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FORTNIGHTLY CASE LAW BULLETIN

(16-02-2025 to 28-02-2025)

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

Prepared & Published by the Research Centre Lahore High Court

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1. **Supreme Court of Pakistan**
Muhammad Din v. Province of Punjab through Secretary, Population Welfare, Lahore, etc.
C.P.L.A.2541/2023
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2541_2023.pdf

Facts: The Ombudsperson found that the allegations of sexual harassment at workplace stood proved against the petitioner and ruled that the petitioner's actions constituted harassment and imposed the major penalty of compulsory retirement from service. Aggrieved by the same, the petitioner preferred a representation before the Governor of Punjab, which was dismissed. Subsequently, the petitioner invoked the constitutional jurisdiction of the High Court, by filing a writ petition against the impugned order, which was also dismissed. Hence, the instant petition for leave to appeal.

Issues: i) What is workplace harassment?
ii)Whether Workplace harassment and sexual harassment are deeply interconnected?
iii)Whether gender-based harassment is not solely about hierarchy?
iv)Whether the Protection against Harassment of Women at the Workplace Act, 2010 provides a framework to combat harassment and promote safe, inclusive work environments?

Analysis: i)Workplace harassment as a concept embodies a pattern of persistent mistreatment based on gender, power, or hierarchical disparities that creates a climate of fear and oppression in professional settings.[1] It is deeply intertwined with institutional culture and functions as a mechanism of exclusion, discouraging women from fully participating in professional and economic life.[2] Rooted in power imbalances, discrimination, and systemic inequalities, workplace harassment not only undermines an individual's autonomy and dignity but also erodes broader principles of liberty, equality and social justice, particularly for women and transgender persons.
ii)…Workplace harassment and sexual harassment are deeply interconnected, as both stem from power imbalances, systemic discrimination, and entrenched societal norms that reinforce gender hierarchies. Sexual harassment is indeed widely understood as a manifestation of power dynamics rather than merely a sexual act. This perspective is well-documented in standard literature, which emphasizes that harassment often stems from an individual's desire to assert dominance, control, or exploit power imbalances, particularly in hierarchical settings like workplaces, schools, or other social structures.[7]
iii) … harassment can be perpetuated by individuals at any level of a hierarchy if they are reinforced by social or cultural norms that condone or trivialize such behavior; and *intersectionality*[12]—literature on intersectionality highlights how

multiple axes of power (gender, race, class, etc.,) intersect to shape experiences of harassment—can override organizational hierarchies. Despite being senior in hierarchy, in our view by no stretch of imagination could be considered as fulfillment of the mandatory requirement provided under the law. Respondent No. 5 was subjected to harassment by a driver, an employee significantly lower in the institutional hierarchy. This contradiction underscores the reality that harassment is about power, not formal position. The petitioner exerted informal power—through gendered privilege, power dynamics, and social reinforcement—to create a hostile work environment for a senior. This phenomenon reflects deeply ingrained patriarchal norms that resist women's leadership, particularly in male-dominated professions where authority remains subconsciously associated with masculinity. However, gender-based harassment is not solely about hierarchy—it is fundamentally about who is perceived as having the right to wield authority**.** Even a junior employee, through informal power structures, social reinforcement, and gendered privilege, can create a hostile work environment for a senior.

iv) The 2010 Act and the Amendment Act, along with constitutional and international legal principles, provide a robust framework to combat harassment and promote safe, inclusive work environments. However, the effectiveness of these laws depends on strong judicial enforcement. As jurisprudence evolves, courts must continue to interpret and apply these protections in a manner that upholds human dignity, gender justice, and workplace equality.

Conclusion: i) See above analysis No.i

ii) Workplace harassment and sexual harassment are deeply interconnected.

iii) See above analysis No.iii

iv) The Act provides a robust framework to combat harassment and promote safe, inclusive work environments.

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2. **Supreme Court of Pakistan**

Oil & Gas Regulatory Authority, Islamabad v. Gas & Oil Pakistan Limited, Lahore and another

C.R.P.540/2023, C.M.A.5277/2023

Mr. Justice Munib Akhtar, Mr. Justice Jamal Khan Mandokhail, Mrs. Justice Ayesha A. Malik

https://www.supremecourt.gov.pk/downloads_judgements/c.r.p._540_2023.pdf

Facts: Petitioners filed a review petition and an application, respectively, seeking to challenge the refusal of leave to appeal against a decision of the Islamabad High Court whereby a writ petition filed by Oil and Gas Pakistan Ltd. had been allowed by holding that OGRA could not legally delegate this authority to the Hydrocarbon Development Institute of Pakistan to collect samples from the respondent's premises, leading to a fine.

Issues: i) Whether a review petition can succeed when the judgment under review is based solely on a pure question of law, particularly statutory interpretation, without establishing that the decision was per incuriam?

ii) Whether a party that did not seek leave to appeal against a High Court decision can later invoke the review jurisdiction of the Supreme Court on the ground that it was condemned unheard when no notice was issued to it in another party's leave petition?

Analysis: i) when the decision (more formally, the ratio decidendi) turns solely on a pure question of law, and all the more so when that question is exclusively a matter of statutory interpretation, it is not enough for the review petitioner to contend that the interpretation is incorrect. To allow such a ground to be taken would be, in effect, to allow the review petitioner to reargue the case. In such circumstances, in our view, the ground for review would have to be that the decision was per incuriam; it is difficult to conceive of any other reviewable ground being available. As to what renders a decision per incuriam is well established and those principles need not be rehearsed here.

ii) It is hardly open to a person who was party to the proceedings in the High Court and was heard there (as was the situation in the case at hand) but chose not to assail the latter's decision in this Court to then turn around and complain, on some other party's leave petition, that the same was dismissed without notice to it. Such a contention, especially in the context of seeking to invoke the review jurisdiction of the Court, is wholly bereft of merit and ought, with respect, to be given short shrift.

Conclusion: i) A review petition cannot succeed when the judgment under review is based solely on a pure question of law, particularly statutory interpretation, without establishing that the decision was per incuriam

ii) See analysis No. ii.

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3. **Supreme Court of Pakistan**
Tariq Khan & Aman Ullah v. Additional Director General (North), Federal Investigation Agency, Islamabad and others
Civil Petitions No.3463 and 3464 of 2021
Mr. Justice Muhammad Ali Mazhar & Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._3463_2021.pdf

Facts: The petitioners were imposed penalty of compulsory retirement from FIA. Their service appeals were dismissed from Federal Service Tribunal, Islamabad. They filed civil petitions before Supreme Court.

Issues: i) What are the powers of an inquiry officer or inquiry committee under the E&D Rules?

ii) Whether the proceedings under the E&D Rules are judicial in nature?

iii) Whether in inquiry proceedings the natural justice requires giving opportunity of cross examination to the accused?

iv) Whether mere statement of a witness without cross examination has any legal value?

v) In what circumstances the de novo inquiry may be ordered?

vi) In case of de novo inquiry, whether the Court or the authority can refer to or rely on conclusion or outcome of previous decision of inquiry?

Analysis: i) The powers of the Inquiry Officer and Inquiry Committee are accentuated under Rule 7 of the E&D Rules. For the purpose of an inquiry, the Inquiry Officer and the Inquiry Committee both have been conferred the powers of a Civil Court trying a lawsuit under the Code of Civil Procedure, 1908, in respect of (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavits; (d) issuing commissions for the examination of witnesses or documents.

ii) The proceedings under the E&D Rules are deemed to be judicial proceeding within the meaning of Sections 193 and 228 of the Pakistan Penal Code, 1860.

iii) It is quite strange to note that even to prove or defend the charge of gross negligence and mismanagement, no opportunity was provided to the petitioners during the inquiry proceedings to conduct cross-examination of such witnesses who deposed against them which is a sheer violation of the principles of natural justice and due process of law.

iv) A mere statement of any witness has no legal value unless he is subjected to cross-examination which cannot be envisaged as a concession. On the contrary, in fact, it is a vested right and a fundamental limb of the dogma of fair trial. During a regular inquiry, it is an unavoidable obligation of the inquiry officer to provide a fair opportunity of cross-examining the witnesses, without which it was not possible to fix responsibility for the charges of misconduct.

v) These are directed in matters where, on the face of it, there are some serious procedural lapses and irregularities floating on the surface of the record in the trial of cases by the Courts or Tribunals or in the disciplinary proceedings/inquiries or the inquiries conducted under different laws, in which the well-enshrined principles of natural justice seem to have been violated, the findings are inappropriate or misdirected or based on surmises or conjecturers, due to which it is not discernable whether the charges of misconduct are proved against the delinquent in the disciplinary proceedings triggered against him. In all such contingencies, the de novo trial or enquiry may be ordered or directed in order to meet the ends of justice and due process of law and further to ensure strict observance of the conditionality envisioned for fair trial under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973.

vi) In a de novo trial or de novo disciplinary proceedings, the Court or the competent authority is not required to refer to or rely on any conclusion or outcomes of previous decisions or adjudications of courts or authorities that had earlier seized the matter referred for the de novo trial or inquiry.

Conclusion: i) See above analysis No.i

ii) The proceedings under the E&D Rules are judicial proceedings.

iii) Natural justice requires giving opportunity of cross examination to the accused.
iv) Mere statement of a witness without cross examination has no legal value.
v) See above analysis No.v
vi) In case of de novo inquiry, the Court or the authority cannot refer to or rely on conclusion or outcome of previous decision of inquiry.

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4. **Supreme Court of Pakistan**
Bashir Ahmed Anjum v.
Province of Punjab thr. Chief Minister Punjab, Lahore & others
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.a._2013_2022.pdf

Facts: The appellant, after being aggrieved by the decision of the departmental authority, filed an appeal before the Punjab Service Tribunal which was dismissed, leading him to approach the Supreme Court.

Issues: i) what is meant by "Proforma promotion"?
ii) What is underlying principle for considering the grant of proforma promotion?

Analysis: i) According to the definition provided under the 1974 Act, "proforma promotion" means predating of promotion of a civil servant or a retired civil servant, with effect from the date of the regular promotion of his junior, for the purpose of fixation of pay and payment of arrears, as may be prescribed.
ii) The underlying principle for considering the grant of proforma or notional promotions is, in general, grounded in compassionate and accommodating logic. The quite apparent whys and wherefores are that if an employee could not be considered for promotion due to any administrative slip-up, error, or delay when the right to promotion had matured; but without being given such consideration, he was retired from service, then in order to overcome his miseries and disquiets, the venue of proforma promotion may be explored which is not alien or unfamiliar to the structure of civil servant services, but is already embedded in Fundamental Rule 17 of the Fundamental Rules and Supplementary Rules (FR&SR), which can be invoked when the employee, who was otherwise entitled to be promoted from a particular date, for no fault of his own, lost his promotion on account of an administrative oversight or delay in the meeting of the Departmental Promotion Committee or the Selection Board, despite fulfilling all fitness, eligibility, and seniority requirements. In all fairness, then, he has a legitimate expectation for proforma promotion with all consequential benefits.

Conclusion: i) See above analysis (i)
ii) The underlying principle is, in general, grounded in compassionate and accommodating logic.

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5. **Supreme Court of Pakistan**
Bashir Ahmad v. The Director, Directorate of Intelligence of Investigation (Customs) FBR Peshawar and another
Civil Petition No.2330 of 2023
Mr. Justice Munib Akhtar, Mr. Justice Athar Minallah, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2330_2023.pdf

Facts: The petitioner sought leave under Article 185(3) of the Constitution against the judgment of the High Court, whereby High Court ruled in favor of the respondent department on a reference against tribunal release order of vehicle with payment of redemption of fine as a Hino LPG Gas Bowzer was detained by the department while transporting foreign-origin betel nuts instead of LPG; the vehicle and betel nuts were initially detained under section 17 and later seized under sections 157 read with 168 of the Customs Act 1969, with a criminal case registered.

Issues: i) Can offer for payment of fine be made in line of goods confiscated under Customs Act 1969?
ii) Can Federal Board of Revenue fix the amount of fine to be paid against confiscated goods and classify the goods for which no offer for fine can be made?
iii) Whether the Customs Tribunal has the jurisdiction to grant an option under Section 181 of the Customs Act, 1969, for the release of a lawfully registered conveyance found carrying smuggled goods, when such conveyance falls under the prohibition specified in clause (b) of the preamble of SRO 499?
iv) Who is competent to prefer appeal before tribunal?

Analysis: i) Section 181 provides that whenever an order for confiscation of goods is passed under the Act of 1969 then the Adjudicating Officer passing the order is empowered to give the owner of the goods an option to pay in lieu of the confiscation of the goods such fine as the latter thinks fit.
ii) The Federal Board of Revenue, however, is empowered to specify the goods or the classes of goods where such option shall not be given. Moreover, the provision also authorizes the Board to fix the amount of fine which shall be imposed on any goods or classes of goods imported in violation of the provisions of section 15 or of a notification issued under section 16 or in violation of any other provision of the Act of 1969 or any other law for the time being in force In exercise of powers conferred under section 181 of the Act of 1969, the Board has specified the goods or classes of goods where option under section 181 shall not be given by the Adjudicating Officer. Likewise, those goods or classes of goods have also been specified whereby the Board has fixed the amount or extent of payment of fine. The order of the Board, passed under section 181 of the Act of 1969, specifying the goods or classes of goods where no option is to be given or, a fine and its limits have been fixed, are described in the notification published in the gazette i.e. SRO 499. SRO 499.
iii) As a corollary, when the Board has exercised its power and has issued an

order, then the Tribunal is bereft of jurisdiction to order the release of such goods or class of goods by giving an option under section 181 of the Act of 1969. The Board, under clause (b) of the preamble of SRO 499, has explicitly ordered that an option cannot be given for the release of 'lawfully registered conveyances including packages and containers found carrying smuggled goods in false cavities or being used exclusively or wholly for transportation of offending goods under clause (s) of section 2 of the Customs Act, 1969 SRO 499 was amended vide notification dated 20-08-2024 and, inter alia, clause (ba) was inserted. It provided that no option could be given when a lawfully registered conveyance found carrying smuggled goods was seized for the third time. However, it explicitly excluded goods or classes of goods described under clause (b) of the SRO 499.

iv) Section 194-A of the Act of 1969 confines the right of appeal before the Tribunal to a person aggrieved. The expression 'aggrieved person in the context of section 196 of the Act of 1969 has been interpreted by this Court in the case of Sher Andaz as denoting a person who has got a legal grievance i.e a person who is wrongfully deprived of anything to which he is legally entitled and not merely a person who suffers some sort of disappointment. An aggrieved person is the one whose legal right has been invaded or whose pecuniary interest is directly and adversely affected. This Court has held that the expression 'aggrieved refers to a substantial grievance, a denial of some personal, pecuniary or property right or the imposition upon a party of a burden or obligation. The statutory right of appeal provided under section 194-A of the Act of 1969 is confined to an aggrieved person or an officer of Customs. The petitioner was admittedly not the owner of the vehicle nor had the latter sought benefit under section 181 of the Act of 1969. It is also not the case of the petitioner that he was authorized by or was acting as a lawful attorney on behalf of the owner.

Conclusion: i) Offer can be made by Adjudicating officer.
ii) The Federal Board of Revenue is competent to make policy.
iii) See analysis No iii.
iv) See analysis No iv

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6. **Supreme Court of Pakistan**
Commissioner Inland Revenue, Lahore v. M/s Azam Textile Mills Limited, Lahore
C.P.L.A.1369-L/2022
Mr. Justice Munib Akhtar, Mr. Justice Athar Minallah, Mr. Justice Shahid Waheed
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1369_l_2022.pdf

Facts: During a tax audit, the taxation officer classified internal raw material transfers between the taxpayer (a yarn manufacturer) and its associated entity, as "sales," imposing tax under the Income Tax Ordinance, 2001. The taxpayer contended that these were non-monetary internal allocations within the group, not sales; The

Commissioner (Appeals) upheld the tax assessment, agreeing with the taxation officer's interpretation. However, the Appellate Tribunal Inland Revenue ruled in favor of the taxpayer, stating that the transactions lacked cash consideration and could not be deemed sales. Dissatisfied, the Revenue sought the High Court's opinion under Section 133 of the Ordinance, but the High Court agreed with the Tribunal, finding no evidence of monetary consideration to classify the transactions as sales. The petition now seeks leave to appeal this decision.

Issues: i) When a transaction is recognised a sale?
ii) When a transaction is classified as exchange?
iii) How S.4 of the Sale of Goods Act of 1930 defines a contract of sale?
iv) What is fundamental requirement for a transaction to qualify as a sale?
v) What is the concept of sale of goods under S.153 of Income Tax Ordinance, 2001?

Analysis: i) It is essential to emphasise that, in common parlance, a sale is recognised as occurring when the ownership of goods is transferred to the buyer and payment for these goods has been made. Notably, this payment must take the form of money, commonly referred to as the price of the goods.
ii) It is essential to clarify that if the ownership of goods is exchanged for anything other than money, the transaction cannot be classified as a sale; instead, it would be considered an exchange or barter.
iii) This section defines a contract of sale as an agreement in which the seller transfers or agrees to transfer ownership of goods to the buyer in exchange for a specified price.
iv) One of the fundamental requirements for a transaction to qualify as a sale is the presence of monetary consideration.
v) Sub-section 7(iii) of Section 153 of the Ordinance further elucidates the concept of a sale of goods by providing its definition. This definition encompasses any transaction in which goods are sold, irrespective of whether the payment is made in cash or on credit, and is applicable regardless of the existence of a formal written contract. According to this definition, it is mandated that a sale must involve the receipt of consideration, which can be either cash or credit.

Conclusion: i) A transaction is recognized as a sale when ownership of goods is transferred to the buyer in exchange for monetary payment.
ii) A transaction is classified as an exchange when ownership of goods is transferred for something other than money.
. iii See above analysis No.iii).
iv) The fundamental requirement for a transaction to qualify as a sale is the presence of monetary consideration.
v) See above analysis No.v).

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7. **Supreme Court of Pakistan**
Mushtaq and others v. Mst. Fatima and others
C.P.L.A.559-P/2024
Mr. Justice Yahya Afridi, Mr. Justice Shahid Waheed
https://www.supremecourt.gov.pk/downloads_judgements/c.p._559_p_2024.pd

Facts: The learned High Court set aside the decree dismissing the suit of plaintiff/respondent, by the Family Court and First Appellate court respectively, concerning the recovery of dower recorded in the dower deed. Hence, the petitioner/defendant filed this leave to appeal.

Issues: i) What is the sufficiency of evidence required to prove the execution of a dower deed?
ii) Whether the Hon'ble High Court can overturn the findings made by the lower courts in family suit?

Analysis: i) The Family Courts operate outside the limitations typically imposed by the Code of Civil Procedure, 1908, and the more stringent standards set forth by the Qanun-e-Shahadat, 1984. This divergence from conventional judicial procedures holds particular significance when we examine Article 79 of the Qanun-e-Shahadat, 1984. This Article mandates that at least two attesting witnesses must be produced to establish the execution of financial documents or those about future obligations. However, in matters of family law, such as dower, this requirement is exempted under Section 17 of the Family Courts Act of 1964. The Family Court's jurisdiction leans towards an inquisitorial approach designed to encourage amicable settlements while maintaining a focus on the familial context. Consequently, the evidentiary requirements to prove the existence and validity of a dower deed are significantly less stringent than those encountered in traditional civil litigation.
ii) About the authority of the High Court to overturn decisions made by the courts subordinate to it in family cases, it is essential to emphasise that when it becomes evident that a Family Court or First Appellate Court has reached a legal conclusion that stems from a clear misinterpretation of statutory provisions or has acted in ignorance or disregard of the law, or based its judgment on legally unsound reasoning, such erroneous conclusions are subject to correction through an order of certiorari as outlined in Article 199(1)(a)(ii) of the Constitution.

Conclusion: i) The Family Courts operate outside the limits of CPC and QSO. Section 17 of the Family Courts Act, 1964 exempts the requirements of Article 79 of the QSO; evidentiary requirements to prove the existence and validity of a dower deed are significantly less stringent than those encountered in traditional civil litigation.
ii) Family Court or First Appellate Court has reached a legal conclusion that stems from a clear misinterpretation of statutory provisions or has acted in ignorance or disregard of the law, or based its judgment on legally unsound reasoning, such erroneous conclusions are subject to correction through an order of certiorari as

outlined in Article 199(1)(a)(ii) of the Constitution.

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8. **Supreme Court of Pakistan**
M/s Chawala Footwear, Lahore v.
Commissioner Inland Revenue, Lahore, etc.
Justice Munib Akhtar, Justice Athar Minallah, Justice Shahid Waheed
https://www.supremecourt.gov.pk/downloads_judgements/c.a._16_2022.pdf

Facts The taxpayer, aggrieved by a demand order under sections 161/205 of the Income Tax Ordinance, 2000, contested it before the Commissioner (Appeals), then pursued further appeals before the Appellate Tribunal and the Lahore High Court, ultimately bringing the matter to the Supreme Court.

Issues: i) What is the Legislature's intent for requiring submission of statement of tax deduction outlined in section 161 of the Income Tax Ordinance, 2000?
ii) What are the pre-requisites for issuing notice under section 161/205 of the Income Tax ordinance, 2000?

Analysis: i) The design of the statement for tax deduction outlined in section 161 of the Ordinance clearly reflects this requirement. It includes designated columns for detailing essential information, such as the identity of suppliers, specifics of each transaction, the amount eligible for tax deduction, the tax that has been deducted, the tax that has been paid, and the justifications for any instances where tax was not deducted. From the structure and content of this mandated statement, the legislature's intent becomes evident: it is compulsory to document the reasons for any non-deduction of tax, particularly when that nondeduction relies on an "exemption certificate." Likewise, it is also necessary to provide an explanation for nondeduction if it stems from any other legal provisions. Consequently, if a taxpayer fails to collect or deduct tax from payments made during the tax year, such inaction is deemed as a default under section 161. Therefore, the point that sets the machinery of section 161 going to determine the tax liability is the failure to either collect tax or deduct it.

(ii) Before going further, we take a little pause to say that even the power to put that point on is not unfettered. If the taxation officer wants to dig so deeply into the taxpayer's pocket that only his elbow is showing, the law seeks to be very sure that the taxation officer is properly indoctrinated and has had some reason or information that satisfies the test of objectiveness to reach as far as the law requires into the taxpayer's trousers to determine its failure. Thus and so the MCB held, "there must, at least initially, be some reason or information available with the Commissioner for him to conclude that there was, or could have been, a failure to deduct. That reason or information must satisfy the test of objectiveness, i.e., must be such as would satisfy a reasonable person looking at the relevant facts and information in an objective manner. The threshold is not so stringent as to require "definite information" (using this term in the sense well known to income tax law), but it is also not so low as to be bound merely to the subjective

satisfaction of the Commissioner." It is important to note that upon successfully crossing this threshold, the notice under section 161 can be issued, and it is only then that the taxpayer can be brought under a burden to show that it is not in default.

Conclusion: i) See above analysis (i)
ii) See above analysis (ii)

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9. **Supreme Court of Pakistan**
The Commissioner Inland Revenue, Lahore v. M/s Eagle Cables (Pvt), Lahore
C.P.L.A.2400-L/2022
Mr. Justice Munib Akhtar, Mr. Justice Athar Minallah, Mr. Justice Shahid Waheed.
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2400_l_2022.pdf

Facts: This case involves a sales tax issue stemming from an order issued on the 12th of April, 2022, by a Division Bench of the High Court on an application filed by the Revenue—referred to as the petitioner—under section 47 of the Sales Tax Act, 1990 (the Act).

Issue: i) Can the taxpayer, referred to as the respondent, be considered to have violated section 8(1)(d) of the Act, by claiming input tax adjustments based on fake invoices?

Analysis: i) It is now well established in legal precedents that if a transaction is conducted while the suppliers are active and duly registered, any invoices issued are not automatically invalidated by a subsequent blacklisting or suspension of those suppliers. Therefore, it follows that the denial of refunds cannot be justified solely based on the later blacklisting of a supplier. In light of this context, according to sub-section (3) of Section 21, all purchasers, including the respondent, who procured goods before the suppliers' registration was suspended or they were blacklisted, and who complied with the conditions outlined in section 73 of the Act, were entitled to claim an adjustment of input tax

Conclusion: i) See above analysis No. i

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10. **Supreme Court of Pakistan**
1. Asif Masih 2. Qasim Iqbal 3. Sajid Majeed v. The State
Jail Petition No. 481 of 2019
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p._481_2019.pdf

Facts: The petitioners were tried by the learned Additional Sessions Judge in connection

with a case registered under Sections 365-B, 376, and 109 of the Pakistan Penal Code (PPC). The learned Trial Court convicted and sentenced the petitioners accordingly. Subsequently, the petitioners preferred an appeal. The learned High Court, while maintaining the convictions and sentences of two petitioners under Section 365-B PPC, set aside their convictions and sentences under Section 376(ii) PPC. However, with respect to one petitioner, the judgment of the learned Trial Court was upheld.

Issues: i) When an accused of rape convicted by court under section 496-B instead of rape under section 376 PPC, whether abductee should also be convicted under section 496-B?

Analysis: i) Although, it is argued by the learned DPG that while keeping in view the provisions of Section 496-B PPC, Mst. Aqsa Riaz (PW-1) is also liable to be convicted and sentenced for offence of zina with consent but we have noted that she was not made an accused in this case by the Police. No charge was framed against her by the learned Trial Court and she has not been provided a chance to cross-examine the prosecution witnesses and defend herself, therefore, it will not be justified to convict and sentence her in absence of fulfilment of the legal requirements. Reference in this context may be made to a majority judgment passed by this Court (approved for reporting) in the case of Muhammad Imran vs. The State in Criminal Misc. Application No. 374/2024 in Criminal Petition No. 725/2023.

Conclusion: i) It will not be justified to convict and sentence her in absence of fulfilment of the legal requirements.

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11. **Supreme Court of Pakistan**
Muhammad Adnan v. Salah-Ud-Din
CPLA No.1618 of 2024
Mr. Justice Naeem Akhter Afghan & Mr. Justice Shahid Bilal Hassan
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1618_2024.pdf

Facts: The suit, on the basis of promissory note under Order XXXVII of CPC filed by respondent, was decree. Appeal of the petitioner was failed in the High Court. Hence civil petition was filed by the petitioner/defendant before the August Supreme Court.

Issues: i) Whether a promissory note is also necessary to be attested by two witnesses as required under Qanon-e- Shahdat Order, 1984?
ii) Whether the contents of pliant or written statement equate evidence or the contents are to be proved by evidence?
iii) Whether the law, without substantive proof, approves the evasive denial?

Analysis: i) As per Section 4 of the Negotiable Instruments Act, 1881, a promissory note is required to contain four essential ingredients: (i) an unconditional undertaking to

pay, (ii) the sum should be the sum of money and certain, (iii) the payment should be to or to the order of a person who is certain, or to the bearer, of the instrument, and (iv) the maker should sign it. If an instrument fulfils these four conditions, it will be called a promissory note, and the requirement of attestation of a document provided under Article 17(2)(a) of the Qanun-e- Shahdat,1984, does not apply to a promissory note.

ii) It is settled principle of law that contents of plaint or written statement do not equate evidence rather the same have to be proved by leading strong and cogent evidence in the shape of oral (witness(es) to depose on oath and also face the cross examination of the rival party) as well as documentary evidence.

iii) Moreover, evasive denial is no denial rather it has been disapproved, because Rules 3, 4 and 5 of Order VIII, Code of Civil Procedure, 1908 require specific denial of each allegation of fact. The petitioner took a vague stance as observed above and evasively denied the allegation(s) so made by the respondent as to his claim against the petitioner; therefore, such denial, without any substantive proof cannot be considered and approved.

Conclusion: i) A promissory note is not required to be attested by two witnesses.
ii) Contents of pliant or written statement do not equate evidence.
iii) The law, without substantive proof, does not approve the evasive denial.

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12. **Supreme Court of Pakistan**
Secretary to Government of Khyber Pakhtunkhwa Communication & Works Department, Peshawar & others
v. M/s Parcon Associate Government Contractors through Muhammad Haroon and others.
CPLA No. 694-L of 2024
Mr. Justice Naeem Akhter Afghan, Mr. Justice Shahid Bilal Hassan
https://www.supremecourt.gov.pk/downloads_judgements/c.p._694_p_2024.pdf

Facts: The petitioners challenged the dismissal of their revision petition against the rejection of objections to an arbitration award, which was made the rule of the court, before the Appellate and High court, where they remained unsuccessful due to limitation constraints.

Issues: i) Does Section 14 of the Limitation Act, 1908, apply without proof of good faith and due diligence?
ii**)** Can an indolent person receive discretionary relief after the limitation period?
iii**)** Whether a delay in filing an appeal, application, or suit be condoned?
iv) Can the government be treated differently from an ordinary litigant?
v) Whether time spent in pursuing an appeal in the wrong forum be condoned under Section 5 of the Limitation Act, 1908?

Analysis: i) It is not fault of the Court that the petitioners preferred appeal before the wrong forum so as to seek condonation of delay as provided under section 14 of the Limitation Act, 1908 because for extending benefit under the above said provision

'good faith' and 'due diligence' has to be proved (…) Section 5 and 14 of the Limitation Act would come into play only if the delay appears to be condonable because of the petitioners prosecuting their case with due diligence

ii) Indolent persons cannot be extended discretionary relief, as after passage of prescribed period of limitation valuable rights accrue in favour of the opposite party (…) law of limitation cannot be considered mere a technicality rather the same has been enacted and promulgated to bring the litigation to an ultimate end within the prescribed time provided under law.

iii) It is observed that delay of time in filing of appeal, application or suit may be condoned but subject to plausible and reasonable explanation. One who seeks condonation of delay has to explain each and every day delay.

iv**)** This Court has consistently held in various judgments that Government cannot claim to be treated in any manner differently from an ordinary litigant.

v) Time consumed in pursuing appeal in wrong forum cannot be condoned under S. 5 of Limitation Act, 1908. Time spent in pursuing proceedings before wrong appellate forum could not be excluded for the purposes of filing of an appeal. If appeal is barred by time, provisions of S.5 of Limitation Act, 1908, could only be invoked, that too, by showing sufficient cause.

Conclusion: i) The benefit of Section 14 of the Limitation Act, 1908 cannot be extended without proof of good faith and due diligence.

ii) An indolent person cannot be granted discretionary relief as limitation ensures finality in litigation.

iii) Delay may be condoned with a plausible and reasonable explanation for each day's delay.

iv) The government cannot be treated differently from an ordinary litigant.

v) See Above Analysis. v

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13. **Supreme Court of Pakistan**
Muhammad Khan alias v. The State, etc.
Criminal Appeal No.34 of 2023 out of Jail Petition No.285 of 2017
Ms. Justice Musarrat Hilali, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim.
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._34_2023.pdf

Facts: The appellant was convicted for murder of three people, including a woman and her infant daughter, over a family dispute. The trial court sentenced him to death on three counts as *Tazir* and imposed a compensation of Rs.50,000 for each victim, with six months' imprisonment in case of default. High Court upheld the sentence while dismissing his appeal, and answering murder reference in affirmative. Supreme Court later granted leave to appeal to review the evidence. The appellant also filed an application for condonation of delay in filing appeal, therein leave to appeal was also granted.

Issues: i) What is duty of the Superintendent Jail under Rule 90 of the Pakistan Prisons Rules, 1894?
ii) How should Courts exercise their powers under Section 5 of the Limitation Act, 1908, to ensure technicalities do not obstruct justice?
iii) Who is the interested witness?
iv) Whether evidence of an eye-witness can be discarded due to relationship with deceased?
v) When ocular evidence has to be given preference over medical evidence, and whether the same alone is sufficient to maintain conviction of an accused?
vi) Who would be sufferer, if prosecution fails to prove the motive?

Analysis: i) Under Rule 90 of the Pakistan Prisons Rules, 1894, it is the duty of the Superintendent Jail concerned to facilitate the appellant in filing appeal within the prescribed period of limitation.
ii) The technicalities should not hamper the court of justice and the powers regarding condonation under Section 5 the Limitation Act, 1908, and should be liberally exercised to ensure administration of justice in its true spirit.
iii) An interested witness is one who is interested in the conviction of an accused for some ulterior motive.
iv) In absence of any ulterior motive/ animus for false implication of an accused, the confidence inspiring testimony of an eye-witness, whose presence with the deceased at the time and place of occurrence is established, cannot be discarded merely due to his relationship with deceased**.**
v) Where ocular evidence is found trustworthy and confidence inspiring, the same is given preference over medical evidence and the same alone is sufficient to sustain conviction of an accused.
vi) It is by now well settled that once the motive is setup by the prosecution, but thereafter fails to prove the same, then prosecution must suffer the consequences and not the defence.

Conclusion: i) Under Rule 90 of the Pakistan Prisons Rules, Superintendent Jail 1894 is obliged to facilitate the convict prisoner in filing appeal within the prescribed period of limitation.
ii) Courts should exercise their powers under Section 5 of the Limitation Act, 1908, to ensure technicalities do not obstruct justice.
iii) See above analysis No.iii).
iv) See above analysis No.iv).
v) Trustworthy and confidence inspiring ocular evidence is given preference over medical evidence, which alone is sufficient to sustain conviction of an accused.
vi) The prosecution must bear the consequences if it sets up a motive but fails to prove it.

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14. **Supreme Court of Pakistan**
Mst. Saeeda Begum. v. The State and another
Criminal Shariat Review Petition No. 2 of 2016
Mr. Justice Qazi Faez Isa, Mr. Justice Naeem Akhtar Afghan, Mr. Justice Shahid Bilal Hassan, Dr. Khalid Masud, Dr. Qibla Ayaz
https://www.supremecourt.gov.pk/downloads_judgements/crl.sh.r.p._2_2016.pdf

Facts: Criminal Shariat Review Petition has been filed against the judgment of the Shariat Appellate Bench, wherein, the appeal of accused/ respondent no. 2 was allowed, setting aside the judgment of the Federal Shariat Court and acquitting him of the charge of *Qazf* against him.

Issues: i) Whether *li'an* is the only mechanism through which the allegation leveled against the petitioner regarding commission of *Qazf* could be proceeded?
ii) Whether the punishment for *Qazf* could not be awarded because tazkiyat-al-shuhud of the witnesses was not done?
iii) Whether accused can be punished for *Qazf* where complainant is not interested in getting the Hadd enforced?
iv) What is the presumption of legitimacy of a child under Islamic law and the Qanun-e-Shahadat Order, 1984?

Analysis: i) Section 14 of the Ordinance gives provisions about *li'an*. An overview of this section reveals that this is applicable when the allegation is made at a time when the marital bond between the couple is intact. If the husband first divorces her and, then, accuses her of zina, the rules of *li'an* would not be applicable and this act would attract the rules of qazf. As he no longer remained the husband of Mst. Saeeda Begum, the provisions of section 14 of the Ordinance regarding *li'an* were not attracted. Accused/ respondent No.2 leveled the accusation of zina not only before the trial court in his statement under section 342 of the Code but also before the full bench of Federal Shariat Court, and this he did long after he had severed the marital bond after pronouncing three divorces.
ii) The actions of accused attracted section 6(1) (b) of the Ordinance which reads as "Proof of qazf liable to hadd shall be in one of the following forms namely ... the accused commits qazf in the presence of the Court." In the present case, qazf liable to hadd was committed after divorce in the presence of the court. The question of tazkiyat-al-shuhud, therefore, did not arise and the Federal Shariat Court erred in declaring that hadd of qazf could not be awarded because tazkiyat-al-shuhud could not be done.
iii) For enforcing the hadd of qazf, the Muslim jurists deem it necessary that the complainant must not withdraw the complaint and they hold that even silence on the part of the complainant amounts to shubhah (doubt) which becomes an obstacle in the way of enforcing the hadd punishment.
iv) Article 128 of the Qanun-e-Shahadat Order, 1984, stipulates that a child born

during the subsistence of a valid marriage or within two years after its dissolution is conclusive proof of legitimacy, provided that the woman remains unmarried after the divorce. As per. Article 2(9) of the Order, the court shall not allow evidence to be given for the purpose of disproving it. This Court in Ghazala Tehsin Zohra v. Mehr Ghulam Dastagir Khan and another, PLD 2015 Supreme Court 327, held as under: "We, first of all, take up for comment the provisions of Article 128 ibid. The Article is couched in language which is protective of societal cohesion and the values of the community. This appears to be the rationale for stipulating affirmatively that a child who is born within two years after the dissolution of the marriage between his parents (the mother remaining unmarried) shall constitute conclusive proof of his legitimacy. Otherwise, neither the classical Islamic jurists nor the framers of the Qanun-e-Shahadat Order could have been oblivious of the scientific fact that the normal period of gestation of the human foetus is around nine months. That they then extended the presumption of legitimacy to two years, in spite of this knowledge, directly points towards the legislative intent as well as the societal imperative of avoiding controversy in matters of paternity."

Conclusion: i) Even if the rule of *li'an* is not applicable yet the accused can be proceeded for the offense of *Qazf*.
ii) See analysis ii above.
iii) Hadd for *Qazf* cannot be enforced where petitioner/ complainant withdraw from the case.
iv) See analysis iv above.

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15. **Lahore High Court**
Blitz Advertising (Pvt.) Ltd. v. Civil Judge Lahore & another
Case No. W.P No.23999/2024
Mr. Justice Shahid Karim
https://sys.lhc.gov.pk/appjudgments/2025LHC290.pdf

Facts: This constitutional petition challenges the impugned order passed by Special Court Admin for Commercial Cases, which dismissed application for dismissal of application under Section 14 and 17 of the Arbitration Act, 1940 on the grounds that trial court lacked jurisdiction to make the award rule of court as it was caught by the provisions of the Recognition and Enforcement (Arbitral Agreement & Foreign Arbitral Award) Act, 2011.

Issues: i) What is meant by foreign arbitral award?

Analysis: i) The term 'foreign arbitral award' has been defined in the Act as follows: "foreign arbitral award" means a foreign arbitral award made in a Contracting State and such other State as may be notified by the Federal Government, in the official Gazette**." (…)** Otherwise, the term 'foreign arbitral award' would clearly

mean taken literally that the arbitral award has been made in a foreign country though that country is a contracting state.

Conclusion: i) See analysis No.i.

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16. **Lahore High Court**
Zubair Wahid Khan v. Touseef Alam
C.R.No.569-D of 2017
Mr Justice Mirza Viqas Rauf, Mr Justice Jawad Hassan.
https://sys.lhc.gov.pk/appjudgments/2025LHC413.pdf

Facts: By way of this single judgment, the instant Civil Revision along with connected Civil Revision and Regular First Appeal are being decided on account of involvement of similarity of questions of fact and law. Respondent instituted a suit for recovery, which was resisted by the petitioner by filling his written statement. After thorough trial, suit was partly decreed. Feeling dissatisfied, both the sides preferred their appeals before the Additional District Judge but remained unsuccessful, hence both these Revisions. So far as Regular First Appeal is concerned, an order was passed by Civil Judge Class-I, who proceeded to reject the plaint of the suit for specific performance and injunction on the ground that the appellant instituted his suit during the pendency of the previous suit, so it was declared barred by law and plaint was rejected.

Issues: i) Whether a suit instituted during the pendency of previous, is legally competent?
ii) What is the legality of inconsistent pleas?

Analysis: i) Section 26 of the Code provides the mode and manner of institution of suit and it says that every suit shall be instituted by the presentation of plaint or in such manner as may be prescribed. Order VI of the Code deals with the pleadings in generic whereas Order VII is specifically articulated to deal with plaint. Order II of the Code, on the other hand, prescribes the manner of framing of suit and in terms of Rule 1, it has been made obligatory that every suit shall as far as practicable be framed so as to afford ground for final decision upon the subjects in dispute and to prevent further litigation concerning them (…) It is apposite to observe that section 12 of the Code places a bar to further suit and in terms of subsection 1, it is laid that where a plaintiff is precluded by rules from instituting a further suit in respect of any particular cause of action, he shall not be entitled to institute a suit in respect of such cause of action in any Court to which this Code applies. In this backdrop, we when again revert to Order II of CPC, we cannot lose sight of Rule II, which ordains that "suit to include the whole claim" (…) From the bare reading of the above referred provision of law, it clearly manifests that a plaintiff while instituting a suit is obliged to include the whole claim for which he is entitled in respect of a cause of action unless he relinquishes any portion thereof in order to bring the suit within the jurisdiction of the Court. In terms of sub-clause (2), where a plaintiff omits to sue or intentionally relinquishes

any portion of claim, he/she is precluded to sue in respect of such omitted or relinquished portion afterwards. Sub-clause (3) envisages that a person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs; but if he omits, except with the leave of the Court, to sue for all such reliefs, he shall not afterwards sue for any relief so omitted (…) Allowing the subsequent suit to proceed on the basis of same cause of action would amount to offend the mandate of section 10 of the Code, which casts a duty upon the Court not to proceed with the trial of any suit in which the matter in issue directly and substantially in issue in a previously instituted suit between the same parties or between the parties under whom they or any of them claim, litigating under the same title where such suit pending in the same or any other Court in Pakistan having jurisdiction to grant the relief claimed or in any Court beyond the limits of Pakistan established or continued by the Central Government and having like jurisdiction, or before the Supreme Court.

ii) The respondent is, thus, precluded to take inconsistent pleas and to approbate and reprobate in the same breath on the principle of estoppel embodied in Article 114 of the Qanun-e-Shahadat Order, 1984.

Conclusion: i) The subsequent suit on the basis of same cause of action is not competent.
ii) Inconsistent pleas are not admissible.

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17. **Lahore High Court**
Federation of Pakistan through Secretary, Ministry of Interior, Government of Pakistan v. Ashba Kamran etc.
I.C.A. No.53628/2024.
Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Ahmad Nadeem Arshad.
https://sys.lhc.gov.pk/appjudgments/2025LHC274.pdf

Facts: A challenge was raised against the appointment of the Chairman of NADRA, asserting that it was made without lawful authority. The learned Single Judge in Chamber allowed the writ petition, declaring the appointment unlawful. The Federation of Pakistan filed an intra-court appeal against the decision.

Issues: i) Does a High Court have suo motu jurisdiction under Article 199 of the Constitution of Pakistan?
ii) Can the Caretaker Government make appointments and amendments to rules under Section 230 of the Elections Act, 2017?
iii) Is the appointment of the Chairman NADRA legally valid under the relevant statutory provisions?
iv) Under what circumstances a writ of quo warranto can be issued?
v) Does judicial intervention in executive appointments amount to judicial overreach?

Analysis: i) It is well-settled law that High Court cannot take *suo moto* action as no such jurisdiction is vested in it.

ii) The Caretaker Federal Government by invoking jurisdiction under Section 230 of the Elections Act, 2017 and in terms of Section 3(3) & 3(5) of the Ordinance, 2000 amended Rule 7A of Rules, 2020 vide notification dated 13.09.2023 and thereafter appointed Chairman, NADRA with immediate effect and until further orders vide notification dated 02.10.2023… Subsequently, elected Federal Government in terms of Rule 17(1)(b) read with Rule 19(1) of the Rules of Business, 1973 endorsed the insertion of Rule 7(A) in the Rules 2020 and the appointment of Chairman, NADRA… The Caretaker Government, while exercising the powers conferred upon it under Section 230 of the Elections Act, 2017, read with Section 44 of the Ordinance, 2000, made an amendment to the Rules, 2020 by inserting Rule 7-A… The insertion of Rule 7-A in the Rules, 2020, and the appointment of Respondent No.6 were duly confirmed by the incumbent elected Federal Government through two separate notifications, both dated 28.03.2024, issued in terms of Rule 17(1)(b), read with Rule 19(1) of the Rules of Business, 1973… Both the Caretaker and incumbent elected Government, drawing strength from the aforementioned law, undertook all steps/actions, from the insertion of Rule 7-A in the Rules, 2020 to the issuance of the appointment notification of Respondent No.6 on 28.03.2024. Under the law ibid, the Federal Government, being the competent authority, had/has the power to make rules as well as to make appointment of Chairman NADRA.

iii) Under Section 3(3) & (5) of the Ordinance, 2000, the Federal Government is competent to appoint the Chairman and Members of NADRA… The appointment of Chairman NADRA was made in accordance with these provisions.

iv) The writ of quo warranto is issued determining the right of a person holding an office and directing him to disclose under what authority he is holding that office. The conditions which are essential for the issuance of writ of quo warranto are that the appointment under challenge must be to a public office and the said appointment has been made without the authority of law or in other words contrary to the relevant statutory provisions/rules.

v) Judicial overreach occurs when the judiciary starts interfering with the functions of the executive. The learned Single Judge in Chamber, by setting aside Rule 7A of the Rules, 2020 and holding the appointment unlawful, engaged in judicial overreach, which is unwarranted by law.

Conclusion: i) No, the High Court does not have suo motu jurisdiction under Article 199 of the Constitution.

ii) Yes, the Caretaker Government has limited powers under Section 230 of the Elections Act, 2017, allowing short-term appointments.

iii) Yes, the appointment of the Chairman NADRA was made under the authority of the Ordinance, 2000.

iv) No, a writ of quo warranto cannot be issued as the appointment was made by the competent authority under statutory provisions.

v) Yes, interfering in executive function amounts to judicial overreach.

18. **Lahore High Court**
Muhammad Riaz v. Arshad Ali, etc.
Civil Revision No.41323 of 2021
Mr. Justice Muhammad Sajid Mehmood Sethi
https://sys.lhc.gov.pk/appjudgments/2025LHC363.pdf

Facts: Through these petitions, the petitioner has assailed vires of orders and judgments passed by learned Civil Judge and Additional District Judge, respectively, whereby plaints of petitioner's suits have been rejected under Order VII Rule 11 of CPC.

Issues i) Whether a Will in favour of an heir cannot be considered valid unless the other heirs consent to it after the death of the testator?
ii) Whether the registration of the Will was mandatory in terms of Section 42 of the Registration Act, 1908?

Analysis: i) …As per Para 117, Chapter 9 of the Principles of Muhammadan Law by D.F. Mulla, a Will in favour of an heir cannot be considered valid unless the other heirs consent to it after the death of the testator, especially when it has not been registered. It is well-settled principle of law that bequest to an heir under Islamic Law was not valid unless it is consented to by the other heirs specifically after the death of testator. Needless to add that a Muslim testator enjoys the power to bequeath his property to the extent of 1/3rd share of his estate in favour of any other person or in favour of any one or more of the legal heirs, but such bequeath shall only be valid and enforceable if the same is assented to by other legal heirs after the death of the testator.
ii) The observation of the learned Appellate Court that registration of the Will was mandatory in terms of Section 42 of the Registration Act, 1908 is legally misconceived. Section 17 of the Act *ibid* outlines the documents that require compulsory registration, however Will is not included in the list. Section 18 provides that any document not required to be registered under section 17 may also be registered, thus, registration of a Will is optional. Section 42 does not impose any mandatory requirement for the registration of a Will. It only authorizes the testator to get it registered by presenting it in a sealed covered, with a statement of the nature of the document [Section 42(1)]. Sub-section (2) of Section 42 *ibid* requires the testator to endorse the name and address of the person, on the cover, to whom the original document would be delivered after registration. Therefore, under the Registration Act, 1908, the registration of a Will is not mandatory but optional. Resultantly, the observation of the lower court that a Will must be registered under Section 42 of the Registration Act, 1908 is incorrect and not supported by the law.

Conclusion: i) The Will shall only be valid and enforceable if the same is assented to by other legal heirs after the death of the testator.

ii) Under the Registration Act, 1908, the registration of a Will is not mandatory but optional.

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19. **Lahore High Court**
Ibrar v. The State etc.
The State v. Ibrar.
Criminal Appeal No.24453 of 2021
Murder Reference No.74 of 2021
Ms Justice Aalia Neelum Chief Justice, Mr. Justice Asjad Javaid Ghural
https://sys.lhc.gov.pk/appjudgments/2025LHC239.pdf

Facts: The facts of the case that accused entered his in-laws' house armed with a firearm and after issuing a threat, fatally shot his wife in the head and injured his father-in-law. The attack was allegedly motivated by a family dispute. The victim succumbed to injuries after prolonged medical treatment, leading to the addition of charge of murder.

Issues: i) What is the legal effect of delay in lodging the First Information Report (FIR) in a murder case?
ii) Does the provision of Section 302(c) PPC apply to cases falling under Exception 4 of the former Section 300 PPC?
iii) Whether a murder committed in a sudden fight, in the heat of passion, qualifies for reduction of sentence under Section 302(c) PPC?
iv) What is the evidentiary value of medical opinion regarding time between injury and death in relation to ocular testimony?
v) Does a delay in sending crime empties to the forensic lab affect the prosecution case?
vi) What are the principles governing sentencing in murder cases?

Analysis: i) then the only task for the attendants was to shift their near and dear one to the referral hospital without wastage of any time. In such a situation expecting a father to firstly rush to the police station for lodging of crime report, in order to avoid the legal consequences, was improbable.(…) "Sheraz Asghar ..Vs.. The State (1995 SCMR 1365)" wherein it has been laid down as under:- " Besides, delay in lodging F.I.R. is not per se fatal to a case. It neither washes away nor torpedoes trustworthy and reliable ocular or circumstantial evidence. F.I.R. in this case has been lodged with an eye-witness. It contains the names of the eye-witnesses, the names of the assailant with arms carried by them, active role played by each assailant." Moreover, delay in setting the law into motion, in cases of previous enmity is mostly considered fatal, but here in the instant case, assailant was the son in law of the complainant, as such question of enmity or his false implication in substitution of real culprit is out of question.
ii) judgment reported as "Ali Muhammad versus The State" (PLD 1996 Supreme Court 274) has held that the provision of Section 302(c) PPC cover those cases within any one of the five listed exceptions of the erstwhile Section 300 PPC. The relevant portion of the esteemed judgment reads as under:- "As to what are the cases falling under clause (c) of Section 302, the lawmaker has left it to the Courts

to decide on case to case basis. But keeping in mind the majority view in Gul Hassan case PLD 1989 SC 633, there should be no doubt that the cases covered by Exception to the old Section 300, P.P.C. read with old Section 304 thereof, are cases which were intended to be dealt with under clause (c) of the new section 302 of the P.P.C." Exception 4 of old Section 300 P.P.C. reads as under:- "Exception 4:- Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner. Explanation: It is immaterial in such cases which party offers provocation or commits the first assault."

iii) From the aforementioned angel, we can say that help of Exception-4 can only be invoked if death is caused, firstly, without premeditation, secondly, in a sudden fight in a heat of passion upon a sudden quarrel and thirdly, without the offender's having taken undue advantage or acted in a cruel or unusual manner.

iv) The locale, number and nature of injuries, weapon of offence used for causing these injuries was exactly in line with the ocular account, thus, medical evidence lends full support to the ocular account.(…) It would be erroneous to accord undue importance to the hypothetical assessment of the Medical Officer qua the duration between injury and death to discard the ocular account.

v) In the attending circumstances, sending the crime empties belatedly, at the most can be considered a lapse on the part of the Investigating Officer, whose benefit cannot be extended to the appellant. Even otherwise, if for the sake of arguments positive report of PFSA is ignored even then it cannot be made basis for reduction of sentence of the appellant. It is well settled law that when the ocular account is found to be confidence inspiring and trustworthy, mere fact that recovery is inconsequential by itself could not be a ground for lessor punishment.

vi) In case reported as 'Muhammad Sharif ..Vs.. The State' (1991 SCMR 1622), it has been laid down as under:- "There can be no controversy that the normal penalty prescribed for the murder by the Divine Law as also the law of the land is death. A murderer is guilty of his action before The Almighty Allah. He is regarded as the murderer of humanity. A Judge is required to do justice on each and every aspect strictly in accordance with law and should not mold the alternatives to favour the guilty. (…) Similarly, in Noor Muhammad .Vs. The State (1999 SCMR 2722), the Apex Court has observed that the Courts while deciding the question of guilt or innocence in murder and other heinous offences owe duty to the legal heirs/relations of the victim and also to the society and should award severer sentences to the act as a deterrent to the commission of offences.

Conclusion: i) Delay in FIR is justified if the complainant prioritizes saving the victim's life, especially without enmity.

ii) See analysis No.ii.

iii) Exception-4 applies only to unpremeditated killings in sudden fights without undue advantage.

iv) Medical evidence supporting the ocular account remains reliable despite minor timing discrepancies.
v) Delayed forensic submission does not benefit the accused if ocular evidence is credible.
vi) Courts must impose strict penalties for murder to ensure justice and deter crime.

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20. **Lahore High Court**
Safeer Hussain v. Capital City Police Officer and others
Writ Petition No. 48137/2024
Mr. Justice Tariq Saleem Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC385.pdf

Facts: The petitioner seeks quashment of an FIR got registered for dishonour of a cheque, on the ground the same is without jurisdiction by a financial institution.

Issues: i) What is meant by microfinance by NBFCs?
ii) How the Non-Banking Microfinance Companies (NBMFCs) and Microfinance Banks (MFBs) are regulated?
iii) What is comparative scope of Financial Institutions (Recovery of Finances) Ordinance 2001 (FIO) and Microfinance Institutions Ordinance, 2001 (MIO)?
iv) What procedure is prescribed under FIO for trial of offences?
v) Whether every transaction between a financial institution and its client fall within the ambit of FIO?

Analysis: i) Microfinance is one of the activities under the IFS. The Non-Banking Finance Companies and Notified Entities Regulations 2008 (the "2008 Regulations") define it as the finance provided to a poor person or microenterprise. A "poor person" is an individual with a meagre means of subsistence and whose total business income, excluding expenses during a year, is less than or equal to Rs.1,200,000/- or such other minimum limit as may be notified from time to time.2 On the other hand, "microenterprise" means projects or businesses in trading, manufacturing, services, or agriculture that lead to livelihood improvement and income generation. These projects or businesses are undertaken by micro-entrepreneurs who are either self-employed or employ few individuals not exceeding 10 (excluding seasonal labour).
ii) The microfinance sector comprises Non-Banking Microfinance Companies (NBMFC) and Microfinance Banks (MFBs). Generally, NBMFCs are registered as not-for-profit entities under section 42 of the Companies Act 2017 and hold an IFS licence under the 2008 Regulations. They are regulated by the Securities and Exchange Commission of Pakistan (SECP) and governed by Part VIII-A of the repealed Companies Ordinance 1984,4 the 2003 Rules, and the 2008 Regulations. In contrast, MFBs are deposit-taking institutions regulated by SBP under the Microfinance Institutions Ordinance, 2001 (MIO). MFBs are full-fledged banks providing microcredit, savings, and other banking services like remittances.

MFBs are subject to prudential regulations, including capital adequacy and risk management standards set by the State Bank of Pakistan (SBP), similar to conventional banks but adopted in the microfinance sector.

iii) The scope of the FIO is fundamentally different from that of the MIO. While the MIO is a sector-specific law focused exclusively on microfinance institutions serving underprivileged and microenterprises segments, the FIO is broad in its coverage and applies to a wide range of financial institutions falling within the statutory definition of a "financial institution" under section 2(a) of the FIO. 6 Section 4 of the FIO mandates that the provisions of the FIO shall override other laws and have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

iv) Section 5 of the FIO establishes Banking Courts, and section 7 confers civil and criminal jurisdiction on them. Section 9 outlines the procedure for suits by a customer or a financial institution before the Banking Court for default in fulfilling an obligation with regard to any finance. Section 20 criminalizes various acts and omissions and provides punishments therefor…Section 7(1)(b) of the FIO stipulates that in the exercise of its criminal jurisdiction, the Banking Court shall try offences punishable under the FIO and shall, for this purpose, have the same powers as are vested in the Court of Session under the Code of Criminal Procedure 1898. However, the Banking Court shall not take cognizance of any offence except upon a complaint in writing made by a person authorized in this behalf by the financial institution in respect of which the offence was committed. Section 7(4) further reinforces that no other court shall exercise jurisdiction over matters falling within the Banking Court's domain.

v) Not every transaction between a financial institution and its clients falls within the ambit of the FIO. They must be covered by the statutory definitions of "financial institution" and "customer" as contained in sections 2(a) and 2(c), respectively, of the FIO. Furthermore, the obligation, as defined in section 2(e), must arise specifically from a transaction that qualifies as "finance" within the meaning of section 2(d). This principle applies in both civil and criminal cases…Section 20(4) of the FIO only applies if the dishonoured cheque is issued towards repayment of finance. If it was issued in connection with a liability outside the scope of "finance" under the FIO – such as a commercial arrangement, service fee, or another form of contractual obligation – then the FIO does not apply, and the jurisdiction of the Banking Court would not be attracted. In such circumstances, the case would properly fall within the domain of general criminal law (section 489-F PPC).

Conclusion: i) Microfinance is an activity by NBFCs to a poor person having annual income equal to or less than Rs.1200000/; or microenterprise having permanent work force of 10 or less.

ii) NBMFCs are registered as not-for-profit entities regulated SECP. MFBs are regulated by SBP, similar to conventional banks but adopted in the microfinance sector.

iii) MIO is a sector-specific law focused exclusively on microfinance institutions

serving underprivileged and microenterprises segments, the FIO is broad in its coverage and applies to a wide range of financial institutions falling within the statutory definition of a "financial institution".

iv) See above analysis (iv).

v) No, Section 20(4) of the FIO only applies if the dishonoured cheque is issued towards repayment of finance. If it was issued in connection with a liability outside the scope of "finance" under the FIO, it does not apply and jurisdiction of Banking Court would not attract.

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21. **Lahore High Court**
Azra Yasmin v. Judicial Magistrate Sec-30, etc.
Cr. Revision No.1836 of 2025
Mr. Justice Muhammad Waheed Khan, Mr. Justice Farooq Haider
https://sys.lhc.gov.pk/appjudgments/2025LHC380.pdf

Facts: The petitioner got registered FIR u/s 354 PPC at Police Station City Chunian, District Kasur, Challan report u/s 173 Cr.P.C. was prepared in the case and sent to the Court of learned Magistrate Section-30, Chunian, District Kasur, who after scrutiny of file of the case observed that offence u/s 354 PPC is a Schedule offence and the same is exclusively triable by the Special Court established under the Anti-Rape (Investigation & Trial) Act, 2021 (Act), and sent the file to learned Sessions Judge, Kasur Learned Sessions Judge, Kasur, after receiving file of the case entrusted the same to learned Addl. Sessions Judge, Chunian After receipt of file of the case, without framing charge in the case, learned Addl. Sessions Judge, Chunian, while observing that offence u/s 354 PPC is not attracted, ordered for transmitting the case to the learned Area Magistrate for conducting trial to the extent of remaining offences vide order dated 30.08.2023, which has been impugned through the instant petition.

Issue: i) what is the proper stage for deletion of offence by a special court established under Anti-Rape (Investigation & Trial) Act, 2021?

Analysis: i) Admittedly charge was not framed in the case till the passing of the impugned order. Meaning thereby that the case was not in the course of trial. So, it was not the stage to opine that offence which the accused is alleged to have committed is not a scheduled offence……..when special law i.e. Anti-Rape (Investigation & Trial) Act, 2021, provides power only under section 16(3) of the ibid Act to render opinion that scheduled offence has been made out or not during course of the trial i.e. after framing of the charge then impugned order passed prior to that stage in the case is not in accordance with said law.

Conclusion: i) See above analysis No. i

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22. **Lahore High Court**
Muhammad Ahsan v. The State and 3 others
W.P.No.25543 of 2024
Mr. Justice Muhammad Amjad Rafiq
https://sys.lhc.gov.pk/appjudgments/2024LHC6439.pdf

Facts: The petitioner sought quashing of FIR registered for the offence under Section 295A PPC with the allegations of issuing *"Fatwa",* declaring the Shia sect as non-Muslim.

Issues: i) What is the legislative history of registration of FIR and the "Books Prescribed" under Section 154 and 155 CrPC?
ii) What was the scheme of registration of criminal case under the Police Act, 1861 and Police Regulations of Bengal framed thereunder; as well as Code of Criminal Procedure, 1861?
iii) What changes were introduced in the provisions of registration of FIRs by the second Code of Criminal Procedure, 1872?
iv) What was the scheme of case registration under Police Regulations of United Provinces?
v) Whether the repealed enactments and regulation have any significance in understanding the concept of section154 CrPC?
vi) What is difference between "entering the substance" and "recording of information"; and which book is prescribed for entering the substance?
vii) Why the *"substance"* is to be entered in *"daily dairy"* first?
viii) Whether delay in FIR on the part of Officer in Charge to apply his mind, would be fatal?
ix) What is necessary for entering into investigation; information or its registration?
x) What is the scope of preliminary investigation under Section 196B CrPC; and whether the High Court has any jurisdiction to direct for preliminary investigation?
xi) Whether mere mentioning of non-cognizable offence in FIR, make it a case of quashing?
xii) Whether a Magistrate can take cognizance, when a police report is submitted in non-cognizable offence, without authorization by the Magistrate?

Analysis: i) General Code for Crimes was drafted on the recommendations of the first Law Commission of India established in 1834 under the Charter Act of 1833, under the chairmanship of **Thomas Babington Macaulay** (…) Title of such Code was 'Indian Penal Code' enacted and assented by Governor-General on 06th October, 1860(…) The Police Commission of 1860 recommended the abolition of the Military Arm of the Police. Upon the recommendations of the Commission, the Government of India submitted a bill which was passed into law as Police Act 1861 (Act V of 1861), the first codified central law. **Section 12** of Police Act 1861 empowered the Inspector General to frame Rules (…) Prior to the Punjab

Police Rules 1934 State level Rules were framed at Bengal and United Provinces under the name of Police Regulations.

ii) Section 44 as regulator to record every information including commission of an offence in a general diary to be kept by officer in charge of police station (…) This was the first document to record the information relating to commission of every offence in a General Diary. In the same year, for initiation, commencement and trial of offences Code of Criminal Procedure was legislated (…) The crime reporting mechanism was enacted through section 139 of such Code (…) Such section talks about preference of every 'complaint' or 'information' to officer in charge of police station but does not speak about commission of any cognizable or non-cognizable offence (…) Bengal Police Rules were framed after promulgation of Code of Criminal Procedure 1861 which explained the mechanism for recording of information in cognizable offences (…) If above Rules are read in the light of section 139 of Code of Criminal Procedure 1861, the scheme of law becomes clear that information in full shall be recorded in Form. I. when it discloses commission of cognizable offence and its substance in General Diary maintained at the Police Station under section 44 of Police Act (...) The **Rule 138 (a)** says that the general diary in the P. R. B. Form No. 241 is prescribed under section 44, Act V of 1861. It shall be kept at all police-stations, beat houses and section houses. Rule 138(b) says that ***every occurrence which may be brought to the knowledge of the officers of police shall be entered in the general diary at the time at which it is communicated to the station.***

iii) Second version of Code of Criminal Procedure was promulgated and assented on 25th April, 1872 (the year when Evidence Act 1872 was also promulgated) but operationalization date was fixed as first day of September, 1872, new version replaced section 139 with section 112 (…) This section had somewhat changed the complexion of section 139 of earlier Code in a way that now word "information" was deleted and only 'complaint' was used to report the crime and 'general diary' was replaced with a "book", and a requirement of signed, sealed, or marked by the person making it was also introduced. It seemed that such changes were made in order to further formalize the process of recording of information and giving it a permanent documented feature so as to avoid tempering with record and to use it as an admissible form of evidence pursuant to promulgation of Evidence Act 1872 because section-35 of Evidence Act 1872.

iv) **Rule 87** in CHAPTER-IX Part-II of Police Regulations, United Provinces (corrected and amended up to year 1928), says that whenever information relating to the commission of a cognizable offence is given to an officer in charge of a police station, the report should immediately be taken down in triplicate in the check receipt book for reports of cognizable offences **(Police Form No. 341)**(…) Rule 89 says that if an officer in charge of a police station receives an oral report of a cognizable offence when he is away from the station house, and wishes to begin the investigation at once and cannot dispense with the attendance of the person who made the report, he should take the report down in writing and, after having it signed or marked by the person who made it, should send it to the police

station to be treated as a written report (…) Rule 91 says that when a report is made of a noncognizable offence, the important portions of the report should be recorded in the check receipt book for reports of noncognizable offences **(Police Form No. 347)** (…) The substance of the report should be entered in the general diary and, if the report is in writing, the paper containing it should be attached to the diary (...) Rule 279 mentions the matters must be recorded **in the general diary**, and sub-rule (14) requires entry of reports of all occurrence which under the law have to be reported or which may require action on the part of police or the Magistracy (…) There were three books; i.e., Police Form No.341 (for cognizable cases), Police Form 347 (for non-cognizable cases) & Police Form 217 (the general diary); a correct spirit of section 154 & 155 of Cr.P.C., which say that after reducing the information to writing, substance must be entered in a book, that of course was a general diary.

v) Section 3 (1) of Code of Criminal Procedure 1898 says that in every ***enactment passed before this Code*** comes into force in which reference is made to, or to any chapter or section of, the Code of Criminal Procedure, Act XXV of 1861 or Act X of 1872, or Act X of 1882, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section. Enactment does not mean mere an Act of Parliament in the form of Statute but does include regulations as defined in General Clauses Act 1897. Section 3 (17) of such Act (…) Similarly, it has also been defined in Punjab General Clauses Act 1956. Section 2 (23) of such Act (…)Thus, erstwhile Police Rules & Regulations which refer to the provisions of Code of Criminal Procedure 1861, 1872 or 1882 can also be read along with present Police Rules for understanding the concept and spirit of sections 154 & 155 of Cr.P.C.

vi) Sections 154 and 155 Cr.P.C., do not talk about recording of information in a book rather entering of substance only. Recording of information and entering the substance of information are two distinct functions. Substance of course connotes a gist or summary whereas recording is verbatim of information received. Section 154 Cr.P.C., requires mere entering of substance in a book whereas FIR is always verbatim of written application or what is reduced to writing. Thus, information in full cannot be summarized until it is recorded somewhere and signed by the informant; therefore, book for recording information in full cannot be a book mentioned in section 154 Cr.P.C. Entering substance of information either under section 154 or 155 of Cr.P.C in a book prescribed by provincial government clearly connotes one and the only book i.e., **"police station daily diary"**. Rule 24.1 (1) of Police Rules, 1934 also identifies the said book in the same fashion which says that pursuant to Sections 154 and 155, Code of Criminal Procedure, every information relating to an offence, whether cognizable or non-cognizable, shall be recorded in writing by the officer in charge of a police station.

vii) Entering of substance in police station daily diary is like officially receiving an information, as usually done in every government department which keep a daily-daak register and number every application or information, then, it is placed

before the concerned officer for an action on it. Similarly, officer in charge of police station also gives a rapt number to such information, and then becomes legally authorized to question the informant for further details in order to apply his mind on such officially documented information as to whether any cognizable offence has been committed or not. From information, if officer in charge of police station suspects commission of cognizable offence, he shall enter in full such information, with inquires made, in Register of FIR for an action under section 157 of Cr.P.C. Rule 24.1 (2) of Police Rules 1934 exactly connotes the same scheme (…) The above Rule also covers the situation when by his own knowledge (otherwise) commission of offence came into the notice of officer in charge who is bound to reduce to writing such information and source of knowledge, substance whereof in the daily diary and information in full in register of FIR if he suspects commission of cognizable offence (…) In every FIR in the column of date and time of reporting, it is mentioned by the police officer that "reference police station daily diary number" usually written in vernacular as "بحوالہ رپٹ نمبر" which means that with reference to information incorporated earlier in police station daily diary, this FIR is being registered.

viii) However, it is not discernable from section 154 of Cr.P.C that for application of mind on information as to whether cognizable offence has been committed, is there any time lag or would it be done immediately because section 154 does not use the word "at once". However, Rule 24.2 of Police Rules 1934 says that it should be done as soon as practicable (…) Thus, where from information, owing to the change in genesis and novelty of crimes with the passage of time, any technical or legal support is required for understanding the ingredients of offence, any delay in entering the information into register of FIR would not be fatal, but fact of delay must be mentioned in police station daily diary.

ix) If the officer in charge of police station from the information received or otherwise suspects commission of cognizable offence, he shall start the investigation, which means that it is the **"information"** that gives him power to enter into investigation and not the **"registration of such information"**. Relying upon case reported as *"EMPEROR V. KHAWJA NAZIR AHMED"* **(AIR (32) 1945 Privy Council 18)**, it was held that investigation can be conducted the moment information is lodged before the officer in charge of police station. It is our everyday experience that police halt the persons for inspection and if something is found in his possession contrary to law, so as to suspect commission of a cognizable offence, police officer there and then starts investigating the matter despite the fact that FIR by then had not been registered.

x) The present writ petition for quashing of FIR revolves around mandatory preliminary investigation authorized under section 196B Cr.P.C., for offences mentioned in section 196 of Cr.P.C. to which section 295A PPC is a part. When such matter is reported to the officer in charge of police station, the first duty of police officer is to reduce such information to writing, and after entering the substance in police station daily diary shall apply his mind that which offence in fact seems committed from the information; if it spurs out that from the

information offence under section 295A PPC is attracted, he shall within the limited scope of inquiry shall collect further information and place the matter before officer in charge of investigation in the district for authorizing preliminary investigation(…) Clauses 22 of Letters Patent thus empowers the High Court to direct for preliminary investigation where no action in the form of registration of FIR or investigation has been taken by the police. Though section 196 Cr.P.C., since 1898 remained operating under ordinary regime of investigation as to cognizable or non-cognizable offences mentioned therein so as to evaluate the collected material for filing of complaint by Central or Provincial government yet High Court was established under such Letters Patent in year 1919 and Clause 22 above was made available for that purpose or for preliminary investigation of other offences in appropriate cases till the enactment of section 196B Cr.P.C., by the Code of Criminal Procedure (Amendment) Act, 1923 (…)when special procedure has been prescribed for dealing with offences mentioned in section 196 Cr.P.C., then regime introduced in section 196B Cr.P.C., must be followed for preliminary investigation.

xi) If from the information commission of cognizable offence is not suspected police can collect further information, but while considering it a cognizable offence shall enter into register of FIR, then mere mentioning penal section of non-cognizable offence in FIR does not by itself provide grounds for its quashing, in particular when a legal opinion from concerned prosecutor or Prosecutor General can be sought for further proceedings (…) Police has authority even to prepare case cancellation report later under Rule 24.7 of Police Rules 1934, if the offence ultimately turns out to be a non-cognizable. Though as per section 537 of Cr.P.C., any error in complaint shall not over turn any sentence, finding or order of the Court rather determination lies with the Court that it actually has occasioned the failure of justice.

xii) There is no cavil that FIR if registered in non-cognizable offence can be quashed in the light of judgment relied by learned counsel for the petitioner but this judgment covers the situation that if in serious issue investigation is started without out authorization by Magistrate, still on the report of police officer Magistrate can take cognizance either under clause (a) or (b) of subsection (1) of section 190 Cr.P.C., then while framing charge if sanction for prosecution in offence under section 295A PPC is required as per section 196 Cr.P.C., then Magistrate can stay the proceedings until such sanction is received as ordained under section 230 of Cr.P.C. Even initiative of Magistrate at his own to take cognizance under section 190 (1) (c) of Cr.P.C. can regularize the process.

Conclusion: i) The evolutionary process of police system and lodging of crime complaints is traced back to the Christ and came to the Islamic era when the second pious caliph introduced certain offices for the purpose. The Mughals further extended the system, which was institutionalized by the British rule with first Code in 1860 as Indian Penal Code drafted by Lord Macauly. Then the Police Act in 1861and Regulations under its section 44 in different states from time to time; latest the

Police Rules 1934. Similarly, the Criminal Procedure Code was revised again and again in 1861, 1872, 1882 and 1898.

ii) There was only one book prescribed under section 44 of the Police Act, 1861 i.e General Diary for recording information relating to commission of every offence. Bengal Police Regulations, Rule I of Chapter of First Information Report also provided for the entry of every information to police officer in the Diary of Police Station.

iii) Section 112 of the CrPC of 1872 changed the complexion of previous section 139 at the introduction of the Evidence Act. The word "complaint" was introduced deleting the word information; similarly "book" replaced the general diary.

iv) Rule 279 of the Police Regulations of United Provinces requires the entry in General Diary of all reports of all occurrences which under the law have to be made to Police.

v) Section 154 and 155 of CrPC talks about on book which is Police Station Daily Dairy and for interpretation of such sections repealed enactments can also be looked into as per Section 3 of the CrPC. Enactment does include regulation as per provisions of General Clauses Act, 1897.

vi) Entering the substance does not mean the entering the complete detail of the information but the material facts. However, the recording the information include the minute details of the information. The book prescribed for entering the substance is "daily diary".

vii) Entering the substance in daily diary first is like officially receiving information issuing a formal number. Officer in charge may question the informant for further details in order to apply his mind.

viii) Any delay in entering the information into register of FIR would not be fatal but this fact should be mentioned in police station daily diary.

ix) If the officer in charge from the information received or otherwise suspects commission of cognizable offence, he shall start the investigation, which means that it is the information that gives him power to investigation and not its registration.

x) There is no concept of preliminary inquiry before registration of FIR but certain situations may arise as held in Lalita Kumari case. Preliminary investigation can be initiated only on the authorization by Officer in Charge of investigation in the District for offences mentioned under section 196 CrPC or by the High Court under Clause 22 of the Letters Patent.

xi) Mere mentioning of anon-cognizable offence in an FIR does not make it a case of quashing the FIR, rather it could be cured through opinion seeking from prosecution, cancellation of the FIR by the Superintendent or addition of cognizable offence.

xii) If an FIR stands registered in a non-cognizable offence mistakenly, even the police can submit report before the concerned Magistrate, who is authorized to take cognizance under section 190(1)(a) or (b) CrPC.

23. **Lahore High Court**
Jannat Gull v. The State etc.
Crl. Misc. No.78626-B/2024.
Mr. Justice Muhammad Amjad Rafiq
https://sys.lhc.gov.pk/appjudgments/2025LHC368.pdf

Facts: The petitioner approached the Hon'ble High Court for grant of post-arrest bail in case FIR registered for the offence u/s 328A PPC read with Section 38 of the Punjab Destitute and Neglected Children Act, 2004 **(PDNCA 2004)**, upon the complaint of Child Protection Officer.

Issues: i) What is the comparison of Section 328 & 328A of PPC?
ii) What is the age of majority in Islam and law of the land?
iii) What procedure is applicable upon the Child Protection Court for trial of offences relating to children under the PDNCA 2004 alongwith PPC?
iv) What is responsibility of parents in Islam and the state?

Analysis: i) Section 328 PPC shall only be applicable if the child is under 12 years of age, whereas Section 328A PPC, picks up child of every age under 18 years. Both the offences are cognizable yet offence under section 328 is non-bailable and 328A bailable as per second schedule of Cr.P.C. Section 328 PPC is limited to a situation when father or mother, or any person having care of such child, exposes or leaves such child in any place with the intention of wholly abandoning such child. This section is verbatim of original section 317 of PPC (…) Whereas Section 328A PPC inserted later in year 2016 though accommodates the act of abandoning the child yet it is wider in scope so as to cover assault, ill-treatment, neglect, or an act of omission or commission, that results in or have potential to harm or injure the child by causing physical or psychological injury to him. Thus, stands at different conceptual pedestal than to section 328 PPC.
ii) In Islam, adulthood (or ―Bulugh‖) is typically determined by the age at which a person reaches puberty, which varies among individuals. The Prophet (صلى الله عليه وسلم (emphasized that a child is considered to have reached maturity when they experience signs of puberty, such as:

i. The onset of menstruation for girls.
ii. ii. The growth of pubic hair or the production of semen for boys.

Once a person reaches puberty, they are no longer considered a ―child‖ in the Islamic sense, as they are then expected to fulfill the religious obligations such as prayer, fasting, and other duties, yet two laws cited above define the child as one who is under 18 years of age. Section 299 (a) PPC says, an _adult' means a person who has attained the age of 18 years which means under 18 would be a child. PDNCA 2004 under section 3 (1) (e) says that ―child‖ means a natural person who has not attained the age of eighteen years.
iii) Two enactments are dealing with the offence as described in the FIR, yet Child Protection Court being creation of special law shall conduct the trial of such offence primarily under section 38 of PDNCA 2004 but depending upon the facts

can also frame charge jointly for offence under section 328 or 328A PPC as it deems appropriate. Though section 23 (3) of PDNCA 2004 says that provisions of the Code and the Qanun-e-Shahadat Order, 1984 (P.O. No. X of 1984), unless otherwise expressly provided by this Act or the rules, shall not apply to proceedings before the Court but the Code of Criminal Procedure 1898 was made applicable through section 43 of said Act, that all offences under this part shall be investigated, tried and punished in accordance with the procedure prescribed in the Code. Part means Part-VIII of PDNCA 2004 dealing with Special Offences Relating to Children. (Ss. 34 to 41).

iv) Islam encourages love and compassion toward children. The Prophet Muhammad (صلى الله عليه وسلم (demonstrated immense love for children and considered showing affection as a sign of kindness.

"He is not one of us who does not have mercy on young children…"

(Hadith – Sahih Muslim)

Allah Almighty in Surah At-Tahrim (66:6) says

"O you who have believed, protect yourselves and your families from a Fire whose fuel is people and stones."

This verse emphasizes the responsibility of parents to protect their children not only from physical harm but also from spiritual harm, guiding them to live a life that pleases Allah (…)In the light of above discussion, no malafide or ill will of child protection officer is spurred out from the record to lodge the present FIR against the petitioner. It is duty of the State to protect the vulnerable class of the society and jealously guard their rights through concrete and coercive measures to ensure right to liberty, life, well-being and their education.

Conclusion: i) S. 328 PPC is applicable when child is under 12 years of age and 328A for child of every age below 18. S. 328A is wider in scope even cover the assault, ill-treatment, neglect, or an act of omission or commission, 328A has different conceptual pedestal than s. 328 PPC.

ii) The age of puberty is the bottom line of adulthood in Islam; whereas, the law recognizes the majority above the 18 years of age.

iii) The Child Protection Court being special court is competent for trial of offences under PDNCA 2004 and applicability of CrPC & QSO is exempted but the Part-VIII (special offences relating to children) of the said Act would be dealt as per the procedure prescribed in the Code.

iv) In Islam the parents are responsible to protect their children not only from physical harm but also from spiritual harm. The state is also responsible to protect the vulnerable class of society.

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24. **Lahore High Court**
Maqbool Ali v. The State etc.
Crl. Misc. No. 3952-B/2025.
Mr. Justice Muhammad Amjad Rafiq
https://sys.lhc.gov.pk/appjudgments/2025LHC376.pdf

Facts: The petitioner approached the Hon'ble High Court for grant of post-arrest bail in

case FIR registered for the offence u/s 9 (1)-6c CNSA.

Issues: i) Whether the officers of Pakistan Rangers can exercise the powers under the Control of Narcotics Substances Act, 1997?

Analysis: i) Reading and perusal of above Notification reflects that in Punjab, the Inspector or equivalent of Pakistan Rangers can exercise powers under section 21, 22, 23, 37 (2) and 38 of the CNSA 1997 within their respective jurisdiction. Thus, are authorized to search, seize and arrest any person committing any offence under CNSA 1997 (…) Claim of learned Counsel for the petitioner, that arrest by Sub Inspector Pakistan Rangers has vitiated the whole proceedings, cannot be honoured due to two substantive reasons. Firstly, with all just legal exceptions, officers of different categories of Pakistan Rangers are also authorized to exercise powers under respective provisions of Customs Act, 1969 in the light of Notification of year 2010. Secondly, Officers of Pakistan Rangers after arrest, search and seizure of narcotics have handed over the accused/petitioner to the local police, which power is available even to every private individual under section 59 of the Cr.P.C.

Conclusion: i) As per S.R.O. 656(1)/2004, dated 2.8.2004 the Inspector or equivalent of the Pakistan Rangers can exercise powers u/s 21, 22, 23, 37(2) & 38 of the CNSA. Even otherwise, it is also empowered for search, seizure and arrest as a private person can do as per section 59 of the CrPC; to hand over the captured contraband with the accused to the concerned police.

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25. **Lahore High Court**
Mst. Tabinda, etc. v. The State etc.
Crl. Misc. No. 77218-B/2024
Mr. Justice Muhammad Amjad Rafiq
https://sys.lhc.gov.pk/appjudgments/2025LHC251.pdf

Facts: Through this petition, petitioner has sought pre-arrest bail in a case registered under sections 420/468/471-PPC.

Issues: i) In what circumstances, a person can be charged with offence under section 205 PPC?
ii) What is the prescribed procedure for initiation and taking cognizance of offence under section 205?
iii) Whether the bail bond produced for inspection of the court qualifies for evidence?
iv) What is the rationale behind the introduction of offences mentioned in section 195 Cr.P.C.?
v) Is registration of FIR appropriate for offences mentioned in sections 195(1)(b)(c) Cr.P.C relating to forgery of bail bonds when a special procedure is prescribed in section 476 Cr.P.C?

vi) Whether the documents produced during the course of proceedings in compliance with order of court, furnish the base of prosecution under section 195 Cr.P.C.?

vii) Which law prescribes the procedure for declaration of tout?

viii) Whether merits of the case can be touched upon while deciding pre-arrest bail petition

Analysis: i) If any person impersonates others, and in such assumed character becomes bail or security, or does any other act in any suit or criminal prosecution, he can be charged with offence under section 205 PPC.

ii) For initiation of criminal proceedings and taking cognizance by the Court for such offence, a special procedure has been prescribed under section 195 of Cr.P.C(…) Section 205 PPC is listed in section 195 (1) (b) of Cr.P.C., as cited above, therefore, only the Court concerned can take cognizance of such offence (…) Even proceedings in such situation can also be initiated on the application of concerned Reader or Ahlmad. Even if it is found that bail bonds were forged and produced before the Court then section 195 (1) (c) Cr.P.C. would become operative because it clearly says that if any offence described in Section 463 or punishable under Section 471 PPC, is alleged to have been committed by a party to ***any proceeding in any Court in respect of a document produced or given in evidence in such proceeding***, then cognizance is conditional upon the complaint in writing of such Court, or of some other Court to which such Court is subordinate (…) The Supreme Court of Pakistan has held in a case reported as *"Ch. FEROZE DIN Versus DR. K. M. MUNIR AND ANOTHER"* **(1970 SCMR 10)** that Section 195 Cr.P.C clearly provides for the complaint by none other than the "such Court " before which the document is given in evidence or produced.

iii) Every document produced for the inspection of Court is called evidence, which qualifies production of bail bonds as well.

iv) Offences mentioned in section 195 Cr.P.C., deal with administration of public justice which provides a full control and command on the situation to the Court concerned with a connotation that except Court, no other institution can enter into the public justice process for offences which have close nexus with the proceedings of the Court, therefore, sending the case to police for registration of FIR amounts to inviting intrusion into the administration of justice by the Court which runs against the intention of legislature for which section 195 of Cr.P.C was enacted.

v) By all means, the bail bonds are documents and were produced before the Court in connection with proceedings for bail, therefore, provisions of Section 195, sub-section (1), Clauses (b) & (c) of Cr.P.C., are fully attracted in the matter, and for trial of such offences a special procedure has been prescribed under section 476 of Cr.P.C. (…) Thus, in such situation, registration of FIR was not the proper course.

vi) Documents which are prepared and procured during the proceedings in compliance with the order of the Court, if found forged, shall fall within the ambit of section 195, sub section (1), Clauses (b) or (c) of Cr.P.C.

vii) A special procedure for declaring any person as tout was in place as per section 36 of the Legal Practitioners Act 1879 amended by Act XI of 1896 and Act XV of 1926 alongwith rules framed in Chapter 13 of Lahore High Court Rules & Orders Volume-V, but now being regulated through section 59 read with section 2 (m) of the Legal Practitioners and Bar Councils Act, 1973 which prescribes a punishment of three years‟ imprisonment.

viii) It has been held by the Supreme Court of Pakistan in the cases reported as *"KHAIR MUHAMMAD and another versus The STATE through P.G. Punjab and another"* **(2021 SCMR 130),** *"JAVED IQBAL versus The STATE through Prosecutor General of Punjab and another"* **(2022 SCMR 1424),** *"MUHAMMAD UMAR WAQAS BARKAT ALI versus The STATE and another"* **(2023 SCMR 330)** and *"ABDUL REHMAN alias MUHAMMAD ZEESHAN versus The STATE and others"* **(2023 SCMR 884)** that while dealing with petitions for pre-arrest bail, merits of the case can be touched upon and question of further inquiry can be stretched at this stage as well.

Conclusion: i) Section 205 PPC prescribes the aspect/situation when a person can be charged for the offence of "false personation for purpose of act or proceedings in suit or prosecution."

ii) Under section 195 Cr.P.C, a special procedure has been devised for initiation of criminal proceedings and taking cognizance by the or on the complaint of such court concerned; its Ahlmad or Reader as well.

iii) Every document produced for the inspection of Court is considered evidence including bail bonds.

iv) Listing of offences in section 195 CrPC is for the administration of public justice, to bar the private complaints for the offences having close nexus to the court proceedings.

v) FIR registration is not proper course as section 195(1)(b)(c) and 476 Cr.P.C prescribe a special procedure.

vi) Forgery of documents during the court proceedings falls within the ambit of section 195, sub section (1), Clauses (b) or (c) of Cr.P.C.

vii) Section 36 of the Legal Practitioners Act 1879 and Chapter 13 of Lahore High Court Rules & Orders Volume-V; section 59 read with section 2 (m) of the Legal Practitioners and Bar Councils Act, 1973, but action against tout is now regulated by section 59 read with section 2 (m) of the Legal Practitioners and Bar Councils Act, 1973.

viii) Merits of the case can be touched upon and question of further inquiry can be stretched at this stage as well.

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26. **Lahore High Court**
The Chief Administrator of Auqaf, Punjab, Lahore and 02 others v. Muhammad Panah Nomani and 20 others
(Writ Petition No. 32834 of 2024)
Mr. Justice Abid Hussain Chattha
https://sys.lhc.gov.pk/appjudgments/2025LHC259.pdf

Facts: The Petitioners, as functionaries of the Auqaf Department, have filed this constitutional petition against the private contesting Respondents, challenging the order passed by Member (Judicial-II), Board of Revenue, Punjab, Lahore. Through the impugned order, the review petition of the Respondents was accepted, and earlier orders passed by the predecessor of Respondent No. 21, the Additional Commissioner (Revenue), Lahore Division, and the District Officer (Revenue), Lahore, were set aside. Consequently, the disputed mutation in favor of the Auqaf Department was canceled, while the earlier mutation attested in favor of the Respondents was restored.

Issues: i) Whether the Respondents' Review Petition before Member (Judicial-II), Board of Revenue, Punjab, Lahore was filed within the prescribed limitation period under the law?
ii) Whether the impugned Order passed by Member (Judicial-II), Board of Revenue, Punjab, Lahore is patently unlawful being against the provisions of Section 21 of the Punjab Waqf Properties Ordinance, 1979 which bars the jurisdiction of Civil or Revenue Courts?

Analysis: i) Record depicts that Review Petition of the Respondents was filed on 19.06.2017 against the impugned Order dated 27.02.2017, the certified copy whereof was applied on 01.03.2017 which was prepared and delivered on 22.03.2017. Thus, by excluding 22 days consumed in obtaining certified copy of the impugned Order, the Review Petition ought to have been filed on 18.06.2017 i.e. the 90th day. However, since 18.06.2017 fell on Sunday, as such, it was competently filed on 19.06.2017 on the following working day in terms of Section 4 of the Limitation Act, 1908 which stipulates that where the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the day that the Court re-opens.
ii) Section 8(1) of the Revenue Act stipulates that power of review is available against the order passed by Member of the Board of Revenue on the grounds of discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the aggrieved person or could not be produced by him at the time when decree was passed or the order was made or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, the aggrieved person desires to obtain a review of the decree passed or order made against him. In the instant case, review was competently entertained and decided on merits on account of mistake and error apparent on the face of record. Therefore, objection of learned counsel for the

Auqaf Department that Respondent No. 21/ Member of the Board of Revenue acted beyond the scope of review conferred under Section 8(1) of the Revenue Act is without merits. Needless to mention that claim of the Respondents qua correction of revenue record squarely fell within the ambit and jurisdiction of revenue hierarchy and as such, Section 21 of the Waqf Ordinance had no relevance.

Conclusion: i) Review Petition of the Respondents was not barred by time in terms of Section 8(2) of the Revenue Act which provides a period of limitation of 90 days from the date of decree or order.
ii) See analysis ii above.

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27. **Lahore High Court**
M/s G.P. Enterprises v. Province of Punjab etc.
Writ Petition No.69497/2024
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC338.pdf

Facts: Petitioner's being the license holder engineering contractors, entitled for participating in bidding of projects upto Rs. 25 million, challenged the clubbed biding of different projects beyond his/their maximum ceiling through this Constitutional Petition, which stood dismissed.

Issues: i) Whether constitutional petition is maintainable against procurement/contractual powers of government bodies?
ii) How the constitutional right of "level playing field" could be ensured in public procurement?
iii) What is the core responsibility of procuring agency under the Punjab Procurement Rules, 2014 and the Punjab Local Govt. (Works) Rules, 2017?
iv) Whether the fundamental right to freedom of trade, business or profession under Article 18 of the Constitution is absolute?
v) Whether procuring agencies are bound to split tendering?
vi) What are international rules of split procurement?
vii) What directions/proposals are issued to all procurement agencies across the province to ensure transparency?

Analysis: i) it is by far settled principle of law that "judicial review cannot be denied so far as exercise of contractual powers of government bodies are concerned, but it is intended to prevent arbitrariness or favoritism and is exercised in the larger public interest or if it is brought to the notice of the Court that in the matter of award of a contract power has been exercised for any collateral purpose".
ii) This Court is of the view that the Articles 9, 18 and 25 of the Constitution when conjunctively read create the right to a "level - playing field" to be ensured by the state or its instrumentalities when it comes to citizens and private entities competing within the domain of public procurement. This constitutional right to a level-playing field is protected by the principle of transparent and open

competitive bidding enshrined within the procurement rules. Therefore, this Court is of the opinion that since important questions regarding interpretation of the Rules and Regulations is involved, therefore, alternate remedy in present circumstances is not an efficacious remedy, and the constitutional petitions are maintainable and in exercise of its constitutional jurisdiction, this Court can examine the validity of the impugned tenders.

iii) The above analysis of the Rules 2014 as well as the Rules 2017 reveals that there is no specific provision thereof that regulates the manner in which a procuring agency is to organize the works that it chooses to tender. In terms of Rule 6 of the Rules 2017, the local government has discretion to formulate its annual development plan. Similarly, in terms of Rule 8 of the Rules 2014 the procuring agency has discretion to decide on its procurement plan for a particular year. It is Regulation 6(3) of the Regulations 2024, which provides that a procuring agency may, as per its requirements, create LOTS or specify whether the transaction of procurement is to be made as a whole or item-wise. Hence, it is well evident that the decision is left to the discretion of the procuring agency keeping its requirements in view. However, this does not mean that such discretion of the procuring agency is unfettered. Both the Rules 2014 as well as Rules 2017 contemplate a number of important principles governing such discretion, inter alia, the widest possible competition, should not favour any single contractor (Rule 10 of Rules 2014), and not to split or regroup the contracts that is different from the proposed procurement for that year (Rule 9 of Rules 2014), which are meant to prevent any tailored bids to favour a particular contractor or a group of particular contractors.

iv) As regards the grouping of works in the impugned tenders implicating Article 18 of the Constitution in so far as the petitioners' right to freedom of trade and profession is concerned, it is pertinent to observe that the right to freedom of trade, business or profession under Article 18 of the Constitution is not an absolute right but is subject to "qualifications" and restrictions prescribed by the law. The Courts have held that such restrictions have to be reasonable and the Courts are competent to review such restrictions on the touchstone of reasonability.

v) Regarding splitting of the tendered works, under the law in vogue to allow small and medium enterprises (SMEs) to participate in the bidding process, it is imperative to note that in terms of the applicable Rules, there is no specific provision casting such obligation upon the procuring agency. On the contrary, there is a prohibition against the splitting of works or regrouping of works that will change the procurement planning for the year, if any, done by the procuring agency per Rule 9, of the Rules 2014.

vi) At this juncture, it is also worth mentioning that while browsing legislation from other jurisdictions as well as internationally accepted principles of procurement, it transpires that the splitting of a contract for purposes of avoiding the application of procurement regulations by reducing the value of each of the split components of the contract has been identified and flagged as a potential

means of committing procurement corruption. Therefore, in academic literature on this point authors have identified that more often than not contract splitting is motivated by favouritism than efficiency promoting motives8 . At the same time legal commentators also recognize that splitting contracts into lots would promote competition while also facilitating SME participation in public procurement. There is no one-size-fits-all solution and the decision has to be made on a case to case basis depending on the specific characteristics of the market involved.

vii) However, the above discussion propels this Court to make following observations/directions, to all the procuring agencies, across the province, for the purpose of bringing transparency and fairness in the procurement process:

(i) It is imperative in terms of Regulation 5 of the Regulations 2024 and Rule 8 of the Rules 2014, that annual development plan by each procuring agency with respect to the procurement to be carried out in that fiscal year is devised within one month of the beginning of fiscal year and the same must be made public. This would rule out possibility of tinkering and/or manipulation in any tender at the time of inviting bids;

(ii) (ii) There is an administrative and executive discretion vested in the procuring agency to formulate and design the procurement plan by grouping and/or splitting the works for the purposes of ensuring widest possible competition and obviating the possibility of favouritism, however, once the said discretion is exercised, through an annual development plan, the procuring agencies are obligated to adhere to the same without splitting and/or regrouping the same in terms of Rule 9 of the Rules 2014;

iii) Adherence to Rule 8 of the Rules 2014 as to announcement of proposed annual procurement plan in a financial year is a legal obligation which stands as a bar and check upon the procuring agency to arbitrarily split and/or regroup the subject matter of procurement to tailor-make the same to extend favouritism; and

(iii) A procuring agency should at least, at the planning stage, consider splitting of the work when it is tendering the same that are comprised of different geographical locations and different types of services/activities; and if it still decides to group them together in one contract then it should, at a minimum, state its reasons for doing so. This should be encouraged as a “best practice” amongst the procuring agencies to avoid any such challenges during the procurement process.

Conclusion: i) In order to prevent arbitrariness or favouritism the judicial review cannot be denied upon exercise of contractual powers of government bodies.

ii) The principle of level playing field could be protected by the principle of transparent and open competitive bidding.

iii) To ensure the widest possible competition is the core responsibility of the procurement agency.

iv) The fundamental right to freedom of trade, business or profession is not

absolute but is subject to qualification and restrictions prescribed by the law.
v) The procuring agencies are not under any statutory obligation for split bidding, splitting or regrouping of works against the annual procurement planning is prohibited.
vi) After scanning international procurement principles, no hard and fast rule could be spelt out, but the decision has to be made on case to case basis.
vii) See above analysis (vii)

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28. **Lahore High Court**
Sadia Yasmeen v. Zeeshan Ahmed etc.
T.A. No.76469/2024
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC266.pdf

Facts: This petition requests the transfer of a case filed by the respondent under Section 25 of the Guardians and Wards Act, 1890, from the Family Court in Multan to the Family Court in Sialkot, where the petitioner's application under the same Act is pending.

Issues: i) While adjudicating custody and guardianship matters by Family Court which Rules are to be taken into account for the purposes of determining the territorial jurisdiction of the Family Court?
ii) What factual eventualities are relevant for the purposes of the determination of the "territorial jurisdiction" of the Family Court, In terms of Rule 6?
iii) What is the legislative intent behind Rule 6 of the Family Court Rules regarding the determination of territorial jurisdiction, and how does it apply to the current factual scenario of the parties' residence?

Analysis: i) Under Section 5 of the Family Courts Act, 1964 ("Act 1964"), the Family Court has the exclusive jurisdiction to entertain, hear and adjudicate all the matters, which fall within the First Schedule to the Act 1964, which admittedly includes the custody and guardianship matters. For the purposes of determining the territorial jurisdiction of the Family Court, it is Act 1964, and the Rules framed thereunder that are to be taken into account and not the provisions of the Act 1890.
ii) In terms of Rule 6 quoted hereinabove, there are three factual eventualities, which are relevant for the purposes of the determination of the "territorial jurisdiction" of the Family Court. Firstly, under subRule (a), where the cause of action wholly or in part has arisen. Meaning thereby, in the custody or guardianship disputes if the minors were with the mother and they have been illegally and improperly removed and taken away from the place where they were living with her (or vice versa for father as well), the cause of action shall be said to have arisen at such place, otherwise the cause of action shall be deemed to have arisen where the minors are residing. Secondly, in terms of sub-Rule (b), where the parties reside or last resided. Thirdly, per proviso to Rule 6, in a suit for dissolution of marriage or dower, where the wife ordinarily resides.

iii) This takes me to the second out of the three factual eventualities culled out by the Supreme Court on the basis of Rule 6 of the Rules, which provides that the Court where the parties "reside or last resided" is vested with the territorial jurisdiction. This clearly envisages legislative intention that where the parties currently reside or last resided is vested with the territorial jurisdiction. Thus, the current residence confers jurisdiction on the Family Court of that territory. Hence, the contention of the respondent that the Court at Sialkot lacks territorial jurisdiction to try the matter of custody/guardianship lacks persuasion.

Conclusion: i) Family Court Act 1964, and the Rules framed thereunder that are to be considered and not the provisions of the Act 1890.
ii) See above analysis No.ii
iii) This clearly envisages legislative intention that where the parties currently reside or last resided is vested with the territorial jurisdiction. Thus, the current residence confers jurisdiction on the Family Court of that territory.

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29. **Lahore High Court**
Ch. Jang Sher v. Amanat Ali
Civil Revision No.17850/2019
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC354.pdf

Facts: The petitioner filed suits for specific performance based on agreements to sell certain plots, claiming that the respondents had received the full sale consideration but refused to execute the sale deeds. The trial court decreed the suits conditionally, directing the petitioner to deposit the balance sale consideration within a specified time, failing which the agreements would be deemed rescinded. The petitioner filed appeals but failed to deposit the balance amount, leading to the dismissal of the appeals on the ground of non-compliance with the trial court's condition. Hence; this Civil Revision.

Issues: i) Whether filing of appeal against a conditional decree, by the decree holder, in itself amounts to suspension of the condition attached thereto and the decree holder is absolved from depositing the balance sale consideration?
ii) Is a decree in a suit for specific performance always preliminary, or can it become final based on stipulated conditions?
iii) Does a decree with an automatic dismissal clause in a suit for specific performance require the judgment debtor to seek rescission?
iv) Is an appellate court always obligated to extend the time for deposit of balance sale consideration in an appeal, considering it a continuation of the suit?

Analysis: i) This Court is of the opinion that mere filing of appeal against a conditional decree, by the decree holder, in itself does not amount to suspension of the condition attached thereto and the decree holder is not absolved from depositing the balance sale consideration when the consequences of his failure to comply with condition is specified in the decree itself making the said decree final.

ii) it is well-evident that generally, a decree in a suit for specific performance of agreement to sell is to be treated as preliminary decree and scope of the same is in the nature and character of a contract where the vendor has to deposit the balance sale price, cost of purchase of necessary stamp papers for the execution of the conveyance deed while seller remains under the obligation to appear before the Court to sign the conveyance deed and receive purchase money, hence, in such an eventuality, the decree is not final. However, in cases where the decree is passed by the Court concerned, subject to imposition of a condition, inter alia, by stipulating time for deposit of balance sale consideration and also specifying the consequences of any default in respect thereof, in such an eventuality, the decree is final and if the decree holder fails to comply with the condition, the time stipulated for fulfillment of the condition expires, the penal consequences contemplated through the said decree become self-operative and the decree is to be treated as final.

iii) it is well evident that if consequence of non-fulfillment of the condition contained in the decree passed in a suit for specific performance has been provided for an automatic dismissal or rescission of the contract, nothing is left to be performed by the Court, whether it is the Trial Court or the Appellate Court. Putting it otherwise, the judgment debtor is not obligated to seek rescission.

iv) A lot of emphasis has been laid on the point that the appeal is continuation of suit and it was obligatory on part of the Appellate Court below to extend time for deposit of the balance sale consideration. There is no cavil to said legal position, however, the argument is misconceived keeping in view the peculiar facts and circumstances of the case.

Conclusion: i) Filing an appeal does not suspend a conditional decree, the decree holder must still comply if consequences are specified.

ii) A decree is generally preliminary but becomes final if it includes a condition with automatic consequences for default.

iii) If a decree provides for automatic dismissal upon non-compliance, court intervention is unnecessary, and rescission is not required.

iv) An appeal continues the suit, but extending time for deposit depends on the case's specific circumstances.

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30. **Lahore High Court**
Mst. Tahira Altaf v. Mian Ghulam Dastgeer
Civil Revision No.37990/2024
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC293.pdf

Facts: The respondent (husband of the petitioner) filed a suit for declaration and cancellation of a gift mutation, alleging that he never gifted the suit property to the petitioner (his wife) and that the mutation was procured fraudulently by his wife in connivance with revenue officials. The Trial Court dismissed the suit, but the Appellate Court allowed the appeal, setting aside the Trial Court's judgment

and cancelling the gift mutation. The petitioner challenged the decision before the Hon'ble High Court.

Issues: i) Whether a gift, executed in favour of wife by husband, during the subsistence of the marriage, would place the onus on wife with the same standard of proof to establish the gift as is otherwise required from a donee, particularly, if the donee is a housewife and the donor/husband is a socially active person?
ii) Whether mere allegation and/or averment by the donor (husband) of gift, having been procured by the donee (wife) through fraud, albeit without disclosing the particulars thereof, is sufficient to shift the onus on the donee (wife) to prove the valid execution of gift?
iii) General Rule that a donee is required to prove elements of a valid gift.
iv) Does a mere allegation of fraud shift the burden of proof from the donor to the donee despite the presumption of truth in revenue records?
v) How does the burden of proof differ between introducing evidence and establishing a fact?
vi) When can a court presume the existence of certain facts, and how can such presumptions be rebutted?
vii) Does a wife, being a donee, bear the same burden of proof to establish a gift from her husband as any other donee?
viii) Who must prove allegations of fraud, and what particulars must be stated in the pleadings?
ix) Is a suit challenging a fraudulent mutation proceedable without impleading the revenue officials?

Analysis: i) Mere allegation and/or averment by the donor (husband) in respect of the gift, having been procured by the donee (wife), through fraud, albeit without disclosing the particulars thereof, is not sufficient to shift the onus upon the wife to prove the valid execution of the gift.
ii) The initial burden of a higher pedestal was on the respondent-plaintiff to discharge as to the lack of good faith in the transaction, which took place inter se a house wife and man of worldliness-the respondent, by fully disclosing the particulars of fraud and proving the same, which the respondent failed to discharge. Even otherwise, once the gift was recorded in revenue record, more particularly one executed by a husband in favour of the housewife, sanctity is attached to such entry and donor-husband is precluded from asserting claims of fraud, coercion or under influence, barring substantial and compelling evidence to the contrary.
iii) As a general principle, a donee is required to prove all the ingredients of valid gift in order to prove the validity thereof.
iv) The onus to prove the oral gift duly reflected in the entries of the revenue record does not shift to the donee, merely, by a bald assertion in the plaint regarding commission of fraud in every case as the entries in the revenue record are themselves vested with the presumption of truth albeit rebuttable.

v) The burden of proof is generally used in two distinct senses, which may turn out to be confusing. In the first instance, the burden relates to introducing or tendering of the evidence, and secondly, the burden is to establish a fact and/or the case pleaded in order to create preponderance of evidence. The burden in the former situation generally remains fixed upon a party, whereas the burden in the second sense shifts.

vi) In terms of Article 129 of the Qanoon-e-Shahadat Order, 1984, the Court may presume existence of certain facts, which it thinks likely to have happened in the normal course of human conduct and/or business…Furthermore, as there is presumption of good faith in human conduct, the facts rebutting such presumption are required to be specifically pleaded at first and then proved to obviate such presumption.

vii) A gift, executed in favour of wife by husband during the subsistence of their marriage, would not place the onus on wife with the same standard of proof to prove the gift as is otherwise required from a donee, when the donee is a housewife and the donor/husband is a socially active person.

viii) The burden of proving bad faith, inter alia, by way of fraud is on the person alleging bad faith. This principle has been embodied in Order VI Rule 4, of the Code of Civil Procedure, 1908 ("**CPC**"), which stipulates that in all cases in which the party pleading relies on any misrepresentation, fraud or undue influence, particulars shall be stated in the pleadings.

ix) The suit was not proceedable on account of non-joinder of necessary party in view of the judgment of the Apex Court, reported as rendered in "Sikandar Hayat and another v. Sughran Bibi and 6 others" (**2020 SCMR 214**), wherein it has been held that where the mutation is alleged to have been effected with active connivance between the revenue officials and the defendant in order to deprive the plaintiff, the impleadment of the said revenue officials is mandatory as neither any valid adjudication could take place nor their connivance could be declared in their absence as parties in the suit.

Conclusion: i) A housewife is not required to prove the execution of a gift by her husband with the same standard of proof as a general donee.

ii) See above analysis No ii.

iii) A donee is required to prove all the ingredients of valid gift.

iv) See above analysis No iv.

v) See above analysis No v.

vi) See above analysis No vi.

vii) A gift, executed in favour of wife by husband would not place the onus on wife with the same standard of proof to prove the gift as is otherwise required from a done.

viii) Under Order VI Rule 4, of the Code of Civil Procedure, 1908, in all cases in which the party pleading relies on fraud etc particulars shall be stated in the pleadings.

ix) Where the mutation is alleged to have been effected with active connivance between the revenue officials, impleading revenue officials is mandatory.

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31. **Lahore High Court**
Zahida Parveen v. District Collector etc.
Writ Petition No.8516/2022
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC222.pdf

Facts: Through this constitutional petition, challenge has been laid to order passed by the Assistant Collector, whereby the application for review of mutations was disposed of with the observation that sanction of the impugned mutations has been obtained through fraud and forgery, therefore, such issue can only be resolved through recording of evidence, by the Civil Court.

Issues: i) Whether filing of the suit by the respondents/donee seeking declaration on the basis of revenue entries and dismissal thereof ipso facto results in establishment of fraud in respect of the said revenue entry (gift mutation) and the aggrieved person is not obligated to establish the commission of fraud, through evidence, before the Court of plenary jurisdiction?
ii) Whether the Revenue Court can decide plea of sale mutation obtained through fraud and misrepresentation in summary proceedings?

Analysis: i) The contention of the petitioner is devoid of any persuasion as filing of the suit by the respondents/donees and the dismissal thereof does not ipso facto result in establishment of fraud as alleged by the petitioner in respect of the impugned mutation, rather, the petitioner still remains obligated to establish the commission of fraud through evidence before the Court of plenary jurisdiction. This Court is of the opinion that onus to prove a valid gift and element of fraud underlying the impugned gift mutations, involve a delicate interaction of the onus to prove and shifting of presumptions during the course of evidence. Thus, mere fact that the respondents/donees instituted a civil suit for declaration, which was dismissed does not transform into any executable decree in favour of the petitioner for reversing the impugned mutations
ii) the legal position as to the nature of proceedings before the Revenue Court as summary is consistent and the plea of setting aside the sale mutation obtained through fraud and misrepresentation could not have been granted by the revenue officials in summary proceedings as the same fall within the domain and jurisdiction of the Courts of plenary jurisdiction.

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

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32. **Lahore High Court**
Muhammad Mohsan v. The State
Crl. Appeal No.27259-J of 2021 and Murder Reference No.73 of 2021.
Mr. Justice Shehram Sarwar Ch, Mr. Justice Sardar Akbar Ali
https://sys.lhc.gov.pk/appjudgments/2025LHC302.pdf

Facts: The appellant was convicted of murder and sentenced to death based on eyewitness testimony, while his co-accused were acquitted. The defence challenged the conviction due to delayed FIR registration, unreliable eyewitnesses, and inconsistencies in medical and forensic evidence.

Issues: i) Whether the gruesome nature of a crime can influence the assessment of evidence and determination of guilt?
ii) Whether the unexplained delay in reporting the crime to the police affects the credibility of the prosecution's case?
iii) Whether a significant delay in conducting the post-mortem examination adversely affects the prosecution's case?
iv) Whether the condition of the deceased's open eye at autopsy casts doubt on the presence of eyewitnesses?
v) Whether the unnatural conduct of eyewitnesses casts doubt on their presence at the crime scene?
vi) Whether dishonest improvements in eyewitness statements render their testimony unreliable?
vii) Whether the prosecution's failure to produce key witnesses justifies an adverse inference under Article 129(g) of the Qanun-e-Shahadat Order, 1984?
viii) Whether medical evidence alone, in the absence of eyewitness testimony, is sufficient to establish the appellant's guilt?
ix) Whether the recovery of the alleged weapon of offence is consequential when the forensic report is negative?
x) Whether the prosecution's failure to produce solid evidence of motive affects the case against the accused?
xi) Whether an accused is presumed innocent until proven guilty beyond reasonable doubt, and if any doubt arises in the prosecution's case, should the benefit of doubt be given to the accused?

Analysis: i) The frightful nature of crime should not blur the eyes of justice, allowing emotions triggered by the horrifying nature of the offence to prejudge the accused. The rule is that the cases are to be decided on the basis of evidence and not on the basis of sentiments and emotions. The gruesome, heinous or brutal nature of the offence may be relevant at the stage of awarding suitable punishment after conviction; but it is totally irrelevant at the stage of appraising or re-appraising the evidence available on record to determine guilt of the accused (…) No matter how heinous the crime, the constitutional guarantee of fair trial under Article 10-A of Constitution of Islamic Republic of Pakistan, 1973, cannot be taken away from the accused. It is, therefore, duty of the Court to assess the

probative value (weight) of every piece of evidence available on record in accordance with the settled principles of appreciation of evidence, in a dispassionate, systematic and structured manner without being influenced by the nature of allegations. Any tendency to strain or stretch or haphazardly appreciate evidence to reach a desired or popular decision in a case must be scrupulously avoided or else highly deleterious results seriously affecting proper administration of criminal justice will follow.

ii) There is a delay of about 03 hours and 35 minutes in reporting the crime to the police without any plausible explanation (…) both the witnesses of ocular account namely Muhammad Sadiq / complainant (PW.3) and Muhammad Abbas (PW.4) did not utter even a single word about the above said delay. Therefore, we hold that this inordinate delay in setting the machinery of law in motion speaks volumes against the veracity of the prosecution version.

iii) Undisputedly, there is a noticeable delay in conducting autopsy of the dead-body (…) time elapsed between death and postmortem examination was 12 to 18 hours. It has been held repeatedly by the Hon'ble Supreme Court of Pakistan that such noticeable delay is normally occasioned due to incomplete police papers necessary to be handed over to the Medical Officer to conduct the postmortem examination of dead body of the deceased which happens only when the complainant and police remain busy in consultation and preliminary inquiry regarding the culprits in such cases of unwitnessed occurrence (…)The Hon'ble Supreme Court of Pakistan considered the delay of 10/11 hours from the occurrence in conducting the post-mortem examination on the dead body of deceased, to be an adverse fact against the prosecution case (…)The Apex Court of the country was pleased to observe that delay of 09 hours in conducting the postmortem examination suggests that the prosecution eyewitnesses were not present at the spot at the time of occurrence therefore, the said delay was used in procuring the attendance of fake eyewitnesses.

iv) (PW.8) in his examination-in-chief stated that while conducting autopsy, he found left eye opened of deceased Muhammad Ashraf, which makes the presence of the ocular account at the time of occurrence doubtful because had they been present there they would have closed eye of the deceased who are close relatives of the deceased.

v) (PW-3) and (…) (PW-4) are real father and paternal uncle of Muhammad Ashraf (deceased) respectively, therefore, they can be said to be richly interested witnesses (…) if they were present at the spot at the relevant time even if the appellant though was armed with firearm weapon, they could have caught hold the appellant in their captivity but they neither made any serious effort to save the life of the deceased nor to apprehend the appellant rather they stood like silent spectators and gave free hand to the appellant to cause firearm injuries to their kith and kin. We are, therefore, of the considered view that conduct of both the eyewitnesses is highly unnatural, hence, their presence at the spot is highly doubtful and their testimony is not worthy of reliance.

vi) There is no cavil to the proposition that when a witness improves his statement to strengthen the prosecution case and the moment it is concluded that improvements were made deliberately and with mala fide intention, the testimony of such witness becomes unreliable. The Supreme Court of Pakistan has observed in a plethora of judgments that the witnesses who make dishonest improvements in their statements on material aspects of the case in order to fill the lacunas of the prosecution case or to bring their statements in line with other prosecution evidence are not worthy of reliance.

vii) Furthermore, the owner of the Dara i.e. alleged place of occurrence, has neither been produced in the investigation nor in evidence, therefore, the prosecution has also withheld the best pieces of evidence of Irfan Ahmad, paternal uncle of deceased as well as owner of Dara, hence an adverse inference within the meaning of Article 129(g) of Qanun-e-Shahadat Order, 1984 can also validly be drawn against the prosecution that had the abovementioned witnesses been produced in the witness box then their evidence would have been unfavourable to the prosecution.

viii) The medical evidence produced by the prosecution was not of much avail to the prosecution because the murder in issue had remained unwitnessed and, thus, the medical evidence could not point an accusing finger towards the appellant implicated in this case.

ix) As per prosecution case, weapon of offence i.e. repeater/gun .12 bore (P.5) along with three live bullets (P.6/1-3) has been recovered on the lead of the appellant (…) but this recovery remains totally inconsequential because of negative PFSA report (Exh. PEE & PEE/1).

x) Admittedly, the motive part of the incident is based on oral assertions and no solid evidence in that regard was produced by the prosecution during the trial. There is a haunting silence with regard to the minutiae of motive alleged. No place of motive incident has been mentioned by any of the prosecution witnesses. Even no reason was mentioned by any of the prosecution witnesses that as to why motive incident took place between the accused party and the deceased. None of the prosecution witnesses claimed that they were present at the time of occurrence of motive incident. No independent witness was produced by the prosecution to prove the motive as alleged. Moreover, it is an admitted rule of appreciation of evidence that motive is only a supportive piece of evidence and if the ocular account is found to be unreliable, then motive alone cannot be made the basis of conviction (…) We are, therefore, of the view that the prosecution has failed to prove the motive part of the occurrence.

xi) An accused person is presumed to be innocent till the time he is proved guilty beyond reasonable doubt, and this presumption of his innocence continues until the prosecution succeeds in proving the charge against him beyond reasonable doubt on the basis of legally admissible, confidence-inspiring, trustworthy, and reliable evidence (…) It is by now well settled that if there is a single circumstance which creates doubt regarding the prosecution case, the same is sufficient to give benefit of doubt to the accused.

Conclusion: i) The nature of the crime must not influence the assessment of evidence or determination of guilt.
ii) Unexplained delay in reporting the crime raises doubts about the prosecution's version and affects its credibility.
iii) A significant delay in post-mortem examination raises doubts about the prosecution's version and suggests possible fabrication of eyewitness testimony.
iv) The open eye of the deceased raises doubts about the presence of eyewitnesses.
v) The unnatural conduct of eyewitnesses makes their presence doubtful.
vi) Dishonest improvements in testimony make witnesses unreliable.
vii) Withholding key witnesses justifies an adverse inference against the prosecution.
viii) Medical evidence alone cannot establish guilt in the absence of credible eyewitness testimony.
ix) Recovery of the weapon is inconsequential due to the negative forensic report.
x) See Above analysis x.
xi) Any doubt in the prosecution's case entitles the accused to the benefit of doubt.

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33. **Lahore High Court**
The State Vs Muhammad Amjad
Murder Reference No.204 of 2021; Crl. Appeal No.73258 of 2021; Crl. Appeal No.77038 of 2021
Mr. Justice Shehram Sarwar Ch. Mr. Justice Sardar Akbar Ali
https://sys.lhc.gov.pk/appjudgments/2025LHC317.pdf

Facts: The appellant was convicted under Section 302(b) PPC and sentenced to death by the trial court for allegedly committing murder, while a co-accused was acquitted by extending the benefit of doubt. The appellant challenged his conviction through a criminal appeal, the trial court sent a murder reference for confirmation of the death sentence, and the complainant filed an appeal against the acquittal of the co-accused; all matters were decided together by the High Court.

Issues: i) What legal inference can be drawn when the prime target of an attack remains unharmed?
ii) What is the evidentiary significance of the non-recovery of blood-stained clothes of a witness in a criminal trial?
iii) What are the legal requirements for the admissibility of recovered evidence under criminal law?
iv) To what extent can medical evidence independently establish the guilt of an accused in a criminal case?
v) Under what circumstances is an accused entitled to the benefit of doubt in criminal proceedings?

Analysis: i) No other inference could be drawn from such circumstances other than that

either said witness was not present at the scene or the occurrence took place in a backdrop other than narrated in the FIR. If any such altercation took place between the appellant and Zahid (PW-8) then the prime target for the appellant should be to kill the said witness. Reliance is placed on case law titled as 'Mst. Rukhsana Begum and others vs. Sajjad and others' (2017 SCMR 596), 'Waris Ali and 5 others vs. The State' (2017 SCMR 1572) and 'Tariq Mehmood vs. The State and others' (2019 SCMR 1170)."

ii) Admittedly no such blood-stained clothes of the said eye witness had been secured or produced by Muhammad Yousaf, Sub Inspector (PW-7). In these circumstances, it is concluded that PW-8 produced by the prosecution was not reliable and in all likelihood he had not witnessed the murder in issue. Reliance is placed on case laws titled as ‘Mst. Mir Zalai vs. Ghazi Khan and others’ (2020 SCMR 319) and ‘Rafaqat Ali alias Foji and another vs. The State and others’ (2024 SCMR 1579).

iii) The same is inconsequential for the reason that the prosecution has failed to associate any independent witness of the locality as is evident from the recovery memo (Ex.PF), which bears the signatures of the police officials as recovery witnesses. Thus, the mandatory provisions of Section 103, Cr.P.C. had flagrantly been violated in that regard. Reliance may be placed on case law titled as 'Muhammad Ismail and others vs. The State (2017 SCMR 898).

iv) The medical evidence produced by the prosecution was not of much avail to the prosecution because the murder in issue had remained unwitnessed and, thus, the medical evidence could not point an accusing finger towards any of the culprit implicated in this case. Even otherwise, medical evidence is just a corroborative piece of evidence and could only give details about the locale, dimension, kind of weapon used, the duration between injury and medical examination or death and autopsy, etc. but never identify the real assailant.

v) It is also well established that if there is a single circumstance which creates doubt regarding the prosecution case, the same is sufficient to give benefit of doubt to the accused, whereas, the instant case is replete with number of circumstances which have created serious doubt about the prosecution story. In this regard, reliance may be placed on the case law reported as 'Muhammad Akram versus The State (2009 SCMR 230).

Conclusion: i) The absence of harm to the prime target casts doubt on the prosecution’s version of events.

ii) The non-recovery of blood-stained clothes weakens the credibility of the prosecution witness.

iii) The failure to associate independent witnesses in the weapon recovery renders it inadmissible under law.

iv) Medical evidence alone cannot establish the identity of the assailant in an unwitnessed murder case.

v)The presence of a single doubt in the prosecution’s case entitles the accused to the benefit of doubt.

34. **Lahore High Court**
Rana Zafarullah v. Abdul Ghafoor & others
Writ Petition No.8508 of 2025
Mr. Justice Malik Javid Iqbal Wains
https://sys.lhc.gov.pk/appjudgments/2025LHC438.pdf

Facts: The petitioner, a retired government official, was proceeded against ex parte in a civil suit filed in 2012, and after 12 years, his application to set aside the ex-parte proceedings was dismissed by the revisional court on grounds of limitation and lack of due diligence. Aggrieved by this, the petitioner invoked the constitutional jurisdiction of the Lahore High Court.

Issues: i) What is the legal status of application for setting aside ex-parte proceedings filed after expiry of limitation period?
ii) To what extent a Civil Servant is responsible for acts done in his official capacity?
iii) Can the constitutional jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 be a substitute for ordinary legal remedy?

Analysis: i) It is a settled principle of law that ex-parte proceedings can be set-aside only within the prescribed limitation period, except in cases where lack of proper service is conclusively established. In the present case, the petitioner filed an application for setting aside exparte proceedings after 12 years, which is far beyond the limitation period prescribed under the Limitation Act, 1908 and no justifiable grounds exist for condoning such an excessive delay. No cogent evidence has been provided to establish misrepresentation on the part of private respondent/plaintiff. Moreover, law favours vigilant and not the indolent. The Hon'ble Supreme Court of Pakistan in case Regional Police Officer, Dera Ghazi Khan Region and others vs. Riaz Hussain Bhakhari (2024 SCMR 1021) while dealing the ground for condonation of delay as well as vigilance has held as under:.... No doubt the law favours adjudication on merits, but simultaneously one should not close their eyes or oversee another aspect of great consequence, namely that the law helps the vigilant and not the indolen...
(ii) According to Section 22A of the Punjab Civil Servants Act, 1974, civil servants are generally immune from personal liability for actions performed in good faith while exercising their official duties. Any action undertaken within the scope of official authority is presumed to be an act of the government, and thus, any legal proceedings in such matters are usually directed against the government, not the individual officer. Moreover, there is no statutory obligation requiring retired government officials to defend their past official actions in a court of law, except in cases where they acted beyond their legal authority (ultra vires), their actions involved mala-fide intent, corruption, or misconduct or they violated constitutional rights or engaged in personal wrong-doing. Therefore, in absence of

any such allegations, compelling a retired officer to defend official actions taken during service is unwarranted and legally unjustified.
(iii) The constitutional jurisdiction under Article 199 cannot be invoked as a substitute for ordinary legal remedies, particularly where a petitioner has failed to pursue the available legal options within the prescribed statutory timeframe... The scope of the judicial review of the High Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 in such cases, is limited to the extent of misreading or non-reading of evidence or if the finding is based on no evidence, which may cause miscarriage of justice. It is not proper for the High Court to disturb the finding of fact through reappraisal of evidence in writ jurisdiction or exercise of this jurisdiction as a substitute of revision petition or appeal. Reliance is placed on Naik Muhammad vs. Mazhar Ali and others (2007 SCMR 112).

Conclusion: i) See above analysis (i)
ii) see above analysis (ii)
iii) The constitutional jurisdiction under Article 199 cannot be invoked as a substitute for ordinary legal remedies.

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35. **Lahore High Court**
Hafiz Muhammad Atif Mumtaz v.
Senior Member Board of Revenue, Punjab Lahore etc.
Mr. Justice Raheel Kamran, Mr. Justice Malik Javid Iqbal Wains
https://sys.lhc.gov.pk/appjudgments/2025LHC426.pdf

Facts: The appellant applied for the post of Patwari but was declared ineligible for not being a resident of that Tehsil. He challenged this ineligibility, arguing that the post should be open to all residents of District.

Issues: i) Whether executive instructions can take precedence over statue?
ii) Whether a candidate for some post can take benefit of any mistake in advertisement?
iii) Whether participation in selection process confers any vested right?
iv) Whether principle of estoppel operates againt statute or rule?
v) What is the legal status of public sector appointments made in violation of statutory frame work?

Analysis: i) By now it is well settled that rules framed under statutory authority have the force of law and any executive instructions in contradiction thereto are without legal effect. The executive must abide by and obey the command of the Legislature. If it fails to do so, the Court will be obliged to step in and ensure such obedience. Reliance in this regard is placed on the judgments of the Supreme Court in the case of Muhammad Yasin vs. Federation of Pakistan through Secretary Establishment Division, Islamabad & others (PLD 2012 SC 132).

ii) The Supreme Court of Pakistan in the case of Punjab Public Service Commission & others vs. Husnain Abbas & others (2021 SCMR 1017), has categorically held that an advertisement error does not override statutory provisions or confer an enforceable right to appointment. A mistaken or misleading job advertisement cannot be a ground for bypassing the statutory rules governing recruitment. An erroneous advertisement cannot create a legal right contrary to the law. A public authority cannot be bound by an erroneous act if it contradicts legal provisions

iii) By now it is well settled that mere participation in a selection process does not confer a vested right to appointment unless the candidate fulfills all eligibility criteria prescribed by law and rules. The doctrine of legitimate expectation does not apply where the statutory provisions or eligibility conditions are not satisfied. The selection process, including written tests, interviews, or any other procedural steps, serves as a mechanism to assess eligible candidates, not to override statutory qualifications. Eligibility conditions must be fulfilled before participation in the selection process, and failure to meet these conditions renders the process non-conclusive for the candidate.

iv) It is trite law that no estoppel can operate against a statute or rules framed under it, and an ineligible candidate cannot claim benefits merely because they were erroneously allowed to participate in the recruitment process. Even if certain candidates were appointed in violation of the rules in the past, it does not create a legal precedent for further illegality. The principle of estoppel cannot be invoked against the mandatory provisions of law. Estoppel cannot be used to perpetuate an illegality. The procedural participation does not cure the defect of ineligibility, and an appointment made in violation of eligibility norms is liable to be set aside. No estoppel can be pleaded against statutory provisions.

v) Public sector employment is not a private contract but a matter of public trust, requiring strict compliance with the prescribed legal framework. Any appointment that deviates from the constitutional and statutory mandate violates the fundamental rights of other eligible candidates under Article 25 of the Constitution of Pakistan, which ensures equality before the law... Public appointments cannot be made arbitrarily or outside the framework of rules. Any deviation from the prescribed procedure vitiates the appointment and renders it without legal effect. Such unlawful appointments not only violate the rights of deserving candidates but also erode public trust in the system. The Hon'ble Supreme Court has consistently held that any appointment outside statutory rules is void and illegal, and courts must ensure that recruitment in public service remains transparent and in accordance with law.

Conclusion: i) Executive instructions cannot take precedence over statue.

ii) A mistaken or misleading job advertisement cannot be a ground for bypassing the statutory rules governing recruitment.

iii) Mere participation in a selection process does not confer a vested right to appointment.

iv) No estoppel can operate against a statute or rules framed under it.
v) Any appointment outside statutory rules is void and illegal.

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36. **Lahore High Court**
The State v. Nusrat etc.
Nusrat etc. v. The State
Capital Sentence Reference No.03 of 2021
Criminal Appeal No. 728-J of 2021
Mr. Justice Syed Shahbaz Ali Rizvi, Mr. Justice Muhammad Jawad Zafar
https://sys.lhc.gov.pk/appjudgments/2025LHC404.pdf

Facts: Brief facts of the case are that the driver and a passenger were apprehended by a patrol team upon interception of a truck at a checkpoint and a significant quantity of contraband was recovered from the vehicle and their possession. The trial court convicted both accused and sentenced them to death.

Issues: i) Whether the principle of reverse burden of proof under Section 29 of the Control of Narcotic Substances Act, 1997 (CNSA) absolves the prosecution of its duty to establish a prima facie case?
ii) What is the effect of a break in the chain of custody of seized contraband on the prosecution's case?
iii) Whether failure to maintain compliance with procedural requirements regarding safe custody and forensic testing invalidates prosecution evidence?
iv) Is it mandatory under the Punjab Police Rules 1934 to maintain Register No. XIX for storing and tracking seized articles in the police station?
v) Whether a single reasonable doubt in the prosecution's case is sufficient to warrant acquittal?

Analysis: i) Under the law, due to the provision of Section 29 of the CNSA, the burden of proof in cases pertaining to narcotics substances, unlike prosecution under the Pakistan Penal Code 1860 ("PPC"), is inverted. This principle of reverse burden of proof is not alien to our law as the scheme of CNSA is akin to the Offences in Respect of Banks (Special Courts) Ordinance 1984 ("Ordinance of 1984") and National Accountability Ordinance 1999 ("NAO"), where too there is reverse burden of proof as per Section 9 of the Ordinance of 1984; and, Section 14(c) of NAO, since omitted vide Section 10 of Act XI of 2022. However, just because the burden of proof is inverted does not mean that the prosecution does not have to establish its case.
ii) Insofar as the recovery of contraband is concerned, it needs no reminding that the chain of custody begins with the recovery of the seized drug by the investigating agency and is inclusive of separation of the representative sample(s) of the seized drug and their dispatch to the laboratory for forensic analysis. It is the bounden duty of the prosecution to establish that the chain of custody of sample parcels was unbroken, unsuspicious, indubitable, safe and secure because any break in the chain of custody or lapse in the control of possession of the sample, casts doubt on the safe custody and safe transmission of the sample(s),

which in turn impairs the conclusiveness and reliability of the Report of the Government Analyst, thereby rendering it incapable of sustaining conviction.

iii) The break in the chain of one day, as noted above, is sufficient to cast doubt about the safe custody of the sample parcels, as well as the safe transmission of the same to the laboratory, thereby impairing the credibility and reliability of the PFSA Report

iv) Furthermore, the Punjab Police Rules 1934 ("Police Rules") mandate that register No. XIX (Store-Room Register as prescribed in Rule 22.70 of the Police Rules) shall be maintained in the police station wherein, with the exception of articles already included in Register No.XVI, every article placed in the store room (Malkhana) shall be entered and the removal of any such article shall also be noted in the appropriate column.

v) To this end, it is trite that it is not necessary that there be multiple infirmities in the prosecution case or several circumstances creating doubt. A single or slightest doubt, if found reasonable, in the prosecution case would be sufficient to entitle the accused to its benefit, not as a matter of grace and concession but as a matter of right.

Conclusion: i) The reverse burden of proof under the CNSA does not exempt the prosecution from its duty to first establish a prima facie case.

ii) The prosecution must ensure an unbroken and secure chain of custody for seized contraband, any lapse undermines the reliability of forensic evidence.

iii) A break in the chain of custody raises serious doubts about the safe handling and transmission of evidence, weakening the prosecution's case.

iv) The Punjab Police Rules 1934 require strict maintenance of Register No. XIX to record and track seized articles in police custody.

v) Even a single reasonable doubt in the prosecution's case is sufficient to grant the accused an acquittal as a matter of right.

LATEST LEGISLATION/AMENDMENTS

1. Vide The Trade Organizations Act, 2025 dated 21-02-2025, amendments in sections 2, 3, 4, 7, 8, 9, 11, 12, 13, 15, 16, 17, 19, 20, 21, 22, 23, 27, 33 & 34 are made in The Trade Organizations Act, 2013.
2. Vide The Imports and Exports (Control) Act, 2025 dated 21-02-2025, amendment in section 3 is made in The Trade Organizations Act, 1950.
3. The National Institute of Technology Act, 2025 dated 21-02-2025 was promulgated for the establishment of the National Institute of Technology.
4. The National Excellence Institute Act, 2025 dated 21-02-2025 was promulgated for the establishment of National Excellence Institute.
5. Vide notification No. SO(CAB-I)2-30/2013(ROB) dated 27-01-2025, amendment was made at serial No.18 of first schedule & serial No.14 of the second schedule of The Punjab Government Rules of Business, 2011.

6. Vide notification No.SO (M) HR & MAD 4-78/2013 dated 04-02-2025, The Punjab Hindu Marriage (Marriage Registrar) Rules, 2024 are made.
7. Vide notification No. SOFT(EXT)IV-01-2023 dated 10-02-2025, The Punjab Forest Transit Rules, 2024 are made.
8. Vide notification No. SOFT(EXT)IV-3/2023 dated 10-02-2025, The Punjab Forest Depot Rules, 2024 are made.
9. Vide notification No. SOP (WL) 12-1/2019 (G) (P) dated 23-01-2025, Management Board under Punjab Protected Areas Act, 2020 is reconstituted for three years.
10. Vide notification No. SOP (WL) 12-8/2001-XIII dated 23-01-2025, amendments in first & third schedule are made in The Punjab Wildlife (Protection, Preservation, Conservation and Management) Act, 1974.
11. Vide notification No. SOP (WL) 12-14/2019 (P-I) dated 10-02-2025, amendment is made in the second schedule of The Punjab Wildlife (Protection, Preservation, Conservation and Management) Act, 1974.
12. Vide notification No. SOP (WL) 12-14/2019 (P-I) dated 10-02-2025, amendment is made in The Punjab Wildlife (Protection, Preservation, Conservation and Management) Rules, 1974.
13. Vide notification No.SO(A-I) 8-39/2012(P-II) dated 10-02-2025, The Punjab Free and Compulsory Education Rules, 2024 are made.
14. Vide notification No. SOP (WL) 12-33/2001-II dated 23-01-2025, Punjab Wildlife Management Board under Punjab Wildlife (Protection, Preservation, Conservation and Management) Act, 1974 is reconstituted for three years.

SELECTED ARTICLES

1. **MANUPATRA**
   https://articles.manupatra.com/article-details/INTER-GENERATIONAL-INTRA-GENERATIONAL-EQUITY-UNDERSTANDING-THE-BASICS-OF-SUSTAINABLE-DEVELOPMENT

   Inter-Generational & Intra-Generational Equity by Nancy Aggarwal & Ritika Guj

   You pick up today's newspaper, and it's the same news of environmental degradation. You loudly disapprove of what is going on in the world, smack the paper on the table, and go on with your day. When we sit with our elders and hear their life stories, they are full of moments when they are out in the lap of nature, and this is what has changed now, the stories we'll be telling our younger generation will be about days where we spent a whole week inside our houses due to increased pollution and decreased human efforts to improve such situations. What if our parents and grandparents left the kind of environment for us that we will be leaving for ours? Would this level of developmental progress be possible? An ideal society is well aware of environmental conditions and is working towards the betterment of the same. Environmental awareness is vital so that society can exist efficaciously. Living in a healthy environment should be deeply rooted in

young minds so that the idea does not remain just an idea but becomes a habit. When we talk about the environment we talk about the world as a whole society and not just a few countries. As resources like air, water, etc are res communes and no one country is the absolute owner of them. This raises the question of equity. A healthy society can seek a balance between intergenerational and intragenerational equity, this is also known as the doctrine of sustainable equity. This paper will focus on the same and will be an attempt to thoroughly understand intergenerational and intragenerational equity, this will include understanding its meaning, its relevance, the issues faced today and the solutions for the same.

2. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/navigating-the-complexities-of-domestic-violence-cases-17465.asp

   Navigating the Complexities of Domestic Violence Cases by Yaksh Sharma

   Domestic violence cases are among the most emotionally charged and legally intricate challenges one can face. Securing the services of an experienced and empathetic domestic violence lawyer can be the deciding factor in achieving a fair outcome. Whether you are navigating the legal system in a specific community like Rancho Cucamonga or elsewhere in California, it is crucial to have a lawyer who combines local expertise with a deep understanding of the broader legal framework. The right legal advocate not only defends against criminal charges but also ensures that your constitutional rights are protected at every stage of the legal process. By conducting thorough research, assessing the lawyer's experience and client rapport, and understanding the tailored defense strategies available, you can take a proactive step towards safeguarding your future. Ultimately, a dedicated legal professional transforms a daunting and emotionally taxing experience into a structured, manageable process-providing clarity, support, and the best possible defense in the face of serious allegations.

3. **MANUPATRA**
   https://articles.manupatra.com/article-details/Understanding-Forbearance-to-Sue-Implications-for-Contractual-Rights

   Understanding Forbearance to Sue: Implications for Contractual Rights by Reva Sharma

   When the promisor fails to perform his promise under the contract, it becomes open to the promisee to hold the promisor liable for the breach of the contract. However, if in such a situation, the promisee fails to take action against the promisor for the breach i.e., forbears to sue, it has a substantial bearing on the contractual rights of both parties. The crucial question that then arises is, whether forbearance to sue upon the failure of the promisor to fulfil a promise, would amount to a waiver of the rights of the promisee and if such forbearance would also inextricably qualify for an extension of time granted by the promisee for the performance of the contract.

4. **Lawyers Club India**
   https://www.lawyersclubindia.com/articles/trump-s-power-troubles-legal-conflicts-over-agency-control-presidential-immunity-and-birthright-citizenship-in-light-of-the-constitutional-accountability-center-s-actions-17459.asp

   Trump's Power Troubles: Legal Conflicts over Agency Control, Presidential Immunity, and Birthright Citizenship in light of the Constitutional Accountability Center's actions by Shivani Negi

   Since President Donald Trump's return to the White House, his administration's activities have been subjected to quick and rigorous judicial examination, fueling disputes over the nature of presidential power and constitutional restrictions. Several lawsuits have been filed contesting his policies and executive actions in a variety of fields. Hampton Dellinger, a federal officer fired by President Trump earlier this month, is at the center of a major court struggle. The administration has asked the Supreme Court to step in, hoping to accelerate judiciary rulings that might increase executive power. This case centers on the unitary executive theory, which advocates for wide presidential control over the executive branch. The Court's ruling may significantly alter the balance of power and procedural rules, suggesting its possible attitude on presidential authority. In an effort to impose presidential control, President Trump signed an executive order forcing independent regulatory agencies, such as the Securities and Exchange Commission (SEC) and the Federal Trade Commission (FTC), to submit new policy ideas and obtain budget approval from the White House. This decision, based on the unitary executive principle, has provoked legal challenges and arguments regarding the constitutionality of expanding presidential oversight over traditionally independent agencies.. The Constitutional Accountability Center (CAC), a legal policy think tank that advocates for a more progressive interpretation of the Constitution, has emerged as a major actor in these judicial disputes. The CAC has filed amicus papers in crucial instances, questioning the administration's actions and interpretations of presidential authority. Their involvement emphasizes the active role of legal groups in shaping the debate over constitutional boundaries and presidential authority.

5. **MANUPATRA**
   https://articles.manupatra.com/article-details/Blockchain-and-Corporate-Governance-A-Game-Changer-or-a-Gimmick

   Blockchain and Corporate Governance: A Game-Changer or a Gimmick? by Aayushi Bhargava and Ayushi Malik

   The swift progress of technology has transformed industries, economies, and governance systems, bringing both new opportunities and challenges. Among these advancements, blockchain has surfaced as a groundbreaking element, changing the landscape of data security, transparency, and decentralization. In contrast to conventional databases, blockchain functions as an unchangeable ledger, guaranteeing that once data is recorded, it cannot be modified or erased.2 These characteristic boosts trust and reduces the risks linked to fraud and data tampering. Corporate governance, which lays down the

framework for corporate management and decision-making, has historically faced issues of inefficiency, lack of clarity, and dependence on intermediaries. Blockchain technology presents a possible remedy by simplifying governance processes, enhancing transparency, and mitigating the risks of corporate mismanagement.3 The idea of Decentralized Autonomous Organizations (DAOs) illustrates this transformation, allowing governance systems to function through smart contracts and decentralized decision-making.4 Nonetheless, despite its potential, the use of blockchain in corporate governance brings forth considerable concerns. The heightened transparency of ownership could lead to issues related to regulation and privacy, while the shift from conventional governance structures to blockchain-based systems introduces various logistical and legal obstacles. This article examines the convergence of blockchain technology and corporate governance, evaluating its ability to improve accountability and shareholder rights, while also critically reviewing the limitations and practical difficulties associated with its implementation.
