trials may run concurrently?
ii) Under what provision of law can courts direct that sentences arising out of separate or subsequent trials run concurrently?

Analysis: i) By now it is well settled that this Court can order for running of the sentences awarded to the convict in a case or even in more cases concurrently;
ii) case of "Rahib Ali versus The State" (2018 SCMR 418) and relevant portion whereof is being reproduced below: - In the light of discussion made above, there remains no doubt that the High Court and so also this Court have jurisdiction under section 561-A read with section 35 and or section 397, Cr.P.C. as the case may to ordered such multiple sentences in same transaction/trial or in a separate and subsequent trial to run concurrently"

Conclusion: i) High Court can order that sentences in one or multiple cases may run concurrently.
ii) Sections 561-A, 35, and 397 Cr.P.C. confer jurisdiction on the High Court to order concurrent running of sentences from same or separate trials.

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31. **Lahore High Court**
Criminal Appeal No. 39441-J/2022
Muhammad Arif v. The State.
Murder Reference No.163/2022
The State v. Muhammad Arif
Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa
https://sys.lhc.gov.pk/appjudgments/2025LHC4602.pdf

Facts: The appellant was tried for offences under sections 302 and 324 of the Pakistan Penal Code (PPC), with additional charges under sections 337 F(iii) and 337 F(vi) PPC added later. The trial court convicted and sentenced the appellant, leading to this appeal. This judgment addresses both the Criminal Appeal against the appellant's convictions and the Murder Reference from the trial court, as both arise from the same judgment.

Issues: i) Whether any weight can be given to minor discrepancies and trivial inconsistencies in the statements of the witnesses?
ii) Whether any discrepancy regarding number and locale of firearm injuries can be emphasized in stricto-sensu?
iii) Can ocular account be discarded/thrown away by the medical evidence"

Analysis: i) Minor discrepancies do appear with the passage of time, however, no weight can be given to said discrepancies and trivial inconsistencies in the statements of the witnesses as same neither have any adverse effect nor can demolish the case of prosecution.
ii) In the case of firearm injuries, photographic view of the occurrence neither can be captured by the human eye nor can be expected from the witness because speed of bullet is more than speed of sound i.e. bullet hits first and its sound is

heard subsequently by the witness, therefore, in the pandemonium situation at the time and place of occurrence, when bullets are being fired through firearm weapon at the deceased or injured/ victim, then any discrepancy regarding number and locale of injuries cannot be emphasized in stricto-sensu.
iii) If ocular account is confidence inspiring, then it cannot be discarded/thrown away by the medical evidence.

Conclusion: i) No weight can be given to said discrepancies and trivial inconsistencies.
ii) Any discrepancy regarding number and locale of firearm injuries cannot be emphasized in stricto-sensu.
iii) See Analysis No.iii.

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32. **Lahore High Court**
Talib Hussain v. Muhammad Akram
Civil Revision No. 491-D of 2015
Mr. Justice Rasaal Hasan Syed
https://sys.lhc.gov.pk/appjudgments/2025LHC4613.pdf

Facts: Respondent filed a suit for pre-emption to challenge the sale of land. The suit was decreed in his favor by the trial court. Petitioner filed an appeal against the judgment, which was dismissed by the Appellate Court. Hence; this civil revision.

Issues: i) What is the legal effect of not producing the original informer (source) of sale in proving Talb-i-Muwathibat in a pre-emption suit?
ii) Whether Talb-i-Muwathibat can be deemed proved on the basis of hearsay evidence and without proving the time, date, and place of first knowledge of sale?
iii) What is the evidentiary requirement to prove Talb-i-Ishhad, and what is the consequence of not producing the scribe or the notice itself?

Analysis: i) The statement of PW2 was just hearsay which was inadmissible under Article 71 of Qanun-e-Shahadat Order, 1984 and that the production of patwari halqa was necessary to complete the chain of obtaining and passing of the first information of sale to respondent and that talb-i-muwathibat could not be claimed to have been proved on the basis of hearsay (…) It was, therefore, necessary for the preemptor to produce the patwari as a witness to complete the chain of source of information which having not been done, the adverse inference under Article 129(g) of Qanun-e-Shahahdat Order, 1984 could be drawn to assume that the patwari halqa was withheld as he was not willing to support the respondent/preemptor or PW2 in this context.
ii) Only the complete chain of the source of information of the sale can establish the essential elements of Talb-e-Muwathibat, which are: (i) the time, date and place when the preemptor obtained the first information of the sale and, (ii) the immediate declaration of his intention by the preemptor to exercise his right of preemption, then and there, on obtaining such information (…) In the present case, such chain of the source of passing on the information, as to the fact of sale of the suit land has not been proved and the entire case as to making of Talb-e-

Muwathibat is built on the hearsay evidence.
iii) The requirements of talb-i-ishhad that the preemptor shall declare that he had made talb-i-muwathibat and that he undertakes to enforce it, were not fulfilled as it was neither claimed in the plaint nor in the evidence that such a declaration was made by the respondent while the evidence is to the extent of preparation of notice by a learned counsel which was signed by respondent and his witnesses (…) So much the notice was not produced in evidence of PW1 nor was the scribe of the notice produced rather notice was tendered in the statement of learned counsel which was inadmissible in law.

Conclusion: i) Talb-i-Muwathibat cannot be held proved without producing the original source of information, as hearsay evidence is inadmissible.
ii) Talb-i-Muwathibat is not valid unless the time, date, and place of first knowledge of the sale are proved through direct and credible evidence.
iii) Talb-i-Ishhad cannot be sustained without a valid Talb-i-Muwathibat and without meeting the legal requirements of declaration and proper evidence.

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33. **Lahore High Court**
Mst. Aarzoo Meena Khalid v. Learned Addl. District Judge, Rawalpindi and another.
W.P. No.2173 of 2022
Mr. Justice Rasaal Hasan Syed
https://sys.lhc.gov.pk/appjudgments/2025LHC4628.pdf

Facts: Through Constitutional petition, the petitioner challenged order of Appellate Court whereby appeal was allowed and the ejectment order was set aside and ejectment petition was declined.

Issue: What presumption is drawn, in the absence of any evidence to the contrary, about the person having title of property and the one having its possession?

Analysis: It is settled rule that in the absence of any admissible evidence to the contrary the title of landlord would be a strong presumption of existence of tenancy between the parties. Reference can be made to Shajar Islam v. Muhammad Siddique and 2 others (PLD 2007 SC 45) where it was observed to the effect that in the normal circumstances in absence of any evidence to the contrary, the owner of the property by virtue of title is presumed to be a landlord and person in possession of the premises is considered as tenant under the law or the tenancy may not be necessarily created by written instrument in express terms rather may be oral and implied. Reference can also be made to Ahmad Ali alias Ali Ahmad v. Nasar Ud Din and another (PLD 2009 SC 453) in this context.

Conclusion: The owner of the property by virtue of title is presumed to be a landlord and person in possession of the premises is considered as tenant.

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34. **Lahore High Court**
Mirza Imtiaz Baig v. Mirza Hamayun Ashraf Baig and another
W.P. No.1684 of 2022
Mr. Justice Rasaal Hasan Syed
https://sys.lhc.gov.pk/appjudgments/2025LHC4621.pdf

Facts: The petitioner filed eviction petition under section 15 of the Punjab Rented Premises Act, 2009, seeking removal of the respondent from certain commercial premises on different grounds. It was asserted that the tenancy initially began with their respective predecessors and later continued orally. The respondent denied the landlord-tenant relationship, claiming ownership of the property through registered sale deeds executed by a co-owner. He contended that he was a co-sharer and could not be evicted except through a decree of partition. The Rent Controller ordered eviction, but the appellate court reversed the decision, accepting the respondent's claim. The petitioner challenged the appellate court's order through the present constitutional petition.

Issues: i) Can a tenant, after purchasing a share in the rented property, continue to be treated as a tenant for the purposes of eviction?
ii) Whether a tenant can challenge the landlord's title on the ground that it was extinguished after the commencement of tenancy?
iii) Whether utility bills in the name of a person can be relied upon as proof of ownership in property disputes?

Analysis: i) Ordinarily a tenant in possession of property cannot deny the title of landlord unless he vacates the premises. Such rule is, however, not absolute. If the tenant acquires title in the property which was held by him as a tenant his status will transform to co-sharer. He could not be ejected except through partition in such development. Reference can be made to Mst. Sanobar Sultan and others v. Obaidullah Khan and others (PLD 2009 SC 71) and Abdul Zahir v. Jaffar Khan (2010 SCMR 189).
ii) In Syed Izhar Ul Hassan Rizvi v. Mian Abdur Rahman and others (1992 SCMR 1352) it was observed that the doctrine of estoppel was not exhaustive and tenant could plead that his landlord's title had come to an end or was extinguished subsequent to commencement of tenancy.
iii) As regards the plea of electricity and sui gas bills bieng in name of father of the petitioner, these document do not convey any title nor reflect as proof of title in the property and, therefore, no reliance can be placed thereupon.

Conclusion: i) If the tenant acquires title in the property which was held by him as a tenant his status will transform to co-sharer.
ii) See above analysis No.ii.
iii) Utility bills do not convey any title nor reflect as proof of title in the property.

35. **Lahore High Court**
M/s Azgard Nine Limited and others v. Government of Punjab, etc.
W.P. No. 30280 of 2025
Mr. Justice Asim Hafeez.
https://sys.lhc.gov.pk/appjudgments/2025LHC4809.pdf

Facts: The constitutional petitions challenge the validity of certain government notifications on the ground that they violate the scheme of the Provincial Employees' Social Security Ordinance, 1965, by directing contributions to be calculated based on revised minimum wage rates, thereby rendering core provisions of the Ordinance ineffective. The central issue is whether these notifications align with or deviate from the framework of the Ordinance?

Issues: i) Whether the minimum wage fixed under the Punjab Minimum Wage Act, 2019 can be used as a benchmark for computing contributions under the Provincial Employees' Social Security Ordinance, 1965 without disrupting its statutory scheme?
ii)Whether the doctrine of *casus omissus* can be invoked when Section 71 of the Ordinance clearly provides the mechanism for determining benchmark wage?
iii) Whether subordinate rules can override or extend beyond the scope of the parent statute?

Analysis: i) Minimum wage under the Punjab Minimum Wage Act, 2019 cannot be used as a benchmark for contribution under the Ordinance without disrupting its scheme.
ii) No resort to the doctrine of *casus omissus* can be made when there is no ambiguity and enactment clearly provides mechanism for determination of benchmark wage in terms of Section 71 of the Ordinance.
iii) Rules cannot claim to be taller than the parent statute and jurisprudence in this behalf is well settled.

Conclusion: i) Competent Authority must record reasons with supporting material evidence when enhancing the penalty under section 13 of PEEDA Act, 2006.
ii) Doctrine of *casus omissus* is inapplicable where section 71 of the Ordinance clearly provides the mechanism for determining benchmark wage.
iii) Subordinate rules cannot override or extend beyond the provisions of the parent statute.

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36. **Lahore High Court**
Muhammad Nadeem Anjum v. Senior Member/Member (Revenue) Board of Revenue Punjab Lahore & others
Writ Petition No.7193 of 2023
Mr. Justice Ahmad Nadeem Arshad
https://sys.lhc.gov.pk/appjudgments/2025LHC4554.pdf

Facts: The revenue hierarchy, vides two separate orders, appointed a female respondent as permanent *Lambardar* and declared her entitled to get the state land as

Lambardari grant. Hence, these two orders have been challenged by the petitioner before the High Court through the constitutional Writ petition.

Issues: i) Whether any person has vested right to be appointed as Lambardar?
ii) What are the pre-requisites for appointment of a Lambardar?
iii) What factors and points are to be considered for appointment of a Lambardar?
iv) Whether a female is eligible for the office of Lambardar?
v) Whether the provision of rule 19(2)(d) of The West Pakistan Land Revenue Rules, 1968 ultra vires to the Constitution of Pakistan?
vi) What is the importance of a decision taken by the collector in appointment of a Lambardar?
vii) Whether the High Court in constitutional jurisdiction is supposed to sit as a Court of appeal?

Analysis: i) No one has a vested right to be appointed as a Lambardar, rather Revenue Authorities make a selection for the post as per criteria set out in Rule 17 of the West Pakistan Land Revenue Rules, 1968 and have to find the most suitable candidate for the job who may be capable to discharge the duties inter-alia in terms of Rule 22 of the Rules.
ii) Personal influence, character, ability and freedom from indebtedness are prerequisite for the appointment of the Lambardar.
iii) The factor and the points to be considered by the competent authorities are the fitness or the competence of a person to act as a Lambardar as well as strength or character, education knowledge and engagements in nation building activities and capacity to discharge the rights and obligations towards his fellow beings alongwith the disqualifications prescribed by the competent authority in rule 18(2) of the Rules.
iv) Although Rule 19 (2)(d) of the Rules lays down that female is not ordinarily eligible for the office but may be appointed where the special reasons existed for her appointment.(---) it is clearly against the command of Article 25(2) of the Constitution of Islamic Republic of Pakistan, 1973 for non-appointment of a female as a Lambardar merely on the basis of her gender.(---) Respondent No.7 could not be ignored for her appointment as Lambardar only on the ground of her being a female, if she was otherwise most suitable for such appointment. Appointment of such lady as a Lambardar was not in contravention of any law or the rules.
v) Refusal to appoint a female as Lambardar merely on account of her gender would amount to deprivation of the property reserved for Lambardari grant. Provision of Rule 19(2)(d) of the Rules is thus ultra-vires to the Constitution and therefore, of no legal effect.
vi) It is settled principle that in Lambardari cases due weight is given to the choice of the Collector unless it is perverse, foolish or illegal. The choice of the Collector which is reasonable and appropriate should not be interfered. If the collector exercises its discretion in a reasonable manner taking into consideration all matters which may be relevant to the suitability of an appointment, his

decision should be allowed to stand. Where the Collector has applied his mind giving due thought to all the considerations germane to the case and has exercised his discretion in a reasonable manner, and the selection is not perverse or contrary to law then the decision made by him should be upheld.

vii) In Constitutional jurisdiction, this Court while considering cases of appointment of Lambardar is not supposed to sit as a Court of appeal but only has to examine if there was any jurisdictional error in the orders under challenge and whether such orders are patently against the express provision of law or the law laid down by the august Supreme Court of Pakistan and/or are perverse, arbitrary, capricious, illogical and against the record.

Conclusion: i) No one has a vested right to be appointed as a Lambardar.

ii) See above analysis No.ii.

iii) See above analysis No.iii.

iv) A female is eligible for the office of Lambardar.

v) The provision of rule 19(2)(d) of The West Pakistan Land Revenue Rules, 1968 ultra vires to the Constitution of Pakistan,1973.

vi) See above analysis No.vi.

vii) See above analysis No.vii.

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37. **Lahore High Court**
Saghir Hussain v. The State, etc.
Writ Petition No.13501 of 2024.
Mr. Justice Muhammad Amjad Rafiq
https://sys.lhc.gov.pk/appjudgments/2025LHC4892.pdf

Facts: The petitioner seeks his lawful release from the prison on the ground that he is behind the bars for more than three decades and after earning remissions he has completed the period of his imprisonment of 100 years, but bureaucratic delays and wrong legal advice are the major obstacles clutching him to remain incarcerating in the jail.

Issues: i) What is the introduction and evolution of section 382B CrPC?

ii) In what manner the Prisons Rules identify the imprisonment for life and how it is counted?

iii) What is the maximum extent of remissions under the Pakistan Prison Rules, 1978?

iv) How the remissions of prisoner would be counted, who have been sentenced to cumulative period of imprisonment?

v) What is the nature of the remissions awarded under section 401 CrPC?

vi) How the imprisonment of a prisoner would be calculated upon conversion of his sentence to imprisonment for life from death and he is already serving imprisonment in another offence?

vii) How the aggregate of consecutive sentences shall be calculated for a prisoner who is awarded four counts life imprisonment, and in what manner benefit of section 382B CrPC would be extended?

Analysis: i) Section 382B was inserted in the Code of Criminal Procedure 1898, through Law Reforms Ordinance 1972 as per entry No.128 of the Schedule wherein it was directed that Court „may" take into consideration the under trial detention period while passing a sentence on an accused, later the word „may" through the Code of Criminal Procedure (Second Amendment) Ordinance, 1979 (LXXI of 1979), (s. 2.) was replaced with „shall".

ii) Rule 140 of the Pakistan Prisons Rules 1978 explains that an imprisonment for life shall be rigorous imprisonment of twenty-five years, thus entitles the prisoner to obtain benefit of remission system under the Prisons Rules which consists of ordinary and special remissions, and further when the death sentence is commuted to imprisonment for life, such remissions are counted from the date of sentence of death as explained in Rule 205 (iii) of the Prisons Rules.

iii) As per Rule 217 of the Prisons Rules, remission cannot exceed one third of total sentence, that is why it is mentioned in above rule [Rule 205(iii)] and Rule 217 that lifer prisoner shall undergo a minimum of fifteen years substantive imprisonment.

iv) The prisoners who have been sentenced to cumulative period of imprisonment, they have their remedy for remission under Rule 140(iii) of the Prisons Rules, which is as under;

> *(iii) The of all prisoners sentenced to cumulative periods of imprisonment aggregating twenty-five years or more shall also be submitted to Government, through the Inspector General, when they have served fifteen years substantive sentence for orders of the Government.*

It means if the aggregate sentence is twenty-five years or more, then after serving out of 15 years substantive sentence, Inspector General of Prison must refer the case of prisoner to the Government for relief under section 401 of Cr.P.C.

v) Rule 218 of the Prisons Rules says that remission under section 401 of Criminal Procedure Code is a special remission which is awarded by Government on occasions of public rejoicing. It is granted unconditionally under section 401 (i) of the Criminal Procedure Code, 1898, and is not governed by these rules.

vi) As per facts of the case, petitioner and others though were sentenced to death on three counts yet they were primarily serving out sentence of imprisonment for life under section 460 of PPC when from the Supreme Court their sentence of death under section 302/34 PPC was altered to imprisonment for life on three counts which by all means would be construed that they were sentenced to further imprisonment later.

vii) Section 35 (3) of Cr.P.C. says that aggregate of consecutive sentence shall be deemed to be a single sentence for the purpose of appeal… Similarly, Rule 40 of Prisons Rules explains the date of release when two or more sentences are running consecutively;

> *Rule 40. When a prisoner is sentenced two or more terms of imprisonment to be served consecutively, the date of release shall be calculated as if the sum of the terms was awarded in one sentence.*

From the above discussion, it is clear that sentence of imprisonment for life on four counts passed against the petitioner and other accused, aggregate whereof is 100 years, would be considered as single sentence, for which benefit of section 382B of Cr.P.C. shall be counted only once which is logical and in accordance with scheme of consecutive running of sentences.

Conclusion: i) Section 382B CrPC was inserted through Law Reforms Ordinance 1972; while passing a sentence of imprisonment Court "may" take into consideration the under trial detention period, which was later replaced with "shall" through the Code of Criminal Procedure (Second Amendment) Ordinance, 1979.
ii) Rule 140 of the Pakistan Prisons Rules 1978 explains that an imprisonment for life shall be rigorous imprisonment of twenty-five years. A prisoner shall be entitled to all special and ordinary remissions. As per Rule 205 (iii) of the Prisons Rules when death sentence is commuted to imprisonment for life, such remissions are counted from the date of sentence of death.
iii) As per Rule 217 of the Prisons Rules, remission cannot exceed one third of total sentence that is why lifer prisoner shall undergo a minimum of fifteen years substantive imprisonment.
iv) If the aggregate sentence is twenty-five years or more, then after serving out of 15 years substantive sentence, Inspector General of Prison must refer the case of prisoner to the Government for relief under section 401 of Cr.P.C.
v) The remission under section 401 of Criminal Procedure Code is a special remission which is awarded by Government on occasions of public rejoicing and granted unconditionally and is not governed by Prison Rules.
vi) When a prisoner's sentence was commuted to life imprisonment from death and is already serving imprisonment in another offence, which by all means would be construed that he was sentenced to further imprisonment later.
vii) The sentence of imprisonment for life on four counts aggregate whereof is 100 years, would be considered as single sentence, for which benefit of section 382B of Cr.P.C. shall be counted only once.

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38. **Lahore High Court**
Rao Omar Hashim Khan v. Ahmad Raza Maneka etc.
Election Petition No.23259/2024
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC4421.pdf

Facts: The respondent filed C.M petition to dismiss the Election petition by the petitioner being non-compliant of mandatory provisions of Election Act, 2017.

Issues: i) Whether the physical presence of petitioner is necessary at the time of presentation of petition under section 142(2)(a) of the Election Act, 2017?
ii) Whether the presentation of petition through the advocate/lawyer is competent?
iii) Whether any typing mistake or default to attach affidavit of all witnesses u/s 144(2) of the Election Act, 2017 leads to automatic rejection of the petition?
iv) What is doctrine of substantial compliance?

Analysis: i) I am of the opinion that above quoted provision of the Act does not envisage requirement of physical presence of the petitioner at the time of presentation of the election petition, more so when sub-Section (3) of Section 142 is kept in sight which permits presentation of petition through the post. Therefore, it is erroneous to consider the date of presentation as the day when this Tribunal took cognizance of the matter and issued notice as opposed to the date (i.e. 30.03.2024) when the petition was filed with the Office of Registrar of this Tribunal. The date when the judicial cognizance was taken by this Tribunal is distinct from the date of presentation envisaged under the Rules.

ii) The presentation of the petition through an advocate is also valid…the power of attorney executed by the petitioner in favour of Mr. Sameer Khosa, advocate and his associate expressly authorized them to file pleadings including the election petition, which satisfies the requirement of 'authorization in writing'. I am not persuaded by the argument that the vakalatnama does not constitute an authorization in writing. There is neither requirement of a separate letter of authority, nor is there any prescribed form under the Act or the Rules mandating separate authority letter to be executed by a petitioner for the purpose of filing of the petition.

iii) I am of the opinion that the term 'complete' must be construed in a practical and purposive manner. The petitioner has provided names of all the witnesses — private as also officials. Even if the affidavits of some of the witnesses are missing or particulars in respect of few others contain clerical errors, the overall compliance is substantial. The law does not prescribe automatic rejection of the election petition for such lapses inasmuch as the petitioner may elect not to rely on any of the listed witnesses whether his affidavit is available or not. The list of witnesses and their respective affidavits are duly annexed with the petition. The witnesses are individually named and their affidavits clearly disclose the nature and scope of their proposed deposition and any minor typographic discrepancy, such as inconsistency in the parentage of the witnesses or the CNICs, does not obstruct the identification of the witnesses or the understanding of their proposed evidence.

iv) The doctrine of substantial compliance is squarely attracted in this case. The Hon'ble Supreme Court in case of Ali Madad Jattak supra held that technical deficiencies, which do not affect the core of the petition or cause no prejudice, should not defeat the right to trial and this doctrine applies with equal force in present case.

Conclusion: i) The physical presence of petitioner is not necessary at the time of presentation of petition under section 142(2)(a) of the Election Act, 2017. The same may be presented through post or through the lawyer.

ii) The presentation of the petition through an advocate is also valid. The Rules does not require separate specific authorization in writing, rather the vakalatnama authorizing to initiate pleadings is sufficient to meet the requirement.

iii) The law does not prescribe automatic rejection of the election petition for such

lapses inasmuch as the petitioner may elect not to rely on any of the listed witnesses whether his affidavit is available or not.
iv) Under the doctrine of substantial compliance technical deficiencies, should not defeat the right to trial.

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39. **Lahore High Court**
Muhammad Naseem etc. v. Asghar Ali Tabassum
C.R No.55105/2023
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC4724.pdf

Facts: The petitioners challenged judgments/ decrees of Trial court and First Appellate Court through which suit filed by the petitioners challenging gift mutations in favor of the respondents was dismissed.

Issue: Whether a gift made by father to one child, excluding others, is valid under Islamic law and law of the land when motivated by care and filial duty rather than malice or bias?

Analysis: Suffice to observe that, if a legal heir is deliberately and unjustifiably deprived of inheritance through a gift motivated solely by malice or bias, particularly, where the donee is one among several sons or daughters, such a transaction may fall within the mischief of zarar and be liable to be declared invalid. It would be a manifest error in such cases to uphold a gift that serves no purpose (love and affection) but the exclusion of others. However, when some children (the petitioners) have distanced themselves from their father, embroiled him in unwarranted litigation, and effectively severed familial ties, while another child (the respondent) remains devoted, provides companionship and support, and shoulders the responsibilities of care in old age, it is only natural that a father may incline towards the one who stood by him. In such circumstances, Islamic law does not restrain a Muslim owner from gifting his property to the child who has earned his trust and affection through personal service and care. Prima facie, it appears that the deceased, impressed by the conduct and care extended by the respondent (donee), chose to transfer his entire estate to him during his lifetime and the disobedience of the petitioners and their distancing from the donor in his life was only an ancillary aspect of the matter. Hence, such a transaction reflects not malice, but recognition of filial duty, and falls squarely within the autonomy of an owner preserved under Islamic jurisprudence as well as law of land.

Conclusion: Gift made by father to one child, excluding others, is valid under Islamic law and law of the land when motivated by care and filial duty rather than malice or bias.

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40. **Lahore High Court**
Muhammad Yar v. Naveed Aslam Khan Lodhi, etc.
Election Petition No.65282 of 2024
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC4571.pdf

Facts: An election petition was dismissed for non-prosecution. The petitioner sought restoration of the petition, arguing sufficient cause for earlier non-appearance.

Issues: i) Whether under section 155 of the Elections Act, 2017, only a "final decision" of the Election Tribunal is appealable to the Supreme Court, thereby excluding orders that do not terminate the lis with judicial determination.
ii) Whether the dismissal of an election petition for non-prosecution constitutes a "final decision" under section 155 of the Elections Act, 2017.
iii) Whether the absence of an express statutory provision prohibiting restoration precludes the Tribunal from exercising inherent powers to restore a petition dismissed for non-prosecution in furtherance of procedural fairness and justice.

Analysis: i) It is to be kept in sight that under Section 155 of Act 2017 an appeal will lie to the Supreme Court against a "final decision" of the Tribunal. In contrast, Section 67(3) of ROPA stated that any person aggrieved by a "decision" of the Tribunal may challenge it by way of an appeal to the Supreme Court. Significantly, Section 67(3) of the ROPA did not use the term "final decision" that has been used in Section 155 of the Act 2017."
ii) Therefore, the scheme of the Act 2017 is to be kept in sight that reveals three distinct modalities for the disposal of an election petition: (i) by a decision under Section 154 after trial, which includes dismissal, declaration of void election, or declaration of another candidate as elected — all of which are explicitly appealable under Section 155; (ii) by summary rejection under Section 145(1), where the petition is found to be deficient in form or substance at the threshold; and (iii) by dismissal in default of prosecution… While Section 145(1) does not expressly provide a right of appeal, this Tribunal is of the view that such a rejection — having been made after application of judicial mind — constitutes a "final decision" and thus attracts the appellate mechanism under Section 155. … In contrast, dismissals in default are procedural termination/disposals of the matter without the application of judicial mind, leaving room for the petitioner to revert back and seek restoration of the petition by invoking inherent powers of the Tribunal, as discussed above, subject to show of sufficient cause. Therefore, such procedural terminations do not constitute a final decision. The deliberate use of the term "final decision" in Section 155 of the Act 2017 reinforces and supports this interpretation."
iii) Suffice to observe that the Act 2017 aims at ensuring expeditious and effective adjudication of the election disputes and this legislative objective is advanced—not defeated—by recognizing the Tribunal's authority to restore petitions dismissed for non-prosecution, provided sufficient cause is shown. Such an approach facilitates adjudication on merits rather than encouraging dismissal on procedural technicalities. To imply a prohibition from the silence of the statute would yield a result contrary to the principles of justice and procedural fairness.

Conclusion: i) Under section 155 of the Elections Act, 2017, only a "final decision" of the

Election Tribunal is appealable to the Supreme Court, thereby excluding procedural orders that do not terminate the lis with judicial determination.
ii) The dismissal of an election petition for non-prosecution does not constitute a "final decision" under section 155 of the Elections Act, 2017.
iii) The absence of an express statutory prohibition does not preclude the Tribunal from exercising its inherent powers to restore a petition dismissed for non-prosecution in the interest of justice and procedural fairness.

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41. **Lahore High Court**
Nadeem Aslam etc. v. Shahid Mehmood etc.
W.P No.13156/2025
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC4965.pdf

Facts: The petitioner being the subsequent purchaser of the property moved an application under order 1 rule 10 of CPC to be arrayed as party in suit already pending. The application of the petitioner was dismissed by the learned court of revision below.

Issues: i) What is the effect of section 52 of the Transfer of Property Act, 1882 upon the right s of litigating parties?
ii) Whether the person who acquired the possession or rights of the party is entitled to be made as a party in pending litigation?
iii) Whether the Revisional court is competent to step into the merits of the case?

Analysis: i) Perusal of Section 52 of the Act clearly envisages that any transfer of immovable property made by a party to a pending suit concerning the said property is subject to the outcome of that suit. In this manner, this provision safeguards the litigating parties (the respondent in present case) against transfers designed to frustrate or circumvent the Court's adjudication.
ii) where the actual possessor or transferee (the petitioners in present case), who acquired possession or title during the pendency of the suit, is excluded from the proceedings, such omission may constitute a fundamental procedural and substantive defect inasmuch as non-joinder of such a necessary party not only violates the principles of natural justice but it also exposes any decree passed in such suit to vulnerability. The decree, in the absence of such a party, cannot conclusively bind the transferee and remains open to challenge on grounds of fraud or collusion, particularly through recourse to Section 12(2), CPC or by way of objections in the execution proceedings.
iii) It is also pertinent to note that the Revisional Court below, while upsetting the findings of the Trial Court, overstepped the permissible limits of its jurisdiction by delving into the merits of the case and undertaking an appraisal of the evidence available on record while the trial is still pending…It is settled law that the function of a Revisional Court is supervisory and not appellate in nature. It cannot substitute its own findings of fact in place of those rendered by the Trial Court, unless there is a manifest error of law or jurisdiction more particularly when the

trial has not been concluded and the Trial Court has yet to appraise the evidence. Such remarks on part of the Revisional Court below amount to a premature determination of facts, which defeats the rights of the parties to fair trial.

Conclusion: i) The section 52 of the Transfer of Property Act, 1882 safeguards the litigating parties against transfers designed to frustrate or circumvent the Court's adjudication.
ii) The inclusion of the actual possessor as a party is indispensable for the proper and final adjudication of rights and to prevent multiplicity of litigation.
iii) A Revisional Court is supervisory and not appellate in nature. It cannot substitute its own findings of fact in place of those rendered by the Trial Court, unless there is a manifest error of law or jurisdiction

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42. **Lahore High Court**
Province of the Punjab etc. v. Mirza Waseem Baig
I.C.A No.65839/2024
Mr. Justice Shahid Karim, Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC5021.pdf

Facts: The appellant department through this appeal has assailed the judgment of the learned single Bench of Hon'ble High Court; wherein, the writ of the respondent was allowed and restored to service.

Issues: i) Whether a probationer is civil servant under the Punjab Service Tribunals Act, 1974?
ii) What is difference between service appeal and departmental appeal?
iii) What are the exceptions to the filing of appeal under section 4 of the Punjab Service Tribunals Act, 1974?
iv) When a service rule prohibits a remedy of departmental appeal, then whether a remedy of appeal under section 4 of the Punjab Service Tribunals Act, 1974 is also ousted or not?

Analysis: i) Section 2(b) of the Act, defines civil servant as a person who is or who has been a member of a civil service of the Province or holds or has held a civil post in connection with the affairs of the Province and the exclusion does not include a probationer.
ii) At the heart of the issue lies a nuanced distinction between a departmental appeal and a service appeal. Rule 12.21 of the (Police) Rules, operates within the administrative framework of the departmental proceedings and explicitly bars an internal or departmental appeal against a discharge order made thereunder. This form of appeal constitutes administrative adjudication, wherein senior functionaries of the department exercise revisional or the appellate authority within the service hierarchy. Such appeals, though essential to the administrative discipline and internal efficiency, are not judicial in nature, and the limitation on them does not extinguish a civil servant's right to pursue a remedy before an

independent judicial forum. By contrast, a service appeal before the Tribunal is a judicial proceeding under a special statutory mechanism enacted through the Act, which forum is created pursuant to the mandate of Article 212 of the Constitution. Article 212 envisages the creation of special Tribunals to exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of service of civil servants, thereby ousting the ordinary jurisdiction of civil courts and even the High Court.

iii) The two provisos to Section 4 of the Act, restrict the right to file statutory appeal only where (a) a departmental appeal has not been availed, or (b) the matter concerns the fitness of a person to be appointed or promoted.

iv) Therefore, the prohibition contained in (Police) Rule 12.21 does not extend to the judicial remedy available under the Act. To hold otherwise would be to allow a service Rule (i.e., 12.21) to override a statutory and constitutional mechanism of judicial redress. The Tribunal's jurisdiction, being grounded in legislation enacted under a constitutional mandate, cannot be ousted by departmental rules, which are subordinate in legal status.

Conclusion: i) A probationer is civil servant under the Punjab Service Tribunals Act, 1974.

ii) A departmental appeal is administrative adjudication, wherein senior functionaries of the department exercise revisional or the appellate authority within the service hierarchy. a service appeal before the Tribunal is a judicial proceeding under a special statutory mechanism enacted through the Punjab Civil Servants Act, which forum is created pursuant to the mandate of Article 212 of the Constitution.

iii) See above analysis No.iii.

iv) When a service rule prohibits a remedy of departmental appeal, even then a remedy of appeal under section 4 of the Punjab Service Tribunals Act, 1974 is not ousted.

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43. **Lahore High Court**
M/s Pakmaco (Pvt) Ltd. v. Federation of Pakistan etc.
W.P. No.3362/2023
Mr. Justice Anwaar Hussain.
https://sys.lhc.gov.pk/appjudgments/2025LHC4972.pdf

Facts: The petitioner company, after participating in the procurement process initiated by Sui Northern Gas Pipelines Limited (SNGPL), challenged the condition requiring deposit of an appeal fee under Schedule-II of the Redressal of Grievance Regulations, 2021, which govern the complaint and appeal mechanism for procurement-related matters.

Issues: i) Whether the authenticity of judicial orders merely is a procedural requirement, or does it form the foundation of the rule of law??

ii)What role do courts play beyond resolving disputes in maintaining public confidence in the justice system?

iii) How does tampering with judicial orders undermine the rule of law and institutional integrity?

Analysis: i) The authenticity of judicial orders is not a matter of procedural formality—it is the very essence of rule of law.
ii)The Courts are not mere dispute-resolution forums; they are vested with the solemn duty to uphold the public confidence in the administration of justice.
iii) Judicial orders carry the imprimatur of the rule of law, and any tampering therewith strikes at the very heart of the institutional integrity.

Conclusion: i) See above analysis No.i.
ii) Courts have a solemn duty to uphold public confidence in justice, beyond merely resolving disputes.
iii) Tampering with judicial orders undermines the rule of law and strikes at the core of institutional integrity.

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44. **Lahore High Court**
Bilal Siddique v. Muhammad Naeem
FAO No.46205 of 2024
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC5028.pdf

Facts: The appellant and the respondent, alongwith two others, were partners under a registered partnership deed for fixed period that stood expired. The respondent filed an application under section 20 of the Arbitration Act 1940 with an averment that the respondent continued as partner with the appellant under another agreement. Conversely the appellant alleged that no partnership subsisted between the parties after expiry and the respondent was only engaged as an employee thereafter. The trial court accepted the application treating as under section 8, appointed an arbitrator to decide matter and deliver award.

Issues: i) Whether a reference to arbitration is competent where the arbitration clause is contained in an unregistered partnership agreement, in view of the section 69 of the Partnership Act, 1932?
ii) Whether an order appointing an arbitrator, without first directing the filing of the arbitration agreement, is appealable under section 39(1)(iv) of the Arbitration Act, 1940?
iii) Whether the Court can appoint an arbitrator under section 20 of the Arbitration Act, 1940 without first directing the filing of the arbitration agreement and satisfying itself as to its existence?
iv) Whether a party can invoke section 20 of the Arbitration Act, 1940 after having already initiated arbitration proceedings under section 8 without the Court's intervention?
v) Whether statutory requirements must be strictly complied with in the manner prescribed by law?

vi) Whether the Court becomes functus officio after acting under section 8 of the Arbitration Act, 1940?

Analysis: i) Section 69 of the Act 1932 does not bar recourse to the arbitration proceedings based on an arbitration clause contained in an unregistered partnership deed. This is primarily because the arbitration proceedings are neither, stricto sensu, a "suit," nor do they fall within the ambit of the phrase "other proceedings" within the meaning of Section 69(3) of the Act 1932,

ii) Section 39 of the Act 1940 governs the right of appeal against certain orders passed under the Act 1940 (...) A plain reading of the above provision makes it clear that an order either directing the filing of an arbitration agreement or refusing to do so is appealable in terms of Section 39(1)(iv) of the Act 1940. (...) In such a situation, the impugned order in essence falls within the scope of clause (iv) of subSection (1) of Section 39 of the Act 1940 as the Trial Court refused to pass order of filing of the agreement (...) is therefore, appealable.

iii) In contrast, a petition under Section 20—falling within Chapter III—is initiated precisely because judicial intervention is necessary to commence the arbitration, more so when one side is denying the existence of agreement or an arbitrable dispute. (...) Here, the role of the Court is not limited to the appointment of an arbitrator; rather, the Court first determines whether there exists an arbitration agreement and then, under sub-Section (4), orders the filing of the agreement and makes the reference. Section 20 of the Act 1940, provides a procedural mechanism for initiating arbitration through judicial intervention where no arbitration proceedings have commenced independently. (...) The act of filing, accompanied by judicial satisfaction under Section 20(3), constitutes a jurisdictional condition precedent to the making of any reference or the appointment of an arbitrator.

iv) where a party seeks to initiate arbitration through judicial intervention by invoking Section 20 of the Act 1940, it must not have already set the arbitral process in motion under Chapter II of the Act, particularly Section 8. The underlying principle drawn from these precedents is that Section 20 proceedings are predicated upon the party approaching the Court before any reference or appointment is made privately. In other words, a party cannot be permitted to bypass the structured procedure of Chapter III by treating the Court merely as a forum for validation of a process it has already unilaterally undertaken.

v) It is well-settled that an act required to be done by statute in a particular manner must be done in that manner alone or not at all.

vi) Once the Court acts under Section 8 of the Act 1940 — a provision governing arbitration without the intervention of the Court — it exhausts its jurisdiction and becomes functus officio

Conclusion: i) Arbitration is not barred under section 69 of the Partnership Act, 1932 for unregistered partnership deeds.

ii) Refusal to file an arbitration agreement is appealable under section 39(1)(iv) of the Arbitration Act, 1940.

iii) Court must verify and file the arbitration agreement before referring under section 20 of the Arbitration Act, 1940.
iv) Section 20 cannot be invoked if arbitration already started under Section 8.
v) Legal acts must be done strictly as prescribed by statute.
vi) After acting under section 8, the Court becomes functus officio.

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45. **Lahore High Court**
Khadim Hussain Sandhu v. Muslim Commercial Bank Limited and 2 others
Writ Petition No. 14083 of 2025
Mr. Justice Sultan Tanvir Ahmad, Mr. Justice Hassan Nawaz Makhdoom
https://sys.lhc.gov.pk/appjudgments/2025LHC4677.pdf

Facts: Through this petition the petitioner has sought to set-aside auction conducted by the Banking Court for satisfaction of the judgment and decree passed under section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001.

Issues: i) Whether the substance of an application or document determines its legal nature, irrespective of its caption or title?
ii) Can the Court adjudicate on the merits of an application under Order XXI rule 90 of the CPC without the deposit being made?
iii) Whether section 5 of the Limitation Act, 1908 applies to special law prescribing their own limitation period?

Analysis: i) Merely captioning an application or a document is not always material rather it is the instrument, application or the document which determines its nature.
ii)It has been ruled that the Court cannot proceed to consider and adjudicate upon merits of an application, under Order XXI rule 90 of CPC, until the deposit of amount or security and when the applicant fails to make deposit, despite specific direction in this regard, the Court is to dismiss the application without proceeding to consider and adjudicate upon its merit.
iii) Limitation period has been prescribed by the Ordinance which is a special law to which the provisions of section 5 of the Limitation Act-1908 are not applicable.

Conclusion: i) Substance of a document, not its caption, determines its legal nature.
ii) No, the Court cannot adjudicate on the merits of the application until the deposit or security has been made as per the Court's direction.
iii) Section 5 does not apply to special law with their own Limitation period.

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46. **Lahore High Court**
Usama Zahoor v. District & Sessions Judge, Multan, etc.
W.P. No.1601 of 2025
Mr. Justice Raheel Kamran
https://sys.lhc.gov.pk/appjudgments/2025LHC4566.pdf

Facts: The petitioner's father served as a Naib Qasid in the Sessions Courts, and was retired on medical grounds. The petitioner applied for appointment under Rule 17-

A of the Punjab Civil Servants (Appointment & Conditions of Service) Rules, 1974. However, the Recruitment & Promotion Committee concluded that the benefit of Rule 17-A is restricted to families of civil servants who die during service. In light of this, the petitioner's application for appointment was declined, which has been impugned through instant Writ Petition.

Issues: i) Whether appointment of a deceased or permanently disabled civil servant's family member without open competition violates the principles of merit and equality under the Constitution?

Analysis: i) The Supreme Court of Pakistan in the case of *General Post Office, Islamabad and others v. Muhammad Jalal* (PLD 2024 SC 1276) has declared any rule, policy, or memorandum that allows for appointments of a deceased or permanently disabled civil servant's widow/widower, spouse, or child without open advertisement, competition, and merit to be discriminatory and unconstitutional.

Conclusion: i) Appointments of a deceased or disabled civil servant's family member without open merit are discriminatory and unconstitutional.

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47. **Lahore High Court**
Mushtaq Ahmad and another v. Saiqa Ch., etc.
Civil Revision No.1077 of 2024
Justice Raheel Kamran
https://sys.lhc.gov.pk/appjudgments/2025LHC4649.pdf

Facts: The petitioners through this Civil Revision have assailed order passed by the Appellate Court. During pendency of the appeal, the petitioners moved an application under Order XLI Rule 27 read with section 151 of CPC for permission to produce additional evidence. The application was listed for arguments on multiple dates and ultimately, the impugned order was passed.

Issues i) Whether an application must be decided prior to the final judgment in the main appeal through a separate order?
ii) Whether the court has discretion to decide the appeal along with the application for additional evidence conjointly?
iii) What are factors to be considered to decide an application to produce additional evidence conjointly or separately?

Analysis: i) Under the law, particularly concerning application for additional evidence, there is no specific rule that mandates such an application must be decided prior to the final judgment in the main appeal through a separate order. The appropriate course of action, whether to decide the application first or conjointly with the appeal, is entirely dependent on the specific facts and circumstances of each case and the court's assessment of what is necessary to achieve a just and holistic adjudication. The paramount consideration remains the ability of the court to

pronounce a satisfactory and complete judgment, which may, in certain circumstances, be best achieved by integrating the consideration of additional evidence with the overall merits of the appeal.

ii) The Appellate Court in view of the factual context of the case rightly observed that the adjudication of the application for additional evidence is intrinsically linked to and dependent upon a comprehensive consideration of the arguments from both sides, in conjunction with the evidence already available on record and the pleadings of the parties. Therefore, the Appellate Court's choice to decide the appeal along with the application for additional evidence conjointly is a sound exercise of discretion, aimed at efficient and holistic adjudication, and does not result in any miscarriage of justice or prejudice to the petitioners' rights. This approach by the appellate court aligns with the ratio decidendi in the case of Sultan Ali alias Sultan through L.Rs. and others v. Rasheed Ahmad and 45 others (2005 SCMR 1444)

iii) Additionally, an important consideration in such matters is the content and potential impact of the intended additional evidence. If the appellate court determines that the evidence sought to be produced is of such a nature that its inclusion on the record could fundamentally alter the decision of the main case, then it might indeed be prudent to decide the application separately through a distinct order. This would allow for proper consideration of its admissibility and relevance before proceeding to the merits of the appeal. However, if the appellate court, after initial assessment, forms the view that the proposed evidence, even if admitted, would likely have no material impact on the outcome of the main case, then there is no compelling need to decide the application for additional evidence separately. In such a scenario, a conjoint decision of the application and the main appeal becomes a matter of judicial economy and efficiency. Such approach significantly contributes to the sound administration of justice by streamlining proceedings, preventing unnecessary delays, and ensuring the expeditious dispensation of justice.

Conclusion: i) There is no specific rule that mandates such an application must be decided prior to the final judgment in the main appeal through a separate order.

ii) The Appellate Court's choice to decide the appeal along with the application for additional evidence conjointly is a sound exercise of discretion

iii) See above analysis No.iii.

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48. **Lahore High Court**
Tahir Javed v. Muhammad Sharif
R.F.A No.23970 of 2025
Mr. Justice Sultan Tanvir Ahmad & Mr. Justice Hassan Nawaz Makhdoom
https://sys.lhc.gov.pk/appjudgments/2025LHC4635.pdf

Facts: A summary suit under Order XXXVII of CPC filed by respondent, on the basis of a cheque, was decreed by the trial Court. An appeal was preferred by the appellant before the High Court.

Issues: i) When does the presumption under section 118 of The Negotiable Instruments Act, 1881 arise?
ii) Upon which party the initial burden of proof of due execution of a negotiable instrument rest, and when this burden shifts?
iii) What is the standard of proof for rebuttal of presumption of S.118 of the Act?
iv) Whether the defendant can be considered 'principal debtor' not the 'guarantor' When he admits the execution of a cheque?
v) Whether in absence of third party, the defence of the defendant of issuing the cheque as 'guarantee' is tenable under S.126 of the Contract Act?
vi) What the issuance of a cheque constitutes, and how a presumption attached to a cheque can be rebutted?
vii) Whether delivery of a signed cheque, especially in presence of a financial obligation, carries any sort of presumption?
viii) What demonstrates that the cheque has been issued voluntarily?

Analysis: i) This presumption shall arise every time when the execution of negotiable instrument is admitted by a defendant.
ii) The initial proof of due execution of a negotiable instrument by the defendant shall rest on the plaintiff and upon such discharge the onus shall shift to the defendant perforce of the presumption under section 118 of the Act. It is then for the defendant to prove that the negotiable instrument is not supported by a consideration.
iii) Such presumption in favour of a cheque ought to be rebutted strongly by issuer of a cheque. It is a trite law when the execution is not denied, the burden and standard of rebuttal is much more heavier.
iv) The aforesaid section (S.126 of the Contract Act,1872) contemplates three distinct parties in a contract of guarantee: the "surety," the "principal debtor," and the "creditor." In the present case, the appellant/defendant does not qualify either as a surety or a third-party guarantor, but he squarely falls within the definition of the "principal debtor." He, being the direct recipient of the funds and issuer of the cheque, remains liable in the capacity of a principal debtor.
v) The mere assertion that the cheque was issued as a guarantee fails to fulfill the essential requirements of a valid contract of guarantee under Section 126 of the Act, 1872, which contemplates a third-party obligation, but not a direct liability. The absence of any third person, whose default was to be secured, renders the defence untenable.
vi)The issuance of the cheque constitutes an independent acknowledgment of liability, and such issuance is presumed to have been for consideration under section 118 of the Act, unless rebutted by strong and convincing evidence.(---) It is well-settled that the presumption under section 118 of the Act can only be displaced by producing cogent and reliable evidence.
vii) Mere delivery of a cheque, even if allegedly incomplete, after the express or implied acknowledgment of liability does not absolve the drawer from the consequences arising from such issuance. The act of handing over a signed

cheque, especially in the presence of an admitted financial obligation, inherently carries the presumption of a lawful authority for its completion and presentment.

viii) In the present case, the appellant/defendant's own admission regarding the execution of the cheque, his failure to challenge the reconciliation proceedings, and his acknowledgment of prior financial dealings with the respondent/plaintiff, clearly demonstrate that the subject cheque was not only issued voluntarily, but was also enforceable under the law.

Conclusion: i) Such presumption shall arise every time when the defendant admits the execution of negotiable instrument.

ii) See above analysis No.ii.

iii) See above analysis No.iii.

iv) See above analysis No.iv.

v) The absence of any third person, whose default was to be secured, renders the defence untenable.

vi) See above analysis No.vi.

vii) See above analysis No.vii.

viii) See above analysis No.viii.

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49. **Lahore High Court**
Sheikh Anwar ul Haq v. Abdul Ghaffar etc.
Civil Revision No. 31213/2021
Mr. Justice Malik Waqar Haider Awan
https://sys.lhc.gov.pk/appjudgments/2025LHC4441.pdf

Facts: Petitioner filed a suit for declaration and recovery of possession of a shop. The defendants contested the suit and raised the plea that the petitioner was a benami allottee, asserting that the shop was actually obtained by respondent No.1 who also allegedly provided another shop to the petitioner. The courts below dismissed the petitioner's suit. Hence; the present civil revision.

Issues i) What is the legal significance of "title" and "entitlement" in the context of a suit for declaration under section 42 of the Specific Relief Act, 1877?

ii) What is the impact of admitted facts on the requirement of proof under Qanun-e-Shahadat Order (QSO), 1984?

iii) What is the legal status of possession and utility bills in name of a person in determining ownership?

iv) What is the evidentiary value of entries in the Revenue Record and oral versus documentary evidence in establishing title?

Analysis: i) To understand the meanings of "title" and "entitled" in the context of facts of instant case which have not been exclusively defined in the Act 1877, ordinary and legal meaning is to be taken into consideration with reference to Section 42 of the Act 1877. "Title" refers to a legal right of ownership or entitlement to property which indicates who has the lawful authority or claim over the property

in question amongst the contesting parties qua their entitlement. "Entitlement" is to be construed in a broader meaning and cannot be restricted to ownership only.

ii) it could be said with certainty that both the learned courts below failed to read the pleadings as well as evidence of parties and also flopped to apply Article 113 of the Order which provides "admitted facts need not to be proved".

iii) in Amjad Ali and others v. Anwar Shah and others (2025 SCMR 211) where it has been inter alia held as under:- The argument of the learned counsel for the respondents is that they are in possession of the suit house and the electricity consumption meter is also in their name will not bear any fruit for them and also will not affect the merits of the case. Such entries can never be termed as equivalent to ownership.

iv) in Hassanally and others v. Noor Muhammad through his Legal Heirs and another (1995 MLD 1458), relevant portion of which is reproduced hereunder:- Entries in the Revenue Record are prima facie good evidence of title unless rebutted by some better evidence by the other side. In the present case oral evidence has been produced by the respondents as against the documentary evidence coming from public record produced by the applicants. Entries in the Revenue Records since 1933 in favour of the applicants remain unrebutted and could not be ignored.

Conclusion: i) Title denotes lawful ownership or authority over property, while entitlement encompasses a broader legal interest, not confined to ownership alone.

ii) Failure to apply Article 113 QSO, 1984, which exempts admitted facts from proof, led to misreading of pleadings and evidence.

iii) Possession and utility bills in a person's name do not confer ownership and cannot substitute for legal title.

iv) Revenue Record entries are prima facie proof of title and outweigh oral evidence unless effectively rebutted.

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50. **Lahore High Court**
Arshad Iqbal Rana v. Salman Sajjad etc.
Writ Petition No. 42046/2025
Mr. Justice Malik Waqar Haider Awan
https://sys.lhc.gov.pk/appjudgments/2025LHC4850.pdf

Facts: A petitioner challenged orders of the trial and appellate court that refused his request for ad interim injunction in a civil suit. Hence; this Constitutional Petition.

Issues: i) Whether a constitutional petition under Article 199 is maintainable to challenge an interlocutory order refusing ad interim injunction when an efficacious remedy exists?

ii) Whether the High Court, while exercising constitutional jurisdiction under Article 199, can adjudicate upon matters involving disputed questions of fact requiring recording of evidence?

ii) Whether the High Court can interfere in constitutional jurisdiction where the

matter is still pending decision on an application for temporary injunction before the trial court?

Analysis: i) First of all, it would be expedient to throw light on the case-law cited by learned counsel for petitioner on the point of maintainability of this petition. In the case of Pioneer Pakistan Seed Ltd. (supra), this Court held that against any order of granting or refusing injunction, ad interim or otherwise, First Appeal against order under Order XLIII Rule 1(r) CPC is maintainable whereas in the instant case, petitioner has invoked the constitutional jurisdiction of this Court, thus the afore-referred case-law is not applicable. The case of Hafiz Muhammad Owais (supra) would also not be helpful for petitioner for the reason that in the instant case, learned trial court has declined the request of ad interim injunction meaning thereby application under Order XXXIX Rules 1 and 2 CPC filed by petitioner is still pending adjudication before learned trial court.

ii) As regards rest of the arguments advanced by learned counsel for the petitioner, the same pertain to factual controversy, resolution of which requires recording of evidence which this Court in its constitutional jurisdiction exercised under Article 199 of the Constitution cannot undertake

iii) The grant of ad interim injunction by this Court would tantamount to step into the shoes of learned trial court which is not mandated by law. As discussed above, the constitutional jurisdiction of this Court is supervisory and extraordinary which can only be exercised in exceptional circumstances such as violation of fundamental rights, lack of jurisdiction by lower court, gross miscarriage of justice and if the orders passed by lower courts are in violation of natural justice. In the instant case, situation is otherwise, therefore, in my considered view, the impugned orders are unexceptionable and do not call for any interference by this Court… It is unequivocally clear that invoking the constitutional jurisdiction of this Court by challenging grant or refusal of ad interim injunction by learned courts below is not an adequate remedy as application for grant of temporary injunction is yet to be decided… In the light of above discussion, it can safely be concluded that constitutional jurisdiction being an extraordinary jurisdiction cannot be invoked to challenge interlocutory orders that are not final or conclusive in nature.

Conclusion: i) A constitutional petition under Article 199 is not maintainable to challenge an interlocutory order refusing ad interim injunction when an efficacious statutory remedy exists.

ii) The High Court cannot adjudicate upon disputed questions of fact requiring recording of evidence while exercising constitutional jurisdiction under Article 199.

iii) The High Court will not interfere in constitutional jurisdiction where the matter is still pending decision on an application for temporary injunction before the trial court.

51. **Lahore High Court**
Mst. Samina Khalid v. Tariq Bashir etc.
C.R. No.65969 of 2022
Mr. Justice Malik Waqar Haider Awan.
https://sys.lhc.gov.pk/appjudgments/2025LHC4920.pdf

Facts: The petitioner has challenged concurrent judgments and decrees passed by the trial and appellate courts, whereby a suit for possession through specific performance filed by the respondent was decreed. The respondent alleged that the petitioner entered into an agreement to sell a residential plot for a fixed consideration, part of which was paid in advance. Despite repeated demands, the petitioner failed to transfer the property, ultimately refusing to perform the agreement, which led to the filing of the suit. The petitioner initially contested the suit but was later proceeded against ex parte due to non-appearance. Although an earlier ex parte decree was set aside and the matter remanded for fresh decision, the petitioner again failed to produce evidence, resulting in closure of her evidence and decree of the suit, which was upheld in appeal.

Issues: i) Whether the interim order closing evidence could merge into the final judgment after an unsuccessful and unpursued challenge?
ii)Whether the law obliges the court to secure the presence of witnesses when a party fails to act with due diligence?
iii) Whether the Specific Relief Act, 1877 mandates deposit of sale consideration at filing, admission, or pre-summons stage?
iv) Whether deposit of sale consideration in court is automatic or requires a specific court order with timeline and consequences?
v)Whether revisional jurisdiction under section 115 CPC allows interference without perversity, arbitrariness, or jurisdictional defect?

Analysis: i) The argument of learned counsel that interim order qua closure of her right to lead evidence could be challenged along with final judgment and decree passed by learned trial court on the premises that interim order merged into final order. I am afraid this concession and facility of law was not available to her as she challenged the order of closure before revisional court but remained unsuccessful and did not challenge the same any further.
ii)The law does not oblige the Court to secure presence of witnesses once the party fails to act with due diligence.
iii)There is no strict rule in the Specific Relief Act, 1877 that forces the plaintiffs to submit the outstanding payment when filing the case during its admission or before issuing summons to the defendants.
iv)The deposit of the sale consideration or balance sale consideration in the Court is not an automatic or precondition by fiction of law but there must be an order of the Court for deposit with certain timeline with repercussions of non-compliance.
v)It is trite law that revisional jurisdiction under Section 115 CPC does not permit re-appraisal of evidence or substitution of a concurrent finding of fact, unless it is perverse, arbitrary, or without jurisdiction.

Conclusion: i) Interim order of closing evidence could not be challenged with final judgment if already unsuccessfully assailed in revision and not pursued further.
ii) See above analysis No.ii.
iii) The Specific Relief Act, 1877 does not mandate plaintiffs to deposit outstanding payment at filing, admission, or pre-summons stage.
iv) Deposit of sale consideration in court is not automatic; it requires a specific court order with a timeline and consequences for non-compliance.
v) Revisional jurisdiction under section 115 CPC cannot be used to re-appraise evidence or disturb concurrent findings unless they are perverse, arbitrary, or without jurisdiction.

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52. **Lahore High Court**
M/s. BBJ Steel Limited v. M/s. Cargill International Trading Pte. Ltd.
Intra Court Appeal No. 6601 of 2024
Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Malik Waqar Haider Awan
https://sys.lhc.gov.pk/appjudgments/2025LHC4959.pdf

Facts: The respondent-company initiated arbitration proceedings against the appellant-company under an arbitration clause governed by Singapore law. A sole arbitrator was appointed by the Singapore International Arbitration Centre, who rendered an award in favor of the respondent. The respondent-company sought recognition and enforcement of the award through a civil original suit before the Lahore High Court, which was allowed by the learned Single Judge. The appellant challenged that decision through an Intra Court Appeal.

Issues: i) Whether Pakistani courts, while enforcing a foreign arbitral award, can examine its merits or invoke public policy broadly, or are limited to acting as executing courts under the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 and the New York Convention (1958)?
ii) Whether international arbitration agreements and foreign arbitral awards are binding in Pakistan, and to what extent domestic courts are restricted from interfering with such awards under the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011?

Analysis: i) Recognition and enforcement of a foreign arbitral award may be refused by the courts of Pakistan on the public policy ground only where it would violate the 'most basic notions of morality and justice' prevailing in Pakistan (…) The public policy ground cannot be used to examine the merits of a foreign arbitral award or to create more grounds of defence that are not provided for in the Convention, such as misapplication of the law of Pakistan by the arbitrator in making the award or the arbitrator's decision being contrary to the law of Pakistan (…) the court which passed the impugned judgment was simply performing the role of an 'executing court,' meaning thereby that its duty was to implement the award, not to review it (…) These objectives sought to be achieved by the New York Convention underscore the 'pro-enforcement bias' informing the Convention,

guiding the Courts towards a 'narrow reading' of the grounds of defence listed in the Convention, particularly, the public policy ground.
ii) The intention of legislation is very much evident from the Act, 2011 whereby minimal interference by Pakistani Courts in International Commercial Arbitration is ensured. (…) Since Pakistan is a signatory to the Arbitral Award, 1958 and the country has promulgated Act, 2011 to implement it. Section 8 of the Act, 2011 provides that in the event of any inconsistency between this Act and the convention (Arbitral Awards, 1958), the convention shall prevail to the extent of the inconsistency.

Conclusion: i) See above analysis No.i.
ii) Foreign arbitral awards and international arbitration agreements are binding in Pakistan, and courts have a minimal role, limited strictly by the provisions of the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 and the New York Convention.

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53. **Lahore High Court**
Saeed Akhtar v. The State.
Crl. Appeal No.1096 of 2024
Mr. Justice Sardar Akbar Ali
https://sys.lhc.gov.pk/appjudgments/2025LHC4871.pdf

Facts: The appellant filed appeal to challenge judgment of Trial Court through which he was sentenced under section 302(b) PPC to imprisonment for life and was also ordered to pay compensation to legal heirs of deceased.

Issue: i) What inference can be drawn from delay in registration of FIR?
ii) What are pre-requisites for believing statement of a chance witness?
iii)What is presumed about presence of eye witnesses if eyes and mouth of deceased remain open?
iv) Can positive report of PFSA regarding weapon of offence be relied if chain of safe custody is missing?
v)Whether allegation of abscondence is sufficient to maintain conviction?

Analysis: i) … the matter was reported to the police on the same day at 08:25 p.m. i.e. with delay of about nine hours and twenty-five minutes, despite the fact that police station was just fifteen kilometers from the place of occurrence. In such a situation if these witnesses were present at the place of occurrence and also witnessed the scene of occurrence then such an inordinate and unexplained delay in lodging the FIR would never have occurred…Thus, in the facts and circumstances of the instant case, the element of delayed registration of FIR (Ex.PA) is clear indicator of the fact that in fact it was a blind murder and inference can be drawn that the intervening period was consumed in fabricating the prosecution story after the preliminary investigation and the delay was result of deliberation and consultation thus false involvement of the appellant cannot be ruled out.

ii) Both these witnesses of ocular account are residents of District Mansehra. Therefore, these witnesses can safely be termed as chance witnesses and there is plethora of case law on the point that statements of such witnesses may be believed but only when convincing explanation about their presence at the place of occurrence at the relevant time is brought on the record, otherwise, their testimonies would remain as suspect evidence

iii) …the presence of the eye witnesses becomes doubtful on perusal of the postmortem report (Ex.PM) as well. The post mortem report (Ex.PM) transpires that the eyes of the deceased were found half open, which cannot happen in the presence of eye witnesses. This fact is also mentioned in inquest report (Ex.PP) that the eyes and mouth were half opened. Had the eye witnesses present at the crime scene, they would have shut the eyes of the deceased, while taking them to the hospital and thereafter.

iv) the positive report received from the PFSA is of no use to the prosecution because the chain of safe custody is missing, which creates serious doubt about the recovery of the .12 bore gun/rifle alleged to be used as a weapon at the crime scene. Reference in this context may be made to the case reported as Kamal Din alias Kamala v. The State (2018 SCMR 577) wherein the Supreme Court of Pakistan discarded the positive report of FSL.

v) Although it has been argued by learned District Public Prosecutor that Saeed Akhtar (appellant), remained an absconder in this case for a considerable period and his abscondance corroborates the prosecution case against him but it is by now well settled that when a person is named as a murderer, whether rightly or wrongly, he usually becomes scared and tries to conceal himself in order to avoid possible police torture and detention, therefore, mere abscondence of an accused by itself is not sufficient to maintain his conviction and sentence in absence of other reliable evidence.

Conclusion: i) From delay in registration of FIR, inference can be drawn that the intervening period was consumed in fabricating the prosecution story.

ii) Statements of chance witnesses may be believed but only when convincing explanation about their presence at the place of occurrence at the relevant time is brought on the record.

iii) Open eyes and mouth of deceased indicate absence of witnesses from the place of occurrence.

iv) Positive report of PFSA regarding weapon of offence is of no use when the chain of safe custody is missing.

v) Abscondence of an accused by itself is not sufficient to maintain his conviction and sentence in absence of other reliable evidence.

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54. **Lahore High Court**
Zulfiqar Khan etc. v. The State, etc.
Criminal Appeal No. 702 of 2024
Criminal Revision No. 315 of 2024
Ms. Justice Sardar Akbar Ali
https://sys.lhc.gov.pk/appjudgments/2025LHC4928.pdf

Facts: The appellants were tried and convicted by the Trial Court under sections 302/ 324/ 34/ 109 PPC. The appellants filed Criminal Appeal, while the complainant filed Criminal Revision seeking enhancement of sentence.

Issues: i) Whether unexplained delay in lodging the FIR adversely affects the credibility of the prosecution case?
ii) Whether a delayed statement under section 161 Cr.P.C. without plausible explanation is reliable?
iii) Whether dishonest improvements by prosecution witnesses during trial render their testimony untrustworthy and unreliable?
iv) Whether withholding the most natural or best available witnesses permits drawing an adverse inference under Article 129(g) of Qanun-e-Shahadat Order, (QSO)1984?

Analysis: i) The matter was reported to the police on the same day at 05.05 p.m. i.e. with the delay of about four hours, despite the fact that police station was 4.5 kilometers from the place of occurrence (…) Therefore, I hold that this inordinate delay in setting the machinery of law in motion speaks volumes against the veracity of prosecution version.
ii) The delay of three days in recording the statement of injured (PW-15) under Section 161 Cr.P.C. has also not been explained by the prosecution when he was fully conscious and oriented at the time of medical examination. Furthermore, it is settled law that credibility of a witness is looked with serious suspicion if his statement under section 161, Cr.P.C. is recorded with delay without offering any plausible explanation. This statement also reduces its value to nil until and unless it is explained rendering justiciable reasoning.
iii) The flaws, contradictions and improvements in the statements of aforesaid PWs create doubts in the prosecution story. It is settled by now that dishonest improvements made by a witness in his statement to strengthen the prosecution case casts serious doubt about veracity of his statement and makes the same untrustworthy and unreliable.
iv) According to the contents of FIR the other most natural witnesses of the occurrence in whose presence the occurrence took place but they were not produced by the prosecution during the trial. (…) Therefore, the prosecution withheld best available evidence and in view of Article 129(g) of Qanoon-e-Shahadat Order, 1984, adverse inference, that had this witness been produced before the learned trial court he would not have supported the prosecution case, can safely be drawn against the prosecution.

Conclusion: i) See above analysis No.i.
ii) See above analysis No.ii.
iii) The dishonest improvements made by the prosecution witnesses during trial rendered their testimony untrustworthy and unreliable, thereby creating serious doubts in the prosecution's version and making it unsafe to base conviction on

such evidence.

iv) The prosecution's failure to produce the most natural and best available witnesses justifies drawing an adverse inference under Article 129(g) of the QSO, 1984, that their testimony would not have supported the prosecution's case.

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55. **Lahore High Court**
Malik Hamid Raza v. Additional District Judge, etc.
Civil Revision No. 719 of 2025
Mr. Justice Syed Ahsan Raza Kazmi
https://sys.lhc.gov.pk/appjudgments/2025LHC4664.pdf

Facts: The petitioner filed a suit for declaration of non-paternity and submitted an application requesting a DNA test of the minor child. Defendant in the suit did not oppose the application and even gave her consent for the DNA test. However, the trial court dismissed the application. The petitioner challenged this decision through an appeal, which was also dismissed by the appellate court. As a result, the petitioner filed the present civil revision before the High Court.

Issue: Whether a court should order a DNA test of a minor to determine paternity when both parties have given their consent in order to determine the paternity?

Analysis: The petitioner has challenged paternity and sought DNA testing of the minor child, citing prolonged absence of cohabitation with the mother. While both parents have expressed willingness for the test, the learned courts below have rightly held that at this preliminary stage, the application is premature, particularly when evidence of the parties is yet to be recorded. Furthermore, it has, by now, well-settled that DNA evidence is not conclusive rather it serves as corroborative evidence (…) The use of DNA testing in legal proceedings, particularly in matters of paternity, is a serious judicial act, not to be undertaken lightly or on mere request. It is not the availability of technology or the consent of parties that alone justifies such testing, but whether its purpose truly serves the ends of justice. DNA test may have valued, but not at the cost of a child's mental and emotional well-being (…) Though the parents, as natural guardians, can generally provide consent on behalf of a minor, this principle is not absolute. This Court as well as Supreme Court of Pakistan in number of cases has held that when a minor's interests are at stake in litigation, the court may override parental consent if it observes that such consent is not in the best interest of the minor. The court's primary consideration is the welfare of minor, and it may intervene to protect the rights of minor even if it means setting aside parental decisions/wishes.

Conclusion: A court should not order a DNA test of a minor to determine paternity merely on the basis of consent by both parents; instead, it must independently assess whether such a test is in the best interest of the minor, and may defer the decision until sufficient evidence is available to justify such an order.

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56. **Lahore High Court**
Asif Kamran & 02 others v. The State & 04 others
Writ Petition No.15471 of 2011
Mr. Justice Malik Javid Iqbal Wains
https://sys.lhc.gov.pk/appjudgments/2025LHC4802.pdf

Facts: Petitioners challenged the summoning order passed by the Drug Court under the Drugs Act, 1976, after the District Quality Control Board had previously concluded the matter by issuing them only a warning.

Issues: i) Whether the learned Assistant District Public Prosecutor (ADPP) was legally competent to file an application for summoning the petitioners in the absence of a statutory complaint filed by a designated Inspector under section 30 of the Drugs Act, 1976;
ii) Whether the learned Drug Court could assume jurisdiction to entertain such an application, bypassing the statutory mechanism laid down in Sections 19 and 30 of the Drugs Act, 1976, and the Punjab Drug Rules, 2007;
iii) Whether the impugned proceedings and order offend the fundamental rights of the petitioners guaranteed under Articles 4 and 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter "the Constitution").

Analysis: i) The Act, 1976, being a special statute, prescribes a complete procedural framework, which must be strictly adhered to. Section 19(6) of the 'Act ibid' clearly mandates that no prosecution shall be instituted unless the matter is first referred to the relevant Board and a decision is made thereon. Section 30 of the "Act, 1976" is explicit that only a Federal or Provincial Inspector is competent to institute a prosecution under the "Act". This section prohibits institution of prosecution by any person except by a Federal Inspector or the Provincial Inspector. This statutory scheme overrides general criminal procedure and binds all authorities acting under the Act… In view of above provision of law, it is clear that learned ADPP is not vested with any power under the Act, 1976 to initiate or revive prosecution. Bare reading of the Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2006, reveals that the role of Prosecutor is restricted to represent the Government, scrutinizing investigation reports, advising law enforcement, and conducting prosecution where lawfully instituted. The ADPP cannot override a concluded administrative decision made by the competent authority under the Act, 1976.
ii) The trial court was equally bound to examine the maintainability of the application and its own jurisdiction before passing the impugned summoning order. By ignoring the statutory bar, the trial court acted without lawful authority. The Supreme Court of Pakistan has time and again held that when the law requires a particular procedure to be followed, any deviation renders the action void ab-initio.
iii) It must be underscored that this procedural irregularity strikes at the very root of due process. Article 4 of the Constitution guarantees that no action detrimental to the life, liberty, body, reputation or property of any person shall be taken,

except in accordance with law. Here, the petitioners were deprived of the statutory safeguards guaranteed by the Act, 1976 and the Punjab Drug Rules, 2007. The ADPP's unilateral act of filing an application and the trial Court's acceptance amounts to an arbitrary exercise of power, in clear derogation of Article 4 of the Constitution.

Conclusion: i) The ADPP was not legally competent to initiate such proceedings.
ii) The Drug Court lacked jurisdiction in bypassing the statutory mechanism.
iii) The proceedings violated the petitioners' fundamental rights under Articles 4 and 10A of the Constitution.

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57. **Lahore High Court**
Commissioner Inland Revenue v. M/S D-Watson & another
S.T.R.No. 07 of 2022.
Mr. Justice Jawad Hassan, Mr. Justice Malik Javid Iqbal Wains
https://sys.lhc.gov.pk/appjudgments/2025LHC4654.pdf

Facts: The registered persons, being Tier-1 retailers, failed to fully integrate their retail outlets with the FBR's computerized system for real-time reporting of sales, resulting in imposition of penalty and disallowance of input tax under the Sales Tax Act, 1990, which was ultimately set aside by the Appellate Tribunal.

Issues: i) Whether under the facts and in the circumstances of the case, the Learned ATIR has failed to appreciate that the Registered Person has committed willful default of the provisions of section 2(43A), 3(9A) & 40C of the Sales Tax Act, 1990 by not integrated his retail outlet with Board's Computerized System for real time reporting of Sales?
ii) Whether the Learned Appellate Tribunal has not failed to appreciate that the provisions of section 11 of the Sales Tax Act, 1990 could be pressed into service for the purpose of imposition of penalty/default surcharge, m accordance with the schedule prescribed under the provisions of section 33 of the Sales Act, 1990, on committing of an offense of willful default by a Registered Person?
iii) Whether the Learned ATIR has failed to appreciate that the provision of section 11 of the Sales Tax, 1990 confers the powers upon an Officer of Inland Revenue to issue a Show Cause Notice and pass order thereon to impose penalty/default surcharge, in accordance with schedule as prescribed under section 33 of the Sales Tax Act, 1990 on a Tax Defaulter?
iv) Whether under the facts and in the circumstances of the case, the Learned ATIR has failed to appreciate that the penalties/default surcharge, as prescribed at serial No 24 & 25 of the section 33 of the Sales Tax Act, 1990 are imposed after commitment of an offense, as prescribed at column No.1 of the schedule, by the Registered Persons?
v) Whether under the facts and in the circumstances of the case, the Learned ATIR has failed to appreciate that the Appellant (Respondent No.1) has committed willful default of the provisions of section 2(43A), 3(9A) & 40C of the Sales Tax Act, 1990 by not integrated his retail outlet with Boar's Computerized

System for real time reporting of Sales?

vi) Whether under the facts and in the circumstances of the case, the Learned ATIR has not failed to appreciate that the amount of Tax involved and the amount of Penalties/Default Surcharge is levied under the schedule provided in section 33 of the Sales Tax Act, 1990, after issuance of Show Cause Notice upon the Registered Person and adjudication of the case, strictly in accordance with law?

Analysis: i) The said provision is silent regarding the creation of offences or the independent imposition of penalties for regulatory breaches that do not necessarily result in a quantifiable tax default. Its scope is not punitive but compensatory and restorative in nature, to protect the exchequer from actual revenue loss. Conversely, the offences for failure to integrate a retail outlet fully or partially with the Board's Computerized System for real-time reporting are distinctly prescribed under Sections 2(43A), 3(9A), and 40C of the "Act", while the penal consequences for such breaches are codified under Section 33 of the "Act", particularly at Serial 24 & 25… The Table appended to Section 33 of the "Act…prescribes various statutory offences along with the corresponding penalties for each specific breach… Any attempt to rely on Section 11 of the "Act" to sidestep this procedural requirement is legally untenable, as Section 11 of the "Act" neither creates the offence nor provides the jurisdictional foundation for penal proceedings that are not tied to a tax shortfall.

ii) Section 11 of the "Act" is a machinery provision. Its statutory object is to empower the Officer of Inland Revenue to detect, assess, and recover any tax, which has either escaped assessment, has not been paid, or has been erroneously refunded… It addresses tax revenue shortfall and its recovery, not regulatory penalties imposed for stand-alone statutory breaches unrelated to any deficit in the tax payable… To hold otherwise would blur the line between tax assessment and regulatory adjudication, which the Act keeps separate by design.

iii) The applicant-Department is under a statutory obligation to ensure strict compliance with the legislative framework to prevent any jurisdictional defect and to secure that every Show Cause Notice and any resulting adjudication order is legally tenable. It is a settled principle that the jurisdiction of an administrative adjudicating officer must be exercised strictly in accordance with the enabling statute… Although Section 33 of the "Act", prescribes various offences and their corresponding penalties, it does not itself provide any independent procedural mechanism for the issuance, adjudication, or recovery of such penalties… Therefore, in the absence of such procedure, reliance cannot be placed on a general provision like Section 11 of the "Act", which is confined to tax assessment and recovery, to fill that gap by implication.

iv) … Failure to fully or partially integrate their retail outlet does not, ipso facto, result in a quantifiable shortfall of sales tax that can be brought within the ambit of Section 11 of the "Act". Instead, this default constitutes an independent regulatory offence for which a specific penalty is prescribed under Serial Nos.24 and 25 of Section 33 of the "Act".The statutory design is deliberate: the Legislature has distinguished between revenue shortfalls, which require recovery

through assessment under Section 11 of the "Act", and compliance-related breaches, which attract stand-alone penalties under the schedule to Section 33 of the "Act… the imposition of any penalty that carries civil or quasi-criminal consequences demands adherence to the principles of due process, as enshrined under Articles 4 and 10A of the Constitution…

v) Where the statute does not itself prescribe an explicit procedure for enforcing the penalty (as is the case with Section 33 of the "Act"), the Department must follow the procedure laid down under the general adjudication framework of the "Rules", or other delegated legislation validly made under Section 50 of the "Act". Any attempt to rely on Section 11 of the "Act" to sidestep this procedural requirement is legally untenable…

vi) Any penal action taken without strict adherence to the proper statutory procedure risks being rendered without lawful authority. Additionally, the scheme of the Sales Tax Act makes a conceptual distinction between tax liability and penal liability. Section 11 of the "Act" addresses the former, Section 33 of the "Act" the latter.

Conclusion: i) The ATIR did not fail; the Registered Person's non-integration falls under regulatory breaches separately governed by section 33.

ii Section 11 cannot be invoked for penalties/default surcharge prescribed under Section 33.

iii) Section 11 does not confer power to issue SCN or impose penalties for purely regulatory defaults not tied to tax shortfall.

iv) Penalties under serial Nos. 24 & 25 must be imposed only after due process under specific provisions.

v) ATIR correctly appreciated that wilful default must be pursued under section 33 procedure.

vi) Penalties and default surcharge under section 33 require show cause notice and adjudication strictly as per law, not under section 11.

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58. **Lahore High Court**
Muhammad Akhtar. v. Deputy Commissioner, Khushab & 03 others
Writ Petition No. 25654 of 2025
Mr. Justice Khalid Ishaq
https://sys.lhc.gov.pk/appjudgments/2025LHC4708.pdf

Facts: A vacancy for the appointment of Village Headman occurred due to the death of the then incumbent. The petitioner and Respondents No. 3 & 4 applied for the vacancy. The Tehsildar submitted the 1st Report, wherein the petitioner secured highest marks (95/100). The Assistant Commissioner endorsed the evaluation and forwarded the 2nd Report. However, the Deputy Commissioner passed the Impugned Order seeking fresh reports. The petitioner challenged the Impugned Order through this constitutional petition.

Issues: i) Whether a High Court can set aside administrative orders based on arbitrary discretion and mala fide exercise of authority under Article 199 of the

Constitution?
ii) Whether a mere registration of an FIR disqualifies a candidate from appointment to a public office under Rule 18(2)(e) of the Land Revenue Rules, 1968?
iii) Whether the High Court's intervention amounts to 'suo motu' jurisdiction where the original relief is within the scope of the petition?

Analysis: i) It is for these patently illegal executive's actions that the power of judicial review has been conferred upon this Court under Article 199 of the Constitution. Obligation to act fairly on the part of administrative authority has been evolved to ensure the rule of law and to prevent failure of justice (…) Considering the Impugned Order and the Appointment Order on very basic standards of fairness and administration of justice, the same are grossly illegal and unlawful and if allowed to sustain, it amounts to militate against rule of law. Judicial review of the Impugned Order and consequent Appointment Order, is well within the scope of exercise of power of judicial review of this Court under Article 199 of the Constitution.
ii) It is also trite that mere registration of a case does not attract disqualification of an office bearer and only a conviction entails the crystallization of disqualification (…) The disqualification provisions will only trigger once an appointed Village Headman indulges into illegal activities enumerated in rule 18(2)(e) of the Rules.
iii) Considering the well settled law on the subject viz the bar or exercise of suo motu jurisdiction by the High Court while juxtaposing the prayer made in this petition (...) the contention of the learned Counsel for the Respondent No. 3 that further proceeding in this case is in the nature of suo motu exercise of jurisdiction, is not only misconceived and ill-founded but also an attempt to defend inchoate, arbitrary and illegal actions of the respondents. This petition was taken up for hearing on 30.04.2025 (...) when the notices were issued to the respondents to explain as to how a candidate securing 95/100 marks, has not been appointed.

Conclusion: i) Yes, the High Court can set aside arbitrary and mala fide administrative orders under Article 199 of the Constitution.
ii) See above analysis No.ii.
iii) No, the Court's intervention does not amount to suo motu jurisdiction when the relief sought falls within the scope of the petition.

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59. **Lahore High Court**
Muhammad Shafique v. Chief Secretary, Government of the Punjab, Lahore and 4 others etc.
Writ Petition No.7108 of 2022
Mr. Justice Malik Muhammad Awais Khalid
https://sys.lhc.gov.pk/appjudgments/2025LHC4692.pdf

Facts: Through the instant Constitutional petition, the petitioner has challenged the legality of the orders whereby he was dismissed from service following disciplinary proceedings under the Punjab Employees (Efficiency, Discipline &

Accountability) Act, 2006, (PEEDA Act, 2006) despite initially being penalized with lesser punishments after a regular inquiry, and his departmental appeal against the dismissal was also rejected.

Issues: i) What are the requirements under section 13 of the Punjab Employees (Efficiency, Discipline & Accountability) Act, 2006 when the Competent Authority seeks to enhance the penalty?
ii)What obligations does section 13(1) of the Act place on the Competent Authority upon receiving the Inquiry Officer's report?
iii) What does the principle of proportionality require the Court to assess when reviewing an administrative action?

Analysis: i) A bare perusal of Section 13, reveals that if the Competent Authority disagrees with the quantum of punishment then reasons must be given while containing material evidence which urged the competent authority for imposition of enhancement of the penalty.
ii) From the language used in the Section 13(1) of the Act, it is necessary that once the Competent Authority receives a report from the Inquiry Officer, it shall examine the (i) report and (ii) relevant case material.
iii) Proportionality requires the Court to judge whether action taken was really needed as well as whether it was within the range of courses of action which could reasonably be followed.

Conclusion: i) Competent Authority must record reasons with supporting material evidence when enhancing the penalty under Section 13 of PEEDA Act, 2006.
ii) Under section 13(1), of PEEDA Act, 2006 the Competent Authority must examine both the inquiry report and relevant case material before making a decision.
iii)The principle of proportionality requires judicial assessment of both necessity and reasonableness of the action taken.

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60. **Lahore High Court**
T.L.C. Institute of Nursing & other Allied Sciences through its Chief Executive Officer, Old Kahna Nau, Lahore v. The Higher Education Commission (H.E.C), Islamabad and 6 others
W.P. No.9961 of 2024
Mr. Justice Malik Muhammad Awais Khalid
https://sys.lhc.gov.pk/appjudgments/2025LHC4837.pdf

Facts: The petitioner has assailed the orders passed by the syndicate of a public university, blacklisting the petitioner and canceling its affiliation. It also moved before the organization after filing this petition.

Issues: i) Who is competent revisional authority under the Islamia University of Bahawalpur Act, 1975?
ii) What is the scope of doctrine of election?

Analysis: i) Now matter is pending before Chancellor for its final determination who is exercising power under Section 11-A of the IUB Act having the revisional authority to scrutinize the validity of impugned order. Section 11-A of the IUB Act is reproduced below:-

> *"11-A. Revisional Power of the Chancellor:- The Chancellor may, of his own motion or otherwise, call for and examine the record of any proceedings in which an order has been passed by any Authority for the purpose of satisfying himself as to the correctness, legality or propriety of any finding or order and may pass such orders as he may deem fit.*
>
> *Provided that no order under this section shall be passed unless the person to be affected thereby is afforded an opportunity of being heard."*

ii) The scope of doctrine of election is elaborated in the case of Chief Executive Officer NPGCL, GENCO-III, TPS Muzaffargarh vs. Khalid Umar Tariq Imran and others (2024 SCMR 518), the relevant portion of which is as under:-

> *"11. It is a well-settled proposition of law that when an aggrieved person intends to commence any legal action to enforce any right and or invoke a remedy to set right a wrong or to vindicate an injury, he has to elect and or choose from amongst the actions or remedies available under the law. The choice to initiate and pursue one out of the available concurrent or co-existent actions or remedy from a forum of competent jurisdiction vest with the aggrieved person. Once the choice is exercised and the election is made then the aggrieved person is prohibited from launching another proceeding to seek relief or remedy contrary to what could be claimed and or achieved by adopting other proceeding/ action and or remedy, which in legal parlance is recognized as doctrine of election, which doctrine is culled by the courts of law from the well-recognized principles of waiver and or abandonment of a known right, claim, privilege or relief as contained in Order II, rule (2), C.P.C., principles of estoppel as embodied in Article 114 of the Qanun-e-Shahadat Order 1984 and principles of res judicata as articulated in section 11, C.P.C. and its explanations. Reference in this regard may be made to the case of Trading Corporation of Pakistan v. Devan Sugar Mills Limited and others (PLD 2018 Supreme Court 828)."*

Conclusion: i) Chancellor is the competent authority exercising revisional powers to scrutinize the validity of orders passed by the Syndicate of Islamia University of Bahawalpur.

ii) Doctrine of election of remedies prohibit to move before two forums simultaneously, it is also hit by the principle of estoppel, res judicata, Order 2 rule II of the CPC.

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61. **Lahore High Court**
Advocate Muhammad Waseem Mukhtar Khan v. Govt. of the Punjab etc.
Writ Petition No.1612 of 2025
Mr. Justice Malik Muhammad Awais Khalid
https://sys.lhc.gov.pk/appjudgments/2025LHC5001.pdf

Facts: The petitioner, a local resident, challenged the disposal of untreated sewerage effluent into a canal which serves as the primary source of drinking and irrigation water for nearby villages, contending that it violated fundamental and legal rights under the Constitution and applicable environmental laws.

Issues: i) Whether Article 9A of the Constitution confers an enforceable fundamental right to a clean and healthy environment?
ii) Whether constitutional right provided in Article 9-A of the Constitution entails a duty to prevent pollution of water bodies by industrial, urban, and agricultural waste?
iii) Whether discharging untreated sewerage into a primary water source violates constitutional and environmental safeguards?

Analysis: i) Through the Constitutional amendment, vide 21st October 2024 and a new Article 9A has been inserted therein,… "Every person shall be entitled to clean and healthy sustainable environment." Raising the status of the environment to that of a Fundamental Right in the Constitution, manifest its significance. Pakistan is now one of very few countries which bring up the environment specifically in their Constitution. Now it is the responsibility of everyone here to ensure that this country must be free from pollution with clean healthy environment.
ii) Water is sustenance of the life cycle. It must be protected from all types of pollutants. Water, the elixir of life, is essential for all living beings and ecosystems. Water sustains life, enabling bodily functions, supporting agriculture, and facilitating industrial processes. However, increasing water scarcity, pollution, and mismanagement threaten this vital resource. It should be our collective responsibility to preserve the water through responsible usage and waste reduction in our daily lives. The human body and other living organisms require it, but in its pure form, free from any type of contamination. But man is disturbing water bodies, viz. rivers, wells, streams, seas. On land, the natural water system is being polluted by the addition of industrial wastes, urban wastes, pesticides and related pollutants. Resultantly the whole environment has been severely effected.
iii) Biodiversity is collapsing at an unprecedented rate; thousands of animal and plant species face complete destruction within a decade, because of human activities. Notwithstanding extensive domestic regulation, global standards of air, land and water pollution remain stubbornly high. Khanpur minor Canal is a vital water source used for both irrigation and drinking purposes by humans and animals, and also for agriculture. The ground water of the locality is highly brine and unfit for consumption, leaving the canal as the primary source of potable

water and discharging untreated sewerage waste into the canal, leading to the contamination of water and posing severe health risks to the residents of the area.

Conclusion: i) Article 9A of the Constitution confers an enforceable fundamental right to a clean and healthy environment.
ii) The constitutional right as provided under Article 9A imposes a duty to prevent pollution of water bodies by industrial, urban, and agricultural waste.
iii) Discharging untreated sewerage into a primary water source violates constitutional and environmental laws.

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62. **Lahore High Court**
Muhammad Talha Ammar Khan & 18 others v. Board of Governors, Sadiq Public School Bahawalpur and others.
W.P. No.6337 of 2024
Mr. Justice Malik Muhammad Awais Khalid.
https://sys.lhc.gov.pk/appjudgments/2025LHC4989.pdf

Facts: The petitioners, who are students of a private school, contend that after paying the tuition and allied charges for the first academic term, the school management arbitrarily issued demand notices for the next term requiring over 50% increase in fees and additional facility charges, despite the students not availing such facilities. They also objected to enhanced adjustment bills related to class changes. The petitioners argue that these revisions were made without approval from the competent authority—the Board of Governors—and thus lack legal justification, rendering the actions irrational, excessive, and an abuse of discretion.

Issues: i) Whether any rule or regulation exists under the Punjab Educational Institutions (Reconstitution) Act, 2021 that governs the timing and quantum of fee and allied educational expense increases during the academic year?
ii)What is the purpose of the Punjab Educational Institutions (Reconstitution) Act, 2021 regarding the governance and financial administration of educational institutions in the province?

Analysis: i) There is no Rule and Regulations which deal with ‘ time to time’ and ‘quantum’ to increase the fee fixation during the academic year and the same does not describe quantum for such increase of the fee and other allied educational expenditures for the students during the academic session.
ii)The Courts are not mere dispute-resolution forums; they are vested with the solemn duty to uphold the public confidence in the administration of justice.

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

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63. **Lahore High Court**
Syed Nazir Hussain Shah v. Deputy Commissioner, etc.
W.P. No. 7256 of 2025
Mr. Justice Ch. Sultan Mahmood
https://sys.lhc.gov.pk/appjudgments/2025LHC4449.pdf

Facts: The petitioner has filed the present constitutional petition challenging the judgments of the Guardian Judge and the Appellate Court, whereby custody of the minor, daughter, was granted to her biological mother (respondent No.3). The minor, youngest of three daughters, was initially handed over to her paternal uncle (respondent No.4) and his wife, the petitioner, through an adoption deed. Following the couple's separation, the petitioner retained custody of the minor. Later, the real mother initiated custody proceedings under section 25 of the Guardian and Wards Act, 1890, in which the minor's biological parents supported the claim. The petition was allowed, and the appeal filed by the petitioner was dismissed.

Issues: i) What are the compelling circumstances that must be established for adoption to be considered permissible under the principles of Islamic law?
ii**)** Whether real parents have a preferential right to the custody of their child, and what exceptional circumstances can justify a departure from this right in the interest of the minor's welfare?
iii) Whether the principle that biological parentage, particularly the mother's right to *hizanat*, should be prioritized in custody disputes unless extremely exceptional circumstances exist?

Analysis: i) There is no cavil to the proposition that adoption is permitted under principle of Islamic Laws but compelling circumstances, under which adoption was imperative, are required to be established.

ii) It is well settled that real parents have a preferential right regarding custody of their child unless exception exists warranting to hold otherwise in respect of welfare of the minor.

iii) The principle that biological parentage, particularly the mother's right to *hizanat*, is to be prioritized in custody disputes unless extremely exceptional circumstances exist.

Conclusion: i) Adoption is permissible under Islamic law, but must be justified by compelling circumstances.
ii) Real parents hold a preferential custody right unless overridden by the minor's welfare in exceptional cases.
iii) Biological parentage, especially the mother's right to *hizanat*, prevails in custody matters unless exceptional circumstances justify otherwise.

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64. **Lahore High Court**
Syed Sajid Raza v. Muhammad Ali Din
C.R. No.1147-D of 2021.
Mr. Justice Ch. Sultan Mahmood
https://sys.lhc.gov.pk/appjudgments/2025LHC4668.pdf

Facts: Being dissatisfied with the judgments and decrees of the Trial court and the Appellate Court passed in suit for declaration to challenge a mutation for mortgage with conditional sale, the petitioner filed instant Civil Revision.

Issue: i) What are the parameters to prove mortgage by conditional sale?
ii)Whether agricultural land can be subject matter of mortgage by way of conditional sale?

Analysis: i) To prove a case of sale by mortgage, it is imperative that plaintiff should prove his case on the test popularly known as Butler's Test . The definition of a mortgage by conditional sale itself contemplates an ostensible sale of the property…The test has been approved by the Supreme Court of Pakistan and thus, it would be advantageous to reproduce the same and evaluate the document under question on its basis: - (1) The existence of a debt; (2) The period of repayment, a short period being indicative of a sale and a long period of mortgage; (3) Continuance of the grantor in possession indicates a mortgage; (4) A stipulation for payment of interest indicates a mortgage; (5) A price below the true value is indicative of mortgage; (6) A contemporaneous deed stipulating for re-conveyance in the case of a mortgage, but one executed after a lapse of time points to a sale; (7) Purchase of stamps and payment of registration costs if done by the transferor, is indicative of a sale. To me Butler's test a good criterion for ascertaining whether the parties intended the transaction to be a mortgage or a sale.
ii) The Section 10 of the Punjab Land Alienation Act, 1900 reads as under: 10. Future mortgage by way of conditional sale not permitted.– In any mortgage of land made after the commencement of this Act any condition which is intended to operate by way of conditional sale shall be null and void. In Allah Din v. Fateh Din5 , Punjab Chief Court gave effect to section 10 of Punjab Alienation of Land Act, though the point was not taken in the lower Courts. Mr. Justice Shadi Lal of the Punjab Chief Court commenting on the applicability of section 10 of the above Act observed…Somewhat similar views were expressed in Debi Sahai v. Ramji Lal No. 56 Punjab Record 1918 and Chhaju Ram v. Muzaffar Ahmad (AIR 1936 Lahore 845) by a Division Bench of this Court. However, it does not invalidate mortgage of the land altogether but deems mortgage to be void qua the condition of conditional sale . It is trite law that prescription does not operate against law, the Punjab Land Alienation Act 1900 is part of the statute book and rights contained therein are enforceable.

Conclusion: i) To prove a case of sale by mortgage, the plaintiff should prove his case on the test popularly known as Butler's Test.

ii) See above analysis No.ii.

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65. **Lahore High Court**
Muhammad Tanveer Tannu v. The State
Criminal Appeal No. 571 of 2024
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4537.pdf

Facts: The appellant was convicted under the Control of Narcotic Substances Act, (CNSA) 1997 as amended by the Control of Narcotic Substances (Amendment) Act, 2022 on the allegation of possessing narcotics recovered during a police operation. He challenged the conviction on the ground that the prosecution failed to establish safe custody of the recovered substance and did not timely transmit the samples to the forensic agency.

Issues: i) Whether the prosecution's failure to prove safe custody and timely dispatch of samples renders the chemical analysis report unreliable under the CNSA, 1997?
ii)Whether non-compliance with the procedure prescribed by law leads to the presumption that the required act was not performed in accordance with law?
iii) Whether reliance can be placed on the chemical report when the prosecution fails to prove the safe transmission of the recovered narcotic substance from the place of recovery to the forensic agency?
iv) Whether a break in the chain of custody affects the conclusiveness and reliability of the chemical report?

Analysis: i) No explanation for said delay in handing over the sealed parcels, said to contain the samples, drawn and separated from the recovered pieces of Charas, much less plausible, has been furnished by the prosecution. Such an inordinate delay in handing over the sealed parcels of the samples, drawn and separated from the two pieces of Charas to the Punjab Forensic Science Agency inevitably casts a deep shadow of doubt on the integrity and the authenticity of the safe custody of the said parcels and then makes the report of the Punjab Forensic Science Agency highly doubtful, as under the law it is necessary that the said report of Punjab Forensic Science Agency not only be produced before the learned trial court but also be duly proved and term 'duly proved' means that the safe custody and transmission of a parcel, whereby the items are sent for analysis to the Punjab Forensic Science Agency, is also proved, which in this case the prosecution has not been able to.
ii) It is a well-established principle of law that when law requires a thing to be done in a particular manner, the same must be done accordingly and if the prescribed procedure is not followed, it would be presumed that the same has not been done in accordance with law.
iii) The whole prosecution case is dependent upon the report of the Punjab Forensic Science Agency and reliance upon the same can only be placed in the circumstances when safe transmission of the recovered narcotic substance from the place of recovery to Police Station and from Police Station to Punjab Forensic

Science Agency, is proved, however, in this case for the above reasons, statements made by the prosecution witnesses, the said safe transmission of the recovered narcotic substance from the place of recovery to Police Station and from Police Station to Punjab Forensic Science Agency could not be proved.
iv) This portion of the prosecution evidence proves that there are missing links in the chain relating to taking into possession of the case property from the place of occurrence and its submission to the Punjab Forensic Science Agency and its production before the learned trial court. (…) The break in the chain of custody and lapse in the control of possession of the recovered narcotic substance casts doubts on the safe custody and safe transmission of the articles and impairs and vitiates the conclusiveness and reliability of the report of the Punjab Forensic Science Agency, thus, rendering it incapable of sustaining conviction.

Conclusion: i) The failure to prove safe custody and timely dispatch of samples rendered the chemical report unreliable under the narcotics law.
ii) Failure to follow the prescribed legal procedure raises a presumption that the act was not done in accordance with law.
iii) Reliance could not be placed on the chemical report due to the prosecution's failure to prove the safe transmission of the recovered narcotic substance.
iv) The break in the chain of custody undermined the conclusiveness and reliability of the chemical report.

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66. **Lahore High Court**
Muhammad Ramzan v. The State
Criminal Appeal No. 979-J of 2023
Mr. Justice Sadiq Mahmud Khurram, Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4524.pdf

Facts: The appellant was apprehended with a specified quantity of Charas, which was seized and documented through a recovery memo. Following the registration and formal investigation of the case, he was formally charged and proceeded to trial. Upon conclusion of the trial proceedings, the appellant was convicted and sentenced to undergo rigorous imprisonment for ten years along with a fine.

Issues i) What is the requirement under Rule 22.48 of the Police Rules, 1934, regarding the documentation of police official's movements and events occurring at the police station in Register No.II?
ii) What is the effect of an unexplained delay in sending a narcotic sample to the forensic agency?
iii) What is the legal consequence of not following the procedure prescribed by law?
iv) What is the impact of a broken chain of custody on the reliability of the forensic report in narcotics cases?

v) What is the significance of proving safe custody and transmission of recovered narcotics under the Control of Narcotic Substances Act, (CNSA) 1997 and the Control of Narcotic Substances (Government Analysts) Rules, 2001?
vi) What is the effect of doubt on the prosecution's case in criminal trials?

Analysis: i) Now according to the Police Rules, it is necessary that the arrival and departure of every police official be entered in the Register No.II, as maintained under Rule 22.48 of the Police Rules, 1934, and the entries to be made in Register No.II specifically provide that in the said Register the record of all the events which take place at the Police Station on that particular day including the movements of the police officers and visitors are to be recorded and the names of the persons in custody have to be mentioned and the offence for which they have been arrested are also to be mentioned and in the last entry of each day the balance of cash in hand and the balance of the cattle-pound account is to be mentioned.

ii) Moreover, it is also a fact that though the alleged narcotic substance was recovered on 10.02.2023, however, the sealed parcel, said to contain the sample, drawn and separated from the recovered narcotic substance was shown to be sent to the Punjab Forensic Science Agency only on 05.03.2023, without any explanation for said delay in the transmission, which also creates a doubt with regard to the safe transmission of the said sealed parcel, said to contain the sample, drawn and separated from the recovered narcotic substance.

iii) It is a well-established principle of law that when law requires a thing to be done in a particular manner, the same must be done accordingly and if the prescribed procedure is not followed, it would be presumed that the same has not been done in accordance with law.

iv) The break in the chain of custody and lapse in the control of possession of the recovered narcotic substances casts doubts on the safe custody and safe transmission of the articles and impairs and vitiates the conclusiveness and reliability of the report of the Punjab Forensic Science Agency, Lahore, thus, rendering it incapable of sustaining conviction. To prove the safe custody of the recovered narcotic substances was pivotal for the prosecution, as the entire construct of the Control of Narcotic Substances Act, 1997, and the Control of Narcotic Substances (Government Analysts) Rules, 2001 rested on the report of the Punjab Forensic Science Agency, Lahore, which in turn rested on the process of sampling and its safe and secure custody.

v) Though there is a slight difference by virtue of section 29 of the Control of Narcotic Substances Act, 1997 in the manner and standard of proof in cases registered under the said Act but the prosecution is always bound to discharge the initial onus of proof.

vi) This is now a settled principle of law that in every case, the burden to prove the guilt of the accused always lies on the prosecution. Even the slightest doubt results in the failure of the case of the prosecution. Benefit of doubt is not to be granted as a concession but as of right to the accused.

Conclusion: i) Failure to record police movements in Register No.II breaches mandatory procedure provided under Rule 22.48.
ii) Unexplained delay in sending the sample casts doubt on its safe transmission.
iii) Non-compliance with mandatory legal procedures renders the action legally invalid.
iv) A break in the chain of custody invalidates the forensic report's credibility, thereby weakening the prosecution's case under the CNSA and its Rules.
v) Prosecution must prove the case despite section 29 of CNSA.
vi) Any doubt entitles the accused to acquittal as a right.

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67. **Lahore High Court**
Mian Haseeb Madni v. The State and another
Crl. Misc. No.3505-B of 2025
Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4767.pdf

Facts: The petitioner was nominated in a criminal case for uploading and sharing a false and defamatory video on social media, alleging immoral conduct by a police official/complainant, which was later found to be baseless during an official inquiry. The content caused reputational harm and psychological distress. The trial court had declined the accused's request for post-arrest bail.

Issues i) Does the mere fact that the offences are not falling within the prohibitory clause of section 497 Cr.P.C. make the offences bailable as of right?
ii) Can bail be refused in cases not falling within the prohibitory clause if exceptional circumstances exist?
iii) What is the legal stance regarding the treatment of offences that cause psychological harm and affect public morality?

Analysis: i) The mere fact that the offences were not falling within embargo contained in Section 497 of Cr.P.C. does not mean that the offences have become bailable, as such concession of the bail could not be claimed as a right and bail could be refused where the offences are heinous in nature and are affecting the whole of the society.
ii) The Honouorable superior Courts were pleased to decline the bail to the accused even in cases not hit by prohibitory clause, where exceptional circumstances of the case so require
iii) Such like incidents cause depression, frustration and death anxiety to its victims. It is duty of all the concerned organs of the state to come forward and gear up their sources in order to meet such like offences with an iron hand. If such like matters are dealt with in lighter mode, whole of the country would be unsafe at the hands of such like mafia.

Conclusion: i) Bail isn't a right for non-prohibitory offences if they are serious and impact society.
ii) Bail can be denied in exceptional non-prohibitory cases.

iii) Grave offences need strict state action to protect society.

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68. **Lahore High Court**
Muhammad Kabeer Tahir v. The State and another
Crl. Misc. No. 75736-B of 2024
Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4791.pdf

Facts: The petitioners are seeking their pre-arrest bail in a case FIR registered for the offence under section 461-I and 322 PPC; for the death of a child due to electric shock caused to him/her for touching a cable. The TV network cable fell on electricity transmission HT lines and got electrified.

Issues: i) Whether the conduct of post-mortem examination is compulsory in every case of unnatural death?
ii) Whether a fact visible to whole public is judicially noticeable under Article 111 of the Qnaun-e-Shahadat Order, (QSO) 1984?

Analysis: i) Post mortem examination of the deceased is not necessary in each and every case. Where prosecution is in a position to prove factum of the death by convincing material, non-conducting of post mortem report would not be fatal to the case of prosecution. If any reference in this regard was required that can be had from 'Abdul Rehman v. The State.' (1998 SCMR 1778), 'Muhammad Riaz v. The State' (1986 P.Cr.LJ 2233), 'Reheem Ullah v. The State' (1985 P.Cr.L.J 463).
ii) In our country cable network operators are using the electricity poles for the supply of their services. The said fact, being visible to whole of the public, is judicially noticeable by the Courts under Article 111 of Qanun-e-Shahadat Order and there is no need to prove the same independently.

Conclusion: i) Post mortem examination of the deceased is not necessary in each and every case. Where prosecution is in a position to prove factum of the death by convincing material, non-conducting of post mortem report would not be fatal to the case of prosecution.
ii) A fact visible to whole public is judicially noticeable under Article 111 of QSO, 1984 and there is no need to prove the same independently.

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69. **Lahore High Court**
Majid Ali. v. The State and another.
Crl. Misc. No. 12913-B of 2025
Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4548.pdf

Facts: An accused sought post-arrest bail after being implicated for allegedly failing to pay for goods purchased. His bail had earlier been declined by the Additional Sessions Judge.

Issues: i) What are the essential ingredients to attract the offence under section 406 PPC?
ii) Whether in the absence of entrustment, the dispute amounted to a civil liability not attracting Section 406 PPC?

Analysis: i) In the light of supra mentioned reproduced penal provision, it appears to be clear that to attract the offence of criminal breach of trust punishable under section 406 PPC, the essential ingredients are:-
i) There should be an entrustment by a person who reposes confidence in the other, to whom property is entrusted.
ii) The person in whom the confidence is placed, dishonestly misappropriates or converts to his own use, the property entrusted.
iii) He dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged.
iv) He dishonestly uses or disposes of that property in violation of any legal contract, express or implied, which he has made touching the discharge of such trust.
ii) In the case in hand accused/petitioner allegedly purchased goods as business dealer from complainant and others, who were doing the business at Misery Shah, Lahore. Nothing was entrusted to him. If petitioner/accused failed to make payment to complainant and others, that might give rise only to civil liability. Mere mention of the words 'that goods purchased by accused/petitioner were lying as trust with him' in the F.I.R was not sufficient to change the character of transaction.iii. In this regard it is observed that not taking the blood-stained clothes of witnesses into possession can be an act of lethargy by the Investigating Officer of the case, however, can never be considered as proof of the absence of the prosecution witnesses.

Conclusion: i) The ingredients of section 406 PPC were not made out as there was no entrustment.
ii) In absence of entrustment, the matter amounted only to civil liability, not constituting an offence under section 406 PPC.

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70. **Lahore High Court**
Shahbaz Mustafa and another v. The State and another.
Crl. Misc. No.15084-B/2025.
Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4778.pdf

Facts: Two individuals sought post-arrest bail in a case involving armed robbery and recovery of stolen cash, after their bail applications were declined by the courts below.

Issues: i) Whether identification parade is a mandatory legal requirement when the accused are identified through CCTV footage admissible under the Qanun-e-Shahadat Order, (QSO) 1984?

Analysis: i) According to the dictums laid down by Honourable Superior Courts holding of identification parade is not a legal requirement in each and every case. Any fact in any form, which establishes the identity of accused is relevant under Article 22 of Qanun-e-Shahadat. In the case in hand accused/petitioners were visible on CCTV camera recorded clips. The said piece of evidence was admissible under Article 22 of Qanun-e-Shahadat. It was also to be considered under Article 164 of Qanun-e-Shahadat Order being an evidence through modern device subject to its genuineness and authenticity. In my humble view there was no need of holding of identification parade in the present case in the light of availability of said piece of evidence.

Conclusion: i) identification parade is not a mandatory legal requirement where identity of the accused is established through admissible CCTV footage under the QSO, 1984.

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71. **Lahore High Court**
Abida Siddique v. The State and 02 others.
Criminal Revision No. 6881 of 2025
Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4772.pdf

Facts: Through the criminal revision petition, an order passed by Special Judge, Anti-Corruption was assailed whereby request of petitioner, one of the accused of criminal case, for the stay of the criminal proceedings, was declined.

Issue: i) Whether the criminal proceedings should be stayed when the subject matter of the FIR (a disputed Nikah Nama) is already pending adjudication before a civil/family court?

Analysis: i) There is no bar to the simultaneous institution of both civil as well as criminal proceedings regarding the same matter. According to the guiding principles laid down by august Supreme Court of Pakistan in number of the judgments, where criminal liability is dependent upon or connected with the result of civil proceedings and it is difficult to draw a line between a bonafide claim and criminal act alleged, the trial court may postpone the criminal proceedings till the conclusion of civil proceedings. The court should exercise the discretion in this regard keeping in view the circumstances of the case. The court should see as to whether the accused was likely to be prejudiced in case criminal proceedings are not stayed. Nikah Nama was subject matter of civil litigation between the parties. Genuineness or otherwise of the Nikah Nama has to be determined by the learned civil court, as such fate of the criminal case depends upon the fate of civil cases, therefore, propriety demands that the learned trial court should not finalize the proceedings till the disposal of the civil/family cases between the parties.

Conclusion: i) See above analysis No.i.

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72. **Lahore High Court**
Qari Shahid v. The State and others
Crl. Misc. No. 2481-B of 2025
Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4763.pdf

Facts: The petitioner filed application for post arrest bail in case registered against him for offence under section 377-B PPC.

Issue: i) Whether delay in reporting offence of "sexual abuse" gives any benefit to accused?
ii) Whether FIRs of similar nature, previously registered against the accused, are a relevant and admissible evidence against him?
iii) Whether medico-legal examination is essential to establish offence of "sexual abuse"?

Analysis: i) Such like occurrence involve family honour, as such these are not disclosed by the victim of tender age due to the fear, as such delay in reporting the such like matter to police normally happens in our society. Said delay cannot be resolved in favour of petitioner/accused.
ii) Seven F.I.R(s) stood registered against the petitioner containing similar allegation. Modus operandi adopted by petitioner was almost identical in all the above cases. Involvement of petitioner in crimes of similar nature was admissible against him as evidence of the similar facts, which was relevant under Article 27 of the Qanun-eShahadat, 1984, … Said fact of involvement of petitioner in the similar crime was showing his particular state of mind towards the children, who were his pupil and used to come to the mosque for learning of Holy Quran. Such like allegation, which would otherwise expose the family of complainant/victim to public humiliation, is not leveled normally unless the same is true.
iii) Even otherwise, provision of Section 377-B of PPC was very comprehensive in its application. Act of "sexual abuse" has been defined in Section 377-A of PPC. It is appropriate to have a look of the above provision, which is being produced below for the facility of reference….The word "sexual abuse" used by legislature therein, is capable of being given extensive and comprehensive meaning catering multiple obscene activities. Said provision does not require the consummation of sexual intercourse of any sort. Mere persuasion, inducement, or enticement to engage a person in fondling, stroking, caressing, exhibitionism, voyeurism, or any obscene or sexually expressive conduct, or simulation of such conduct is also covered squarely by the above said definition

Conclusion: i) Delay in reporting offence of "sexual abuse" cannot be resolved in favour of accused.
ii) Yes. FIRs of similar nature, previously registered against the accused, are a relevant and admissible evidence against him.
iii) Medico-legal examination is not essential to establish offence of "sexual abuse."

73. **Lahore High Court**
Majid Javed alias Javed Ali v. The State etc.
Criminal Revision No.242 of 2025
Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4548.pdf

Facts: The petitioner filed Revision petition to challenge order of Trial Court through which application for summoning of Control Room Wireless Operator / Moharrar as Court witness was declined.

Issue: i) What is scope of section 94, 265(F) and 540 Cr.P.C.
ii) Whether statement of Control Room Wireless Operator / Moharrar is relevant under Article 24 of Qanun e Shahadat, (QSO) 1984?

Analysis: i) Section 94 of Cr.P.C. relates to the procedure for the production of any document or other thing necessary or desirable for the purpose of investigation, inquiry or trial or other proceedings. It empowers the Investigating Officer or the Court to issue a summon or the order requiring a person, in whose possession the document was lying, to produce the same at any stage of investigation, inquiry or trial. 9. Section 265-F (7) of Cr.P.C. envisages that an accused after entering into his defence, may apply to the Court for procuring the attendance of any witness for examination or any document or thing and the Court shall issue such process unless it appears to the Court that the application has been made for causing the delay or for defeating the ends of justice. 10. The word "shall" used in the said provision implies mandate meaning thereby that summoning of witnesses as suggested by accused is a rule, whereas its refusal under the circumstances shall be an exception. Violation of the said provision of law is an irregularity not curable under the law and the order shall be liable to be set-aside. 11. So far as Section 540 of Cr.P.C. is concerned, it empowers the Court to summon any person as a witness at any stage of inquiry, trial or other proceeding, if his evidence appears to be essential for the just decision of the case. It is well-established that this provision is intended to advance the cause of justice and enable the Court to prevent failure of justice by bringing every relevant piece of evidence on record.
ii) Petitioner/accused claimed that according to calls made to Rescue 15 on 18.05.2023, no person was mentioned as accused, as such its production is necessary for the just decision of the case. In my humble view, above said documents/Rapts were relevant under Article 24 of Qanun-e-Shahadat, 1984, which reads as under… Summoning, production and use of the above said documents may make the existence or non-existence of a fact highly probable or improbable, as such was essential for the just decision of the case. The "just" means right, fair and well founded. It is always duty of the Court to make every effort that no aspect of the case should be left unattended,…

Conclusion: i) See above analysis No.i.

ii) Statement of Control Room Wireless Operator / Moharrar is relevant under Article 24 of QSO, 1984.

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74. **Lahore High Court**
Shoukat Babar Virk. v. The State and another.
Crl. Misc. No.74609-B/2024
Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4784.pdf

Facts: The petitioner, who has been named as an accused in a case concerning the offence under section 406 of PPC in conjunction with sections 5 and 23 of the Foreign Exchange Regulation Act, 1947, is seeking post-arrest bail. This request follows the denial of the same relief by the Court of the learned Additional Sessions Judge.

Issues: i) What would be the effect of the non-cognizable offence upon a case, when the main offence is cognizable?

ii) whether the grant of bail in offences of non-prohibited clause is an absolute rule or has any exception?

Analysis: i) In the case in hand offence under Section 406 of PPC was main and controlling offence and was carrying the penalty of longest term of imprisonment amongst the offences applied upon F.I.R., whereas offences under Section 5 and 23 of Foreign Exchange Regulation Act, 1947 are subservient. Offence under Section 406 of PPC is a cognizable offence, which does not require any such like condition precedent for the lodgment of prosecution, as such by virtue of said main and controlling offence, the above said condition precedent required for subservient offence shall become redundant and the F.I.R. shall be considered legal and valid for all the purposes.
ii) According to the dictum laid down by August Supreme Court it is not a rule of universal application that bail should be allowed in each and every not falling within embargo of Section 497 of Cr.P.C. Each case has to be seen in the light of its own peculiar fact and circumstances and the Court not exercise the discretion in arbitrary, fanciful and perverse manner. The Court may refuse to grant the bail, where exceptional circumstances exist. If any reference in this regard is required, that can be had from 'Shameel Ahmad v. The State' (2009 SCMR 174), 'Muhammad Siddique v. Imtiaz Begum and 02 others'(2002 SCMR 422) and 'Muhammad Nawaz v. The State and another' (2011 MLD 299).

Conclusion: i) When main and controlling offence is a cognizable offence, condition precedent for the lodgment of prosecution required for subservient offence shall become redundant.
ii) in exceptions circumstances bail in an offence following in non-prohibited clause of section 497 Cr.P.C could be declined.

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75. **Lahore High Court**
Muhammad Mudasir Syed. v. The State and another.
Crl. Misc. No. 15581-B of 2025
Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4781.pdf

Facts: The petitioner, who is currently facing charges as an accused in a case involving an offence under section 489-F of PPC, seeks post-arrest bail following the refusal of such bail by the learned Additional Sessions Judge.

Issues: i) Whether it is a rule of universal application that bail should be allowed in each and every case not falling within prohibitory clause?

Analysis: i) It is not a rule of universal application that bail should be allowed in each and every case not falling within prohibitory clause. Each case has to be seen in the light of its own peculiar circumstances. The Court may refuse the bail to an accused even in the cases not falling within the embargo, if exceptional circumstances of the case so require.

Conclusion: i) See above analysis No.i.

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76. **Lahore High Court**
Muhammad Sajid and 04 others. v. The State and another.
Crl. Misc. No. 3762-M of 2025
Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4520.pdf

Facts: The order issued by the learned Additional Sessions Judge has been challenged in the present petition. In this case, a criminal revision filed by respondent No. 2/complainant against the order of the learned Magistrate, which framed the formal charge, was accepted. Consequently, the order of the learned Magistrate was set aside, and the request for amendment in the charge was granted.

Issues: i) What is the basis for framing charges in a criminal case?
ii)When should a court frame a charge for a grave and more serious offence as opposed to a lesser offence?

Analysis: i) Charge has always to be framed on the prima facie averments of allegations leveled in the F.I.R, statement of the witnesses under Section 161 of Cr.P.C. and report under Section 173 of Cr.P.C.
ii) If the charge is framed for less serious offence, the accused cannot be convicted for graver and more serious offences unless charge is amended and parties are issued the notice and given opportunity of adducing the evidence again, but where the charge is framed for graver and more serious offence and after recording the evidence trial court comes to the conclusion that accused is liable to be convicted for less serious offence of the same family of offences, the court may convict the accused without having a resort to the above lengthy exercise.

Conclusion: i) See above analysis No.i.
ii) Courts must frame grave charges if prima facie evidence permits.

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77. **Lahore High Court**
Muhammad Afzal v. The State and another
Criminal Revision No. 63117 of 2024
Mr. Justice Tariq Mahmood Bajwa
https://sys.lhc.gov.pk/appjudgments/2025LHC4795.pdf

Facts: Through the present criminal revision filed under sections 435 and 439 of Cr.P.C. in conjunction with section 9 of the Illegal Dispossession Act, 2005, the petitioner challenges the order issued by the learned Additional Sessions Judge. In this order, the petitioner has been directed to hand over the possession of one room within the subject property to the respondent No. 2, who is the complainant.

Issues: i) What are the conditions precedents for grant of interim relief, according to section 7(1) of the Illegal Dispossession Act, 2005?
ii) Can an act be performed in a different manner if the law specifies a particular way?

Analysis: i) Bare perusal of section 7(1) of the Act reveals three principal considerations/conditions; Firstly, the jurisdiction conferred thereby is exercisable during the trial only. Thus, interim relief can be granted by the court when trial is still in progress even when the guilt of accused has not been established; Secondly, the use of expression "prima facie" indicates that court has to only form a prima facie opinion and must be satisfied that accused is "not in lawful possession" of the property. This requirement is less onerous and distinct from reaching a conclusive finding or determination that the accused has entered the property without lawful authority with intent to dispossess, grab, or control the immovable property as specified in the third and fourth elements of section 3 of the Act. The use of the expression "not in lawful possession by the Legislature appears to be a deliberate choice reflecting a less stringent criterion to enable interim relief during the trial this is because the offence under section 3 can only be proved/otherwise at the conclusion of the trial, and Finally, if the court finds that section 7 is applicable then it is duty bound to provide interim relief specified therein.
ii) It is a well-settled principle in the administration of justice that when the law prescribes a specific manner for performing a particular act, it must be carried out in that prescribed manner alone and not otherwise.

Conclusion: i) Interim relief can only be granted during the trial.
ii) No, if the law specifies a particular manner for performing an act, it must be carried out in that manner alone.

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78. **Lahore High Court**
Muhammad Arshad v. The State & another
Criminal Appeal No.78244 of 2023
Mohammad Wazir v. Muhammad Hayat & 2 others
Criminal PSLA No.19066 of 2022
The State v. Muhammad Arshad
Murder Reference No.53 of 2022
Ms. Justice Aalia Neelum (The Chief Justice), Justice Abher Gul Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC4821.pdf

Facts: The complainant and others witnessed an armed assault on deceased by three individuals. One fired multiple shots, hitting deceased on the chest and elbow, another shot him in the abdomen, and the third fired at his buttock. The deceased succumbed to the injuries on the spot. The trial was conducted on the basis of a private complaint after two of the accused were not found involved during investigation. The trial court acquitted those two accused, while the third was convicted and sentenced to death.

Issues i) Does delayed registration of FIR after arrival at the crime scene indicate deliberation and fabrication of facts?
ii) Can absence of official emergency call records affect the credibility of the prosecution's version of events?
iii) Does failure of eyewitnesses to identify the dead body cast doubt on their presence at the crime scene?
iv) Can a conviction be sustained solely on medical evidence when the prosecution's case and the roles of co-accused have been disbelieved?
v) Can medical evidence alone establish the identity of the accused in a criminal case?
vi) Can motive support the prosecution case and lead to false accusation?
vii) Does a forensic report lose value if the inquest report shows no crime empties were recovered from the scene?
viii) Does delay in sending forensic parcels make the recovery doubtful?
ix) Can a plea taken at the time of arrest create doubt in the prosecution's case?
x) Should the premium of every reasonable doubt be extended to the accused?
xi) Under what circumstances can a court interfere with a judgment of acquittal, and when is such interference not warranted?

Analysis: i) No doubt, in our criminal judicial system, FIR is a crucial document and its prompt registration is generally considered more reliable which is less likely to be influenced by embellishments or afterthoughts. (...) Thus, we feel no reluctance in holding that one hour time was spent to arrange witnesses who got registered FIR after deliberation while specifying the role of each accused as per their choice.
ii) Had the record pertaining to 15-Call Centre been placed on record, the actual facts of the prosecution case would have easily been brought on the file.
iii) The non-identifying the dead body by the eyewitnesses, leads this Court to the conclusion that had they been present at the place of occurrence or accompanied

the deceased to the hospital, they would have definitely identified him and such aspect makes the case of the prosecution highly doubtful.

iv) Since the prosecution case was disbelieved to the extent of two co-accused to whom the effective role in the incident had been assigned and the reasons given by this Court in the preceding paras also create a reasonable doubt qua the guilt of the appellant therefore depending on the medical evidence alone to maintain appellant's conviction would be unsafe.

v) It is also an established principle of law that medical evidence serves as a form of corroborative evidence, which can validate the prosecution‟s account concerning the location and type of injury, the weapon involved in the incident, and the time elapsed between death and postmortem, but does not reveal the identity of the murderer.

vi) It goes without saying that the motive sometimes supports the prosecution's case and frequently serves as a major reason for the false implication of an accused, making it consistently regarded as a double-edged sword.

vii) However, positive report of PFSA loses its importance when seen in the context that columns No.22 & 23 of inquest report according to which no crime empty was recovered from the place of occurrence.

viii) A one-day delay in depositing the afore-mentioned parcels, indicates that their secure handling has been jeopardized, rendering the recovery inconsequential.

ix) Needless to mention here that the plea so taken by the appellant at the time of his arrest being admissible in evidence in terms of Article 27 of Qanun-e-Shahadat Order, 1984, also creates a reasonable doubt in the credibility of the prosecution case.

x) Based on established principles for evaluating evidence, the premium of every reasonable doubt is to be extended to the accused which can best be extended via verdict of acquittal.

xi) it is well settled proposition of law that when a court of competent jurisdiction passes the judgment of acquittal on the basis of cogent grounds, the same is not to be disturbed in a mechanical manner. In order to set-aside the judgment of acquittal, it is to be proved that the judgment of acquittal is arbitrary, fanciful, perverse and contrary to record. An accused on the judgment of acquittal acquires a verdict of innocence hence it is to be disturbed in exceptional and extraordinary circumstances.

Conclusion: i) FIR was delayed and crafted after deliberation, reducing its credibility.
ii) Missing 15-Call record weakens the prosecution's case.
iii) Eyewitnesses failed to identify the body, casting doubt on their presence.
iv) Medical evidence alone is unsafe for conviction amid co-accused acquittal.
v) Medical evidence cannot identify the murderer.
vi) Motive is a double-edged sword and may indicate false implication.
vii) Forensic report lacks value due to no crime empties recorded at scene.
viii) Delay in submitting evidence renders recovery unreliable.
ix) Appellant's admissible plea creates reasonable doubt.

x) Doubt must favour the accused and lead to acquittal.
xi) Acquittal stands unless shown to be perverse or arbitrary.

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79. **Lahore High Court**
Afshan Hussain, etc. v. Muhammad Shahzad, etc.
Crl. Misc. No.24743-M of 2024
Justice Abher Gul Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC4867.pdf

Facts: Three cheques were allegedly issued by the petitioner, on the basis of which two criminal cases were registered but later cancelled as the allegations were found false. A complaint was subsequently filed by the respondent implicating the petitioners, including individuals unrelated to the matter. The judicial magistrate admitted the complaint with the observation that sufficient incriminating material was available on record, which was subsequently affirmed by the appellate court.

Issues i) What essential elements must a complaint disclose to justify the initiation of criminal proceedings by the Court?
ii) What duty does the Court have before issuing process on a complaint under section 200 Cr.P.C.?

Analysis: i) As per law, 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.
ii) 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 nonexistence of sufficient grounds to issue process against the accused. 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. Court cannot proceed to issue process against accused until and unless, it is satisfied that prima facie case has been made out against those who are accused of the alleged criminal offence.

Conclusion: i) Complaint must disclose ingredients of alleged offence alongwith actus rea and mens rea.
ii) Court cannot issue process without a prima facie case and existence of reasonable grounds.

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80. **Lahore High Court**
Fayyaz Ahmad, etc. v. The State., etc.
Criminal Revision No.1439 of 2025
Hassan Ali v. The State., etc.
Criminal Misc. No.12887-M of 2025
Justice Abher Gul Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC4859.pdf

Facts: The appellants through this appeal have challenged their conviction in a case FIR registered for the offences under section 324, 337F(i), 337F(iii), 337F(v), 337F(vi), 337A(i), 337A(ii), 427, 447, 511, 334, 336, 337F(ii), 337L(2), 148 & 149 PPC and the complainant through criminal revision seeks the enhancement of punishment awarded to the appellants.

Issues: i) What is the effect of delay in reporting the occurrence to the police and what approach should be adopted by the courts in dealing such evidence?
ii) How the evidence of the witnesses would be treated, when they have not attribute specific roles to the accused persons in FIR and statement u/s 161 CrPC?
iii) How the prosecution evidence be looked into, when co-accused acquitted on the same set of evidence in the same trial?

Analysis: i) It is noted that in view of the serious nature of accusations of firing the matter should have been reported to the police immediately by the complainant but no such effort was made in this regard. It is also not proved from record that investigating officer received any information about the occurrence from wireless or any source. I feel no hesitation in holding that the information regarding the incident was imparted to the police by the complainant after a considerable delay and that too after due consultation and deliberation. Thus, a cautious approach ought to be adopted by the Courts for evaluating the evidence.
ii) Another blatant lacuna in this case noticed is to the effect that neither in the F.I.R. nor the witnesses while recording their statements under section 161 Cr.P.C. attributed specific role to any of the accused rather they were burdened with the general allegations of firing and giving torture to the injured PWs without specifying the role of each accused performed during the occurrence. Statements of complainant, eye-witnesses and the injured witness are suffering from dishonest improvements and material contradictions rendering their testimony doubtful. Even during the course of evidence, no such material was brought on record by the prosecution in order to pinpoint the role performed by each of the accused, at the spot, however, the witnesses made dishonest improvements in their statements and assigned specific role to convicted accused / petitioners as per their choice.
iii) The pivotal questions arises that whether it would be safe to rely conviction of present petitioners on the basis of same set of witnesses who were disbelieved to the extent of acquitted co-accused. The answer to this query is found divulges in the case reported as MUHAMMAD NAWAZ and another vs. The STATE and others (2024 SCMR 1731), wherein Hon'ble Supreme Court held as under ;-

> *It was a fact that except the petitioner, rest of the accused were acquitted of the charge by the High Court and one of them by the Trial Court on the same set of evidence. Complainant has ascribed injuries jointly to all the accused and did not single out the petitioner. Under such circumstances, it would not be safe to hold him alone responsible for causing death of the deceased*

Conclusion: i) Delayed in lodging of FIR would be taken as a result of due consultation and deliberation.
ii) When a witness does not attribute a specific role to any accused in FIR or statement u/s 161 CrPC but later during the trial assign a role of his choice to several accused persons, the same would be taken as a dishonest improvement.
iii) The evidence of such witnesses would be treated with utmost care and caution; it would not be safe to base conviction of other co-accused on such set of evidence.

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81. **Lahore High Court**
Zahid Hussain v. The State, etc.
Faqeer Hussain, etc. v. The State, etc.
Criminal Appeal No. 43770 of 2019
Criminal Appeal No.53561 of 2019
Justice Abher Gul Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC5049.pdf

Facts: The Trial Court convicted one of the accused while acquitting the others in a case registered under Section 363 of the Pakistan Penal Code, 1860. The convicted person challenged his conviction by filing appeal before the High Court, whereas the complainant filed a separate appeal to challenge acquittal of the remaining accused.

Issues: (i) What should be the approach of court while evaluating evidence when there is delay in registration of FIR?
(ii) What would be the consequences when best available evidence is not produced?
(iii) What is evidentiary value of extra judicial confession?
iv) Can conviction be sustained on circumstantial evidence if any link in the chain of incriminating circumstances fails?

Analysis: (i) I feel no hesitation in holding that the information regarding the incident was imparted to the police by the complainant after a considerable delay and that too after due consultation and deliberation. Thus, a cautious approach ought to be adopted by the Courts for evaluating the evidence. Reliance is placed upon the case reported as Muhammad Jahangir and another v. The State and others (2024 SCMR 1741), wherein the Supreme Court of Pakistan held as under: - "……..perusal of record reveals that FIR was lodged after an unexplainable delay of 3 hours despite the fact that the distance of the police station from the place of occurrence was 5 km. The time of occurrence is around 05:00/05:30 pm and the matter is reported at 08:30 p.m. The complainant had a bike that he used to go to the police station. This delay has not been encountered through plausible explanation by the prosecution.
(ii) I have no doubt in my mind that non-associating of Bushra Bibi in investigation process was intentional, apparently to suppress the actual facts of the

incident and had she appeared before the police or court, she would not have supported the case of prosecution. While drawing such inference, we are derived by Article 129 illustration (g) of Qanun-e-Shahadat Order 1984, which reads as under:- "129. Court may presume existence of certain facts. The Court may presume the existence of any fact, which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and the public and private business, in their relation to the facts of the particular case. Illustrations The court may presume: (g) that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it." 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-eShahadat Order can fairly be drawn that if PW would have been examined, his evidence would have been unfavourable to the prosecution".

(iii) So far as the evidence of extra judicial confession made by Zahid Hussain (appellant) is concerned, the evidence of extra judicial confession is always regarded as weak in nature and is generally fabricated in cases where requisite incriminating evidence is lacking. For this good reason, the evidence of extra judicial confession is not considered sufficient for awarding conviction.

iv)No doubt conviction can be awarded to an accused on the basis of circumstantial evidence but if the incriminating circumstances are so knitted with each other and failure of one link apt to destroy the entire chain.

Conclusion: (i) The court should evaluate prosecution evidence with caution if the FIR was lodged after unexplained or unreasonable delay.

ii) When the best available evidence is withheld, the court may draw adverse inference against the party suppressing it under Article 129(g) of the Qanun-e-Shahadat Order, 1984.

iii) The evidentiary value of an extra-judicial confession is weak and unreliable, requiring cautious scrutiny and corroboration before it can support a conviction.

iv) No, conviction cannot be sustained if any link in the chain of incriminating circumstantial evidence fails.

LATEST LEGISLATION/AMENDMENTS

1. Vide The Petroleum Products (Petroleum Levy) (Amendment) Ordinance, 2025 dated 15-04-2025; the amendment in section 7 and omission of fifth schedule is made in The Petroleum Products (Petroleum Levy) Ordinance, 1961.
2. Vide The Capital Development Authority (Amendment) Ordinance, 2025 dated 02-05-2025; amendments are made in sections 27, 28, 29, 29A, 30, 32, 32A, 33A, 33B & 36 of the Capital Development Authority Ordinance, 1960.

3. Vide The Tax Laws (Amendment) Ordinance, 2025 dated 02-05-2025; certain amendments are made in the Income Tax Ordinance 2001 and Federal Excise Act, 2005.
4. Vide The Federal Minister of State (Salaries, Allowances, and Privilege) (Amendment) Ordinance, 2025 dated 02-05-2025; section 3 is substituted in the Federal Minister and Ministers of State (Salaries, Allowances, and Privilege) Act, 1975.
5. Vide Official Gazette of Pakistan dated 02-05-2025; The National Agri-trade and Food Safety Authority Ordinance, 2025 is promulgated.
6. Vide Official Gazette of Pakistan dated 09-07-2025; The Virtual Assets (Ordinance), 2025 is promulgated to establish a regulatory authority for the licensing, regulation, and supervision of virtual assets.
7. Vide The Civil Servants (Amendment) Act, 2025 dated 29-06-2025; section 15-A is inserted in the Civil Servants Act, 1973.
8. Vide Official Gazette of Punjab dated 25-06-2025; The Punjab Center of Excellence on Countering Violent Extremism Act, 2025 is promulgated for the establishment of Center of Excellence on Countering Voilent Extremism.
9. Vide The Punjab Protection (Amendment) Act, 2025 dated 25-06-2025; amendments are made in sections 2, 23 & 26 in the Punjab Protection Act, 2005.
10. Vide The Boilers Pressure Vessels (Amendment) Act, 2025 dated 25-06-2025; amendments in sections 2, 5, 6, 7, 11, 12, 16, 25, 27 & 29, substitution of section 16 and omission of section 26 are made in the Boilers Pressure Vessels Ordinance 2002.
11. Vide Official Gazette of Punjab dated 25-06-2025; The Punjab Specialized Medical Institutions Act, 2025 is promulgated to improve medical education, responsiveness and quality of clinical care for patients in an effective, efficient and accountable manner.
12. Vide Official Gazette of Punjab dated 25-06-2025; The Punjab Awareness and Dissemination of Information Act, 2025 is promulgated to disseminate public awareness regarding Government projects, initiatives, programs and policies for ensuring access to information.
13. Vide The Punjab Finance Act, 2025 dated 30-06-2025; amendments are made in sections 2, 3, 5, 10A, 16B, 31, 48, insertion of section 3A and substitution of first & second schedule of Sales Tax on Services Act, 2012.
14. Vide The Punjab Road safety Authority (Amendment) Act, 2025 dated 01-07-2025; amendments are made in sections 6, 14, 21, 22 of the Punjab Road safety Authority Act, 2023.
15. Vide Official Gazette of Punjab dated 01-07-2025; The Punjab Primary and Secondary Healthcare Service Act, 2025 is promulgated to provide mechanism for provision of healthcare services, as well as operation and management of primary and secondary healthcare facilities.
16. Vide The Punjab Representatives Laws (Amendment) Act, 2025 dated 01-07-2025; certain amendments are made in Punjab Public Representatives Laws.

17. Vide notification No.SOR-III(S&GAD)1-12/2000(P) dated 20-06-2025; the Punjab Departmental Examination and Seniority Rules, 2025 are promulgated.
18. Vide notification No.SOR-III(S&GAD)1-12/2000(P) dated 20-07-2025; the PMS (Probationers) Training, Final Passing Out Examination and Seniority Rules, 2025 are promulgated.
19. Vide notification No.SOR-III(S&GAD)1-16/2006 dated 20-07-2025; amendment in rule 2 and column No.7 & 10 of schedule-1 are made in the Punjab Provincial Management Service Rules, 2004.
20. Vide notification No.1-7/2011(PX)(VOL_VI) dated 30-07-2025; amendments in rule 32A, 40, second schedule are made in The Punjab Motor Vehicles Rules, 1969.
21. Vide notification No. 11027 dated 01-07-2025; amendments are made in rule 11 & schedule of the Punjab Police (E&D) Rules, 1975.
22. Vide notification No.SOR-III(S&GAD)1-27/2002(PI) dated 02-07-2025; column No.8 & 9 inserted in schedule of The Punjab Social Welfare and bait-ul-mal Department (Directorate) Service Rules, 2009.
23. Vide notification No.SO(TT)12-2/2014.P-II dated 04-07-2025; amendment is made in the Subsidiary Treasury Rules.

SELECTED ARTICLES

1. HARVARD LAW REVIEW

https://harvardlawreview.org/print/vol-138/determining-rights/

Determining Rights by Jud Campbell

This Article explores Founding-era views about the grounding of constitutional rights and how those rights obtained determinate legal content. Today, we typically view constitutional rights as textually grounded, gaining their force through ratification, and we treat the task of determining their content as a question of law — that is, a question for judges to decide using legal criteria. But the designers of the Bill of Rights did not share that vision. In the eighteenth century, fundamental rights were often grounded in natural or customary law rather than in enacted text, and enumerating them was usually declaratory, marking their existence without altering their meaning. Moreover, determining the content of underdeterminate rights was up to the people themselves, often through ordinary politics. To be sure, it was possible to determine rights textually, as exemplified by the amount-in-controversy threshold in the Seventh Amendment. By and large, however, members of the First Congress rejected this specificatory approach in favor of declaratory provisions, as exemplified by the First Amendment's simple reference to "the freedom of speech, or of the press." In so doing, the Bill of Rights mostly reaffirmed the existence of natural and customary rights, without determining their content. Recovering this history is especially timely, with so many features of rights jurisprudence now in flux. Seeking a historical anchor, some Justices have recently embraced a "text and history" approach that asserts fidelity to original meaning. This method, however, proceeds from mistaken historical assumptions and creates a distorted

image of the original Bill of Rights. Yet a historically guided path forward is far from clear in a legal culture that rejects many of the conceptual premises of Founding-era constitutionalism. As a work of intellectual history, this Article cannot tell us where to go from here. But it reveals forgotten ways of thinking that merit consideration as the Supreme Court continues to determine our rights, whether it admits so or not.

2. MANUPATRA

https://articles.manupatra.com/article-details/Womens-Participation-in-Innovation-and-IPR-in-India

Women's Participation in Innovation and IPR in India by Mahima Shree

Women's participation in innovation and IPR has been increasing significantly around the globe and in India but is only tilted towards men predominantly. Despite various technologies and schemes of the government women in India are still underrepresented in the ecosystem of innovation and IPR. The government has launched various schemes and policies for the advancement of women in the field of innovation and IPR but those policies and schemes are less heard off and people especially women don't have the knowledge about them, hence this paper delves into various challenges that women come across in this field and how they struggle to thrive in the same, examines various opportunities given by government, highlight some note-worthy contributions by women in the field of innovation and IPR and current situation of women in this arena. The main goal of this paper is to make the readers get acquainted with the concept of innovation and IPR as a field of growth, let people especially women have a sound knowledge of various policies and initiatives and showcase the note-worthy contributions of women in this field so that more and more women participate in innovations and become in equal capacity with men in this field.

3. HARVARD LAW REVIEW

https://harvardlawreview.org/print/vol-138/the-law-and-lawlessness-of-u-s-immigration-detention/

The Law and Lawlessness of U.S. Immigration Detention by Alina Das

The United States operates the largest immigration detention system in the world. Immigrants and watchdog groups have reported poor conditions of confinement, including medical mistreatment and neglect, inadequate nutrition, unsanitary conditions, and overcrowding. To challenge these conditions of confinement, immigrants have raised a variety of constitutional, statutory, and administrative claims in federal court. Some courts have rejected these claims, reluctant to intercede in agency management of the detention system and override the will of the political branches. This emerging jurisprudence assumes that the sole interest of the political branches in detention is to facilitate the exclusion and deportation of immigrants, with little consideration given to how immigrants are detained. These courts view agency regulation of detention as gratuitous self-regulation, neither required by law nor enforceable, even when violations of these rules threaten the life and liberty of those detained. The result is a weakened rights framework that does little to protect the substantive rights of immigrants in

detention. This Article challenges these judicial assumptions by unearthing a more nuanced account of the political branches' "civil detention interest." A careful review of legislative and regulatory history across three periods of detention expansion demonstrates the political branches' interest in ensuring the civil conditions of immigration detention and a growing legislative distrust of agency management of detention conditions. This civil detention interest should inform how courts adjudicate challenges to immigration detention conditions. The relative failure of any branch of government to effectuate this interest exposes the lawlessness of the immigration detention system in the United States.

4. **Lawyers Club India**
https://www.lawyersclubindia.com/articles/legal-licence-suspended-for-fraud-17842.asp

Legal Licence Suspended for Fraud by Vanya Garima Kachhap

A legal profession is built on many pillars— off tear, integrity and accountability. When these core values of these pillars are compromised then it not only has urea effect upon the lawyer-client relationship but it also brings disrepute to the whole legal system. In a recent disciplinary action by the Bar Council of Maharashtra & Goa, attention was drawn to the seriousness with which such a misconduct is addressed. Advocate Ranjeeta Vengurlekar was suspended for two years after she was found guilty of charging ₹80,000 from her client under the pretext of it being a court fee and issuing a fraudulent receipt too. This matter came to light when the client, Abhijeet Jagannath Zadokar submitted digital evidence including Fatal m WhatsApp messages and records of payment, that were accepted as valid proof under section 65B of the Indian Evidence Act. The Bar Council not only imposed suspension but also directed her to pay ₹25000 as compensation to the client. This case highlights the critical need for the ethical conduct in the legal field of practice.

5. **Lawyers Club India**
https://www.lawyersclubindia.com/articles/legal-heirs-of-a-negligent-driver-not-entitled-to-compensation-under-the-motor-vehicles-act-a-doctrinal-analysis-of-g-nagarathna-ors-v-g-manjunatha-anr-2025--17834.asp

Legal Heirs of a Negligent Driver Not Entitled to Compensation Under the Motor Vehicles Act: A Doctrinal Analysis of G. Nagarathna & Ors. v. G. Manjunatha & Anr. (2025) by Sankalp Tiwari

The Motor Vehicles Act, has been hitherto hailed as a beneficent and curative legislation tending to guarantee speedy and fair compensation for road accident victims. Particularly with the introduction of structured compensation provisions and the development of claim facilities, the Act has emerged as one of the most invoked statutes in India's jurisprudence. Though its corrective goal must be balanced with the foundational values of civil liability. Central to this tension is Section 166, which enshrines fault-based compensation and mandates the claimant to establish that the

accident was caused by another's negligence or wrongful act. The ruling in this case reaffirms the priority of fault in maintaining a claim under the MV Act.