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FORTNIGHTLY CASE LAW BULLETIN

(16-03-2025 to 31-03-2025)

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

JUDGMENTS OF INTEREST

Sr. No.	Court	Subject	Area of Law	Page
1.	Supreme Court of Pakistan	Principles prescribed by Rule 10 (4) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion, and Transfer) Rules, 1989: Language of the Rule: Scope of “one of the children” used in the rule: Rule of statutory interpretation with regard to executive construction: Limited role of executive authorities qua implementation and amendments etc. of rules: Consequences of allowing the subordinate executive authorities to restrict the lawful scope of rules: Reasonable classification of the rules: Principle as dismantle of proceedings: Legality of exclusion of married daughters from the ambit of Rule 10(4): Proprietary rights to a woman under Islamic jurisprudence: Underlined principles of Articles 1 and 2 of United Nations Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”): Status of a married women: Adoption of gender-sensitive and gender-neutral language.	Administrative Law	1
2.		Bail not an unqualified right; liable to be withdrawn upon misuse; Legal grounds justifying cancellation of bail; Parameters for judicial interference in bail granting orders; Characteristics of a perverse bail order; Tentative standard of assessing material at bail stage.	Criminal Law	5
3.		The validity of a judgment, decree, or order under Section 12(2), CPC, can only be challenged on the plea of fraud, misrepresentation, or want of jurisdiction; the doctrine of merger is commonly understood to	Civil Law	6

		mean sinking or disappearing in something else; Under Order VII Rule 11 CPC, Court can reject the plaint when it does not disclose a cause of action; the relief claimed is under-valued and the plaint to be barred by any law; the intricacies of CPC to every case without justification undermines the purpose of Service Tribunals.		
4.		Duty of Prosecution to prove its case against the accused beyond any reasonable doubt; Report of Civil Defence cannot be relied upon to convict the accused	Criminal Law	7
5.	Supreme Court of Pakistan	Legal standing of children of the missing person's sibling to challenge the validity of the sale executed by their disappeared relative; Right to inherit from a missing person under Islamic jurisprudence; Right of inheritance under Islamic jurisprudence, of a person who dies before the presumed death of a missing person; Burden of proof when a person was known to be alive within the past thirty years; Burden to prove the date of death if a person is missing for seven years.	Civil Law	9
6.		Jurisdiction of family court to adjudicate claim of dowry on the basis of agreement executed in her favor by her late husband.	Family Law	10
7.		Effect of non-mentioning a witness in the FIR or site plan on the credibility of prosecution evidence; legal consequence of non-production of medico legal report by the prosecution; evidentiary value of testimony by a witness lacking qualification in chemical analysis of explosives; settled principle of benefit of doubt in criminal cases.		11
8.		The conflict between the ocular account and the medical evidence casts doubt on the presence of the prosecution's eyewitnesses at the place of occurrence; The unnatural conduct of the eyewitnesses make their presence at the scene at the relevant time highly doubtful; A single circumstance creating doubt in the prosecution case is sufficient to acquit the accused.	Criminal Law	12
9.		Things to be done in the specific manner prescribed; Adverse presumption of Article 129(g) QSO if register no. xix not produced; Separate samples to be prepared; Guidelines		13

		for investigation in narcotics cases.		
10.	Supreme Court of Pakistan	Scope of second appeal; Points to be considered by the High court while dealing second appeal; How discretion should be exercised by court in a suit for specific performance; the judgments/findings immune from interference in second appeal.	Civil Law	15
11.		Doctrine of Election, Remedies under Law Reforms Act, 1977, despite exhaust of remedies by filing an appeal under 1977 Act a parallel jurisdiction of Civil Court is barred?		16
12.		Revisional Court cannot ignore documentary evidence valued by the courts below in their concurrent findings		17
13.		Legal consequences of omission to non-frame a charge for a distinct offence; Ensuring the procedural safeguard under section 342 Cr.P.C to put the incriminating evidence; quantum of sentence if the offence is resulted from spontaneous altercation; Failure of the prosecution to substantiate its claims and its benefit.	Criminal Law	18
14.		Scope and limitation of granting the benefit of doubt to an accused in criminal trials, applicability of the principle of <i>falsus in uno, falsus in omnibus</i> in Pakistan's criminal jurisprudence; legal effect of minor contradictions in the testimonies of prosecution witnesses in criminal cases; sufficiency of testimony by closely related or interested witnesses for conviction in murder cases, sustainability of conviction on ocular and medical evidence in the absence of recovery, evidentiary value of motive in cases based on direct evidence.		20
15.		Infliction of injuries by using two different types of weapons may lead to determine number of assailants; the value of DNA-based evidence, effects of inordinate delay in recovery of weapon of offence and reliability of the forensic results based upon afore said recovery; absconson as sole basis of conviction.		22
16.		Imposition of death penalty under the doctrine of "rarest of rare"; Testimonies of the eye-witnesses, closely related to both the accused and the deceased carry significant evidentiary value.		24

17.	Supreme Court of Pakistan	Standard for assessing credibility of the prosecution's story; consequence of failure to produce material witnesses; effect of defective investigation and lack of corroborative evidence; application of benefit of doubt where prosecution's case is improbable or doubtful.	Criminal Law	25
18.		Test to determine a peculiar act is terrorism or not? Gravity or brutal nature of an offense alone does not make it an act of terrorism; Limits fixed by law for self-defense in case of apprehended danger; Factors determining the reasonableness of apprehension in self-defense		26
19.		Testimony of related eyewitnesses; Minor inconsistencies about the location and direction of gunshots in case of rapid firing; Minor conflict between the ocular account and medical evidence; Rule of prudence that a witness's credibility depends on the reasonableness of their testimony rather than their status or interest; Circumstances when Ocular evidence outweigh medical evidence.		27
20.		Grounds for issuance of writ of certiorari by High Court; Limitation on High Court substituting findings in writ jurisdiction; Discretion of High Court to remand cases under writ jurisdiction; Supreme Court interference with High Court's factual determinations in writ cases.	Constitutional Law	29
21.		Completion of sale in the eyes of law; Eventualities in calculation of limitation period for suit of pre-emption; Start of limitation period from completion of sale; Effect of delay in making Talb-i-Muwathibat.	Civil Law	30
22.	Lahore High Court	Reliance on ocular testimony contradicted by documentary evidence regarding place of death; legal effect of an anti-timed FIR recorded after preparation of the inquest report; evidentiary value of prosecution witnesses with doubtful presence at the crime	Criminal Law	32
23.		Nature as well as evidentiary value of extra-judicial confession and DNA; Time period for detection of human blood and its disintegration.		33
24.		Discrepancy between the estimated time of death in the medical evidence and the prosecution's version and its effects; enmity is a double edge weapon may lead to the false implication of the accused; abscondence of an accused cannot be considered as substantive proof of guilt		35

25.	Lahore High Court	Effect of Contents of inquest report on the authenticity of the prosecution's version; Stage of development and disappearance of rigor mortis; Medical evidence overriding ocular testimony when it renders the latter wholly improbable; Contradiction between the ocular and medical evidence; motive, being a double-edged sword; Recovery of a weapon without forensic confirmation; Evidentiary Value of abscondence of an accused without independent proof of involvement in the offence; Benefit of doubt if prosecution fails to prove its case beyond reasonable doubt.	Criminal Law	36
26.		Responsibility of a husband with regard to explaining the circumstances leading death of wife; duty of a judge while presiding over a criminal trial; presumption attached to the judgment of acquittal by the trial court.		38
27.		Effect of adoption of statutory rules by an organization, protection to statutory rules relating to terms and conditions of service.	Service Law	39
28.		Purpose of audit programme; Law regulating the payment of stamp duty on insurance policies; Historical scope of the definition of the term "public office" ; Provision and Obligation prescribed by Section 73 of the Stamp Act, 1899; Person authorised to impound the instrument and circumstance when it may be impounded; instrument which cannot not be impounded; Scheme and purpose of the terms "public office" prior to insertion of definitions in Stamp (Punjab Amendments) Act, 1973; Context of the terms "person in charge of public office" and "public officer" used in section 33 of the 1899 Act and section 73(2) of the 1899 Act; Anatomy of section 33 the 1899 Act; Fate of the instruments chargeable with duty if not duly stamped; Scheme of Audit Rules; Power of Auditor and the scope audit.	Civil Law	40
29.		Termination of agency upon death of joint executant under Section 201 of the Contract Act; Decree based on statement by unauthorized person amounts to misrepresentation; Purpose of inserting Section 12(2) CPC through Ordinance X of 1980; Procedure for adjudication of Section 12(2) CPC application is discretionary and case-specific; Concurrent findings vitiated by illegality may		44

		be set aside under constitutional jurisdiction.		
30.		Consent of principal for transfer of property by attorney in his own name; Right of principal to repudiate when no such consent obtained and the mode of consent; Scope of revision in concurrent findings by lower courts.	Civil Law	46
31.		Private treaty of Cooperative Board without bid proceedings does not create any right, an arbitrary alienation of public assets is open for interference by a competent for a, any decision of an authority against the public policies is always void in nature, Futile and frivolous litigation is liable to special costs.		47
32.	Lahore High Court	Right to Proforma Promotion upon removal of temporary embargo or legal restraint; Officiating Promotion Restrictions under Rule 13(i) of the Punjab Civil Servants Rules, 1974; Officiating Promotion as an Administrative Influence cannot be used to create insecurity; Officiating Promotion & Proforma Promotion—it does not bar entitlement if all criteria are met; Effect of Late Impleading of Respondents, does not bar an appeal if the primary claim was timely initiated.	Service Law	48
33.		Special law offences can be compounded without explicit statutory permission; delay in reporting child sexual abuse does not affect the credibility of the case; evidentiary value of a chance witness and DNA reports in criminal cases; be evaluation of testimony of a child victim in criminal cases; requirements for the admissibility of audio and video evidence in court.	Criminal Law	50
34.		The Companies Act objective is to protect the interests of shareholders, creditors, stakeholders and general public by inculcating the principles of good governance and safeguarding minority interests; the Federal Law would prevail when Federation has the legislative competence in case of inconsistency or conflict of the Federal and the Provincial Law; a merger is an absorption of one entity into another by law, not a voluntary transfer.	Companies Laws	52
35.		The essential ingredients of an attempt to commit a crime; components of Section 324 PPC; Failure to achieve the intended result is immaterial under Section 324 PPC; Limitation on punishment under Section 71 PPC for composite offences and its exception.	Criminal Law	54

36.	Lahore High Court	Maintenance of manual and electronic police diaries; Consequences of non-maintenance of police diaries; Sessions Judge's power to inspect police diaries; Online access of diaries for judicial officers; Recording detainee movement in police records; Mandatory production of arrestees before magistrate; Illegality of non-production before magistrate; Liability for breaching police SOPs; Penalty for falsifying police diary entries; Constitutional duty to record arrests and custody; Judicial powers under Sections 22-A(6) and 491 Cr.P.C.	Criminal Law	55
37.		Non-disclosure of past involvement and acquittal did not constitute concealment; Mere registration of an FIR cannot be used as a definitive test to label accused of having a bad character.	Service Law	57
38.		Definition of the term 'modesty' and 'sexual abuse'; Elements to be present for an act outraging a woman's modesty under Section 354 PPC to escalate to sexual abuse; Interpretation of laws to uphold legislative intent; primary objective of the Anti-Rape (Investigation and Trial) Act, 2021; Appointment, tenure, and removal conditions for a Judge of a Special Court under the Anti-Rape (Investigation and Trial) Act, 2021; Jurisdiction and time frame for the trial of scheduled offences under the Anti-Rape (Investigation and Trial) Act, 2021; Limitations on adjournments in trials before the Special Court under the Anti-Rape (Investigation and Trial) Act, 2021; Procedure for appointing a defence counsel; Time frame and adjournment limit for deciding an appeal against a Special Court's judgment under the Anti-Rape (Investigation and Trial) Act, 2021; Procedure for transferring and continuing pending trials under the Anti-Rape (Investigation and Trial) Act, 2021; Effect of procedural amendments or new legislation on ongoing cases; Modification of charges by Special Court during trial under Section 16(3) of the Anti-Rape (Investigation and Trial) Act, 2021; Circumstances in which a Special Court can try non-scheduled offences; Legal requirement for framing fresh charges when upgrading an offence to a more serious one; authority for court to acquit an accused during trial proceedings.	Criminal Law	58

39.	Lahore High Court	Legal status and pivotal role of the Prosecutor General in regulating the conduct of Prosecutors within the Service; overriding effect of Section 20 and the binding nature of compliance with Section 10(2) of the Punjab Criminal Prosecution Service Act 2006; jurisdiction of the High Court to ensure lawful conduct by public functionaries despite the bar under Article 212 of the Constitution; non-binding nature of opinions formed by a Prosecutor or Appeal Committee regarding the filing of appeals; lack of justification for initiating departmental proceedings based solely on a good faith opinion by a Prosecutor.	Criminal Law	62
40.		What includes the term "record available with the Court", power of court to reject the plaint on the basis of record available, scope of the term "barred by law"; Impact of non fulfillment of requirements set forth in Articles 17 and 79 of the Qanun-e-Shahadat Order, 1984.	Civil Law	64
41.		Comparative distinction between compoundable offences detailed in subsections (1) and (2) of section 345 Criminal Procedure Code, 1898; operation of 345 Cr.P.C.; purpose and object of dispensing with permission of court in column No.3 of 345(1) Cr.P.C; powers of granting bail by police in bailable offences; characteristics of the State; police defined; Statutory duty of police upon receiving information regarding cognizable and non-cognizable offences; grounds for cancellation of a criminal case; Statutory force of Police Rules, powers of Magistrate to cancel a FIR.	Criminal Law	65
42.		Prosecution has the exclusive prerogative to decide which witnesses to produce. Circumstances to be kept in mind at the time of exercising power by the Court under Section: 540 Cr.P.C. while summoning a witness.		69
43.		Applicability of Section 324 PPC (attempt to commit qatl-i-amd) is determined while assessing the nature and location of injury on the legs.		70
44.		Effect of belated nomination in criminal case; holding of bail as punishment; err in granting or refusing bail, observations of court in deciding bail.		71

45.	Status of auction during pendency of appeal, legal value of single bid auction.	Banking Law	72
46.	The concept of cancellation of allotment under Para 10(a) of West Pakistan Border Area Regulation, 1959 (Amended vide Ordinance No.III of 1981) and circumstances for cancelation of an allotment; The Border Area Committee have no authority to cancel an allotment from a subsequent purchaser under paragraph 10(a) of the Regulation; Subsequent purchasers are not bound by the original allottee's conditions; their rights are protected under the Constitution; Allottee's title becomes indisputable once he paid the transfer price, which was accepted by the seller is the	Civil Law	73
47.	Principles of rejection of plaint, The Canal and Drainage Act 1873, Prospective or retrospective effects of laws or constitutions, jurisdiction of civil court; statutory bar of rejection of plaint.		74
48.	Cardiopulmonary arrest causing factors; Glasgow Coma Scale (GCS), its calculation and indications of decline; Factors for decline in GCS.	Criminal Law	76
49.	Amendment in the PLA under the principle enshrined in Order VI, Rule 17 of the CPC; Physical and constructive possession of the pledged stock in a pledge transaction; Application of the statutory protection ordained in Section 23 of the Financial Institutions (Recovery of Finances) Ordinance, 2001.	Banking Law	79
50.	Scope of Section 34 CPC regarding discretionary grant of interest; Application of unjust enrichment to prevent undue financial gain; Change of legal stance in light of judicial findings does not constitute approbation and reprobation; Grant of annual increase prior to suit institution not covered under Section 34 CPC; Equitable compensation under the doctrine of <i>restitutio in integrum</i> .	Civil Law	80
51.	Harsher punishment on same charges violates proportionality principle and implies double jeopardy; High Court cannot interfere in factual disputes or replace departmental findings; harsher penalty for exercising right of appeal is unjust and violates doctrine of estoppel.	Service Law	82
52.	Once gift executed validly, its precludes the donor to reclaim ownership; factor to constitute fraud; Subsequent affidavit has no effect upon statement made before the court.	Civil Law	83

53.		Misrepresentation by a party; examination of requirement to deposit the balance sale consideration; principle of reciprocal obligations; exercise of Court's discretion to direct the plaintiff to deposit the balance sale consideration.	Civil Law	84
54.		Where a party avoids presenting a material witness without justification, an adverse inference must be drawn against such a party.; Animosity between the parties cannot diminish the evidentiary value.		85
55.		invoking of provision under Section 177 of the Ordinance as to selection for audit within the permissible period of 60-days for revision of the return resulting in disability of a taxpayer to revise the return within the stipulated period envisaged, under Section 114(6) of the Ordinance, does not render the latter provision redundant.	Income Tax Law	86
56.		Acquisition of land, execution petition, limitation period.	Civil Law	87
57.	Lahore High Court	Effect of unexplained delay in lodging the FIR and conducting postmortem on the credibility of the prosecution case; necessity of independent corroboration for conviction based on testimony of interested witnesses; evidentiary value of chance witnesses lacking convincing justification for their presence at the crime scene; legal consequence of contradiction between medical evidence and ocular account; impact of failure to prove motive set up by the prosecution; evidentiary worth of recovery of weapon corroborated by forensic report in the absence of credible direct evidence; standard for granting benefit of doubt to an accused in criminal cases.	Criminal Law	88
58.		Impact of delay in reporting on prosecution's case; Conviction threshold in circumstantial evidence cases; Value of uncorroborated extrajudicial confession; Worth of retracted confession without safeguards; Admissibility of recoveries sans procedural compliance; Scope of medical evidence in identifying accused; Evidentiary value of unproven motive without ocular support		90

59.	Lahore High Court	Reliance on the testimony of chance witness; inference on withholding best piece of evidence by prosecution, purpose of medical evidence; evidence of the witnesses disbelieved to the extent of co-accused; prosecution set up a motive but fails to prove the same.	Criminal Law	92
60.		To take a contradictory stance that is inconsistent with earlier statements or action; the doctrine which precludes a party from taking a different position before the court.	Civil Law	93
61.		How a company can be sued or initiate legal action on its behalf without exhausting alternate remedy.	Constitutional Law	94
62.		Categories of law with respect to the rights and remedies and their definitions; Nature of a statute providing change of forum; Operational applicability of a statute containing substantive rights and procedural law; Bail in a bailable offence: Applicability of Amendment in Section 43 of PECA by the Amendment Act.	Criminal Law	95
63.		Effect of Delay in FIR on Prosecution Case; Impact of Delayed Autopsy on Eyewitness Credibility; Reliability of Chance Witness Testimony; Legal Consequences of Violating Section 103 Cr.P.C.; Evidentiary Value of Late Recovery of Weapons; Summoning Prosecution Witnesses – Court's Discretion; Accused's Right to Defence Evidence;. Difference Between Section 265-F & 94 Cr.P.C.; Presumption of Facts Under Article 129 QSO; Summoning & Recalling Witnesses – Section 540 Cr.P.C.		96
64.		Scope and conditions to invoke Revisional Jurisdiction, effect of non-exhibition of articles/documents; non-production of witness transmitting the samples; A single doubt is sufficient to entitle the accused to the benefit of doubt.		99

65.	Lahore High Court	Injuries upon witness prove his presence; delay in FIR; Competency of a child witness; quantity and quality of witnesses; value of a solitary statement, in what circumstances the delay in post-mortem report is not fatal; inmates are natural witnesses; preference of ocular account upon the medical evidence; testimony of police officials is as good as any other witness; without DNA comparison the weapon of offence/recovery has no value; mitigating circumstances.	Criminal Law	101
66.		Essentials of <i>res ipsa loquitur</i> ; Limits of <i>res ipsa loquitur</i> in unproven claims; Civil Court jurisdiction under Section 9 CPC; Proof of proximate breach in tort claims; Statutory compensation not an admission of liability	Civil Law	104
67.		Offence committed by a citizen of Pakistan abroad, registration of Criminal case, double-jeopardy	Criminal Law	106
68.		Production of sample bearer as witness ; effect of doubt in criminal case.		106
69.		Timely registration of FIR; Injuries on the injured witness and legal worth of the deposition of injured witness: Relevancy of recovery; Legal principle qua establishing the guilt of accused and its exception; Solitary fire-arm injury as a mitigating circumstance; Rule as to conversion of death sentence into life imprisonment.		107

LATEST LEGISLATION/AMENDMENTS

1.	Notification No.F.2(1)/2025-Pub dated 25 th March 2025; The High Court Judges (Leave, Pension and Privileges) (Amendment) Order, 2025 No. 02 of 2025.	108
2.	Notification No.SO(P-I)2-2/2023(P) dated 19 th February 2025; The Punjab Motor Vehicles Rules, 1969 (Amendment).	108
3.	Notification No. SO(CAB-I)2-18/2018(ROB) dated 19 th 2025; The Punjab Government Rules of Business, 2011 (Amendment).	108

SELECTED ARTICLES

1.	The Role and Impact of Technology in Enhancing Legal Aid Accessibility: An Urban Perspective by Twisha Rangra.	109
2.	Securing The Future: Ip Frameworks In The Age Of Disruptive Technologies By Chandresh Tiwari	109

3.	Trump Administration Taking Action Against Underground Surrogacy in California: Law related to surrogacy that you must know! By Swabhiman Panda	110
4.	Precautions, Best Practices, and Common Mistakes in Drafting a Legal Notice by Sankalp Tiwari	111
5.	6 Powerful Ways AI Voice Effects Are Changing the Game for Content Creators by Yaksh Sharma	111

1. **Supreme Court of Pakistan**
Zahida Parveen v. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and others
C.P.L.A. No. 566-P/2024
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Athar Minallah
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 556 p 2024.pdf

Facts: Petitioner was appointed as a Primary School Teacher under the deceased son/daughter quota. Subsequently, the District Education Officer (Female) withdrew her appointment without issuing a show cause notice. Petitioner filed a departmental appeal against the impugned order, which was not responded to within the statutory period. Consequently, the petitioner preferred an appeal before the Service Tribunal, which was dismissed. Hence, the instant petition for leave to appeal.

- Issues:**
- i) What are the principles prescribed under Rule 10 (4) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion, and Transfer) Rules, 1989?
 - ii) What does the language of the Rule indicate?
 - iii) Whether the married daughter falls within the scope of “one of the children”?
 - iv) What is the rule of statutory interpretation with regard to executive construction?
 - v) What is the role of executive authorities qua implementation and amendments etc. of rules?
 - vi) What will be the consequences of allowing the subordinate executive authorities to restrict the lawful scope of rules?
 - vii) On which factors, the classification of the rules must be founded on ?
 - viii) What is the principle as dismantle of proceedings when the basic order is without lawful authority?
 - ix) What does the exclusion of married daughters from the ambit of Rule 10(4) reveals?
 - x) What does the denial of rights constitutes?
 - xi) What kinds of proprietary rights are available to a woman under Islamic jurisprudence and what presumption was declared contrary to the Islamic law?
 - xii) What notions have been refuted by contemporary constitutional jurisprudence?
 - xiii) What kinds of law and convention are violated on deprivation of married daughters under Rule 10(4)?
 - xiv) What are the underlined principles of Articles 1 and 2 of United Nations Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”).
 - xv) Whether the Constitution recognizes marriage as a status-diminishing event?
 - xvi) What is meant by the fact of excluding a woman from compassionate appointment?
 - xvii) What is the constitutional requirement in respect of identity of the women?

- xviii) What is the rule as to the operation of pronouncement of judgments Supreme Court?
- xix) What the adoption of gender-sensitive and gender-neutral language is a mere formality?

Analysis:

- i) A plain reading of Rule 10(4) makes it evident that it allows compassionate appointment in cases where a civil servant dies or is rendered permanently incapacitated during service. It allows the appointing authority to appoint either one of the children of such a civil servant or, if the child is below the eligible age for government service, the widow/wife, to a post in Basic Pay Scales 1 to 10, subject to prescribed qualifications.
- ii) The language of the rule is inclusive, indicating that the benefit is to be extended equally to all children, without distinction based on gender, marital status, disability or religion.
- iii) Married daughter falls within the scope of “one of the children.”
- iv) It is a settled principle of statutory interpretation that executive construction may assist in understanding administrative practice but holds no binding force where it seeks to override or contradict the express language of a statutory rule.
- v) Executive authorities may issue instructions to supplement the implementation of rules, but it cannot, under the pretext of a clarification, amend or distort the scope of duly framed rules enacted under any statutory mandate.
- vi) Allowing subordinate executive authorities to restrict the lawful scope of such rules would amount to an impressible encroachment into the legislative domain and offend the doctrine of separation of powers. Executive fiat cannot override legislative command, and any interpretation enabling such a proposition would be legally unsustainable and constitutionally repugnant.
- vii) It is well settled that reasonable classification must be founded on an intelligible differentia and must bear a rational nexus to the object sought to be achieved by the law.
- viii) It is well settled law that when the basic order is without lawful authority, then the entire superstructure raised thereon falls to the ground automatically.
- ix) The exclusion of married daughters from the ambit of Rule 10(4) is not merely a procedural irregularity—it reveals a deeper structural flaw grounded in patriarchal assumptions about a woman’s identity and her role within the legal and economic order. It presumes that upon marriage, a woman relinquishes her independent legal identity and becomes economically dependent on her husband, thereby forfeiting entitlements available to similarly situated male counterparts.
- x) At its core, this exclusion constitutes a denial of a woman’s right to financial and economic independence—rights that are not ancillary but essential to the exercise of constitutional personhood. The Constitution guarantees rights to individuals, not to marital units or prescribed social roles. Women are autonomous, rights-bearing citizens in their own right, not by virtue of their relationship to a man, be it father, husband, or son. Financial independence is not a privilege but a necessary precondition for the full realization of citizenship,

autonomy, and personhood. A married daughter remains equally a child of her deceased parent¹¹, and to deny her this entitlement on the basis of marriage is to deny her constitutional identity as an equal citizen. It bears mentioning that the principle of a woman's financial independence is not only grounded in the constitutional text but is also firmly embedded in the Islamic legal tradition.

xi) Under Islamic jurisprudence, a woman retains full ownership and control over her property, earnings, and financial affairs, irrespective of her marital status. Therefore, any presumption that a married woman becomes financially dependent on her husband is not only legally untenable but also religiously unfounded, and contrary to the egalitarian spirit of Islamic law.

xii) Contemporary constitutional jurisprudence has firmly rejected such notions, affirming that marriage neither extinguishes a woman's legal personhood nor curtails her entitlements under the law. Any policy or executive clarification that seeks to reintroduce this logic under the pretext of marital dependency violates the core constitutional guarantees of dignity, equality, and non-discrimination.

xiii) Excluding married daughters from compassionate appointment under Rule 10(4) not only violates Pakistan's constitutional framework but also breaches its international legal obligations under various instruments¹⁶, most notably those under the United Nations Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW").

xiv) Article 1 of CEDAW defines "discrimination against women" as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." Similarly, Articles 2 and 11 of CEDAW explicitly prohibit discrimination in employment on the basis of sex and marital status. The CEDAW Committee has repeatedly underscored that laws and administrative practices rooted in cultural stereotypes or customary norms are incompatible with the State's duty to secure substantive gender equality.

xv) The Constitution neither recognises marriage as a status-diminishing event nor permits the State to presume dependency on that basis.

xvi) To exclude a woman from compassionate appointment merely because she is married is to reproduce precisely the patriarchal structure that denies women their full legal identity. It relegates them to a derivative status, reducing them to dependents rather than recognising them as independent, rights-bearing individuals.

xvii) As Beauvoir aptly asserts, true liberation and by extension, constitutional equality requires that women be recognized and treated as full and equal participants in public life, with rights and responsibilities that are not contingent on their relationship to men. Anything less perpetuates a system in which women's access to the justice remains precarious, conditional, and fundamentally subordinate.

xviii) It is well settled that the judgments of this Court operate prospectively,

unless declared otherwise.

xix) Thus, we deem it imperative to reaffirm that all judicial and administrative authorities bear a constitutional responsibility to adopt gender-sensitive and gender-neutral language. This is not a mere formality, but reflects a substantive commitment to the values of dignity, equality, and autonomy guaranteed to all citizens under Articles 14, 25, and 27 of the Constitution. The judiciary must lead by example, ensuring that the words used to interpret and apply the law do not themselves become instruments of exclusion.

- Conclusion:**
- i) Rule 10(4) prescribes the compassionate appointment in cases where a civil servant dies or is rendered permanently incapacitated during service, then appointing authority is invested with the power to appoint either one of the children of such a civil servant or, if the child is below the eligible age for government service, the widow/wife, to a post in Basic Pay Scales 1 to 10, subject to prescribed qualifications.
 - ii) The language of the rule indicates that the benefit is to be extended equally to all children, without any discrimination.
 - iii) Yes. Married daughter falls within the scope of “one of the children.”
 - iv) The executive construction works in assisting administrative practice.
 - v) The role of executive authorities is limited to issue instructions to implementation of rules, but it cannot amend or distort the scope of rules framed under statutory mandate.
 - vi) The consequences will be as i.e. 1) it will be treated as an impermissible encroachment into the legislative domain and 2) any interpretation enabling such a proposition would be legally unsustainable and constitutionally repugnant.
 - vii) Reasonable classification must be founded on an intelligible differentia and must bear a rational nexus to the object sought to be achieved by the law.
 - viii) When the basic order is without lawful authority, then the entire superstructure raised thereon falls to the ground.
 - ix) It reveals a deeper structural flaw grounded in patriarchal assumptions about a woman’s identity and her role within the legal and economic order.
 - x) The fact i.e. denial of a woman’s right to financial and economic independence to deny her this entitlement on the basis of marriage is to deny her constitutional identity as an equal citizen.
 - xi) A woman retains full ownership and control over her property, earnings, and financial affairs, irrespective of her marital status.
 - xii) Notions i.e. marriage extinguishes a woman’s legal personhood and curtails her entitlements has been rejected by Contemporary constitutional jurisprudence.
 - xiii) Rule 10 (4) Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion, and Transfer) Rules, 1989, Constitution United Nations Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”) are violated on deprivation of married daughters.
 - xiv) See above analysis No. xiv
 - xv) See above analysis No. xv.

- xvi) Excluding a married woman from compassionate appointment, is denial of legal identity.
- xvii) Constitutional equality requires that women be recognized and treated as full and equal participants in public life, with rights and responsibilities.
- xviii) Judgments Supreme Court operates prospectively, unless declared otherwise.
- xix) See above analysis No. xix

2.	<p>Supreme Court of Pakistan Rab Nawaz v. Shehzad Hassan, etc. Crl.P. 235-L/2025 <u>Mr. Justice Syed Mansoor Ali Shah, Mrs. Justice Ayesha A. Malik</u> https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 253 1 2025.pdf</p>
Facts:	<p>The petitioner sought cancellation of post-arrest bail granted to an accused in a murder case. The High Court granted bail citing delay in the test identification parade and nature of recovered weapon.</p>
Issues:	<ul style="list-style-type: none"> i) Whether bail is an unqualified right or subject to withdrawal upon misuse? ii) What are the recognised grounds for cancellation of bail under the law? iii) On what grounds may a court interfere with a bail granting order for the purpose of cancellation? iv) What constitutes a perverse bail granting order warranting interference by the court? v) What is the standard for evaluating material on record at the bail stage?
Analysis:	<ul style="list-style-type: none"> i) Bail, though a concession granted to ensure the liberty of an accused pending trial, is not an unqualified right and can be withdrawn, if misused... The guiding principle remains that the liberty of an individual must be balanced against the need to ensure a fair trial and uphold public confidence in the justice system. ii) The law recognizes that bail may be cancelled if the accused, after securing release, engages in conduct that undermines the administration of justice. Such grounds include attempts to influence or intimidate witnesses, tampering with evidence, committing another offence while on bail, or violating conditions imposed by the court. Furthermore, if the accused fails to appear before the court without just cause, or if new facts come to light that materially alter the basis on which bail was granted, the court may justifiably revoke the concession. iii) The principles evolved for examining a bail granting order for the purpose of cancellation, the court usually interferes on two grounds: (i) when the impugned order is perverse on the face of it, or (ii) when the impugned order has been made in clear disregard of some principle of the law of bail. iv) A perverse order is the one that has been passed against the weight of the material on the record or by ignoring such material or without giving reasons; such order is also termed as arbitrary, whimsical and capricious.

v) While it is one of the elementary principles of the law of bail that courts are not to indulge in the exercise of a deeper appreciation of material available on record at the bail stage and are only to determine tentatively, by looking at such material, whether or not there exist any ‘reasonable grounds’ for believing that the accused person is guilty of the alleged offence.

- Conclusion:**
- i) Bail is not an unqualified right and may be withdrawn if misused.
 - ii) Bail may be cancelled on grounds such as misuse of liberty, interference with justice, breach of conditions, or emergence of new material facts.
 - iii) A bail granting order may be interfered with if it is perverse or made in disregard of bail principles.
 - iv) A perverse bail order is one passed against the record, by ignoring material, or without assigning reasons.
 - v) At the bail stage, courts are to tentatively assess material to see if reasonable grounds exist, without deeper appreciation.

**3. Supreme Court of Pakistan
Pakistan Railways thr. its Chairman Pakistan Railways, Islamabad & another v. Muhammad Amin (deced) thr. LRS
C.P.L.A.512/2022
Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 512 2022.pdf**

Facts: Federal Service Tribunal (FST) vide its consolidated judgment directed the petitioners to upgrade the post of respondent, Signal Maintainer (“SMR”) at Multan Division, from BS-8 to BS-10 for maintaining uniformity with employees in another division which was later upheld by the higher court. Subsequently, the respondents filed implementation petitions to enforce the FST’s judgment. The petitioner, in response, filed a miscellaneous petition under procedural law that the judgment was based on misrepresentation and fraud, as the employees in the other division were not actually working in BS-10. The FST dismissed the petitioner’s miscellaneous petition, leading to the current civil petition for leave to appeal.

Issues:

- i) On what grounds a judgement could be challenged under Section 12(2), CPC?
- ii) What is the doctrine of merger?
- iii) What are the grounds to invoke the provisions of Order VII, Rule 11 CPC?
- iv) Whether the application of provisions of CPC before the Service Tribunal is justified, considering its exclusive jurisdiction?

Analysis:

- i) The validity of a judgment, decree, or order under Section 12(2), CPC, can only be challenged on the plea of fraud, misrepresentation, or want of jurisdiction. The literal meaning of “fraud” can be understood as a planned and calculated usage of deceptiveness, spuriousness, or a trick and/or dishonest means to divest another of his movable or immovable property or a legal right. The term “misrepresentation”

refers to the act of conveying false or misleading information about something or someone to get unfair or unwarranted advantage and the expression “want of jurisdiction” epitomizes the lack of authority to hear a case by a judge/Court; a judge who surpasses his power or dominion to hear a case, or a court which does not have authority to hear the matter.

ii) We cannot disregard the doctrine of merger, which is commonly understood to mean sinking or disappearing in something else; to be lost to view or absorbed into something else; to become absorbed or extinguished; to be combined or be swallowed up and absorption of a thing of lesser importance by a greater, whereby the lesser ceases to exist, but the greater is not increased; an absorption or swallowing up so as to involve a loss of identity and individuality.

iii) Order VII Rule 11 CPC, under which the Court can reject the plaint when it does not disclose a cause of action; where the relief claimed is under-valued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so; where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so; and where the suit appears from the statement in the plaint to be barred by any law.

iv) If all the intricacies or nitty-gritties of CPC are made applicable, allowed, encouraged, or taken into consideration in every case without any lawful justification, then the whole purpose of creating a Service Tribunal with exclusive jurisdiction would be seriously undermined and prejudiced and matters will likely be dragged for an unusual period, given the complexities and convolution of the CPC, like it happens in the Civil Courts, which seemingly go beyond the legislature’s intention to provide speedy justice to the aggrieved civil servants.

- Conclusion:**
- i) The validity of a judgment, decree, or order under Section 12(2), CPC, can only be challenged on the plea of fraud, misrepresentation, or want of jurisdiction.
 - ii) See analysis No. ii.
 - iii) Under Order VII Rule 11 CPC, Court can reject the plaint when it does not disclose a cause of action, the relief claimed is under-valued, the plaint to be barred by any law and written upon paper insufficiently stamped.
 - iv) Applying all intricacies of CPC to every case without justification undermines the purpose of Service Tribunals, leading to unnecessary delays and complexities.

4. Supreme Court of Pakistan
Hameedullah v. The State
Criminal Appeal No.238 of 2021
Mr. Justice Athar Minallah, Mr. Justice Naeem Akhtar Afghan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 238 2021.pdf

Facts: The appellant was convicted under sections 120-B, 302, 324, 435 and 436 of the Pakistan Penal Code, 1860 ('PPC') and sentenced to death by the trial court. The

trial court sent a reference to the High Court under section 374 of the Code of Criminal Procedure, 1898 ('Cr.P.C.') for confirmation or otherwise of the death sentence. The convictions and sentences were also challenged by the appellant and the appeal was dismissed by the High Court while the death sentence was confirmed by answering the reference in the affirmative vide the impugned judgment, the jail petition filed by the appellant was converted into an appeal vide leave granting order. The appellant was convicted and sentenced to death by the Trial Court and he had challenged his conviction and confirmation of death sentence by the High Court through this criminal/jail petition before Supreme Court of Pakistan.

Issues

- i) Whether it is the obligation of the prosecution to prove its case against an accused beyond any reasonable doubt?
- ii) Whether forensic or expert evidence from a non-notified laboratory is admissible and reliable for conviction purpose?

Analysis:

- i) It is settled law and a fundamental principle of criminal jurisprudence that it is the obligation of the prosecution to prove its case against an accused beyond any reasonable doubt. In case the prosecution fails to do so then the accused is entitled to the benefit of doubt as of right¹. The conviction can only be based on unimpeachable, trustworthy and confidence inspiring evidence brought on record by the prosecution. It is also a well settled principle that for extending the right of benefit of doubt it is not necessary that there should be many circumstances creating uncertainty. Even if a single circumstance creates a reasonable doubt in a prudent mind about the guilt of an accused, then the latter is entitled to such benefit 'not as a matter of grace and concession but as of right.'²
- ii) The prosecution was also required to establish that the jacket was laden with explosives and that the two grenades contained explosives. The prosecution did not send the jacket nor the grenades for analysis to a notified Forensic Laboratory. On 27-08-2008 the jacket, two grenades and pellets were sent to the District Civil Defence, Rawalpindi. The latter, on the same day, examined the items and sent a report. There is nothing on record to show that the explosives were sent to a notified recognized laboratory or that the District Civil Defence, Rawalpindi was an established expert having appropriate facilities to give a conclusive opinion. It would, therefore, not be safe to rely upon the report of the District Civil Defence, Rawalpindi, for the purposes of the conviction of the appellant.

Conclusion:

- i) It is the obligation of the prosecution to prove its case against an accused beyond any reasonable doubt.
- ii) It is not safe to rely upon the report of the District Civil Defence for the purposes of the conviction of the accused.

5.

Supreme Court of Pakistan**Iqbal Ali Khan & others v. Naseeb Ali Khan & others****C.A.44-P/2012****Ali Abbas Khan & others v. Iqbal Ali Khan & others****C.A.62-P/2012****Mr Justice Shahid Waheed, Mr Justice Salahuddin Panhwar**https://www.supremecourt.gov.pk/downloads_judgements/c.a. 44 p 2012r.pdf**Facts:**

A dispute arose over inheritance rights in property originally owned by a person who went missing and was presumed dead. Legal heirs of his predeceased brother challenged two revenue mutations involving a sale and inheritance distribution.

Issues:

- i) Whether the children of the missing person's sibling had the legal standing to challenge the validity of the sale executed by their disappeared relative?
- ii) When does the right to inherit from a missing person arise under Islamic jurisprudence; from the date of disappearance or from the date the person is legally presumed dead?
- iii) Can a person who dies before the presumed death of a missing person inherit from that missing person under Islamic jurisprudence?
- iv) Whether Hanafi law treat the presumption of a missing person's life as evidentiary or as a basis for succession?
- v) Who bears the burden of proof when a person was known to be alive within the past thirty years?
- vi) Who must prove the date of death if a person is missing for seven years, and what date is presumed if not proved?

Analysis:

- i) This context leads us to conclude that, in instances where the original owner did not opt to contest the sale mutation while alive, his death does not confer any rights or standing upon his descendants to challenge that sale (1990 SCMR 1586/2002 SCMR 1330) ...concerning the sale mutation, (Ex.PW-3/3), the plaintiffs lacked standing, and their claim was unequivocally barred by the time limitations imposed by law. Accordingly, the first question formulated above is answered in the negative.
- ii) Under Islamic jurisprudence, the right to inherit property is contingent upon a person being legally recognised as deceased. Specifically, regarding a person categorised as missing, the rights to his inheritance are determined by the provisions that state that inheritance rights arise only from the date a person is presumed dead, not retroactively to the date of his disappearance.
- iii) It is also important to highlight that any person who dies prior to the presumed death of the missing person is disqualified from inheriting his property.
- iv) Under Hanfi law, a person considered missing is presumed to be alive for up to ninety years from his date of birth. However, the Full Bench of the Allahabad High Court has already clarified that this presumption operates as a rule of evidence rather than a rule of succession, and we agree with this interpretation.

v) Article 123 maintains that when a state of things is demonstrated to exist, there is a legal presumption regarding its continuity, reflective of the typical duration of such a state of things. It specifies that if evidence shows a person was alive within thirty years prior to the date when the question of his status arises, there is a presumption that he is still alive. The burden of proof then falls upon the party asserting his death.

vi) Article 124 of Qanun-e-Shahadat of 1984, states that if it can be demonstrated that such a person has not been heard of for a period of seven years by those who would naturally have maintained contact with him, the burden of proof then shifts to those claiming the person is still alive... It states that when there is a dispute in a case regarding the date of death of a person who has not been heard from by their relatives for more than seven years, the burden of proof lies with those who assert a specific date. They must provide affirmative evidence to support their claim. However, if no one can demonstrate a particular date or year, the Court should presume that the person was deceased as of the date the suit was instituted rather than at any earlier date.

- Conclusion:**
- i) See above analysis No i.
 - ii) Regarding a missing person, inheritance rights arise only from the date a person is presumed dead, not retroactively to the date of his disappearance.
 - iii) Any person who dies prior to the presumed death of the missing person is disqualified from inheriting his property.
 - iv) See above analysis No iv.
 - v) See above analysis No v.
 - vi) See above analysis No vi.

6. Supreme Court of Pakistan
Muhammad Ajmal etc. v. Mst. Noor Khatoun, etc.
Civil Petition No. 3455-L of 2022
Mr. Justice Yahya Afridi, Mr. Justice Irfan Saadat Khan, Mr. Justice Muhammad Shafi Siddiqui
https://www.supremecourt.gov.pk/downloads_judgements/c.p._3455_1_2022.pdf

Facts: The respondent No. 01, alongside respondent No.2/her daughter filed a Family Suit for recovery of dower in respect of land measuring 12 acres against the present petitioners, contending therein that her late' husband has during his lifetime gave her a parcel of land measuring 12 acres vide an agreement, as her Haq Mahar. The respondents' claim of ownership/possession of the said land was denied by the present petitioners. The matter then proceeded before the Family Judge, who decided the matter in favour of the respondents by decreeing the suit in their favour. The petitioners being aggrieved by the said order thereafter filed Family Appeal before the Additional District Judge who upheld the order of the trial Court. Again, being aggrieved with the said order, Writ Petition was filed by the petitioners before the High Court, which too was dismissed, against which the present appeal has been filed.

Issue: Whether Family Court has jurisdiction to entertain the suit filed by the lady for recovery of dowry, an immoveable property/ piece of land, on the basis of agreement executed in her favour by her late husband in his life time?

Analysis: The specific and categoric findings of the High Court are that “The question before this Court is that whether Family Court has jurisdiction to entertain the suit filed by the lady for recovery of dowry on the basis of agreement executed in her favour by her late husband in his life time. Section 5 of the Family Court Act, 1964, says that the following matters fall within the jurisdiction of Family Court:- 1. Dissolution of marriage (including Khula). 2. Dower 3. Maintenance. 4. Restitution of conjugal rights. 5. Custody of children [and the visitation rights of parents to meet them] 6. Guardianship 7. Jactitation of marriage. 8. Dowry 9. Personal property and belongings of a wife. Rule 6 of the Act *ibid* deals with the jurisdiction of the court to try the suit under the Act. The lady has claimed her dower on the basis of compromise which can be in the shape of cash, moveable or immoveable property. There is no dispute/denial regarding relationship of the spouse being husband and wife, therefore, Family Court had jurisdiction to entertain and decide the suit.” The High Court has dealt with the question of jurisdiction, exercised by the Family Court, in a quite elaborate and eloquent manner which in our view, suffers from no defect.

Conclusion: Family Court has jurisdiction to entertain the suit filed by the lady for recovery of dowry, an immoveable property/ piece of land, on the basis of agreement executed in her favour by her late husband in his life time.

7. Supreme Court of Pakistan
Abdullah alias Muhammad alias Masab (Petitioner in CrI.P.790/2017)
(Petitioner in JP-527/2017) v. The State
CrI.P.L.A No.790 of 2017 & Jail Petition No.527 of 2017
Mr. Justice Athar Minallah, Mr. Justice Malik Shahzad Ahmad Khan, Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 790 2017.pdf

Facts: The petitioners were alleged to have forcibly entered a place of worship on a motorcycle and committed a mass shooting and grenade attack, resulting in numerous deaths and injuries. The petitioners were apprehended by people present at the scene and handed over to the police, but their names were neither mentioned in the FIR nor identified by any eyewitness in court. They were tried, convicted and sentenced on multiple counts.

Issues:

- i) Whether non-mentioning of a witness’s name in the FIR or site plan affects the credibility of the prosecution witness?
- ii) What is the effect of non-production of medico legal report (MLR) in the evidence by the prosecution?
- iii) Whether a witness not qualified in chemical analysis can be relied upon to prove the nature of explosive substances?

iv) What is the principle of law regarding benefit of doubt in criminal cases?

- Analysis:**
- i) This Court has mostly disbelieved the evidence of an eyewitness whose name was not mentioned in the FIR or his presence was not shown in the site plan of the place of occurrence.
 - ii) As the medico legal report of the abovementioned petitioner which was the best evidence to show the presence of the petitioner at the time of present occurrence has not been produced in the prosecution evidence, therefore, an adverse inference under Article 129(g) of Qanun-e-Shahadat Order, 1984 can validly be drawn against the prosecution that had the said MLR been produced in the evidence, the same would not have supported the prosecution case.
 - iii) In the light of abovementioned admission of Allah Yar (PW-7), during his cross-examination, it is evident that neither the said witness has any educational qualification to analysis any explosive substance nor he was Chemical Expert, therefore, no reliance can be place on the evidence of said witness/expert.
 - iv) It is by now well settled that if there is a single circumstance. which creates doubt in the prosecution case then the same is sufficient to acquit the accused.

- Conclusion:**
- i) Eyewitness testimony is unreliable if the witness is not named in the FIR or shown in the site plan.
 - ii) Failure to produce the medico legal report justifies an adverse inference against the prosecution.
 - iii) Testimony of a witness lacking expertise in explosives is not credible.
 - iv) Even a single doubt in the prosecution's case is sufficient for acquittal.

8. Supreme Court of Pakistan
Muhammad Nawaz v. The State etc.
Jail Petition 555 of 2017
Mr. Justice Athar Minallah, Mr. Justice Malak Shahzad Ahmad Khan, Mr. Justice Shakeel Ahmad.
https://www.supremecourt.gov.pk/downloads_judgements/j.p._555_2017.pdf

Facts: The appellant was tried by Sessions Court for the murder of complainant's daughter, under Sections 302 of PPC and convicted him under Section 302(b) PPC and sentenced him to death and in addition to pay compensation amounting to Rs.2,00,000/- to the legal heirs of the deceased as envisaged under section 544-A Cr.P.C and in default whereof to further undergo simple imprisonment for six months. In appeal the learned High Court while maintaining the conviction of the petitioner under Section 302(b) PPC, altered the sentence of death sentence into imprisonment for life. The appellant then filed instant jail petition before the Supreme Court.

Issues:

- i) Whether the conflict between the ocular account and the medical evidence casts doubt on the presence of the prosecution's eyewitnesses at the place of occurrence?

- ii) Whether the unnatural conduct of the eyewitnesses make their presence at the scene at the relevant time highly doubtful?
- iii) Whether a single circumstance creating doubt in the prosecution's case is sufficient to acquit the accused?

Analysis:

- i) The abovementioned conflict between the ocular account and the medical evidence shows that in-fact the prosecution eye-witnesses were not present at the spot at the relevant time because, had they been present at the time of occurrence then they should have given the correct number of injuries sustained by Mst. Azran Bibi (deceased).
- ii) Their abovementioned un-natural conduct makes their presence at the spot at the relevant time highly doubtful as observed in the judgments reported as 'Pathan v. The State' (2015 SCMR 315), 'Zafar v. The State and others' (2018 SCMR 326) and 'Liaquat Ali v. The State' (2008 SCMR 95).
- iii) It is by now well settled that if there is a single circumstance, which creates doubt in the prosecution case then the same is sufficient to acquit the accused.

Conclusion:

- i) The conflict between the ocular account and the medical evidence casts doubt on the presence of the prosecution's eyewitnesses at the place of occurrence.
- ii) The unnatural conduct of the eyewitnesses makes their presence at the scene at the relevant time highly doubtful.
- iii) A single circumstance, creating doubt in the prosecution case is sufficient to acquit the accused.

9. Supreme Court of Pakistan
Jeehand v. The State through Prosecutor General Balochistan
Criminal Petition No. 1187/2021
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Saddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p. 1187_2021.pdf

Facts: The appellant was convicted with life imprisonment for drug peddling under the CNSA. He filed appeal before the Hon'ble High Court but remained unsuccessful.

Issues:

- i) When law require a thing to be done in a particular manner, the same must be done accordingly; what is the implication of this rule upon special enactments?
- ii) What is the impact of, non-production of Register XIX, upon safe custody of narcotics?
- iii) How the spy information to be recorded?
- iv) How the samples of narcotic substance to be prepared?
- v) What should be line of investigation in cases of narcotic substances?

Analysis:

- i) It is a well-established principle of criminal jurisprudence of law arising out of maxim "*Communi observantia non est recedendum*" that when law required a thing to be done in a particular manner, the same must be done accordingly and if the prescribed procedure was not followed, it would be presumed that the same

had not been done in accordance with law, as held in the case of *Noman Mansoor v State* (PLO 2024 SC 805). This principle becomes more inflexible in cases arising out of the special enactments like the Act of 1997, which carries stringent provisions for an accused. Where the sentence is severe very strong evidence is required to prove the charge; reliance can be placed on the cases of *Ahmed Ali v State* (2023 SCMR 781), *Ameer Zeb v State* (PLO 2012 SC 380) and *Muhammad Hashim v State* (PLO 2004 SC 856). Similarly, the rules and regulations have the force and effect of law. The rules and regulations are the product of delegated power to create new or additional legal provisions that have the effect of law.

ii) the prosecution should have proved the safe custody of parcels by production of Register No. XIX in which entry was made regarding receipt and placing of parcels in the store room. Under Article 129(g) of Qanun-e-Shahadat Order, 1984 ("the Order") it can be presumed that the prosecution did not produce Register No. XIX because the in-charge of the store room had not entered the receipt of parcels in the said register. Under Article 102 of the Order, in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of such matter except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under Article 76.

iii) the prior information was never recorded in Register No. II as contemplated by rule 22.49 (n) of the Police Rules. This Court, in the case of *Zain Shahid v State* (2024 SCMR 843), in paragraph 8 has observed as under:

"The case against the petitioner was initiated upon a spy information, but such information was not reduced into writing. Fair play demands that spy information should be reduced into writing in order to safeguard innocent persons against false implication."

iv) Likewise, the learned counsel also drew the attention of this Court to the flawed forensic examination process contending that the collective report of 100 samples issued by the FSL Karachi is in direct violation of the principles laid down in *Ameer Zeb's* case (PLO 2012 SC 380), which mandates that each sample must be tested separately and individual reports must be prepared for each sample. A collective forensic report not only diminishes the credibility of the chemical examination but also raises serious questions regarding the representative nature of the samples sent for analysis.

v) When a criminal case is registered on the allegation of possession of narcotic substances, the accused is arrested at the spot. Then the line of investigation (without prejudice to the Act of 1997 and the rules made thereunder) should be:

- (i) to investigate from whom the recovered narcotic substance was received/purchased by the accused;
- (ii) to whom the delivery of narcotic substance was intended;
- (iii) to investigate the purpose/ultimate utilization for the recovered narcotic substance;

- (iv) to trace the drug abusers (for their rehabilitation);
- (v) who are deriving financial benefits and the use/ purpose of the delivered finance/assets;
- (vi) who are the persons engaged in the business in contravention of the Act of 1997 (starting from cultivator/ manufacturer to the end abuser); and
- (vii) which are the assets so derived by persons engaged in dealing with narcotics.

Conclusion: i) When law require a thing to be done in a particular manner, the same must be done accordingly; this principle becomes more inflexible in cases arising out of the special enactments.
 ii) For non-production of Register XIX, adverse presumption under Article 129(g) QSO would be drawn.
 iii) Such spy information must be recorded in Register No. II (Roznamcha).
 iv) The samples to be prepared separately as per directions contained in Ameer Zeb's case
 v) The investigation to be done in the line from whom he purchased; to whom to be delivered; who is drawing benefits; the producers/manufactures and assets out of this business.

10. Supreme Court of Pakistan

Muhammad Azam & others v. Muhammad Aijaz

Civil Appeal No.99-K/2022

Mr. Justice Irfan Saadat Khan & Mr. Justice Muhammad Shafi Siddiqui

https://www.supremecourt.gov.pk/downloads_judgements/c.a._99_k_2022.pdf

Facts: The suit for specific performance filed by the respondent/plaintiff was decreed by the trial court. First appellate court reversed the findings of trial court and dismissed the suit. The High Court, in Second appeal, accepted the appeal and suit was decreed. Hence, the appeal was filed before the Hon'ble Supreme Court.

Issues: i) What points are to be considered by the High Court while dealing second appeal under section 100 of CPC?
 ii) What is the primary duty of trial court in cases of specific performance?
 iii) How the discretion should be exercised by the courts in deciding the case of specific performance of an agreement?
 iv) What is the scope of second appeal under section 100 of CPC?
 v) Which judgments/findings are immune from interference in second appeal?

Analysis: i) The scope of Section 100 is limited as demonstrate above i.e. a decision should be contrary to law or to some usage having the force of law; that the decision failed to determine some material issue in that regard; a substantial error or defect in the procedure provided by the Code or any other law for the time being in force, which may possibly have produced error or defect in the decision of the case upon the merits.

ii) The primary duty of the trial Court was to see whether the buyer seeking performance of the agreement was “at the relevant time” willing to perform his part of the contract. Prima facie the balance payment was never deposited by the respondent till decision is made by the trial Court, which is a sign of unwillingness on his part.

iii) The other aspect of the matter was that there was no determination as to the value of the property enhanced and a reasonable markup at the rate of 12% per annum over and above the unpaid amount and that too for plots which were only having survey numbers and yet to be identified thus resumptive. The discretion so exercised travelled beyond the limits of equity for enforcing specific performance, which was observed by the First Appellate Court when Civil Appeal No.80 of 2015 was disposed of/allowed reversing the findings of the trial Court.

iv) As far as scope of Second Appeal is concerned there is nothing as an inherent right of appeal. Appeal is purely a creature of statute or the law, be it procedural, within which it is to be preferred. Since for the Second Appeal a frame of interference was provided there cannot be a transgression to it by an exercise of inherent powers. These sections i.e. Section 100 and 101 are expressed provisions giving a right of Second Appeal on the grounds mentioned therein. The provisions restricting the grounds that may be taken in second appeal are based on the ground of public policy expressed in the maxim *interest reipublicae ut sit finis litium* (it concerns the state that there be an end to litigation). Thus, the conditions mentioned in the section must be strictly fulfilled before a second appeal can be maintained and no Court has power to add or enlarge those grounds, so as to determine a question merely on an equitable ground if they come in conflict with them or ignore the provisions of law.

v) If the findings of facts reached by the First Appellate Court are at variance with those of the trial Court, the former will ordinarily prevail although it would not possess the same value or sanctity as that of a concurrent finding. Such findings by the lower Appellate Court will be immune from interference in a Second Appeal provided they pass the test prescribed under section 100 CPC.

- Conclusion:**
- i) See above analysis No.i.
 - ii) To see whether the buyer is willing to perform his part.
 - iii) See above analysis No.iii
 - iv) See above analysis No.iv
 - v) See above analysis No.v

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11. **Supreme Court of Pakistan**
Qazi Mumtaz Hussain and Others v. Govt. of Sindh through its secretary Revenue & others.
Civil Appeals No.112-K to 116-K/2022
Mr. Justice Irfan Saadat Khan & Mr. Justice Muhammad Shafi Siddiqui
https://www.supremecourt.gov.pk/downloads_judgements/c.a._112_k_2022.pdf

- Facts:** Petitioners exhausted their remedies up to appeals under Law Reforms Act, 1977 (1977 Act). Later on, they filed civil suits but they failed to get relief from courts below. They filed Revision applications in the High Court, which also dismissed. Hence, the appeals under Article 185(2) of Constitution of Pakistan have been filed before Hon'ble Supreme Court.
- Issues:** i) Whether once a jurisdiction under the (1977 Act) is exhausted by filing an appeal, a parallel jurisdiction of Civil Court can be invoked for same cause?
ii) What is the Doctrine of Election, and in which cases it becomes applicable?
- Analysis:** i) Indeed the jurisdiction of the Civil Court under the special circumstances could be exhausted but not in a case where the appellant and/or a litigant has attempted a forum other than the Civil Court, as in this case, by not only filing declaration under MLR 115 but also when the Deputy Land Commissioner Tharparkar, after assuming lawful jurisdiction, resumed the excess land; the appellants under the hierarchy of 1977 Act invoked the jurisdiction of Land Commissioner Mirpurkhas Division by filing their respective appeals which were taken to their logical end. By applying the principle of Doctrine of Election the appellants cannot be permitted to have another bite of the cherry by invoking original jurisdiction of Civil Court for a similar recourse.
ii) As per the doctrine of election a person aggrieved of an order/judgment may have a host of remedies to challenge the same but he shall have to elect one of those remedies and after choosing one he may not avail another remedy. Thus, the appellants themselves have chosen to be ousted from availing the jurisdiction of Civil Court long back when they opted to invoke the jurisdiction in pursuance of 1977 Act.
- Conclusion:** i) When jurisdiction under the (1977 Act) is exhausted by filing an appeal, a parallel jurisdiction of Civil Court cannot be invoked for same cause.
ii) See above analysis No. ii.

12. Supreme Court of Pakistan
Muhammad Ahmed Shaikh & others v. Shabbir Ahmed
Civil Appeal No.117-K of 2022
Mr. Justice Irfan Saadat Khan, Mr. Justice Muhammad Shafi Siddiqi
https://www.supremecourt.gov.pk/downloads_judgements/c.a. 117 k 2022.pdf

Facts: The history of the litigation for the purpose of aforesaid appeal is that on the strength of a registered sale deed a suit for possession and mesne profit was filed against the respondent Shabbir Ahmed. The suit was contested by the respondent wherein his defence was that it was a joint property as the respondent has paid certain amount to the father of the plaintiffs/ appellants. In paragraph 3 the respondent took the defence that the appellants, being plaintiffs of the suit, committed fraud with their late father and despite

assurances i.e. his (respondent's) share will be transferred, the assurance was not fulfilled. . In consideration of the pleadings and the evidence brought on record, all issues were decided in favour of the appellants by the trial court. The appellants were thus declared as the owners of the subject property and the respondent/defendant as the one in illegal occupation and in consequence thereof the appellants were declared entitled for the mesne profits accordingly. In consequence of such decree the respondent preferred an appeal in the court Additional District Judge as Civil Appeal, which was dismissed as no interference was held to be required. The respondent preferred Revision Application under section 115 CPC and despite concurrent findings of the two Courts below and the evidence that was brought on record the same was allowed hence this appeal.

Issue: i) Whether Revisional Court can ignore documentary evidence valued by the courts below in their concurrent findings?

Analysis: i) We failed to understand that how a registered instrument as a sale deed being a title of the subject property could be ignored despite the fact that it was challenged belatedly by the respondent and such challenge failed not only at the trial stage but also at the first appellate stage. The two Courts below, other than the Revisional Court whose order is impugned before us, have decided all questions based on material and evidence placed before them with well-reasoned justification to arrive at such conclusion and within their jurisdiction.

Conclusion: i) See above analysis No.

13. Supreme Court of Pakistan
Shabeer Ali v. The State
Criminal Appeal No.28 of 2023
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 28 2023.pdf

Facts: The trial court convicted the appellant under Section 302(b) PPC and sentenced him to death on three counts. A part from it, he was also convicted under Sections 324, 337-F (i), 337-F (ii) and 452 PPC. Appellant challenged his conviction before High Court and the High Court upheld the conviction and confirmed the death sentence. Accordingly, the instant appeal.

Issues:

- i) What are the legal consequences of omission to non-frame a charge for a distinct offence?
- ii) Whether the omission to frame a charge for a distinct offence is an irregularity?
- iii) What does the procedural safeguard under section 342 Cr.P.C. ensure the accused in respect of confronting with all the incriminating evidence?
- iv) What should be the quantum of sentence if the offence is resulted from

spontaneous altercation?

v) Who is entitled to be benefitted from failure of the prosecution to substantiate its claims?

Analysis:

i) **Firstly;** The right to a fair trial, as enshrined in Article 10-A of the Constitution of Pakistan, mandates that every accused person be afforded due process and a fair opportunity to defend themselves. This principle is further reinforced by Article 14(3)(a) of the International Covenant on Civil and Political Rights (ICCPR), which obligates states to ensure that an accused is promptly and adequately informed of the nature and cause of the charge against them. The framing of a charge is not a mere procedural formality, but an essential requirement to apprise the accused of the precise allegations against them, enabling to prepare a proper defense and ruling out any element of prejudice. The provisions of Chapter XIX of the Code of Criminal Procedure, 1898 (See Sections 221 to 240) delineate the mode and manner of framing a charge, underscoring its pivotal role in criminal trials. **Secondly;** The failure to frame a charge, particularly in cases involving distinct offences, goes to the root of the trial and constitutes a material illegality, that cannot be cured U/Section 537 of the Code. This Court, in (M. Younus Habib, 2006)¹ emphasized that the rationale behind the requirement of framing a charge is to ensure that the accused is neither misled nor deprived of a fair opportunity to defend themselves. Likewise, in (Arbab Khan, 2010)² and (Khan Zado, 2015)³, it was held that an omission to frame a charge is a fatal defect that results in miscarriage of justice and vitiates the trial. The significance of this requirement is further highlighted in (Noor Muhammad Khatti, 2005)⁴, wherein it was observed that the administration of justice must not be hindered by technicalities, but a failure that deprives the accused of their right to a fair trial cannot be disregarded. **Thirdly;** the distinction between a defective charge and a complete omission to frame a charge is of paramount importance, while former may not necessarily vitiate a trial if it does not cause prejudice to the accused, whereas the later is an infringement of a statutory obligation, rendering the trial fundamentally flawed. Provision 233 of the Code, mandates that every distinct offence requires a separate charge, and failure to frame such a charge deprives the accused of notice regarding the precise nature of the accusation. Similarly, Section 221 of the Code, envisages, that a charge must state the offence with which the accused is charged. When a trial proceeds without framing a charge for a distinct offence, it not only violates these statutory provisions, but also impairs the accused's ability to defend themselves, leading to a trial that cannot be sustained in law (Md. Mosaddar Hoque, 1958 SC). **Fourthly;** Although Section 237 of the Code allows a conviction for a different offence than the one charged under certain circumstances, this provision is subject to Section 236, which applies only in cases of doubt as to which offence has been committed. It cannot be invoked to convict an accused for a distinct offence under a different penal statute, as held in (Zahid Shahzad, 1981)⁶. The principle, that a person cannot be convicted of an offence for which they have not been charged is well

established, that a charge must be framed for every distinct offence to satisfy the requirements of a fair trial (Nemai Adak, 1965)⁷ & (Istahar Khondkar, 1936).

ii) Omission to frame a charge for a distinct offence is a substantial illegality, rendering the trial a nullity. Such an omission is not a mere irregularity, that can be cured u/Section 537 of the Code; rather, it is a defect, that strikes at the root of the proceedings, necessitating intervention to prevent miscarriage of justice.

iii) The procedural safeguard U/Section 342, Cr.P.C. ensures that the accused is confronted with all the incriminating evidence to afford them an opportunity to explain the circumstances against them. The omission to “frame a charge”, coupled with a failure to put a material accusation to the accused U/Section 342, Cr.P.C., is a grave procedural irregularity that cannot be remedied U/Section 537 of the Code, as it results in a fundamental breach of the right to a fair trial.

iv) If the offence is resulted from a spontaneous altercation rather than a premeditated act, the death sentence should be commuted to life imprisonment.

v) It is a well-established principle that when the prosecution fails to substantiate its claim, the accused benefits from this failure.

- Conclusion:**
- i) See above analysis No.i
 - ii) Omission to frame a charge for a distinct offence is a substantial illegality.
 - iii) All the incriminating evidence is to confront to the accused in order to afford him an opportunity to explain the circumstances against them.
 - iv) See above analysis No. iv
 - v) Accused is entitled to the benefit of failure of the prosecution to substantiate its claim.

- 14. Supreme Court of Pakistan**
Sher Afzal (Crl.A.229/21) Muhammad Latif (Crl.A.230/21) v. The State (in both cases)
Criminal Appeal Nos.229 & 230 of 2021
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 229 2021.pdf

Facts: The appellants were tried and convicted for the brutal murder of five members of a family, arising out of a land dispute. The trial court awarded them the death sentence after a full trial, relying on ocular and medical evidence. The High Court, on appeal, maintained the convictions and sentences, finding the prosecution evidence to be credible and trustworthy. These concurrent findings are challenged through this criminal appeal.

- Issues:**
- i) What is the scope and limitation of granting the benefit of doubt to an accused in criminal trials?
 - ii) What is the applicability of the principle of *falsus in uno, falsus in omnibus* in Pakistan's criminal jurisprudence?
 - iii) Can minor contradictions in the testimonies of prosecution witnesses lead to

acquittal in a criminal case?

iv) Is the testimony of closely related or “interested” witnesses sufficient for conviction in murder cases?

v) Can conviction be sustained on ocular and medical evidence without recovery?

vi) What is the evidentiary value of motive in a case based on direct evidence?

Analysis:

i) The settled principle of law is that “accused is the favourite child of law”, therefore the benefit of doubt is extended to the accused commonly and frequently, but we must not forget that it is based upon some “Reasonable doubt”, and not on the whims of a judge. I take the prerogative in defining the term “Reasonable doubt”, when the law requires it to become the basis for advancing the benefit of doubt, it means having regard to the circumstances of the case which includes following points:-

- It may be entertained by persons of common prudence,
- The doubt must be genuine and inherent in present circumstances
- It must not be artificial, imaginary or exaggerated in nature.
- The doubt must not belong to a weak and vacillating mind, nor to a person inclined to be over-suspicious or unduly to magnify his doubt.

ii) a prime example is the “Falsus in uno, Falsus in omnibus” principle which is that witness who lies about any fact must be disbelieved as to all other facts, considering the social circumstance of the subcontinent, the rule’s application has been modified by this court in the Khizar Hayat Case³ to the extent that the contradiction must be regarding “material facts” only. However, the application of “Falsus in uno, Falsus in omnibus” does not render the principle of “to sift the grain out of the chaff” redundant, since the judge now still has to sift the grain out of chaff, whilst he differentiates between the materiality of the facts in appraisal of evidence.

iii) It would be against the interest of justice to discard the whole evidence on minor contradiction of facts which is not even vital to the case, occurrence of contradictions have many reasons, primarily that it is common that sometimes the witnesses exaggerate the statements in desperation for justice and to emphasize on the intensity of their words, secondly passage of time to occurrence till recording of evidence. The Constitution of the Pakistan 1973 envisages duty upon the courts for dispensation of justice, so the contradictions must not play as hurdles in dispensation of justice and must not lead to miscarriage of justice.

iv) the settled law laid by this court vide esteemed judgment reported as Haji Case¹⁴, this Court held that:- (...) mere inter se relationship as above noted would not be a reason to discard their evidence which otherwise in our considered opinion is confidence-inspiring for the purpose of conviction of the appellant on the capital charge being natural and reliable witnesses of the incident.

v) Even if we exclude the evidence of recovery for being inconsequential, the prosecution by producing cogent, concrete, inspiring confidence and trustworthy ocular account of eyewitnesses, finding support from medical evidence motive and other corroborating evidence in the form of blood stained earth, report of

chemical examiner, report of serologist to the extent of the deceased persons, proved its case beyond any shadow of doubt against the appellants.

vi) So we are of the view that it holds even greater value in cases of direct evidence, and hits the last hammer in support of the prosecution at its conclusion.

- Conclusion:**
- i) Benefit of doubt must rest on genuine, reasonable grounds and not arbitrary or imagined doubts.
 - ii) Only contradictions on material facts warrant discrediting a witness; courts must still evaluate credible parts of testimony.
 - iii) Minor contradictions do not justify discarding entire evidence and must not obstruct the course of justice.
 - iv) Close relationship of witnesses to the deceased does not undermine their credibility if their testimony is trustworthy.
 - v) Credible ocular and medical evidence, supported by motive and forensic reports, in absence of recovery, is sufficient to establish guilt beyond doubt.
 - vi) Motive significantly strengthens the prosecution's case, especially where direct evidence is present.

15. Supreme Court of Pakistan
Muhammad Masood @ Mithu v. The State
Jail Petition No. 441 of 2017
Mr. Justice Athar Minallah Mr. Justice Malik Shahzad Ahmad Khan
Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/j.p._441_2017.pdf

Facts: Brief facts of the case are that the deceased had a dispute over the land with his sons including the petitioner. The deceased had shifted to the house of the complainant i.e., the real sister of the deceased. The deceased had gone to another village to engage a counsel for his son, Muhammad Asif in relation to a matrimonial dispute of his said son. On the same day the complainant and her son, Muhammad were attending a matrimonial ceremony in the meanwhile they heard the sound of gunfire. On reaching to the site of firing, they found the deceased lying in a pool of blood whereas the Petitioner was seen holding a pistol in one hand and a knife (churi) in the other, inflicting blows to the deceased, whereafter, the Petitioner fled away from the crime scene. The occurrence was formally reported by the complainant at Police Station Saddar, Chakwal, alleging that the Petitioner, alongwith his brothers, Muhammad Azam, Muhammad Arif, Muhammad Asif, sisters, Parveen, Nasreen, Bushra, and mother, Mst. Arshad Begum, had confessed before the complainant and her son that they had hatched a conspiracy to commit murder of the deceased and, in pursuance thereof, the petitioner has committed his murder. Since no action was initiated by the police on the said application, the complainant instituted a private complaint wherein the aforementioned family members were arrayed as accused. The trial court relied upon the ocular testimony of the complainant and (PW-8), the alleged motive arising out of the land dispute, medical evidence, recovery of the crime weapon

(churi), and its positive serologist report and convicted the Petitioner under Section 302(b) PPC and sentenced him to death, whereas the co-accused Muhammad Azam and Muhammad Asif were acquitted of the charge. Feeling aggrieved by his conviction and sentence, the petitioner preferred a Criminal Appeal before the Lahore High Court, Rawalpindi Bench, Rawalpindi, the Court while maintaining the conviction of the Petitioner under Section 302(b) PPC, altered his sentence from death to imprisonment for life extending him the benefit of Section 382-B Cr.PC. Hence, this petition.

- Issue:**
- i) Whether infliction of injuries by using two different types of weapons may lead to determine number of assailants?
 - ii) What is value of DNA-based evidence?
 - iii) Whether inordinate delay in recovery of weapon of offence casts serious doubts on the reliability of the forensic results?
 - iv) Whether absconsion can form sole basis of conviction?

- Analysis:**
- i) The infliction of injuries using a *churi* in addition to firearm injuries clearly shows that the number of assailants was more than one. However, the prosecution has kept concealed the real facts for the reason best known to them or the witnesses have not narrated the truth.
 - ii). DNA-based evidence is considered as a gold standard to establish the identity of the accused. Due to its accuracy and conclusiveness, it has been held to be one of the strongest corroborative evidence because it assists the courts in identifying the perpetrator with a higher degree of confidence and reaching just conclusions. However, both the aforesaid cases have also underscored that the usefulness of DNA analysis is contingent upon several factors including the proper documentation, collection, packing, and preservation of such evidence, in the absence of which it shall not meet legal and scientific requirements for admissibility.
 - iii) The inordinate delay in recovery of the same, coupled with the lack of any evidence on record regarding the manner in which it was preserved or stored, casts serious doubt on the reliability of the forensic result. In these circumstances, it is difficult to accept that human blood could have remained detectable on the weapon after such a prolonged period, with absence of proper preservation. Therefore, we are not inclined to place reliance upon such recovery.
 - iv) It is by now settled that mere absconsion, though relevant circumstance, cannot by itself form the sole basis of conviction. Though while absconsion may be treated as a corroborative piece of evidence, it cannot be read in isolation, nor can it compensate for the inherent defects and shortcomings in the prosecution's case.

- Conclusion:**
- i) The infliction of injuries by using two different types of weapons may lead to determine number of assailants
 - ii) DNA-based evidence is considered as a gold standard to establish the identity

of the accused

iii) Inordinate delay in recovery of weapon of offence casts serious doubts on the reliability of the forensic results

iv) See above analysis No iv.

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- 16. Supreme Court of Pakistan**
Abid Hussain v. The State
Criminal Appeal No. 131 and 132 of 2023
Mr. Justice Athar Minallah, Mr. Justice Malik Shahzad Ahmad Khan, Mr. Justice Shakeel Ahmad
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 131 2023.pdf

Facts: The appellants were tried before the trial Court on the charges under Sections 302, 109 and 34 of the Pakistan Penal Code. The 1st Additional Sessions Judge/ Model Criminal Trial Court, Karachi Central, found the appellants guilty of the offence and convicted them.

Issues: i) Whether the circumstances warrant and justify the penalty of death to the appellant under the doctrine of “rarest of rare”?
 ii) Whether the testimonies of eye-witnesses, closely related to the deceased or the accused carry significant evidentiary value?

Analysis: i) It is well-settled law that under the doctrine of “rarest of rare”, the death sentence may be imposed where the offence is exceptionally brutal, shocking to the collective conscience of society, and where there exists a compelling need for deterrence. In the present case, the offence is of the most brutal nature, wherein the appellant has been found guilty of the cold-blooded murder of his own wife, mother of his children, that too within the confines of their matrimonial home and in the presence of their young children. In these circumstances, the appellant does not deserve any leniency whatsoever.
 ii) PW-1, the complainant, and PW-2, are admittedly the son and daughter of the deceased. All the parties are closely related by blood. The occurrence took place inside the house of the appellant, where they were all residing together. It is alleged by the prosecution that the incident took place on 09.06.2014 at 06.30 am. It is stated that upon hearing hue and cry, the complainant (PW-1), woke up and rushed to his mother’s room where he saw that his father/appellant, had set his mother on fire by pouring Kerosene oil on her. Apart from the complainant, the incident was also witnessed by his sister, (PW-2), who fully corroborated the account narrated by the complainant. The testimonies of the eye-witnesses, who are natural witnesses by virtue of being inmates of the house, being closely related to both the accused and the deceased and without any enmity towards the accused, carry significant evidentiary value.

Conclusion: i) See analysis i above.
 ii) The testimonies of the eye-witnesses, closely related to both the accused and the deceased carry significant evidentiary value.

17. **Supreme Court of Pakistan**
Muhammad Oasim and others v. The State etc.
Crl. Appeal No.679 of 2020
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._679_2020.pdf

Facts: The alleged abductee left home in his motorcar for personal affairs but did not return, leading to a search by his relatives. His car was found abandoned, and later a report was lodged alleging abduction by a gang, followed by a ransom demand. Subsequently, ransom was paid, and the abductee was released near a bus stand. The trial court convicted the appellants and sentenced them to life imprisonment, which was upheld by the High Court, while a co-accused was acquitted.

Issues:

- i) What is the legal standard for assessing the credibility of the prosecution's story?
- ii) What is the legal consequence of failure to produce material witnesses in a criminal case?
- iii) What is the effect of defective investigation and absence of corroborative evidence in criminal trials?
- iv) What legal principle applies when the prosecution's case appears improbable or doubtful?

Analysis:

- i) It is settled law that the prosecution's story being foundation on which the entire edifice of the case is built, occupied a crucial status, it should, therefore, stand to reason and must be natural, convincing and free from any inherent improbability, as it would neither be safe to believe such story of the prosecution which did not meet the said requirements nor the prosecution's case based on improbable story could sustain conviction of accused.
- ii) The failure to produce such witnesses casts doubt on the veracity of the complainant's version and raises reasonable suspicion about the nature of the incident. The non-production of the above named material witnesses also amounts to withholding of best available evidence, therefore, an adverse inference within the meaning of Article 129 (g) of the Qanun-e-Shahadat Order, 1984 would be drawn against the prosecution that had these witnesses been produced they would not have supported the prosecution's case.
- iii) The absence of site plans detailing the locations where the abductee was allegedly confined is a critical flaw in the investigation of this case. The lack of such evidence weakens the prosecution's ability to substantiate the claim of abduction and detention. Lastly, the prosecution's failure to prepare a detailed account of the location/place where the ransom money was paid further undermines the case.

iv) It is an axiomatic principle of law that the benefit of doubt is always extended in favour of the accused. The case of the prosecution if found to be doubtful then every doubt even the slightest is to be resolved in favour of the accused.

- Conclusion:**
- i) A prosecution story lacking reason, natural flow, and credibility cannot sustain a conviction.
 - ii) Non-production of material witnesses leads to adverse inference and undermines the prosecution's case.
 - iii) Deficiencies in investigation and absence of corroborative evidence critically weaken the prosecution's claim.
 - iv) Even the slightest doubt in the prosecution's case must be resolved in favour of the accused.

**18. Supreme Court of Pakistan,
Muhammad Asim v. The State etc.
Cr.A.No.623/2022 in Crl.P.L.A No.867 of 2019
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim.**
https://www.supremecourt.gov.pk/downloads_judgements/crl.a. 623 2022.pdf

Facts: The appellant, alongwith co-accused, was tried by the Special Court (Anti-Terrorism Court) for the murder of a constable, under Sections 302, 34 PPC, and Sections 7(a) and 21-I of the Anti-Terrorism Act, 1997. He was convicted and sentenced to death. Co-accused were also convicted and sentenced to life imprisonment under the same charges. The appellant and co-accused filed an appeal before the High Court which dismissed the appeal of the appellant but allowed to the extent of co-accused resulting in their acquittal. The appellant then filed a petition before the Supreme Court, which granted leave to examine the evidence.

Issues:

- i) What is the test to determine whether a peculiar act is terrorism or not?
- ii) Does the gravity or brutal nature of an offense alone make it an act of terrorism?
- iii) What limits are fixed by law for self-defense in case of apprehended danger?
- iv) What factors determine the reasonableness of apprehension in self-defense?

Analysis:

- i) The test to determine whether a peculiar act is terrorism or not? is motivation, object, design and purpose behind such act and not the consequential effect created by such act.
- ii) Mere gravity or brutal nature of an offence would not provide a valid yardstick for bringing the same within the meaning of terrorism.
- iii) The only consideration of self defence is that a person threatened with danger of injury should not exceed the limits fixed by the law. This, of course, depends upon reasonable apprehension of danger to the person under the peculiar circumstances of the case.

iv) The reasonableness of the apprehension is a question of fact which depends upon the weapon used, the manner of using it, the nature of assault or other surrounding circumstances.

Conclusion: i) See above analysis No.i
 ii) Gravity or brutal nature of an offence would not provide a valid yardstick for bringing the same within the meaning of terrorism.
 iii) See above analysis No.iii
 iv) See above analysis No.v

19. Supreme Court of Pakistan
Akbar Saeed v. The State and another
Criminal petition no.1366 of 2018
Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p.1366.2018.pdf

Facts: In a private complaint filed under sections 302 and 34 of the Pakistan Penal Code against two accused, the learned Trial Court acquitted co-accused but convicted the appellant under section 302(b) PPC and sentenced him to imprisonment for life and to pay rupees one lac as compensation to legal heirs of the deceased in terms of section 544-A Cr.P.C. and in default of payment thereof to further undergo six months simple imprisonment. Aggrieved from his conviction and sentence, the appellant filed a Criminal appeal before the Hon'ble Lahore High Court but the same was dismissed thereafter this criminal petition for leave to appeal was filed.

Issues: i) Whether the testimony of eyewitnesses, who are closely related to the deceased can be relied upon?
 ii) Can minor inconsistencies about the location and direction of gunshots weaken the prosecution's case when the incident involved rapid firing?
 iii) Whether a minor conflict between the ocular account and medical evidence is sufficient to discard credible and trustworthy eyewitness testimony?
 iv) Can minor discrepancies in evidence justify rejecting credible prosecution testimony?
 v) Whether, under the rule of prudence, a witness's credibility depends on the reasonableness of their testimony rather than their status or interest?
 vi) Whether, in criminal jurisprudence, the credibility of prosecution evidence should be assessed based on the quality of the statement rather than the number or identity of the witnesses?
 vii) Can reliable ocular evidence outweigh medical evidence and suffice for conviction?

Analysis: i) Both the eyewitnesses are the real brothers of the deceased but in absence of any ulterior motive/animus for false implication of the appellant, their confidence

inspiring testimony, cannot be discarded merely due to their close relationship with the deceased.

ii) The deceased being not a static object must have moved around while receiving fire shots in such situation the possibility of receiving some fire shots from back could not be ruled out. Even otherwise, a person witnessing an incident of firing cannot be expected to give account for the location of each fire shot on the person of the deceased and direction of each fire shot with exactitude.

iii) Prosecution has established presence of the eyewitnesses at the spot at the time of occurrence and that they have furnished straightforward and truthful account of the occurrence. In such view of the matter, the single ground of conflict between ocular account and medical evidence urged by the learned counsel for the petitioner would not be sufficient to pursue us to make it a basis for acquittal of the appellant.

iv) It is by now well settled proposition of law that as long as the material aspects of the evidence have a ring of truth, court should ignore minor discrepancies in the prosecution's evidence. The test is whether the evidence of a witness inspires confidence. If an omission or discrepancy goes to the root of the prosecution's case, the defence can take advantage of it otherwise not. While appreciating the evidence of a witness the approach of the Court must be whether the evidence read as a whole appears to have a ring of truth. Minor discrepancies of trivial nature not affecting the material contradictions in the prosecution's case ought not to prompt the court to reject evidence in its entirety. Such minor discrepancies which do not shake the salient features of the prosecution's case should be ignored.

v) There cannot be universal principle that in every case, interested witnesses should be disbelieved or disinterested witnesses be believed. It all depends upon the rule of prudence and reasonableness to hold that a particular witness was present on scene of crime and that he is making true statement. A person who is otherwise reported to be very honest, above board and very respectable in the society, if gives statement which is illogical and unbelievable, no prudent person despite keeping in view nobility of such person would accept such statement.

vi) As a rule of criminal jurisprudence, prosecution evidence is not tested on the basis of quantity but quality. It is not that who is giving evidence and making statement. What is relevant is what statement has been given and it is not the person but the statement of that person which is to be seen and adjudged.

vii) Even otherwise, this court in case titled "Ali Taj and another Vs the State" (2023 SCMR 900), has held that where ocular evidence is found trustworthy and confidence inspiring, the same is given preference over medical evidence and the same alone is sufficient to sustain conviction of an accused.

Conclusion: i) Confidence inspiring testimony of such witnesses cannot be discarded merely due to their close relationship with the deceased.

- ii) A person witnessing an incident of firing cannot be expected to give account for the location of each fire shot on the person of the deceased and direction of each fire shot with exactitude.
- iii) See above analysis No iii.
- iv) Minor discrepancies of trivial nature not affecting the material contradictions in the prosecution's case ought not to prompt the court to reject evidence in its entirety.
- v) See above analysis No v.
- vi) Prosecution evidence is not tested on the basis of quantity but quality.
- vii) Where ocular evidence is found trustworthy and confidence inspiring, the same is given preference over medical evidence.

20. Supreme Court of Pakistan
Murad Khan etc. v. Mst. Humaira Qayyum etc.
C.P.L.A. NO.923-P OF 2023
Mr. Justice Yahya Afridi, CJ, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 923_p 2023.pdf

Facts: A suit for dissolution of marriage along with recovery of maintenance, dowry articles, and gold ornaments was instituted. The Family Court's decree was modified by the appellate court; the High Court altered this, leading to the present civil petition before the Supreme Court.

Issues:

- i) Can a writ of certiorari be issued against a subordinate court or tribunal for jurisdictional errors or violations of natural justice?
- ii) Can the High Court, in writ jurisdiction, act as an appellate court and substitute its findings for those of subordinate courts or tribunals?
- iii) Is the High Court empowered to remand a matter while issuing a writ of certiorari instead of deciding disputed factual questions?
- iv) Can the Supreme Court interfere with a High Court judgment that exceeds writ jurisdiction by making factual determinations?

Analysis:

- i) A decision of an inferior Court or Tribunal may be quashed by issuing a writ of certiorari where that Court or Tribunal acted without jurisdiction, or exceeded its jurisdiction, or failed to comply with the rules of natural justice in a case where those rules are applicable, or where there was an error of law on the face of the record, or a decision is unreasonable in the Wednesbury sense.
- ii) However, the High Court will not, in exercise of writ jurisdiction, act as a Court of appeal from the Court or the Tribunal concerned. The High Court cannot substitute its decision for the one taken by the subordinate Courts or Tribunals provided it is based on evidence.
- iii) Where the High Court quashes a decision, it has the discretion either to take judicial notice and rectify a jurisdictional error in the order or to remand the matter to the Court, Tribunal or the authority concerned with a direction to reconsider it and to reach a decision in accordance with the judgment given by

this Court while deciding a writ of certiorari.

iv) We are of the view that the High Court ought to have remanded the matter to the learned appellate Court for a decision in the light of the observations of the High Court. We, therefore, deem it appropriate to interfere with the judgment of the High Court only to the extent whereby it has substituted its findings with those of the learned appellate Court.

- Conclusion:**
- i) Yes, a writ of certiorari can be issued for jurisdictional errors or violations of natural justice.
 - ii) No, the High Court cannot act as an appellate court or substitute its findings in writ jurisdiction.
 - iii) See above analysis iii.
 - iv) Yes, the Supreme Court may interfere with a High Court judgment that determines factual matters in writ jurisdiction.

21.

Supreme Court of Pakistan

Nawabzada Muhammad Fateh Khan son of Nawabzada Muhammad Khalid Khan, Resident of Hoti, Mardan, Tehsil and District Mardan v. Mumtaz Ahmad and others
Civil Petition No.331-P of 2014

Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/c.p. 331_p 2014.pdf

Facts: The petitioner instituted a pre-emption suit which was decreed by the trial court; but dismissed by the first appellate court and dismissal maintained by the Hon'ble High Court.

Issues:

- i) When the sale stand completed under the law?
- ii) How many opportunities are there to calculate the period of limitation in a suit for pre-emption?
- iii) Whether the execution of sale deed or mutation/registration of sale deed is to be considered for calculation of limitation period?
- iv) What is the effect of not making Talib-i-Muwathibat immediate upon knowledge of sale?

Analysis:

- i) It is well settled law that when the statement of a vendor is recorded and the sale consideration is paid, the sale under the law gets completed as was observed in the case of Janqi vs. Jhanda and others (PLD 1961 (W.P) Baghdad-ul-Jadid 34). This observation of the High Court was approvingly referred to, first by a two member Bench of this Court in the case of Muhammad Amin Khan vs. Mst. Parveen Ramzan and others (PLD 1998 Supreme Court 1506) and then by a three member Bench of this Court in the case of Muhammad Tariq and others vs. Mst. Shamsa Tanveer and others (PLD 2011 Supreme Court 151)... It is also settled law that in case of a registered sale deed, sale gets completed on the day of execution of sale deed and not on the day of registration of the same.
- ii) there are four different eventualities for calculating the period of limitation for

instituting a suit for pre-emption. Each one of them is independent from each other and pertains to different events that determine the limitation period for enforcing the right of pre-emption. A suit for pre-emption may fall under one of these eventualities and there would not be an option for a pre-emptor to choose anyone of these eventualities by his choice. If a pre-emptor fails to file his suit within 120 days of the registration of the sale deed or attestation of mutation, he can not latter go for Clauses (c) or (d) and *vice versa*.

iii) The legislature in order to address this issue has introduced clauses (c) and (d) in the section of law. These clauses ensure that the right of pre-emption is not circumvented or unnecessarily delayed. The attestation of mutation or registration of sale deed is admittedly an administrative step in the process of transfer of property. This can safely be held that where a suit is covered by any of the Clauses i.e. (a) to (d), the period of limitation would start running under that clause. It is, therefore, an established fact that the pre-emptors had the knowledge of sale of the suit land at the time of filing of their earlier declaratory suit along with an application for the interim injunction. His case at that time was covered under Clause (d) of Section 31 of the Act of 1987. A subsequent attestation of mutation does not give rise to a fresh cause of action in their favour. As discussed earlier the sale in this case was completed but they failed to file their pre-emption suit under Cause (d) and as such their suit was rightly dismissed for being barred by limitation.

iv) A perusal of the above provisions of law makes it clear that for the performance of *Talb-i-Muwathibat*, a prospective pre-emptor has to perform his jumping demand there and then without slightest loss of time, as held by this Court in the case of Mian Pir Muhammad and another vs. Fagir Muhammad through L.Rs. and others (PLD 2007 Supreme Court 302) by making *Talb-i-Muwathibat* in the same sitting/majlis, wherein he gets knowledge of the sale. The law on the point is well settled by now. Once it is proved on the record that *Talb-i-Muwathibat* was not made by the pre-emptor just after getting knowledge of sale in the same meeting/majlis in which he came to know about the sale, then his right of pre-emption would stand extinguished and the plaintiff would not be entitled to succeed in getting the pre-emption decree.

- Conclusion:**
- i) The sale stands completed when the statement of vendor is recorded and consideration is paid.
 - ii) there are four different eventualities for calculating the period of limitation for instituting a suit for pre-emption.
 - iii) The attestation of mutation or registration of sale deed is admittedly an administrative step in the process of transfer of property; the limitation would start when the sale stands completed.
 - iv) The jumping demand is to be made without loss of slightest time.

22. Lahore High Court
The State v. Ali Akbar Zia
Murder Reference No.08 of 2020
Ali Akbar Zia v. The State, etc.
Crl. Appeal No.195 of 2020/BWP
Ms. Justice Aalia Neelum Chief Justice, Mrs. Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC953.pdf>

Facts: The complainant was ploughing fields when a quarrel arose, leading to physical altercation. During the incident, the appellant fetched a firearm from his house and, upon instigation, fired at the complainant's father with intent to kill, who was transported to hospital, who succumbed to the injuries on the way. The alleged motive was a land dispute.

Issues

- i) Can ocular testimony be relied upon when contradicted by documentary evidence regarding the place of death?
- ii) What is the legal effect of an FIR being anti-timed and recorded after the preparation of the inquest report?
- iii) What is the evidentiary value of a prosecution witness whose presence at the crime scene is doubtful?
- iv) What is the standard for proving motive in a criminal case, particularly murder?
- v) What is the legal principle regarding benefit of doubt in criminal trials?

Analysis:

- i) The depositions of the above-said witnesses reveal that the incident was reported to Zahoor-ud-Din, Inspector (PW-5)-the investigating officer at R.H.C Marrot. Whereas, contrary to the depositions of Hammad Zafar (PW-2)- the complainant, Muhammad Majeed (PW-3)-the eye witness and Zahoor-udDin Inspector, (PW-5)-the investigating officer, inquest report (Ex. PP) reveals that in column No.1 relating to the place where death occurred or dead body was recovered, “301/HR رقبہ بحد“ is mentioned. (...)The documentary evidence belied the testimonies of the prosecution witnesses.
- ii) It is relevant to mention here that Zahoor-ud-Din, Inspector (PW-5), the investigating officer, deposed that he received the information about the incident at about 2:00 p.m. The inquest (Ex. PP) was prepared around 01:45 p.m., and it was prepared before lodging the F.I.R. as reflected in the police proceedings (Ex. PE/1), incorporated at the bottom of the oral complaint (Ex. PA). We believe that FIR is anti-timed because the number of FIR was mentioned on the face of the inquest report (Ex. PP), and there is a variance in the FIR and the inquest report (Ex. PP). In the face of the above-said circumstances, the possibility of the FIR being anti-timed cannot be ruled out.
- iii) These grave infirmities destroy the credibility of witness evidence. If the evidence of these witnesses is rejected as untrustworthy, nothing survives the prosecution case. These are the material contradictions in the ocular and documentary evidence.

iv) Regarding the motive for the crime, the prosecution did not produce any documentary evidence. The Investigating Officer also did not make any effort to collect any evidence that may have proved the motive of the crime attributed to the appellant. Therefore, we conclude that the prosecution did not prove beyond reasonable doubt the motive for the crime committed by the appellant set up before the trial court.

v) In the case of “Muhammad Akram v. The State” (2009 SCMR 230), it is held as under: -(...) It is an axiomatic principle of law that in case of doubt, the benefit thereof must accrue in favour of the accused as matter of right and not of grace. It was observed by this Court in the case of Tariq Pervez v. The State 1995 SCMR 1345 that for giving the benefit of doubt, it was not necessary that there should be many circumstances creating doubts. If a circumstance created reasonable doubt in a prudent mind about the guilt of the accused, then the accused would be entitled to the benefit of the doubt not as a matter of grace and concession but as a matter of right.”

- Conclusion:**
- i) The contradiction between the prosecution witnesses’ testimonies and the inquest report regarding the place of death undermines the credibility of their evidence.
 - ii) See analysis No.ii.
 - iii) The major contradictions between ocular and documentary evidence render the prosecution witnesses unreliable, causing the entire case to collapse.
 - iv) The prosecution failed to substantiate the alleged motive with evidence, weakening its case significantly.
 - v) Any reasonable doubt must be resolved in favour of the accused, as a matter of right, not concession.

23. Lahore High Court
Muhammad Waqas. v. The State, etc.
Crl. Appeal No.17977 of 2020
Mst. Rimsha Bibi V. The State
Crl. Appeal No.18416-J of 2020
Justice Ms. Aalia Neelum, The Chief Justice
<https://sys.lhc.gov.pk/appjudgments/2025LHC1052.pdf>

Facts: The appellants filed this appeal against their conviction and sentence of life imprisonment in a murder case.

Issues:

- i) What is nature and evidentiary value of extra-judicial confession?
- ii) What is nature and evidentiary value of DNA evidence?
- iii) For how much period human blood could be detected upon the weapon of offence?

Analysis: i) In any case, an extrajudicial confession is weak evidence requiring corroboration in material particulars by other linked evidence to complete the

chain leading to guilt. On confession of the appellants-accused, about the murder committed by them the immediate reaction would have been to inform at least or caught hold of accused and produced them before police or at least they have to inform to the complainant soon after the alleged confession and catch hold of accused persons, which creates doubts on the alleged confession about the guilt of the accused-appellants... The inaction and the absence of immediate reaction on the part of Muhammad Anwar (PW-11) led to the opinion that the accused persons had not confessed before them about the murder, and that is why they had not reported the matter to the complainant.

ii) The prosecution put much emphasis on the DNA report (Ex. PS/1 and PS/2) to the effect that Deoxyribonucleic acid (DNA) matched the profile obtained from item No. 2.1 “blade of the dranti”, item No. “stain sections of Qameez of Rimsha Bibi”, and item No. 6.1 “stain section taken from the dupatta” matched the profile with item No.1 “cotton” secured from place of occurrence is concerned Muhammad Aslam (PW-8), witness of waj takkar, had not deposed a single word that the sickle and clothes of was Rimsha Bibi accused-appellant were blood stained. There is no mention in the supplementary statement (Ex. PF) that the sickle and hatchet in their (Rimsha Bibi and Waqas) possession that morning were blood-stained or that their clothes were blood-stained and that they were seen coming out of the house. This is what the investigator admitted in his cross-examination. The supplementary statement (Ex. PF) does not state that the clothes were blood-stained... Therefore, the item No. 2.1 “blade of the dranti”, item No. “stain sections of Qameez of Rimsha Bibi”, and item No. 6.1 “stain section taken from the dupatta” process for DNA analysis are also suspicious. Therefore, the DNA report (Ex. PS/1 and PS/2) cannot be made the sole basis for the conviction of the appellant, Ramsha.

iii) It was not possible to determine the origin of the blood on hatchet (P- 5), sickle (P-6), and clothes (P-7, P-8 & P-9), as blood disintegrated after one month of the occurrence and in this regard, case of “FAISAL MEHMOOD. Vs. THE STATE” (2017 Cr.L.J 1) can be referred and relevant portion from the same is reproduced hereunder:-

“It was scientifically impossible to detect the origin of the blood after about two years of the occurrence because human blood disintegrates in a period of about three weeks.”.

Conclusion: i) an extrajudicial confession is weak evidence requiring corroboration in material particulars by other linked evidence to complete the chain leading to guilt. Inaction and absence of an immediate action on the part of the person before whom the confession was made, make it suspicious as it was not made.

ii) DNA is a corroboratory piece of evidence, when substantive evidence is missing in a case, then conviction could not be merely relied upon such piece of evidence.

iii) Human blood could be detected in a period of about three weeks and disintegrates thereafter.

24. Lahore High Court
Muhammad Shahbaz Honey v. The State etc.
Crl. Appeal 15995/20
Ms. Justice Aalia Neelum Chief Justice
<https://sys.lhc.gov.pk/appjudgments/2025LHC934.pdf>

Facts: Accused was convicted under Section 302(B) PPC and sentenced him to life imprisonment as *Tazir* with direction to pay compensation amount of Rs. 500,000 to the legal heirs, in case of default, the amount would be recovered as arrears of land revenue, otherwise suffered six months' simple imprisonment; the benefit of Section 382-B Cr.P.C. was granted: feeling aggrieved, accused filed a criminal appeal against the conviction, while the complainant sought an enhancement of the sentence through a criminal revision.

Issues:

- i) Whether a discrepancy between the estimated time of death in the medical evidence and the prosecution's version affects the credibility of the case?
- ii) Whether enmity is a double edge weapon lead to the false implication of the accused?
- iii) Whether mere abscondance of an accused can be considered as substantive proof of guilt?

Analysis:

- i) The postmortem examination was conducted at 11:45 a.m. on 17.09.2017, i.e., 21 hours after the occurrence, whereas the doctor who had conducted the postmortem examination opined that the duration between death and postmortem examination was 21 hours, which fact vitiates the prosecution case set forth by the ocular account, in this regard cases of “MUHAMMAD RAFIQUE alias FEEQA. Vs. The STATE” (2019 SCMR 1068) and “SYFYAN NAWAZ and another. Vs. The STATE and others (2020 SCMR 192), can be referred.
- ii) Now it is trite law that enmity is a double edge weapon. The existence of a civil dispute was not proved; instead, the complainant had reason for involving the appellant for committing the crime, yet the court has to be cognizant of the fact that this may, in a given case, lead to the false implication of the appellant.
- iii) However, the factum of remaining a fugitive from law for a considerable period, even if established, could only be used as corroborative evidence and was not substantive. It is an established principle of law that mere absconsion is not proof of guilt of an accused.

Conclusion:

- i) See above analysis No.i.
- ii) Enmity is a double edge weapon may lead to the false implication of the accused
- iii) It is an established principle of law that mere absconsion is not proof of guilt of an accused.

25. **Lahore High Court**
Muhammad Ali Yasir v. The State, etc.
Crl. Appeal No.9553 of 2021
Muhammad Ishtiaq. v. The State, etc.
Crl. Rev. No.11377 of 2021
Miss. Justice Aalia Neelum The Chief Justice
<https://sys.lhc.gov.pk/appjudgments/2025LHC1081.pdf>

Facts: The appellant was involved in an FIR with the role of shooting and killing the complainant's father in a shop. The trial court seized with the matter convicted the appellant under section 302(b) PPC and sentenced him to undergo imprisonment for life with the direction to pay Rs.3,00,000/- as compensation under section 544-A Cr.P.C. to the legal heirs of the deceased, and in case of default in payment thereof, he would further undergo six months of S.I. The benefit of section 382-B Cr.P.C. was also extended in favour of the appellant. The occurrence was allegedly witnessed by the complainant and others. The motive cited was a grudge arising from a divorce notice sent by the complainant to the appellant's sister. The appellant denied the allegations, claiming false implication and assailed his conviction by filing Criminal Appeal. The complainant also filed Criminal Revision qua enhancement of sentence.

Issues:

- i) Whether the contents of the inquest report create doubt about the authenticity of the prosecution's version?
- ii) Stage of development and disappearance of rigor mortis
- iii) Whether the medical evidence can override ocular testimony when it renders the latter wholly improbable?
- iv) Whether the contradiction between the ocular and medical evidence affects the credibility of the prosecution's case?
- v) Whether the alleged motive, being a double-edged sword, could lead to false implication of the accused?
- vi) Whether the recovery of a weapon, without forensic confirmation, can support the prosecution's case?
- vii) Whether the abscondence of an accused carries any evidentiary weight without independent proof of involvement in the offence?
- viii) Whether the accused is entitled to the benefit of doubt when the prosecution fails to prove its case beyond reasonable doubt?

Analysis: i) The prosecution tried to prove that the matter was promptly reported to the police after providing medical treatment to the deceased at DHQ Hospital. These facts indicate that the incident was not reported at the time and place as alleged by the prosecution and was lodged with undue delay; therefore, this possibility cannot be ruled out that the FIR was lodged after consultation and deliberations... The investigating officer mentioned in column No.3 of the inquest report (Ex.PM), relating to the time and date of receiving information of death, as "08.05.2013, at 08:45 p.m." and in column No.4 of the inquest report (Ex.PM),

the names of witnesses were mentioned.... and names of the witnesses PW-10, the complainant and given up PW were not mentioned, which creates doubt about the presence of witnesses at the time of preparing the inquest report. All the above facts create doubt about the time and place where the original matter was reported by PW-10-the complainant, to the police.

ii) The average time for developing rigor mortis in all four limbs is observed to be 12 hours. They remain intact for the next 12 hours, and thereafter, they start disappearing, taking about 12 hours to disappear completely.

iii) The position of law in cases where there is a contradiction between medical evidence and ocular evidence can be crystallized to the effect that though the ocular testimony of a witness has greater evidentiary value vis-a-vis medical evidence when medical evidence makes the ocular testimony improbable, that becomes a relevant factor in the process of the evaluation of evidence. However, where the medical evidence goes so far that it completely rules out all possibility of the ocular evidence being true, the ocular evidence may be disbelieved.

iv) Besides, as per the prosecution case as narrated by the complainant in his application (Ex.PA), the accused/appellant made one straight fire shot, which went through and through. However, during post mortem examination, the doctor observed three firearm injuries. The medical account, ocular account and documentary evidence in the shape of the inquest report (Ex.PM) negate the case of the prosecution. Considering these facts, this court believes that the prosecution has withheld the true genesis of the occurrence. Therefore, the possibility of the appellant's false implication in the alleged crime cannot be ruled out.

v) Regarding motive, it is a double-edged sword that cuts both sides/ways. Now, it is trite law that enmity is a double-edged weapon. The existence of a motive on the part of the accused may be a reason for committing the crime, yet the court must be cognizant that this may, in a given case, lead to the false implication of the appellant

vi) As far as recovery of the weapon of offence, i.e., pistol 30-bore (P-4) and three live bullets (P-5/1-3) from the possession of the appellant is concerned, the recovery of the weapon from the accused/appellant is of no consequence because the report of Forensic Science Laboratory, Punjab, Lahore (Exh. PQ) is only to the effect that the weapon allegedly recovered from the accused/appellant was in mechanical operating condition.

vii) Absconding cannot be taken as proof of guilt if sufficient connecting evidence against the appellant is unavailable...Even otherwise, by now, it is an established proposition of law that the absconding creates merely a suspicion in mind, but the same is not conclusive proof of guilt...However, mere absconsion of the accused is no ground to convict him if the prosecution has failed to prove its case against the accused.

viii) If the prosecution story is doubtful, the benefit of the doubt must go to the accused-appellant...Per the dictates of the law, the benefit of every doubt will be extended in favor of the accused/appellant.

- Conclusion:**
- i) See above analysis No i.
 - ii) See above analysis No ii.
 - iii) Where the medical evidence goes so far that it completely rules out all possibility of the ocular evidence being true, the ocular evidence may be disbelieved.
 - iv) The medical account, ocular account and documentary evidence in the shape of the inquest report (Ex.PM) negate the case of the prosecution. Therefore, the possibility of the appellant's false implication in the alleged crime cannot be ruled out.
 - v) See above analysis No v.
 - vi) See above analysis No vi.
 - vii) Mere absconson of the accused is no ground to convict him if the prosecution has failed to prove its case against the accused.
 - viii) Benefit of every doubt will be extended in favor of the accused.

26. Lahore High Court
Shafqat Ali v. The State
Crl. Appeal No.10245 of 2022
Tariq Mehmood v. The State, etc.
Crl. Rev. No.28168 of 2022
Tariq Mehmood v. The State, etc.
P.S.L.A. No.28166 of 2022
Ms. Justice Aalia Neelum, Chief Justice
<https://sys.lhc.gov.pk/appjudgments/2025LHC1269.pdf>

Facts: The appellant has assailed his conviction and sentence recorded by Trial Court in a private complaint filed whereby the learned trial court convicted the appellant under section 302(b) P.P.C and sentenced him to undergo imprisonment for life with the direction to pay compensation to the legal heirs of the deceased, whereas complainant also filed criminal revision for enhancement of sentence awarded to the appellant and P.S.L.A. against acquittal of few accused.

Issue:

- i) What is responsibility of the husband or inmates of the house with regard to explaining the circumstances leading death of wife?
- ii) What is duty of a judge while presiding over a criminal trial.
- iii) What presumption is attached to the judgment of acquittal by the trial court.

Analysis:

- i) It is for the defence to prove that if an offence took place inside the house of the appellant, in which they reside, in such circumstances where the inmates of the house were present at that time and in such circumstance, it will be obligation of the appellant being husband of the deceased to explain the circumstances leading to her death (...)The burden would be comparatively lighter. Given article 122 of the Qanoon-e-Shahadat Order, 1984, there will be a corresponding explanation of how the crime was committed. The burden to prove lies entirely upon the prosecution. There is no difficulty at all to the accused to offer any explanation especially when the defence put specific questions that whether the outer door of

the house was closed from inside and whether they entered the house by scaling over the wall at the time when incident took place, established that except the inmates of the house, no other was present there.

ii) The Judge does not preside over the criminal trial merely to see that no innocent person should be punished; the judge also must ensure that a guilty person does not skip.

iii) unless it can be shown that the lower court's judgment is perverse or that it is completely illegal. No other conclusion can be drawn except the guilt of the accused or misreading or non-reading of evidence resulting in a miscarriage of justice. Even otherwise, when a court of competent jurisdiction acquits the accused, double presumption of innocence is attached to his case. The acquittal order cannot be interfered with, whereby an accused earns double presumption of innocence.

- Conclusion:**
- i) To explain every circumstance leading to death of deceased wife.
 - ii) A judge should ensure a guilty person does not skip.
 - iii) Double presumption of innocence is attached to an acquittal judgment.

27. Lahore High Court
Asghar Ali v. PTCL through its President & others
W.P No.10380 of 2012
Mr. Justice Shahid Karim
<https://sys.lhc.gov.pk/appjudgments/2025LHC922.pdf>

Facts: The petitioners share a common grievance related to allegations of misconduct and misuse of official position, which led to the issuance of charge sheets against them under the PTCL Service Regulations, 1996. Various penalties were imposed on the petitioners, and they have challenged these penalties through their petitions. Previously, a learned Single Judge of the Lahore High Court addressed the matter, ruling that the termination orders were without lawful authority and thus had no legal effect. However, upon appeal by the PTCL to the Supreme Court of Pakistan, the case was remanded back to the Lahore High Court for a fresh decision, as the crucial issues in the petitions had not been adequately determined by this court.

Issues:

- i) Does the mere adoption of statutory rules by an organization confer upon them statutory status?
- ii) When a Department had statutory rules relating to terms and conditions of their service whether their terms and conditions could be varied to their disadvantage?

Analysis:

- i) For the proposition that mere adoption of statutory rules does not make them statutory for the purpose of organization which has adopted those rules.
- ii) The question of T&T Department employees have already been determined in a number of judgments of the Supreme Court of Pakistan starting with Masood Ahmed Bhatti and others v. Federation of Pakistan through Secretary, M/O

Information Technology and Telecommunication and others (2012 SCMR 152) and P.T.C.L. and others v. Masood Ahmed Bhatti and others (2016 SCMR 1362) where it has been held that the employees of former T&T Department had statutory rules relating to terms and conditions of their service which were protected by section 35 read with section 36 of the 1996 Act and so their terms and conditions could not be varied to their disadvantage.

- Conclusion:** i) Mere adoption of statutory rules does not make them statutory.
ii) Their terms and conditions could not be varied to their disadvantage.

28. Lahore High Court
EFU General Insurance Limited & another v. The Province of the Punjab & others
W.P No.7002 of 2020
Mr Justice Shahid Karim
<https://sys.lhc.gov.pk/appjudgments/2025LHC1128.pdf>

Facts: This common judgment is deciding the instant constitutional petition as well as the connected four petitions as the common questions of law and facts are involved in them. Petitioners (trans-provincial insurance companies) were issued notice (“The Impugned Notice”) by the Chief Inspector of Stamps, Board of Revenue Punjab requiring to undertake the audit of the formations scheduled in the audit program and were also directed to furnish the audit reports within stipulated time ensuring that no case is left unattended giving details of recovery position of all the previously conducted audits of the concerned offices/courts.

- Issues:**
- i) What is the precise purpose of audit programme?
 - ii) What is the law regulating the payment of stamp duty on insurance policies?
 - iii) In what matters Courts should avoid constricting the power of coordinate branches of Government?
 - iv) What is the historical scope of the definition of the term “public office”?
 - v) What does Section 73 of the Stamp Act, 1899 (“The 1899 Act”) provides for and what does it obliges the Public Officers?
 - vi) Who may impound the instrument and when it may be impounded?
 - vii) When an instrument cannot not be impounded?
 - viii) What was the scheme and purpose of the terms “public office” prior to insertion of definitions in Stamp (Punjab Amendments) Act, 1973 (“the 1973 Act”)?
 - ix) What is the context of the terms “person in charge of public office” and “public officer” used in section 33 of the 1899 Act and section 73(2) of the 1899 Act?
 - x) What is anatomical scheme of section 33 he 1899 Act?
 - xi) Whether the ratio of *Mustafa Impex* case (PLD 2016 SC 808) applies to Article 138 of the Constitution?
 - xiii) What is fate of the instruments chargeable with duty if not duly stamped?

- xiv) In what manner impounded instrument will be dealt with and how the recovery of duties and penalties are recovered?
- xv) What is the purpose of the 1899 Act, when the scheme of law would be triggered and the what would be the consequences?
- xvi) What does the examination of Audit Rules reveal?
- xvii) Whether the Audit Rules can be read in isolation?
- xviii) What do the Audit Rules Nos.3 and 5 provide for?
- xix) What is the power of Auditor and what is the scope audit?

Analysis:

- i) The precise purpose of the audit programme is to verify the deposit of stamp duty on the instruments of insurance.
- ii) Stamp duty is payable on the policies of insurance in terms of Article 47 (Article 47) of Schedule-I to the Stamp Act, 1899 (“The 1899 Act”).
- iii) Courts should avoid constricting the powers of coordinate branches of the government particularly in matters of taxation.
- iv) Historically, the term ‘public office’ was not defined until the 1973 Act when for the first time the definition was brought in the 1899 Act. Priorly, that term was used in law at different places and presumably derived its meaning as used in ordinary parlance as well as in the context of its location. The 1973 Act not only provided a definition of the term ‘public office’ but also gave it a colour which was materially different from the ordinary dictionary meaning normally assigned to the term. The 2021 Act further amended the definition in material particulars and for the purposes of present controversy.
- v) Section 73 of the 1899 Act provides for inspection of registers, books, records and other documents relating to payment of stamp duty in such form as prescribed by the Board of Revenue and the public officer shall also furnish a monthly statement of payment to the Collector. It further obliges every public officer having in his custody such registers, books, records and other documents at all reasonable times to permit any person authorized in writing by the Collector to inspect those registers etc. and to take such notes and extracts as he may deem necessary.
- vi) By the terms of section 33, every person having by law or consent of parties authority to receive evidence and every person in charge of a public office before whom any instrument chargeable in his opinion with duty is produced shall if it appears to him that such instrument is not duly stamped, impound the same (...) when the conditions prescribed in section 33 are triggered. Only then the examination and impounding of the instrument can take place.
- vii) It follows indubitably that in case the instrument is not produced in evidence or the instrument is not produced before a person in charge of a public office, then the question of impounding of that instrument does not arise.
- viii) Prior to insertion of the definitions of public office and public officer by the 1973 Act, the scheme of law was clear and unequivocal. The term ‘public office’ was merely used for the purpose of examination and impounding of instruments and there was no intention to enlarge the definition so as to ensnare all sorts of

persons whether performing public duties or running private enterprises. The term ‘public office’ remained closer to its original intent meaning.

ix) We have noted that Section 33 of the 1899 Act relates to examination and impounding of instruments and confers a power on a person in charge of a public office to impound an instrument produced before him and which is chargeable in his opinion with duty. This too will be elaborated upon in the proceeding paragraphs. Thus, a public officer becomes an impounding officer as well under Section 33. Likewise, in sub-section (2) of section 73 of the 1899 Act the term ‘public officer’ has been mentioned peculiarly in the context of inspection of registers, books, papers, documents and proceedings by any person authorized in writing by the Collector. This has reference to the Audit Rules where the Collector may authorize any person to inspect registers and books in the custody of a public officer. For the purposes of Audit Rules, therefore, a public officer is one who is liable to inspection by the stamp auditor within the ambit of the Audit Rules and which ambit will also exercise a gravitational pull on the notices issued to the present petitioners which have been challenged in these petitions

x) The first part of sub-section (1) of section 33 refers to a person who by law or consent of parties, has authority to receive evidence. That does not concern us for the time being. The second part refers to every person in charge of a public office, that is, a public officer before whom any instrument chargeable with duty is produced or comes in the performance of his functions. Such an officer shall, if it appears to him that such instrument is not duly stamped, impound the same. Under section 33, therefore, the public officer becomes in effect the impounding officer which term has also been used in sub-section (3) of section 40 of the Act (...) 23. The significant aspect of section 33 is that in law power has been conferred on a public officer envisaged under Section 33 to impound an instrument and he shall do so in the performance of his functions. The crucial words are “in the performance of his functions” used in section 33 which have to be collated with Article 138 of the Constitution (...) This also becomes evident from a reading of sub-section (3) of section 33 where the Provincial Government may determine what offices shall be deemed to be public offices and it is inconceivable that the government can determine the office of a company or a private entity to be a public office for the purposes of impounding of instruments.

xi) Although the question involved in *Mustafa Impex* was the interpretation of Article 98 that Article is in para materia with Article 138 and the exposition would squarely apply to Article 138 as well.

xii) An instrument which is chargeable with duty shall not be admitted in evidence unless such instrument is duly stamped. Similarly, it shall not be acted upon, registered or authenticated by any public officer unless such instrument is duly stamped.

xiii) Section 38 of the Act goes on to state the manner in which instruments which have been impounded are to be dealt with which instrument has to be sent in original to the Collector by the impounding officer. After the Collector has stamped the instrument, he shall return it to the impounding officer as provided in

sub-section (3) of section 40. Section 48 relates to recovery of duties and penalties and importantly all such duties and penalties may be recovered by the Collector but those duties and penalties are required to be paid under Chapter IV

xiv) The purpose of the 1899 Act is to impose a stamp duty but the entire scheme of the law would only be triggered once any of the acts mentioned in Chapter IV of the Act is done by the holder of the instrument. All consequences will then follow including the impounding of the instrument and the imposition of duty and penalty leviable in respect of such instrument. The instrument will be impounded if it is sought to be admitted in evidence or the holder of the instrument seeks to act upon the instrument or have it registered or authenticated by a public officer.

xv) The Audit Rules precede the 1973 and 2021 amendments and will have to be viewed in that context. They have not undergone any change despite the amendments introduced through the 1973 Act and the 2021 Act. These rules are enacted under the powers conferred by section 75 of the 1899 Act for inspection of books, records etc. contemplated by section 73. As stated above, subsection (2) of section 73 obliges a public officer who has custody of any registers, books, records etc. to permit any person authorized in writing by the Collector to inspect such books and records.

xvi) Section 73 of the 1899 Act will have to be read in conjunction with the Audit Rules as these have a direct relation with each other.

xvii) Rule 3 provides for the appointment of Stamp Auditors for the purpose of audit of documents requiring stamp duty which are presented to a public officer and the accounts mentioned in Appendix II thereto (...) Rule 5 provides that the Auditor shall be under the supervision of the Commissioner of the Division and shall in terms of section 73 be authorized by the Collector of the district to inspect the record for audit.

xviii) The power of Auditor to audit and the scope of that audit has been enumerated in rule 7 set out above who is restricted to audit the record of the instrument made, documents filed and files pending in the offices mentioned in Appendix II. He has no other business and the scope of his audit does not extend beyond that.

- Conclusion:**
- i) The purpose of the audit programme is to verify the deposit of stamp duty.
 - ii) Article 47 of Schedule-I to the Stamp Act, 1899
 - iii) In the matters of taxation, Courts should avoid constricting the powers of coordinate branches of the government.
 - iv) See above analysis No. iv
 - v) See above analysis No. v
 - vi) Person in charge of a public office before whom any instrument chargeable with duty is produced and it is impounded when the conditions prescribed in section 33 are triggered.
 - vii) When an instrument is not produced in evidence or produced before a person in charge of a public office, then such instrument is not liable to be impounded.
 - viii) See above analysis No. viii

- ix) See above analysis No. ix
- x) See above analysis No.
- xi) *Mustafa Impex* case squarely applies to Article 138.
- xii) See above analysis No. xiii.
- xiii) See above analysis No. xiv
- xiv) See above analysis No. xv
- xv) See above analysis No.xvi
- xvi) Section 73 of the 1899 Act will have to be read in conjunction with the Audit Rules.
- xvii) See above analysis No xviii
- xviii) The power of Auditor to audit and the scope of audit has been enumerated in rule 7

29. Lahore High Court
Mumtaz Ahmad v. Amjad Niaz Abbasi
Writ Petition No. 3639 of 2019
Mr. Justice Mirza Viqas Rauf
<https://sys.lhc.gov.pk/appjudgments/2025LHC1046.pdf>

Facts: The petitioner assailed a consent decree passed in a suit for specific performance through an application under Section 12(2) CPC on the ground of fraud and misrepresentation, which was dismissed by both the trial and revisional courts, hence, instant Writ Petition.

Issues:

- i) Whether the death of one of the joint executants of a power of attorney terminates the authority of the attorney under Section 201 of the Contract Act, 1872?
- ii) Whether a decree based on a statement recorded by a person lacking authority constitutes misrepresentation?
- iii) What was the object of inserting Sub-section (2) of Section 12 of CPC through Ordinance X of 1980?
- iv) What is the prescribed procedure for adjudication of an application under Section 12(2) of the Civil Procedure Code, 1908?
- v) Whether the High Court, while exercising constitutional jurisdiction, can interfere with concurrent findings of the courts below if such findings are tainted with patent illegality?

Analysis: i) Section 201 of The Contract Act, 1872 deals with the situation where agency would stand terminated (...) After having an overview of the above noted principles of law, it can be observed without any hesitation that when deed of attorney was executed by the petitioner alongwith Muhammad Younas, who passed away on 22nd May, 2014 much prior to the recording of the statement by respondent No.2, being attorney, such statement would be unauthorized and of no avail.

ii) I am constrained to observe that in the light of facts, noted hereinabove, respondent No.2 was not vested with any authority to enter into agreement to sell with respondent No.1, either on behalf of the petitioner or respondent No.4-Society and even he was not authorized to record any statement resulting into decreeing the suit. It was thus clearly a case of misrepresentation but both the courts proceeded to dismiss the application under Section 12(2) of CPC.

iii) Sub-Section (2) of Section 12 of CPC was initially not the part of said provision. It was inserted through Ordinance X of 1980 so as to provide a remedy to an aggrieved person to challenge the validity of judgment, decree or order on the plea of fraud, misrepresentation or want of jurisdiction by filing an application to the court which passed the final judgment, decree or order. The object of Sub-Section (2) of Section 12 of CPC, apparently, was to enable a court to nullify its own judgment, decree or order obtained by practicing fraud, misrepresentation or suffering with patent illegalities on account of lack of jurisdiction.

iv) No procedure has been prescribed for determination of such application nor any separate remedy is indicated against such determination, however, by virtue of Section 141 of CPC, a procedure prescribed for suits is to be followed. It is thus left upon discretion of the court, seized with the application, either to decide it summarily or after framing of necessary issues, which always dependent upon peculiar facts and circumstances of each case. In other words, Section 12(2) of CPC empowers a court, who passed the judgment, decree or order to scrutinize it if it is outcome of fraud, misrepresentation or lack of jurisdiction and to annul it by its own.

v) There is no cavil that ordinarily this Court restrains itself to interfere with the concurrent findings of the courts below, while exercising constitutional jurisdiction but this is not an inflexible and absolute rule. The Courts exercising constitutional jurisdiction cannot shut its eyes to confirm the findings of the courts below merely on the ground that those are concurrent. Even if there are concurrent findings but tainted with patent illegalities, there is no embargo to set the same at naught in exercise of constitutional jurisdiction as the Court cannot perpetuate a wrong as a part of policy.

- Conclusion:**
- i) The death of one of the joint executants terminates the agency under Section 201 of the Contract Act, rendering subsequent acts by the attorney unauthorized.
 - ii) See Above Analysis.ii
 - iii) The object of Section 12(2) CPC is to enable a court to nullify its own judgment, decree or order if obtained by fraud, misrepresentation or lacking jurisdiction.
 - iv) The procedure for deciding an application under Section 12(2) CPC is discretionary, case-specific, and governed by Section 141 CPC.
 - v) The High Court may interfere with concurrent findings if findings are tainted with patent illegality.
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30. Lahore High Court
Mohsin Lal Chaudhary v. Shaukat Ali and others
Civil Revision no.423-d of 2024
Mr. Justice Mirza Viqas Rauf
<https://sys.lhc.gov.pk/appjudgments/2025LHC1238.pdf>

Facts: The petitioner filed this civil revision against dismissal of appeal by Additional District Judge against judgment and decree of trial court dismissing the his suit for separate possession through partition.

Issues:

- i) Whether consent of principal is necessary for transfer of property by the Attorney in his own name?
- ii) Whether Section 215 of the Contract Act, 1872 equips the principal with a right to repudiate the transaction when agent deals on his own name?
- iii) What is the scope of revision under section 115 of the CPC in case of concurrent findings by the courts below?

Analysis: i) There is no cavil to the proposition that in case of transfer of property in his own name or in the name of close relatives, attorney is bound to seek prior permission, approval and consent of the principal as is laid down in the judgments (supra) heavily relied upon by learned counsel for the petitioner. Now, while examining the case in the light of well settled principles, it is noticed that ample material is available on the record to form an opinion that the mutations in questions were sanctioned with consent and knowledge of the petitioner.

ii) A principal can repudiate the transaction if:-

- i. an agent deals on his own account in the business of the agency;
- ii. without obtaining the prior consent of the principal;
- iii. not acquainting the principal with all material circumstances which comes to his own knowledge;
- iv. if it is shown either that any material fact has been dishonestly concealed from the principal by the agent or that dealing of the agent has been disadvantageous to the principal.

Section 215 of the Act, *ibid*, however, nowhere ordains that consent of the principal shall be in writing. It may thus be oral as well.

iii) There are concurrent findings of facts recorded by two courts of competent jurisdiction, which are, apparently, founded on proper appraisal of evidence. Scope of revisional jurisdiction under Section 115 of the CPC is quite limited where both the lower courts are unanimous in forming their view. This Court, being revisional court cannot substitute the concurrent findings of the two courts of competent jurisdiction merely on the ground that from the re-appraisal of evidence, some other view is possible. The exercise of revisional powers is always guided by the necessary pre-conditions laid down in the above referred provision of law.

- Conclusion:**
- i) Yes, consent of principal is necessary for transfer of property by the Attorney in his own name; such consent may be written or oral.
 - ii) Section 215 of the Contract Act, 1872 equips the principal with a right to repudiate the transaction when agent deals on his own name.
 - iii) The scope of revision under section 115 of the CPC in case of concurrent findings by the courts below is limited.

31. Lahore High Court

Ms. Jahanara v. Punjab Cooperative Board for Liquidation
W.P.No.14800/2010

Mr. Justice Ch. Muhammad Iqbal & Mr. Justice Malik Waqar Haider Awan
<https://sys.lhc.gov.pk/appjudgments/2025LHC814.pdf>

Facts: Petitioners filed two applications before the Punjab Cooperative Board for Liquidation (PCBL) with regard to sale of three shops through bid, the said applications were dismissed. They filed two writ petitions before the Hon'ble Cooperative Judge of High Court, which also met the same result. Hence two Writ Petitions filed before the High Court.

- Issues:**
- i) Whether the Cooperative Board can unilaterally alienate the property of Board through any private treaty/negotiation?
 - ii) Whether any arbitrary alienation of public assets is open for interference?
 - iii) Whether any unwarranted payment of small bid amount, without due process, creates any right?
 - iv) What is the effect of a decision of an authority taken against the public policies?
 - v) Whether the purchase of shops through private understanding without participating in bid proceedings, is legal and create any right?
 - vi) What is the effect of a futile and frivolous litigation?

Analysis:

- i) Suffice it to say in this regard that before marching ahead it is appropriate to ascertain as to whether the Chairman, PCBL has any jurisdiction to unilaterally alienate the property of Board through any private treaty/ negotiation. Perusal of the Punjab Undesirable Cooperative Societies (Dissolution) Act, 1993 shows that no such provision is available in the said enactment whereby Chairman, PCBL is shown competent to pass order for selling the property of the PCBL through any private negotiation / treaty. The Chairman, PCBL is not vested with any exclusive power to alienate the properties, assets of the Board through any private treaty or understanding.
- ii) Present petitioners had not participated in auction process rather they chosen a novel avenue to acquire the shops through under the table settlement which always remain vulnerable to collusivity, nepotism, favouritism and corrupt practices and such practice dwindles the legality and veracity of said mode of

transaction and thus any arbitrary alienation of public assets at a miserably throw away price remain always open for interference by the competent fora.

iii) Thus any making of unwarranted deposit of some small amount does not create any right to bound down the owner Board to acknowledge the private treaty.

iv) As such any collusive private treaty for sale of the shops had arrived at, that too is devoid of any force to create any right or obligation be considered as agreement/ contract enforceable by the law and even any decision of an authority against the public policies is always void in nature and same are not enforceable through constitutional jurisdiction of this Court.

v) The petitioners neither participated in the said proceedings nor made any offer in respect of the shops in question and subsequent ventures to purchase the said shops through private understanding demonstrate existence of mischief of an apparent fraud. Thus, no legal right can be built thereupon rather any foundation raised upon fraud and colusivity that stand automatically dismantled.

vi) However, it is observed that the petitioner has dragged the State institution in futile and frivolous litigation since 2002 without having any sort of valid right. Thus petitioners are burdened with special cost of Rs.10,00,000/- which should be recovered as arrears of land revenue in favour of the respondent.

- Conclusion:**
- i) The Cooperative Board cannot unilaterally alienate the property of Board through any private treaty/negotiation.
 - ii) Arbitrary alienation of public assets is open for interference by the competent fora.
 - iii) An unwarranted payment of bid amount, without due process, creates no right.
 - iv) See analysis above No.iv.
 - v). The purchase of shops through private understanding without participating in bid proceedings, is not legal nor does it create any right.
 - vi) Futile and frivolous litigation is liable to special costs.

**32. Punjab Subordinate Judiciary Service Tribunal
Mazhar Gilani v. The Registrar, Lahore High Court, Lahore & others
Service Appeal No. 13 of 2021
Mr. Justice Muhammad Sajid Mehmood Sethi (Chairman), Mr. Justice
Rasaal Hasan Syed, Mr. Justice Abid Husain Chattha
<https://sys.lhc.gov.pk/appjudgments/2025LHC856.pdf>**

Facts: The appellant, a reinstated Civil Judge, sought proforma promotion to Senior Civil Judge from the date his junior was promoted. His request was denied, citing the officiating nature of his junior's promotion and procedural limitations, hence, instant appeal.

Issues i) Whether the removal of a temporary embargo or legal restraint on promotion entitles a civil servant to proforma promotion and associated benefits??

- ii) Whether an officiating promotion under Rule 13(i) of the Punjab Civil Servants Rules, 1974, is limited to specified vacant posts?
- iii) Whether officiating promotion can be used to keep civil servants under administrative influence?
- iv) Whether officiating promotion precludes a civil servant from receiving proforma promotion?
- v) Whether impleading new respondents after the limitation period bars an appeal by limitation?

Analysis:

- i) In cases where a temporary embargo has been placed on a civil servant's right to promotion, or a legal restraint has been imposed on his or her claim, the removal of such obstacles entitles the officer to remedy the monetary loss and loss of rank through proforma promotion. It is the inalienable right of every civil servant to be considered for promotion alongside their batchmates once they fulfill the eligibility criteria.
- ii) An appointment by promotion on an officiating basis, under Rule 13(i) of the Punjab Civil Servants (Appointment & Conditions of Service) Rules, 1974, can be made against posts that fall vacant due to the circumstances mentioned in the said Rule.
- iii) In an esteemed pronouncement reported as Secretary to Government of Punjab, Communication and Works Department v. Muhammad Khalid Usmani & others [2017 PLC (C.S.) 373], the Apex Court has observed that the device of officiating promotion could not be used by government departments to keep civil servants under their influence as it creates a constant source of insecurity, uncertainty, and anxiety for them.
- iv) Officiating promotions cannot permanently preclude civil servants from receiving proforma promotion if they satisfy all criteria and their juniors have been promoted to substantive posts. Failure to grant proforma promotion in such cases would contravene the principles of fairness and equity.
- v) This Tribunal vide judgment dated 20.10.2017(...) held that appeal without impleading the persons likely to be affected is incompetent and if impleaded after limitation, the appeal becomes barred by time. The said decision of this Tribunal was also followed while rendering judgment announced on 11.05.2018 (...) This decision was assailed by filing Civil Appeal (...) whereby, the Apex Court while remanding the matter has observed that limitation would not bar the appellant to implead the Additional District & Sessions Judges, who were promoted, superseding the appellant's rightful claim, during the pendency of the appeal (...) So, even if it is accepted that in accordance with section 22 of the Act of 1908, his appeal was barred against the proforma respondents, yet that would not make his entire appeal liable to be dismissed on the point of limitation as the cause of action of the appellant against the department was already put in motion before the expiry of limitation.

- Conclusion:**
- i) The removal of a temporary embargo or legal restraint on promotion entitles a civil servant to proforma promotion and its associated benefits.
 - ii) An officiating promotion under Rule 13(i) of the Punjab Civil Servants Rules, 1974, is limited to specified vacant posts.
 - iii) Officiating promotion cannot be used as a tool to keep civil servants under administrative influence.
 - iv) Officiating promotion does not preclude a civil servant from receiving proforma promotion if all criteria are met.
 - v) See above analysis. v

33. Lahore High Court

Nazar Hussain and another v. The State

Criminal Appeal No. 964/J/2023

Mr. Justice Tariq Saleem Sheikh, Mr. Justice Muhammad Amjad Rafiq

<https://sys.lhc.gov.pk/appjudgments/2024LHC6559.pdf>

Facts: A criminal case was registered based that appellants not only raped a minor but also recorded video; trial court acquitted one accused while convicting appellants, sentencing them to imprisonment and fines. Appellants assailed the judgement in appeal and later on, filed an application seeking acquittal, citing a compromise reached through Panchayat.

Issues:

- i) Whether special law offences can be compounded without explicit statutory permission?
- ii) Whether delay in reporting child sexual abuse affects the credibility of the case?
- iii) What is the evidentiary value of a chance witness?
- iv) What is the evidentiary value of DNA reports in criminal cases?
- v) How the testimony of a child victim be evaluated in criminal cases?
- vi) What are the requirements for the admissibility of audio and video evidence in court?

Analysis:

- i) Offences created under special laws are governed by the provisions of those laws and may only be compounded if explicitly permitted by the law creating the offence. Section 345(5A) Cr.P.C. provides that a High Court, exercising its revisional powers under section 439 Cr.P.C., or a Court of Session under section 439-A Cr.P.C., may permit the compounding of any offence that is compoundable under section 345 Cr.P.C. Importantly, section 345(7) Cr.P.C. expressly states that no offence shall be waived or compounded except as provided under section 345 Cr.P.C. and section 311 PPC.
- ii) Delays in reporting such offences cannot be equated with delays in other crimes. Several factors can contribute to delay in reporting child sexual abuse, including trauma, fear, shame, dishonour due to invasive examination by a doctor, threat, or a lack of awareness. Consequently, courts in our country do not consider the delay in making a report to the police material unless the

circumstances are such that they warrant an adverse view. This is especially true in cases involving child victims of sexual abuse.

iii) The testimony of a chance witness is considered suspect evidence. It is generally not accepted unless credible and justifiable reasons are provided to establish their presence at the crime scene at the relevant time. Under normal circumstances, the law presumes their absence from the location. Nevertheless, a chance witness is not necessarily a false witness. His evidence should be scrutinized carefully. If a chance witness reasonably explains his presence at the spot and his narration of occurrence inspires confidence, his evidence can be considered along with other evidence. A passerby is not a chance witness when a crime is committed on a public thoroughfare, at a place frequented by the public, or when his house is situated in the close vicinity of the scene of the crime. The version of a chance witness can be accepted to be true if his presence at the place of the incident is not doubtful.

iv) DNA reports in criminal cases can be categorized into three types: positive, negative, and inconclusive, each carrying distinct implications. A positive DNA report conclusively links the accused to the biological evidence found at the crime scene or on the victim, serving as strong corroborative evidence to establish the identity of the perpetrator. However, its evidentiary value depends on safeguards, such as the proper chain of custody, preservation of evidence, and adherence to scientific protocols. Without these safeguards, its reliability may be questioned. On the other hand, a negative DNA report indicates no match between the accused's DNA and the biological material analyzed. Nevertheless, such findings do not necessarily exonerate the accused, as factors like condom use, non-ejaculation, delays in examination, or contamination could explain the absence of DNA. Inconclusive DNA reports arise when forensic analysis fails to produce a definitive result due to issues like degraded samples, insufficient DNA material, or contamination. Such reports neither implicate nor exclude the accused, requiring courts to consider other available evidence to reach a fair conclusion. When the DNA report is negative or inconclusive, courts must consider other evidence, such as medical findings, eyewitness testimony, and circumstantial facts, to determine the accused's culpability.

v) A critical distinction must be drawn between a child who is simply a witness to an incident and a child who is the victim of the crime. The testimony of a child victim carries unique weight and requires a different approach, as the child directly bears the emotional, psychological, and physical impact of the offence. This distinction was emphasized in various cases. In *Bashir Ahmed v. The State* (PLD 1979 Karachi 147), the Sindh High Court held that the rule as to corroboration is one for the guidance of the courts and is not a rigid rule of law. Where the prosecutrix is a minor girl and has been the victim of outrage, she cannot be regarded as an accomplice, and her testimony should be evaluated according to the ordinary principles that stress its intrinsic worth and credibility. In such cases, the girl's conduct may be sufficient to justify the

acceptance of her version. In *Raja Khurram Ali Khan v. Tayyaba Bibi* (PLD 2020 SC 146), the Supreme Court of Pakistan criticized the trial court for failing to distinguish between a child witness and a child victim, emphasizing that the latter's testimony must be evaluated with specific regard to the trauma and circumstances they endured.

vi) In *Ishtiaq Ahmed Mirza and others v. Federation of Pakistan and others* (PLD 2019 SC 675), the Supreme Court of Pakistan has comprehensively outlined the requirements for the admissibility of audio and video tapes in evidence and the procedure for proving them in the court. The Supreme Court has inter alia mentioned that the source of such recordings must be clearly identified.

- Conclusion:**
- i) See above analysis No.1.
 - ii) See above analysis No.2.
 - iii) The version of a chance witness can be accepted to be true if his presence at the place of the incident is not doubtful
 - iv) DNA evidentiary value depends on safeguards, such as the proper chain of custody, preservation of evidence, and adherence to scientific protocols without these safeguards, its reliability may be questioned.
 - v) Child victim, testimony must be evaluated with specific regard to the trauma and circumstances she endured.
 - vi) See above analysis No.vi.

34. Lahore High Court

Jadeed Feeds Industries v. Board of Revenue etc.

ICA (Writ)-ICA Land 99-24

Mr. Justice Jawad Hassan, Mr. Justice Malik Javid Iqbal Wains

<https://sys.lhc.gov.pk/appjudgments/2025LHC1338.pdf>

Facts: The intra court appeal concerns the levy of stamp duty on company mergers, with the appellant contending that it contradicts Section 282(5) of the Companies Act, which exempts Islamabad Capital Territory from such fees and the Province of Sindh, where most major companies are based, does not impose stamp duty on mergers.

Issues:

- i) What are the objectives of Companies Act, 2017?
- ii) Whether the Federal Law (Companies Act) prevails over the Provincial Law (Stamp Act) in case of conflict, given the Federation's legislative competence?
- iii) Whether a court-sanctioned merger order is liable to stamp duty under the Stamp Act, or is exempt under Section 282(5) of the Companies Act?

Analysis: i) The Companies Act was enacted on 30.05.2017 with the objective to protect the interests of shareholders, creditors, stakeholders and general public by

inculcating the principles of good governance and safeguarding minority interests in corporate entities and providing an alternate mechanism for the expeditious resolution of corporate disputes as well as matters connected thereto, as is evident from its preamble, if read with the provisions of Sections 4 and 5 of the Companies Act, therefore, such kind of hinderance by way of imposing the stamp duty and other taxes will take away the companies law jurisdiction from this Court to other Provinces.

ii) In case of inconsistency or conflict of the Federal and the Provincial Law, the Federal Law would prevail when Federation has the legislative competence. Because the conflict of law is created only when the two, i.e. the Federation and the Province, simultaneously have the authority and in such circumstances, the Federal Law would prevail. Therefore, Section 4 and Section 282(5) of the Companies Act, being part of the Federal Law, shall prevail over provision of the Provincial Law, i.e. Section 27A of the Stamp Act.

iii) A court-sanctioned merger order does not constitute a “conveyance” or an “instrument” under the Stamp Act because the transfer of assets occurs by operation of law, not by an executed document between parties. Even if, for the sake of argument, is considered as an “instrument”, it is not “chargeable” under the Stamp Act as it is not “executed” (signed) by the parties. His other submissions (i) that a merger is an absorption of one entity into another by law, not a voluntary transfer; (ii) that no change in beneficial ownership in family-owned companies, assets remain within the same ownership structure; (iii) that the principles laid down in *Fatima Sugar Mills Case*, mentioned above, were misapplied, as it was decided under the pre-legal regime when no federal exemption existed; (iv) that the proviso requiring a provincial notification does not empower Provinces to impose stamp duty as it only regulates the procedural implementation of the exemption; (v) that the Doctrine of Harmonious Construction, which requires the proviso to be read as complementing, was not applied and (vi) that the Companies Act is a federal law regulating corporate restructuring, therefore, stamp duty cannot be imposed in contradiction to Section 282(5) of the Companies Act, have also some legal force.

- Conclusion:**
- i) The Companies Act objective is to protect the interests of shareholders, creditors, stakeholders and general public by inculcating the principles of good governance and safeguarding minority interests.
 - ii) The Federal Law would prevail when Federation has the legislative competence in case of inconsistency or conflict of the Federal and the Provincial Law.
 - iii) See analysis No.iii
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35. Lahore High Court
Abdul Hameed alias Meeda v. The State, etc.
Crl.Re.No.54 of 2020
Mr. Justice Anwaarul Haq Pannun.
<https://sys.lhc.gov.pk/appjudgments/2025LHC997.pdf>

Facts: The petitioner being an accused was tried in an offence under Sections 324, 336, 337-D, 337-F(v), and 34 PPC and convicted for firing at the injured, causing multiple firearm injuries, including paraplegia. He was sentenced to various terms of imprisonment and ordered to pay Arsh, Daman, and compensation. The co-accused was also convicted but later acquitted on appeal. The petitioner's appeal was dismissed, and thus, he filed this criminal revision petition.

Issues:

- i) What are the essential ingredients of an attempt to commit a crime?
- ii) What are the components of Section 324 PPC?
- iii) Does the failure to achieve the intended result affect the offence under Section 324 PPC?
- iv) What limitation does Section 71 PPC impose on punishment for offences made up of separate parts and what is its exception?

Analysis:

- i) Needless to say that an attempt to commit a crime consists of the ingredients i.e. (i) the intent to commit the crime; (ii) performance of some overt act towards the commission of the crime; and (iii) failure to consummate its commission on account of the circumstances beyond the control of the offender.
- ii) The provision of Section 324 PPC consists of two parts i.e. commission of an act with intention or knowledge to commit *Qatl-i-Amd*; whereas in the second part the effect of all above noted components i.e. act, intention and knowledge has been described.
- iii) The failure in achieving his object by the accused, because of the circumstances beyond his control shall be immaterial in constituting the offence under Section 324 PPC.
- iv) Section 71 of P.P.C. being a controlling provision, unambiguously speaks of limit of punishment to be inflicted upon an accused for having committed an offence made up in parts constituting separate offences instead of punishing him for each such separate offence. However, at the same time, it cannot be ignored altogether that the legislature has created an in-built exception to the general rule contained in the provision by employing conspicuously specific wording to the effect "*unless it be so expressly provided*".

Conclusion:

- i) See above analysis No.i)
- ii) See above analysis No.ii)
- iii) Failure to achieve the intended result is immaterial under Section 324 PPC.
- iv) See above analysis No.iv)

36. Lahore High Court
Mst. Kausar Mai v. SHO, etc.
Crl.Misc.No.2446-H of 2020
Mr. Justice Anwaarul Haq Pannun
<https://sys.lhc.gov.pk/appjudgments/2025LHC825.pdf>

Facts: A habeas corpus petition was filed challenging the alleged illegal detention of two individuals by the police, one of whom allegedly died in custody. The case involved judicial scrutiny over the non-maintenance of the police station diary, leading to directions for compliance with procedural safeguards and record-keeping laws.

Issues:

- i) Is the police bound to maintain a manual and computerized daily diary (roznamcha) in accordance with the Police Rules, 1934 and Police Order, 2002?
- ii) Does the failure to maintain a proper station diary impact the legality of police actions and judicial oversight?
- iii) Can the District & Sessions Judge inspect police station diaries under the Police Order, 2002?
- iv) Is there a legal obligation to integrate police daily diaries with online systems for judicial access?
- v) Does the law require specific documentation of the movement of detained individuals for purposes like recovery or investigation?
- vi) Are police officers legally obligated to produce arrested individuals before a magistrate within a specific timeframe?
- vii) Does failure to record arrests in the daily diary violate legal safeguards and undermine judicial fairness?
- viii) Are law enforcement officials accountable for failing to comply with standing orders and SOPs related to police records?
- ix) Can the omission or falsification of station diary entries lead to disciplinary or legal consequences under police regulations?
- x) Does constitutional protection under Articles 9 and 10 require the recording of arrest and custody details in police diaries?
- xi) Can a Sessions Judge issue directions to law enforcement authorities under Section 22-A(6) Cr.P.C and Section 491 Cr.P.C. based on procedural irregularities?

Analysis:

- i) Despite amendment made in rule 22.4 maintaining of manual roznamcha has not been prohibited rather it delineates that in addition to hard copy, soft copy (electronic copy) of the registers shall be prepared... Failure to maintain daily diary/roznamcha is a clear violation of Article 167 of the Police Order, 2002 and Police Rules, 1934
- ii) “Deliberate omission of entries in the diary is often aimed at concealing misconduct within police stations... blatantly violating Articles 9 and 10 of the Constitution... Such practices not only deprive individuals of their fundamental rights but also erode public confidence in law enforcement.

- iii) Under sub Article 2 of Article 167, a unique power has been vested in the District & Sessions Judge of the District to call for and inspect such diaries...” “...either on his own or on any information, irrespective of the source of such information can call for the record for inspection.
- iv) The office of District & Sessions Judge of the District should also be linked with the same online system... A direction is, therefore, issued to the Inspector General of Police Punjab, to ensure online access to all the District & Sessions Judges throughout the Punjab.
- v) Whenever, a person is arrested in any case, his arrest be incorporated forthwith in computerized as well as manual roznamcha with date and time; Similarly, when an accused is taken out from the police station for any purpose, a rapat should be written in this regard, vice versa on his return this practice should be adopted.
- vi) Deliberate omission of entries in the diary is often aimed at concealing misconduct within police stations especially where arrests are not recorded to bypass the 15-days custody limit under Section 167(2) of the Cr.P.C...
- vii) Failure to maintain daily diary/roznamcha is a clear violation of Article 167 of the Police Order, 2002 and Police Rules, 1934 which not only renders the diary entries unreliable and untrustworthy but also hampers judicial processes, as courts frequently rely on these records to extract crucial information for fair case resolutions. Deliberate omission of entries in the diary is often aimed at concealing misconduct within police stations especially where arrests are not recorded to bypass the 15-days custody limit under Section 167(2) of the Cr.P.C., blatantly violating Articles 9 and 10 of the Constitution, which safeguard the right to life, liberty, and due process. Such practices not only deprive individuals of their fundamental rights but also erode public confidence in law enforcement.
- viii) Any defiance of supra mentioned directions, would amount to contempt of court and delinquent official/officers will also be proceedable under section 155-C of Police Order, 2002.
- ix. Rule 22.50 provides the punishment for false entry that if any police officer who enters or causes to be entered in the daily diary a report which he knows, or has reason to believe, to be untrue... shall ordinarily be dismissed from service.
- x) Deliberate omission of entries in the diary is often aimed at concealing misconduct within police stations especially where arrests are not recorded to bypass the 15-days custody limit under Section 167(2) of the Cr.P.C., blatantly violating Articles 9 and 10 of the Constitution, which safeguard the right to life, liberty, and due process.
- xi) A Sessions Judge is also Ex-officio Justice of Peace with his power under Section 22 A(6) Cr.P.C to issue appropriate directions to the police authorities concerned regarding neglect, failure or excess committed by a police authority in relation to its functions and duties. Besides, he under Section 491 Cr. P.C had Power to issue directions of the nature of a habeas corpus.

Conclusion: i) Yes, both manual and electronic diaries must be maintained by the police.
 ii) Yes, failure to maintain the diary compromises legality and judicial scrutiny.

- iii) Yes, they have the authority to inspect station diaries.
- iv) Yes, online integration for judicial access is mandated.
- v) Yes, detailed documentation of detainee movements is legally required.
- vi) Yes, timely production before a magistrate is legally mandatory.
- vii) Yes, failure to produce a detainee renders the detention unlawful.
- viii) Yes, non-compliance with SOPs leads to accountability under law.
- ix) Yes, falsification of entries warrants disciplinary dismissal.
- x) Yes, constitutional rights necessitate proper recording of arrests and custody.
- xi) Yes, the Sessions Judge can issue directions based on procedural lapses.

37. Lahore High Court
Umar Sheraz v. Govt. of Punjab, etc.
W.P No.2062 of 2023
Mr. Justice Anwaarul Haq Pannun
<https://sys.lhc.gov.pk/appjudgments/2025LHC965.pdf>

Facts: Through this writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has assailed the order passed by the Superintendent of Police, Punjab Highway Patrol, whereby, the petitioner, despite being successful throughout the selection/recruitment process, was refused his appointment letter as Constable in the Police Department.

Issues

- i) Whether non-disclosure of his past involvement and acquittal did not constitute concealment, nor render him unfit for recruitment?
- ii) Whether the Government or its department can sit over the judgment passed by a court of competent jurisdiction by issuing any instruction, letter, order, circular, memo or through any of its other action?
- iii) Whether mere registration of an FIR can be used as a definitive test to label accused of having a bad character?

Analysis:

- i) The above reproduced relevant excerpts of the advertisement and affidavit show that the petitioner was required only to disclose about the detail of any criminal case either pending investigation or trial against him, therefore, the affidavit submitted by him appears to be in accordance with the requirement of the department and in compliance with the advertisement. Presently, no criminal case is registered or pending against the petitioner. The petitioner, in the given circumstances, was not obliged to disclose about his previous involvement in any criminal case, therefore, the non-mentioning about his previous involvement and also his subsequent acquittal, vide order/judgment dated 27.03.2015, by the learned trial Court, about 5 ³/₄ years, even prior to inviting of applications for recruitment, did not amount to any concealment, rendering him “*unfit*” for his recruitment.
- ii) In a parliamentary form of the Government like ours, the Government is collectively responsible and accountable as well therefore, the Government cannot be allowed to blow hot through its one department and cold by the other in the

same breathe by sitting over the judgment passed by a court of competent jurisdiction to circumvent and contravene the judicial verdict by issuing any instruction, letter, order, circular, memo or through any of its other action to the prejudice of the constitutionally guaranteed fundamental rights under Part-II, Chapter 1 (Fundamental Rights) of the Constitution of Islamic Republic of Pakistan, 1973 of an individual citizen/petitioner.

iii)...It may further be added that mere registration of an FIR cannot be used as a definitive test to label accused of having a bad character. Reliance is placed upon case reported as *“Rizwan Ali Sayal versus Federation of Pakistan and others”* (PLD 2024 Lahore 54). An inherent presumption of good character which includes both reputation and disposition, is attached to every person unless it is proved to be relevant under The Qanun-e-Shahadat Order (X of 1984).

Conclusion: i) See above analysis No.i
 ii) See above analysis No.ii
 iii) Mere registration of an FIR cannot be used as a definitive test to label accused of having a bad character.

38. Lahore High Court
Kiran Bibi v. Addl. Sessions Judge, etc.
Crl. Rev. No.21000 of 2024
Mr. Justice Anwaarul Haq Pannun
<https://sys.lhc.gov.pk/appjudgments/2025LHC987.pdf>

Facts: The petitioner filed a criminal revision petition challenging an order passed by the Additional Sessions Judge/Special Court (GBV) wherein the offence under Section 354 of the Pakistan Penal Code (PPC) was deleted from the charge and thereafter transferred the case to the Judicial Magistrate for trial, as the remaining offences were not scheduled under the Anti-Rape (Investigation and Trial) Act, 2021.

Issues: i) Definition of the term 'modesty' as defined in various dictionaries.
 ii) How is 'sexual abuse' defined across various legal and linguistic sources, and what common elements emerge from these definitions?
 iii) What elements must be present for an act outraging a woman's modesty under Section 354 PPC to escalate to sexual abuse?
 iv) How should courts interpret laws to uphold legislative intent and how is the preamble of a statute important in interpreting its provisions?
 v) What is the primary objective of the Anti-Rape (Investigation and Trial) Act, 2021, as stated in its preamble?
 vi) What are the appointment, tenure, and removal conditions for a Judge of a Special Court under the Anti-Rape (Investigation and Trial) Act, 2021?
 vii) What is the jurisdiction and time frame for the trial of scheduled offences under the Anti-Rape (Investigation and Trial) Act, 2021?
 viii) What are the limitations on adjournments in trials before the Special Court under the Anti-Rape (Investigation and Trial) Act, 2021?

- ix) What is the procedure for appointing a defence counsel if the original counsel fails to appear in the Special Court under the Anti-Rape (Investigation and Trial) Act, 2021?
- x) What is the time frame and adjournment limit for deciding an appeal against a Special Court's judgment under the Anti-Rape (Investigation and Trial) Act, 2021?
- xi) What is the procedure for transferring and continuing pending trials under the Anti-Rape (Investigation and Trial) Act, 2021?
- xii) How do procedural amendments or new legislation affect ongoing cases?
- xiii) How can the Special Court modify charges during trial under Section 16(3) of the Anti-Rape (Investigation and Trial) Act, 2021?
- xiv) Under what circumstances can a Special Court try non-scheduled offences alongside scheduled offences under the Anti-Rape (Investigation and Trial) Act, 2021?
- xv) What is the legal requirement for framing fresh charges when upgrading an offence to a more serious one?
- xvi) When can a court exercise its authority to acquit an accused during trial proceedings?

Analysis:

- i) Black's Law Dictionary refers to "modesty" as a quality of decency or propriety, particularly regarding dress, demeanor, or behavior, without providing its specific definition in the context of sexual offenses. In the Oxford English Dictionary "modesty" is defined as "behavior, manner, or appearance intended to avoid impropriety or indecency." In Cambridge Dictionary as "the quality of not being too proud or confident about yourself or your abilities; the quality in women of behaving and dressing in ways that do not attract sexual attention."
- ii) Sexual abuse having its nexus with the Act, also has been defined in Black's Law Dictionary as "any physical or non-physical act of a sexual nature performed on another person without their consent, including molestation, harassment, exploitation, or any other act intended to sexually violate the victim." In Oxford English Dictionary as "the action or an act of subjecting someone to unwanted sexual activity." In Merriam-Webster Dictionary as "the infliction of sexual contact upon a person by forcible compulsion; also: engaging in sexual contact with a person who is below a specified age or incapable of giving consent." In Cambridge Dictionary as "the harmful use of sexual actions or words towards another person, especially a child, in a way that is against the law." In UN Definition (General Context) as "actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions."
- iii) It may be observed that an act outraging a woman's modesty (Section 354 PPC) escalates to sexual abuse if the following elements are found present (1) Presence of Sexual Intent (a) "modesty" involves actions that are indecent but may not be overtly sexual (b) Sexual abuse explicitly includes sexual intent to exploit, harm, or degrade. (2) Physical Violation (a) "modesty" can be outraged without physical contact (e.g. verbal harassment), (b) Sexual abuse typically involves physical acts like groping, molestation, or assault, but it can also include non-

physical coercion (e.g., forcing someone to view explicit material). (3) Severity and Impact (a) Actions that insult modesty may offend dignity or decency but stop short of sexual harm. (b) Sexual abuse causes deeper emotional or physical harm and violates the victim's bodily autonomy.

iv) It is settled that the Courts are supposed to interpret the law in such a manner that the same may not defeat the object of legislation under interpretation rather it should be made in aid to the legislature... The Preamble of any statute is deemed to be a key to understand and interpret its provisions.

v) The object and purpose of The Anti-Rape (Investigation and Trial) Act, 2021, hereinafter to be called as The Act, has fully been embodied in its preamble, which in its verbatim is reproduced for better comprehension. "An Act to ensure expeditious redressal of rape and sexual abuse crimes in respect of women and children through special investigation teams and special Courts providing for efficacious procedures, speedy trial, evidence and matters connected therewith or incidental thereto."

vi) A Judge of Special Court shall have to be appointed for a period of three years on the terms and conditions, to be determined by the Federal Government. He can only be removed before expiry of his tenure if he is found guilty of misconduct. However, a Judge of Special Court can be transferred, during his tenure as aforesaid to another Special Court within the same Province by the Chief Justice of the High Court concerned after recording reasons.

vii) The trial of the scheduled offences, as defined in Section 2(f) and 2(g) ["Schedule" annexed to this Act]& [as set out in the Schedules against a "victim" or a "child" as defined in this Act] ordinarily has to be conducted by the Special Court, within whose territorial jurisdiction, the offences have been committed. While considering the gravity and sensitivity as well as its implications on the society, a timeline of four months has been provided for expeditious disposal of the cases registered under scheduled offences.

viii) The Special Court for achieving the aforesaid purpose has been mandated not to accede to request for adjournments more than two times during the trial of the case, out of which, one adjournment shall be subject to payment of cost by the person seeking adjournment, to quell the unhealthy trend of causing delay in trial to achieve their hidden objectives on one pretext or the other by the parties.

ix) In case, the defence counsel, does not appear after two consecutive adjournments in the Court for furtherance of proceedings, the Court may appoint another defence counsel with at-least seven years standing in the criminal matters, out of a penal of defence counsels/Advocates, to be maintained by the Special Committee, to defend the accused. The appointment of a defence counsel with such standing, as aforesaid, would ensure that the accused is represented through a mature and experienced lawyer, possessing reasonably sufficient experience and a legal acumen to rule out the possibility of any improper defence representation.

x) In case of an appeal by an aggrieved person against judgment passed by the Special Court, the same shall preferably be decided within a period of six months. To control the unnecessary delay for the expeditious decision of an appeal, a

restriction has also been placed by prescribing that not more than two consecutive adjournments on behalf of the parties shall be granted even at appellate stage.

xi) Upon commencement of the Act, the trial of scheduled offences pending in other Courts shall stand transferred to Special Court having jurisdiction under this Act. The Special Court shall proceed with the case from the stage at which it was pending immediately before its transfer and shall not be bound to recall or re-hear any witness who had already given evidence and may act on the evidence and procedure already adopted and complied with respectively before the transfer of the case by the previous Court.

xii) Any amendment in the existing law or utterly a new legislation, unlike the substantive law, relating to the procedure shall be operative retrospectively.

xiii) In course of a trial, if the Special Court is of the opinion that any of the offences with which the accused has been charged is not a scheduled offence, the Court shall record its opinion under Section 16(3) of the Act, akin to the exercise of power under Section 227 of the Code of Criminal Procedure, 1898, i.e. “power to alter or add to any charge at any stage before judgment is pronounced has been vested with the Court trying an offence, however such alteration or addition shall have to be read and explained to the accused”, which is also applicable to the proceeding before the Special Court, because the Court has to try him for scheduled offences.

xiv) A Special Court, however can also try an accused for other offences, though not listed in the schedule, if the same had been committed along-with the scheduled offences, being un-segregable and concomitant to each other, having their inter-se deep nexus, including where the provisions of the Anti-Terrorism Act, 1997 (Act XXVII of 1997) are invoked or invokable in respect of offences under this Act.

xv) It is quite axiomatic that an accused charged with a minor offence, having lesser sentence cannot be convicted and sentenced for an offence entailing graver sentence, without giving him the opportunity by way of framing of charge afresh and also giving him the opportunity to defend himself, though vice versa is permissible.

xvi) Whether it is advisable for a criminal Court trying an offence, to order the deletion of an offence during the trial by making a tentative assessment of the material on record, without recording evidence (examination-in-chief, cross-examination and re-examination of the witnesses), as laid down in the case of “Asad Nawaz vs. Zulifqar Afzal Khan and Others” (2019 P.Cr.L.J 883), “Daim vs. The State” (2021 P.Cr.L.J 958), for giving its conclusive finding on that regard. Suffice it to observe that in view of power vesting with the Court under Section 16(3) of the Act read with Section 227 Cr.P.C, as discussed above, it is the prerogative of the Court to exercise its power at which stage of trial, it deems appropriate. Besides the above, a Court, trying an offence, is also equipped with vast powers to acquit the accused of the charge at any stage of the proceedings, if it comes to the conclusion that on the basis of incriminating material/evidence

available on record, there exists no probability of the accused being convicted of any offence.

xvi) Besides the above, a Court, trying an offence, is also equipped with vast powers to acquit the accused of the charge at any stage of the proceedings, if it comes to the conclusion that on the basis of incriminating material/evidence available on record, there exists no probability of the accused being convicted of any offence.

Conclusion: i) See above analysis No i.

ii) See above analysis No ii.

iii) See above analysis No iii.

iv) Courts are supposed to interpret the law in such a manner that the same may not defeat the object of legislation...The Preamble of any statute is deemed to be a key to understand and interpret its provisions.

v) See above analysis No v.

vi) See above analysis No vi.

vii) The trial of the scheduled offence ordinarily has to be conducted by the Special Court, within whose territorial jurisdiction, the offences have been committed. A timeline of four months has been provided for expeditious disposal of the cases registered under scheduled offences.

viii) See above analysis No viii.

ix) See above analysis No ix.

x) Appeal shall preferably be decided within a period of six months.

xi) See above analysis No xi.

xii) Any amendment in the existing law or utter a new legislation, relating to the procedure shall be operative retrospectively.

xiii) See above analysis No xiii.

xiv) A Special Court, however can also try an accused for other offences, though not listed in the schedule if the same had been committed along-with the scheduled offences.

xv) See above analysis No v.

xvi) Court is also equipped with vast powers to acquit the accused of the charge at any stage of the proceedings, if it comes to the conclusion that on the basis of incriminating evidence there exists no probability of the accused being convicted of any offence.

39.

Lahore High Court

Malik Mudassar Ali and others v. Secretary, Public Prosecution Department, etc.

W.P No.6630 of 2022

Mr. Justice Anwaarul Haq Pannun

<https://sys.lhc.gov.pk/appjudgments/2025LHC1154.pdf>

Facts:

The petitioners, members of a prosecutorial appeal committee, agreed with the trial prosecutor's view that an acquittal judgment was not fit for appeal. The Secretary

of the department initiated disciplinary proceedings against them, alleging inefficiency and defective opinion. An inquiry report held the charges proved and recommended penalties. The petitioners challenged these proceedings, arguing that their opinion was formed in good faith, in line with prosecutorial guidelines, and that the disciplinary action was initiated without the required reference from the Prosecutor General.

- Issues:**
- i) What is the legal status and role of the Prosecutor General in regulating the conduct of Prosecutors within the Service?
 - ii) What is the legal effect of Section 10(2) of The Punjab Criminal Prosecution Service (Constitution, Functions and Powers) Act 2006 in light of the overriding provision in Section 20?
 - iii) Whether the bar under Article 212 of the Constitution restricts the High Court's jurisdiction to enforce adherence to law by public functionaries?
 - iv) What is the legal status of the opinion formed by a Prosecutor or the Appeal Committee regarding the filing of an appeal?
 - v) Can departmental proceedings be initiated against a Prosecutor solely on the basis of an opinion formed in good faith?

- Analysis:**
- i) The position of the Prosecutor General, in view of constitution of the Service, is quite pivotal and focal in all manners, therefore, he has been given a free hand to take all steps to regulate the conduct of the Prosecutors by way of issuing directions and general guidelines, as aforesaid, to ensure prosecutorial independence for a better coordination in the criminal justice system of the Province and to achieve other avowed objects behind the promulgation of the Act
 - ii) Section 20 of the Act, gives an overriding effect to certain other provisions including Section 10 of the Act and in this way the mandate contained in Section 10(2) of the Act holds a paramount position in the light of object behind the Act and as such requires its strict compliance failing with any action if taken, would be deemed to be of no consequences and as such a nullity in the eye of law.
 - iii) In-spite of a bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, this Court has ample jurisdiction to pass an appropriate order or issue directions to the public functionaries to act strictly in accordance with law and obey the command of the Constitution and Law.
 - iv) A Prosecutor or the Appeal Committee is obliged to form their opinions, after examining the record in the light of "the guidance on challenging orders and decisions of criminal Courts", fairly, honestly and submit the same before the Prosecutor General for his further consideration. Neither the trial Prosecutor or the members of the Appeal Committee have their final say nor their opinion has a binding effect in filing the appeal.
 - v) Mere forming of an opinion by the Prosecutor unless found based upon mala-fide does not create justification for the initiation of departmental proceedings against a Prosecutor.

- Conclusion:**
- i) The Prosecutor General has central authority to guide and regulate Prosecutors for effective justice coordination.
 - ii) Non-compliance with Section 10(2) renders any action void due to Section 20's overriding effect.
 - iii) The High Court has ample jurisdiction despite Article 212 to enforce lawful conduct by public authorities.
 - iv) A Prosecutor's or Committee's opinion on appeals is non-binding and subject to the Prosecutor General's review.
 - v) An honest opinion by a Prosecutor doesn't justify disciplinary action unless shown to be mala fide.

40. Lahore High Court
Malik Atta Muhammad v. Malik Sarfraz Abbas, etc.
W.P No. 6284 of 2021
Mr. Justice Anwaarul Haq Pannun
<https://sys.lhc.gov.pk/appjudgments/2022LHC9817.pdf>

Facts: The plaintiffs filed a suit for specific performance and a perpetual injunction based on an agreement to sell without citing any witness either in the disputed agreement to sell or in the plaint. The petitioner denied the execution of the agreement and filed an application under Order VII Rule 11 CPC, arguing that the suit was barred by limitation and lacked necessary witness attestation as required by law. The respondents contested the application but failed to identify any witnesses, claiming the petitioner admitted the agreement's execution. The trial court dismissed the application, and the petitioner's revision petition was also dismissed, leading to the current writ petition.

Issues:

- i) What does the term "record available with the Court" encompass in the context of the amended clause (d) of Rule 11 of Order VII CPC?
- ii) Whether the Court is competent to reject the plaint on the basis of record available with the Court?
- iii) What is the scope of the term "barred by law" as mentioned in clause (d) of Order VII Rule 11 CPC?
- iv) While considering the facts of case it appears that the requirements set forth in Articles 17 and 79 of the Qanun-e-Shahadat Order, 1984 are not fulfilled, whether plaint should be rejected?

Analysis:

- i) By introducing amendment in clause (d) of Rule 11 of Order VII CPC, the scope for rejection of plaint has palpably been enlarged. As defined in amended clause (d) of Rule 11 of Order VII CPC, the term record available with the Court includes (i) Pleadings as defined in Rule 1 of Order VI; (ii) Documents attached with plaint under Rule 14 of Order VII; (iii) Form No.14 as required under Order IX-A, stating separately admitted and disputed facts; (iv) Documents attached with the written statement or relied upon by the defendant under Order VIII; (v) Examination and proceedings under Order X; (vi) Any admissions made by

parties during the proceedings of a suit under Order XII; (vii) Documents produced by parties under Rule 1 of Order XIII; of CPC.

ii) The amendment in clause (d) of supra Rule presently mandates that when the cause, mentioned in the suit, from the record available with the Court, appears barred by any law, the Court is competent to reject the plaint. Such power is vested in the Court to control frivolous and vexatious litigation right from the inception of the suit as the continuation of proceedings would bear no fruitful result rather shall be an exercise in futility and abuse of process of Court and wastage of public time at the expense of other litigants.

iii) Before treading ahead, it would be advantageous to examine the scope of the term “barred by law” as mentioned in clause (d) of Order VII Rule 11 CPC. According to the Black's Law Dictionary, “bar” means, a plea arresting a law suit or legal claim. It means as a verb, to prevent by legal objection. According to the Black’s Law Dictionary, “barred” means obstructed by bar. Subject to hindrance or obstruction by a bar or barrier which, if interposed, will prevent legal redress or recovery, as, when it is said that a claim or cause of action is “barred by the statute of limitation.” According to Ramanatha Iyar's Law Lexicon, “bar” is that which obstructs entry or egress; to exclude from consideration. According to the K J AIYAR judicial Dictionary, word bar of resjudicata means as “impediment to further action”. From above definitions it can be deduced that the barred means no further action shall be taken on cause if no fruitful result is expected.

iv) The combined reading of Rule 11 of Order VII of CPC, Articles 17 and 79 of the Qanun-e-Shahadat Order, 1984, provides that while considering the facts of case before it, if it suffers from above mentioned flaws, the Court should not hesitate in exercise of its powers to reject the plaint to nip the evil in the bud.

- Conclusion:**
- i) See Above analysis no.i
 - ii) The Court is competent to reject the plaint.
 - iii) It means no further action shall be taken on cause if no fruitful result is expected.
 - iv) The Court should reject the plaint to nip the evil in the bud.

41. Lahore High Court
Muhammad Sajjad v. The State etc.
Crl.Misc.No.8745-B of 2022
Mr. Justice Anwaarul Haq Pannun
<https://sys.lhc.gov.pk/appjudgments/2024LHC6543.pdf>

Facts: Petitioner has sought pre-arrest bail in a criminal case registered under section 489-F PPC with the allegation that he without making requisite arrangements with the bank ensuring that the cheque on its presentation, shall be honoured, had dishonestly issued cheque to the complainant of FIR for fulfillment of his financial obligation, which on its presentation before the concerned bank, stood dishonoured.

- Issue:**
- i) What is comparative distinction between compoundable offences detailed in subsections (1) and (2) of section 345 Criminal Procedure Code, 1898?
 - ii) When does Chapter XXIV of Cr.P.C. including the provision of section 345 Cr.P.C. become operative?
 - iii) What is the purpose and object of dispensing with permission of court and allowing the persons for compounding the offences mentioned in column No.3 of 345(1) Cr.P.C.?
 - iv) Whether the police can release a person on bail in any of the offences mentioned in schedule-II of the Code of Criminal Procedure, 1898?
 - v) How a State is characterized and how it operates to ensure the fundamental rights of its citizens?
 - vi) What is definition of Police and from where it derives powers to discharge its official functions?
 - vii) What is statutory duty of police upon receiving information regarding cognizable and non-cognizable offences?
 - viii) What are the grounds to recommend cancellation of a criminal case registered with police station?
 - ix) What is statutory force of Police Rules?
 - x) What is relevant law empowering a Magistrate to cancel a FIR?

- Analysis:**
- i) It is quite vivid on bare reading of Section 345 Cr.P.C that the legislature has objectively bifurcated it into two parts. Upon drawing a comparison between subsection (1) and (2) of Section 345 Cr.P.C independently, it has become unequivocally clear that all the offences under Pakistan Penal Code, specified in the first two columns of the table under Section 345(1) Cr.P.C (hereinafter to be called as specified offences) are compoundable without permission of the Court, by the persons mentioned in its third column, at any time during trial or pending appeal.(...) whereas the offences specified in first two columns of the table, next following subsection (2) of Section 345 Cr.P.C, punishable under Pakistan Penal Code, can only be compounded by the persons, mentioned in the third column, with the permission of the Court, before which any prosecution for such offences is pending. Such permission is, however, further subject to the conditions mentioned and detailed in subsection (7) of 345 Cr.P.C.
 - ii) Chapter XXIV of Cr.P.C including the provision of Section 345 Cr.P.C, comprises over the General Provisions as to Inquiries and Trials. All these provisions obviously shall become operative after the Court had taken cognizance of the offences either upon a police report under Section 173 Cr.P.C or it had already passed an order under Section 204 Cr.P.C in a privately instituted complaint.
 - iii) it is observed that the legislature has purposefully dispensed with the persons mentioned in column No.3 of the table from seeking permission of Court, for compounding the specified offences, even the Court had already taken cognizance of the offences as discussed above, in order to achieve the object behind the legislative intent of this provision, the matter can be viewed yet from another

angle(...)the legislature in order to achieve its object, encapsulated in Section 345(1) Cr.P.C, has allowed the persons mentioned in third column of the table, to compound the specified offences, without seeking permission of the Court, even after taking cognizance. While dispensing with permission of Court for compounding the offence by the relevant person, the legislature, in absence of any bar, in fact left a window opened and has permitted to adopt this approach, that as a result of compounding of specified offences prior to submission of a report under Section 173 Cr.P.C i.e. at the stage of pre-arrest or post-arrest bail or on intervention of the respectable, or otherwise preferably reducing the same into writing, during the investigation, for the police to restrain itself from undertaking the cumbersome business of investigation into such cases except bringing on record the material relating to the compounding and prepare a cancellation report, instead of utilizing their skills and time in other matters requiring their urgent attention, for placing it as aforesaid before a Magistrate for passing an appropriate order. The Magistrate, in order to satisfy himself, regarding the genuineness of the compromise, arrived at between the parties may summon the complainant/person to verify the factum of compromise before passing an appropriate order for cancellation of a case. Needless to observe that an order of cancellation of FIR is like burial of a dead-body in a grave. It may be emphasized that a recourse to this approach in relation to the specified offences by the entire hierarchy from Police to the learned Magistrate, would save the parties from facing the agony of fruitless proceedings to be carried out by the Courts besides saving their hard earned money and other resources. It would also save the public time and shall also lessen the burden of the already overburdened Courts. Moreover, such a proactive approach on part of the Police and the Magistrate would amount to dispensing the public with speedy justice in accordance with the spirit of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973.

iv) The tabular statement of offences as contained in Schedule-II of the Code of Criminal Procedure, 1898 shows that all the specified offences, except the offences under Section 489-F and 506-B PPC, are bailable and even the police is well within its competence to release a person accused on bail in such offences.

(v) A State being a political and legal entity is characterized by four essential and basic elements (i) Population (ii) Territory (iii) Government and (iv) Sovereignty. The Sovereign exercises the State powers through various organs/departments of the Government, to be regulated under the relevant statutes. To maintain public peace and tranquility in a democratic dispensation enabling the individuals, to lead their lives by enjoying their fundamental rights guaranteed and bestowed upon them through a supreme instrument commonly known as the Constitution, is the fundamental duty of the State. It is further observed that to curb and control the crime in the shape of public wrong, a cause of breach of peace and a source of disturbance for the citizens as aforesaid to the enjoyment of their fundamental rights, being a primary duty of the State, is discharged by it, by establishing an official framework, duly backed by law.

vi) The word Police has been defined under Section 1 of the Police Act 1861 as “it includes all persons who shall be enrolled under this Act”; as per section 2(xviii) of the police order, 2002, ‘Police Officer’ means a member of the police who is subject to this Order & under 2(xix) ‘Police or Police Establishment’ means the police referred to in Article 6 and includes (a) all persons appointed as special police officers or additional police officers under this Order; and (b) all other employees of the police”. The Police as a public authority, exercise state powers in discharge of its duties and perform its functions.

vii) The Officer Incharge of a Police Station, upon receiving an information of commission of a cognizable offence is obliged to proceed under Section 154 and in case of non-cognizable offence under Section 155 Cr.P.C and investigate the matter to be carried out in terms of Section 156(1) Cr.P.C and in the light of Police Rules, 1934.

viii) The Officer Incharge, after finding out the truth or otherwise of the matter, during his investigation, is duly authorized to recommend the case for its cancellation on the grounds (i) found to be maliciously false or (ii) false owing to mistake of law or fact or (iii) to be non-cognizable or (iv) matter for a civil suit, unless the investigation of a case is transferred to another police station under Rule 25.7 [Cancellation of a case in one police station and registration in another] or District under Rule 25.8 [Cases which may be lawfully investigated in more local areas than one] or the investigation has been transferred under Article 18 (6) of Police Order 2002.

ix) The Police Rules had already been adopted under Section 185 of Police Order 2002, by extending it the statutory backing. The exercise of power by a statutory authority, is duly protected under the doctrine of statutory presumption being genuine, under Article 129(e) of the Qanun-e-Shahadat Order 1984 and Article 150 of the Islamic Republic of Pakistan, 1973, such formidable statutory protections cannot be summarily dismantled unless found either to be patently illegal, based on no lawful reason, mala-fide, or wholly without lawful authority.

x) Strictly speaking, in the Code of Criminal Procedure, 1898, there exists no express power for cancellation of FIR, however, an FIR can be cancelled by a Magistrate under Rule 24.7 of the Rules, 1934 and the law laid down in the case of “Bahadur and another Vs. The State and another” (PLD 1985 SC 62), wherein it had been ruled that although “neither section 173 Cr.P.C nor any other provision of the Criminal Procedure Code specifically deals with the question of cancellation of a registered criminal case, such a power was found to be “inherent in section 173 read with Section 190 of the Code of Criminal Procedure though the language of subsection (3) does not specifically apply to the case” by agreeing with the cancellation report/ recommendations, provided the same has duly been forwarded by Superintendent of Police with independent opinion formulated in a supervisory capacity and by the Prosecutor in the light of Section 9(4) along with his assessment as to the availability of the proposed evidence by visualizing its evidentiary worth, being an expert in law, possibly entailing into conviction of an

accused and applicability of offences, under Section 9(7) of the Punjab Criminal Prosecution Service Act, 2006.

- Conclusion:**
- i) All the offences under Pakistan Penal Code, specified in the first two columns of the table under Section 345(1) Cr.P.C are compoundable without permission of the Court, whereas the offences under subsection (2) of Section 345 Cr.P.C can only be compounded with the permission of the Court before which any prosecution for such offences is pending.
 - ii) All the provisions of chapter XXIV of Cr.P.C become operative after cognizance taken by the Court in any of the manner provided under section 190 Cr.P.C.
 - iii) See analysis No. iii.
 - iv) Police is competent to release a person accused on bail in offences declared as bailable in schedule-II of the Code of Criminal procedure, 1898.
 - v) See analysis No. v.
 - vi) Police as a public authority, exercise state powers in discharge of its duties and perform its functions.
 - vii) See analysis No. vii.
 - viii) See analysis No. viii.
 - ix) See analysis No. ix.
 - x) See analysis No. x.

42. Lahore High Court
Ghulam Murtaza v. Addl. Sessions Judge, etc.
Criminal Revision No. 74970 of 2024
Mr. Justice Farooq Haider
<https://sys.lhc.gov.pk/appjudgments/2025LHC1023.pdf>

Facts: By way of filing revision petition, petitioner challenged the vires of order passed by learned Addl. Sessions Judge /trial court whereby application filed by the petitioner for summoning of a witness (mentioned as one of the cited eyewitnesses in the F.I.R.) as Court Witness under Section: 540 Cr.P.C. was dismissed.

Issues:

- i) Whether the prosecution has the exclusive prerogative to decide which witnesses to produce, and whether the accused can compel the prosecution to summon a witness?
- ii) Whether the accused's right to a fair trial is violated in case of refusal to summon the given-up eyewitness as a court witness?
- iii) What circumstances are to be kept in mind at the time of exercising power by the Court under Section: 540 Cr.P.C.?

Analysis: i) By now it is well settled that it is prerogative of prosecution to produce evidence/witness of its own choice to prove its case and in this regard, guidance has been sought from the case of "SAEED KHAN and 5 others Versus THE

STATE and another” (2008 SCMR 849) and relevant portion from the same is hereby reproduced as under: - It is prerogative of prosecution to produce evidence as may be necessary, to prove the charge and may give up the witnesses after sufficient evidence is brought on record. No inference can be drawn about the testimony of the remaining witnesses. In case the defence relies on the fact that they do not support the case of prosecution they can always be examined in defence. No adverse presumption is to be drawn in the absence of any positive evidence as held by this Court in the case of Mazhar Ali v. The State 2005 SCMR 523. Accused can neither ask nor compel the prosecution through Court to produce any witness as prosecution witness.

ii) After recording of evidence of prosecution and examination of the accused, he (accused) can put his any written statement before the Court and after entering on his defence, he can apply to the Court for issuance of process for compelling the attendance of any witness for examination or production of any document or other thing. It is relevant to mention here that if accused considers that any prosecution witness, not produced by the prosecution, is helpful to his plea, then he can produce him as defence witness and even can apply to the Court for summoning and examining such witness as defence witness.

iii) If there are number of prosecution eyewitnesses and one of them is injured also, then though he is in category of eyewitnesses yet being injured in the occurrence, efficacy and gravity of his testimony is much more as compared to unhurt eyewitness. Therefore, if he (injured witness) has not been produced by the prosecution, then Court can summon him for just decision of the case; similarly, Investigating Officer, who has collected relevant pieces of evidence during investigation of the case, the doctor, who has conducted postmortem examination/medical examination in the case or any other expert witness, who has given opinion of some relevant fact and his evidence has direct nexus with fate of the case, can be summoned as “Court Witness” under Section: 540 Cr.P.C. Needless to add that each criminal case has its own peculiar facts & circumstances and same have to be kept in mind at the time of exercising power by the Court under Section: 540 Cr.P.C.

- Conclusion:**
- i) The prosecution has the exclusive prerogative to decide which witnesses to produce and the accused cannot compel the prosecution to summon a witness.
 - ii) If accused considers that any prosecution witness, not produced by the prosecution, is helpful to his plea, then he can produce him as defence witness. So, the accused’s right to a fair trial is not violated in case of refusal to summon the given-up eyewitness as a court witness.
 - iii) See analysis iii above.

43. **Lahore High Court**
Nasrullah alias Nasru v. The State etc.
Crl. Misc. No.1584-B of 2025
Mr. Justice Farooq Haider
<https://sys.lhc.gov.pk/appjudgments/2025LHC822.pdf>

- Facts:** Petitioner sought post-arrest bail in a case registered for the offence U/S 324, 337 F(iii) and 34 PPC as prosecution alleged that the petitioner fired two successive shots with a rifle at the victim with intent to kill him; the shots struck the victim's thighs and passing through.
- Issues:** Whether the application of Section 324 PPC (attempt to commit qatl-i-amd) is justified while assessing the nature and location of injury on the legs?
- Analysis:** As far as contention of learned counsel for the petitioner that injuries have been declared as "Jurh Ghayr Jaifah Mutalahimah" attracting offence under Section: 337 F(iii), P.P.C. and Section: 324 PPC is not applicable in the case as fires hit at legs is concerned, suffice it to say that if injury has been caused below knee, then applicability of Section: 324 PPC requires further probe/inquiry within the purview of sub-section 2 of Section 497 Cr.P.C., however, if injury has been caused above knee on the leg at thigh, then situation is otherwise because femoral artery, which is major blood vessel, is located in thigh starting from groin coming to the back of knee and it supplies oxygen-rich blood to the lower parts of the body. So, femoral artery if damaged can cause lower limb ischemia leading to amputation of limb, compartment syndrome as well as death due to severe blood loss from a major artery in the leg.
- Conclusion:** See above analysis.

44. Lahore High Court
Muhammad Kashif Shehzad v. The State etc.
Crl. Misc. No.77329-B of 2024
Mr. Justice Farooq Haider
<https://sys.lhc.gov.pk/appjudgments/2025LHC804.pdf>

- Facts:** The petitioner has sought post-arrest bail in criminal case registered for committing attempt to commit Qatl-i-amad etc.
- Issue:**
- i) What is effect of belated nomination of any accused by complainant when such parties are related to each other?
 - ii) Whether the bail can be withheld as punishment?
 - iii) What is settled principle to err in granting or refusing bail?
 - iv) What is effect of observations while disposing bail petition upon trial?
- Analysis:**
- i) When both the parties i.e. petitioner and complainant are related to each other (as mentioned in aforementioned supplementary statement), then not nominating the petitioner by the complainant in the F.I.R. as well as in first statement of injured rather nominating petitioner as an accused in the case with considerable delay (as detailed above) raises eyebrows.
 - ii) Bail cannot be withheld as advance punishment.
 - iii) By now it is also well settled that it is better to err in granting bail than to err in refusal because ultimate conviction and sentence can repair the wrong resulted

by a mistaken relief of bail.

iv) It goes without saying that observations mentioned above are just tentative in nature, strictly confined to the disposal of instant bail petition and will have no bearing upon trial of the case.

- Conclusion:**
- i) Belated nomination of acquainted person make such nomination doubtful.
 - ii) See analysis No.ii.
 - iii) Err in granting bail is better than err in refusing it.
 - iv) Observations in bail are always tentative to decide the bail having no bearing upon trial.

45. Lahore High Court
Bashir Ahmad Bhatti, etc. v. Albarka Bank Pakistan Ltd, etc.
F.A.O No. 109/2013
Mr. Justice Mirza Viqas Rauf, Mr. Justice Asim Hafeez
<https://sys.lhc.gov.pk/appjudgments/2025LHC883.pdf>

Facts: The appeal, filed under section 22 of the Financial Institutions (Recovery of Finances) Ordinance, 2001, contests the dismissal of objections to an auction and the confirmation of the auction in favor of respondent No.2. Respondent No.1 initiated the sale of mortgaged property as security for repayment, issuing notices for mortgage payment. Following default, the property was sold without court intervention, and the auction was conducted in accordance with section 15 of the Ordinance. The objections raised were dismissed, leading to the current appeal.

Issues:

- i) While pendency of appeal, whether auction conducted became a past and closed transaction?
- ii) Whether single bid auction sale could claim protection in terms of re-enacted section 15 of the Ordinance?

Analysis:

- i) Even otherwise auction conducted did not become a past and closed transaction in wake of pendency of this appeal, against the order of dismissal of objections and confirmation of sale.
- ii) Section 15 of the Ordinance was amended through Financial Institutions (Recovery of Finances) Amendment Act 2016, which also promulgated Financial Institutions (Recovery of Finances) Rules 2018 (Rules) -, which, in terms of Rule 3(c) (iv), permits considering single bids, subject to certain conditions. That Rule extends no protection to alleged auction, which Rule was declared ultra vires in terms of the majority decision larger Bench in the case of MUHAMMAD SHOAI B ARSHAD and another v. FEDERATION OF PAKISTAN through Secretary, Ministry of Law, Justice Human Rights and Parliamentary Affairs and 4 others (2020 CLD 638).

Conclusion:

- i) Auction conducted did not become a past and closed transaction.
- ii) No protection to such auction.

46. Lahore High Court
Zafar Mehmood Khalid and another v. Border Area Committee and others
Writ Petition No.9579 of 2017
Mr. Justice Ahmad Nadeem Arshad.
<https://sys.lhc.gov.pk/appjudgments/2025LHC1297.pdf>

Facts: The land measuring 400 kanals was originally allotted under Border Area Scheme by the Provincial Government. After fulfillment of required conditions and payment of the consideration amount, proprietary rights were transferred through registered deed. After demise of original allottee, inheritance mutation was sanctioned in favor of his legal heirs; Subsequently they obtained No Objection Certificate (NOC) from General Head Quarter as well as from the Border Area Committee to sell the land to approved buyers. However, they sold 130 kanals to other persons / individuals without obtaining the required No Objection Certificate (NOC). Authorities initially cancelled all unauthorized transactions, but upon a Writ Petition, the High Court set aside this order and remanded the matter. Thereafter the authorities in exercise of powers conferred under Para 10(a) of West Pakistan Border Area Regulation, 1959 (Amended vide Ordinance No.III of 1981) cancelled the sale of the land measuring 130 Kanals being sold without obtaining NOC. Feeling aggrieved, the petitioners (subsequent purchasers) have filed instant Writ Petition by challenging the said order.

Issues:

- i) What is the concept of cancellation of allotment under Para 10(a) of West Pakistan Border Area Regulation, 1959 (Amended vide Ordinance No.III of 1981), and under what circumstances can an allotment be canceled?
- ii) Whether the Border Area Committee have the authority to cancel an allotment from a subsequent purchaser under paragraph 10(a) of the Regulation?
- iii) Whether the terms and conditions applicable to the original allottee cease to apply to subsequent purchasers when a transfer is made under a No Objection Certificate?
- iv) Whether subsequent purchasers is bound to observe the conditions made applicable to the original allottee under the Regulation or their rights protected under the Constitution?
- v) What is the policy of requiring a No Objection Certificate (NOC) for the sale or transfer of land in border areas?
- vi) Whether the allottee's title becomes indisputable once he paid the transfer price, which was accepted by the seller i.e. the Provincial Government, and executed the registered deed?

Analysis: i) The concept of cancellation of allotment, as provided in paragraph 10(a), is that if in the view of Committee scrutinizing the allotment of any state land or immoveable evacuee property within any Border Area is satisfied that any allotment was made to a person not eligible for allotment, may proceed to cancel such allotment and direct the allottee to surrender/forfeit the property to the Deputy Commissioner or the Committee.

- ii) In the said paragraph, the missing of word "subsequent purchaser" is also conspicuous and it is clear that the allotment from the name of original allottee can be cancelled but once it is further transferred and that too after obtaining the No Objection Certificate from the General Headquarters or Border Area Committee by the original allottee or his legal heirs, then the power to cancel the land from the subsequent transferee's name would not be within the power of the Border Area Committee under paragraph 10(a) of the Regulation.
- iii) Once an original allottee or his legal heirs have been allowed to transfer his property under a no objection certificate issued by the General Headquarter or Border Area Committee, then in case of transfer to another individual the terms and conditions which were applicable to the allottee would come to an end and the subsequent purchasers would be considered at liberty to deal with their acquired land in any manner which deems fit and proper.
- iv) The subsequent purchaser would no more be bound to observe the conditions which were made applicable to the original allottee under the Regulation and the subsequent matters would be regulated under the supreme law i.e. Constitution which guarantees every citizen under Article 23 thereof to have a right to acquire, hold and dispose of property in any part of Pakistan and by virtue of Article 24 of the Constitution it is again fundamental right of a citizen of Pakistan that he will not be deprived of property.
- v) The policy behind requiring an NOC for the sale or transfer of land in border areas is to prevent individuals who could pose a threat to the security and integrity of the border region from acquiring property.
- vi) When the allottee paid the transfer price which was accepted by the seller i.e. the Provincial Government and the latter executed registered deed for transfer of proprietary rights and mutation sanctioned on the strength of said registered deed the allottee acquired title from the owner and nobody else can object thereto

- Conclusion:**
- i) See above analysis No.i.
 - ii) The Border Area Committee have no authority to cancel an allotment from a subsequent purchaser under paragraph 10(a) of the Regulation.
 - iii) See above analysis No.iii.
 - iv) Subsequent purchasers are not bound by the original allottee's conditions; their rights are protected under the Constitution.
 - v) The NOC requirement for border area land transfers aims to prevent security threats.
 - vi) Once the allottee pays the transfer price and the registered deed is executed, his title becomes undisputable.

47.

Lahore High Court**Atta Muhammad v. Province of Punjab, etc.****Civil Revision No.114 of 2025****Mr. Justice Ahmad Nadeem Arshad**<https://sys.lhc.gov.pk/appjudgments/2025LHC1282.pdf>

- Facts:** The petitioner/plaintiff filed Civil Revision against the judgment of courts below, vide which his plaint with regard to *Warabandi* in a civil suit was rejected under Order VII Rule 11 of CPC.
- Issues:**
- i) Whether an order passed by the authority under section 68 of The Canal and Drainage Act, 1873 can be challenged in the civil court?
 - ii) Whether the laws or constitutions have retrospective or prospective effects?
 - iii) Whether a right existed on the date of repeal would be protected under Section 4 of the General Clauses Act?
 - iv) Whether right to access the civil court can be taken away by a subsequent law?
 - v) In which cases a civil court can intervene to assess the legality of an action of the authority despite existence of an ouster clause in a statute?
 - vi) How to deal a mixed question of law and facts by the courts?
 - vii) Whether mere assertion of a statutory bar does or does not automatically lead to the rejection of plaint?
- Analysis:**
- i) Section 67 which was introduced through Punjab Amendment Act, 2016, although provides that the Court shall not assume jurisdiction in any matter in respect of anything done, being done or purported to be done under the sections referred in Section 67(2) supra, but Section 68 is not provided in the said Sub-Section, therefore, it is clear that orders passed under Section 68 can be assailed before the Civil Court.
 - ii) The general rule as to effect of repeal of a statute follows from the legal maxim “Nova Constitutio Futuris Formam Imponere Debet, Non Praeteritis” which means that a new law ought to regulate what is to follow, not the past. This maxim means that when creating or enacting a new law, policy, or constitution, it should apply only to future actions, circumstances, and events, rather than altering or affecting past situations. In other words, it emphasizes the idea that laws or constitutions should not have retrospective effects.
 - iii) It is clarified that the mere existence of a right not being "acquired" or "accrued", on the date of the repeal would not get the protection of Section 4 of the General Clauses Act.
 - iv) A new statute, unless expressly stated, does not affect actions or proceedings that were already initiated under the old law. The right to access the Civil Court should not be taken away by a subsequent law unless expressly provided for, hence, the petitioner's suit was maintainable before the Civil Court.
 - v) Section 9 of the Code of Civil Procedure, 1908 (C.P.C.) states that Civil Courts have jurisdiction to entertain a suit unless expressly or impliedly barred by another law. This principle is based on the idea that the Civil Court has ultimate jurisdiction over civil matters unless a statute specifically excludes it or the jurisdiction is either expressly or impliedly barred. An ouster clause in a statute, which limits the Civil Court's jurisdiction, applies only when the authorities act within the bounds of their authority. If the authorities act beyond their jurisdiction, the Civil Court can intervene to assess the legality of their actions.(---
 -) An ouster clause in a statute is presumed to exclude the jurisdiction of the Civil

Court only when the statute grants a forum with exclusive jurisdiction to adjudicate specific matters.

vi) The provisions excluding jurisdiction of the Civil Court is mixed question of law and fact which can only be adjudicated upon by the Court after recording evidence.

vii) The mere assertion of a statutory bar does not automatically lead to the rejection of the plaint without examining the merits of the case. The Court must first ascertain whether the suit is barred by any law and whether the jurisdiction of the Civil Court is excluded and whether the action impugned therein is within the four corners of jurisdiction and not done mala-fidely, against facts & law and fraudulently. This requires a full examination of the facts, the relevant statutory provisions, and the pleadings of the parties. The Trial Court should have framed specific issues regarding said aspects and allowed the parties to lead evidence on the same. Only after the evidence has been recorded and the issues properly considered the Court can decide whether the Civil Court has jurisdiction to entertain the suit or whether the suit is indeed barred by law.

- Conclusion:**
- i) An order passed by the authority under section 68 of The Canal and Drainage Act, 1873 can be challenged in the civil court
 - ii) See above analysis No.ii
 - iii) the mere existence of a right, on the date of the repeal would not get the protection of Section 4 of the General Clauses Act.
 - iv) The right to access the Civil Court should not be taken away by a subsequent law unless expressly provided.
 - v) See above analysis No.v
 - vi) See above analysis No.vi
 - vii) Mere assertion of a statutory bar does not automatically lead to the rejection of the plaint

48. Lahore High Court
Muhammad Ramzan. V. The State etc.
Crl. Misc. No. 10010-B/2024
Jahangir v. The State etc.
Crl. Misc. No. 1060-B/2025
Mr. Justice Muhammad Amjad Rafiq
<https://sys.lhc.gov.pk/appjudgments/2025LHC915.pdf>

Facts: The petitioners moved for their post arrest bails in a case FIR registered for the offences under section 302/324/148/149 PPC.

Issues:

- i) What are the factors that may cause cardiopulmonary arrest or cardiac arrest?
- ii) What is Glasgow Coma Scale (GCS) and how it is evaluated?
- iii) What the declining GCS indicate and what factors could cause its decline?

Analysis: i) cardiopulmonary arrest can also be caused by a variety of factors, primarily

stemming from heart problems or other medical conditions, including arrhythmias, heart attacks, and structural heart issues. As per medical literature, Cardiac Causes include;

- (i) 'Arrhythmias' which means irregular heart rhythms, especially ventricular fibrillation (ii) Coronary Artery Disease (CAD), blockages in the arteries supplying blood to the heart can lead to a heart attack, which can trigger cardiac arrest (iii) Heart Attack, can disrupt the heart's electrical system and lead to a sudden cardiac arrest (iv) Heart Failure, when the heart cannot pump blood effectively, it can lead to a weakened state and potentially cardiac arrest (v) Enlarged Heart (Cardiomyopathy), thickening or stretching of the heart muscle can disrupt its ability to function properly and lead to arrhythmias (vi) Valvular Heart Disease, problems with the heart valves can strain the heart and increase the risk of arrhythmias and cardiac arrest (vii) Congenital Heart Conditions, heart defects present at birth can increase the risk of cardiac arrest (viii) Electrical System Malfunction, problems with the heart's electrical system can cause abnormal heart rhythms (ix) Scarring of the heart tissue, this can be caused by a prior heart attack or other causes (x) Thickened heart muscle, this can be caused by high blood pressure, heart valve disease, or other causes (xi) Heart medications, some heart medications can cause arrhythmias that cause sudden cardiac arrest.

Non-Cardiac Causes are as under;

- (i) Respiratory Problems (ii) Trauma, severe injuries, especially to the chest, can disrupt the heart's function and lead to cardiac arrest. (iii) Electrocution, exposure to high voltage electricity can cause a sudden disruption of the heart's electrical system (iv) Drug Overdose (v) Severe Illness, conditions like sepsis or blood loss can lead to cardiac arrest (vi) Electrolyte Imbalances, abnormal levels of potassium, magnesium, or other electrolytes can disrupt the heart's function (vii) Hypothermia, extremely low body temperature can cause the heart to stop beating (viii) Intracranial Hemorrhage, bleeding in the brain can disrupt the body's ability to function properly, including the heart (ix) Pulmonary Embolism, a blood clot in the lungs can disrupt blood flow to the heart and cause cardiac arrest (x) Pneumothorax, a collapsed lung can disrupt the body's ability to get oxygen, which can lead to cardiac arrest (xi) Risk Factors like family History of Heart Disease or Cardiac Arrest or of heart problems (xii) High Blood Pressure (xiii) High Cholesterol,

can lead to the buildup of plaque in the arteries, which can increase the risk of heart attack and cardiac arrest (xiv) Smoking, damages the heart and blood vessels (xv) Obesity (xvi) Diabetes (xvii) Lack of Physical Activity (xviii) Alcohol or Drug Abuse, substance abuse can damage the heart and increase the risk of cardiac arrest.

ii) The Glasgow Coma Scale (GCS) is a tool used to assess a patient's level of consciousness by evaluating their eye, verbal, and motor responses, with scores ranging from 3 to 15, where 3 indicates a comatose state and 15 represents normal consciousness. The GCS was developed in 1974 by experts at the University of Glasgow in Scotland. It's a widely used tool for measuring consciousness and coma. It assesses a person's ability to perform eye movements, speak, and move their body. The Glasgow Coma Scale has three categories that apply to a neurological examination. Most of them apply to the brain itself, but some can also involve spinal cord and nerves throughout the body. The GCS is measured with the help of followings;

Eye response: This relates to how awake and alert you are.

Motor response: This part is about how well your brain can control muscle movement. It can also show if there are any issues with the connections between your brain and the rest of your body.

Verbal response: This tests how well certain brain abilities work, including thinking, memory, attention span and awareness of your surroundings.

iii) A declining Glasgow Coma Scale (GCS) score, which measures a person's level of consciousness, typically indicates a worsening neurological condition, potentially due to factors like head injury, stroke, or other brain-related issues. Factors that can cause a GCS score to decrease are as under;

(i) **Traumatic Brain Injury (TBI):** Head injuries, including concussions and more severe trauma, can lead to swelling, bleeding, or damage to brain tissue, all of which can impair consciousness and lower the GCS score.

(ii) **Cerebrovascular Accidents (Stroke):** Strokes, whether ischemic (due to blocked blood flow) or hemorrhagic (due to bleeding), can disrupt brain function and cause a decline in GCS.

(iii) **Intracranial Infections or Abscesses:** Infections or abscesses within the brain can lead to inflammation and pressure, which can affect brain function and consciousness.

(iv) **Other Neurological Conditions:** Conditions like epilepsy, poisoning, or even certain psychiatric disorders can also lead to a reduced level of consciousness and a lower GCS score.

(v) **Physiological Derangements:** Factors like hypoxia (low blood oxygen), shock, or hypoglycemia (low blood sugar) can impair brain function and lower the GCS score.

(vi) **Medications and Intoxication:** Certain medications, including sedatives, or drug and alcohol intoxication can also depress consciousness and affect the GCS score.

(vii) **Intubation:** If a patient is intubated and unable to speak, they are evaluated only on the motor and eye-opening response and the suffix T is added to their score to indicate intubation.

(viii) **Pre-existing conditions:** Pre-existing conditions like dementia, speech and hearing impairment can also affect the GCS score.

Conclusion: i) The cardiopulmonary arrest could be caused by multiple factors including cardiac causes like Arrhythmias, Coronary Artery Disease (CAD), and Heart attack etc; with Non-Cardiac Causes like Respiratory problem, Trauma, Electrocutation, and Drug Overdose etc.
 ii) Glasgow Coma Scale (GCS) is a tool to assess a patient's consciousness level basing upon Eye, Verbal and Motor Responses; developed in 1974 by experts at the University of Glasgow in Scotland.
 iii) Declining GCS indicates a worsening neurological condition of patient, potentially due to head injury, stroke, or other brain-related issues.

49.

Lahore High Court

The Bank of Punjab v. M/s Agri International & 05 Others

C.O.S No.07/2014 & P.L.A.No.08/2014

Mr. Justice Abid Hussain Chattha.

<https://sys.lhc.gov.pk/appjudgments/2025LHC887.pdf>

Facts:

The Plaintiff Bank filed this suit under Section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001, seeking recovery of Rs. 118,998,622.14/- as of 30.04.2014, along with markup, costs, and cost of funds from the date of default until realization, against the defendants. It was asserted that defendant No.1, a partnership firm with defendants No.2 and 3 as partners, is closely associated with other firms under a Group. These firms, controlled by defendants No.2 to 5, secured finance facilities for each other through executed security documents. The partners also provided personal guarantees, making them collectively liable for the repayment of various group accounts. It was asserted that defendant No.1 is the principal borrower, while defendants No.2 to 6 secured the financial facilities as mortgagers or guarantors. Defendants submitted their joint PLA. Subsequently, defendant No.4 filed an application under Order VI, Rule 17 of the Code of Civil Procedure, 1908 seeking amendments in the application for leave to defend.

- Issues:**
- i) Whether an amendment in the PLA can be made under the principle enshrined in Order VI, Rule 17 of the CPC?
 - ii) Who maintains physical and constructive possession of the pledged stock in a pledge transaction?
 - iii) What statutory protection is provided under Section 23 of the Ordinance?
- Analysis:**
- i) It is held that principle of amendment in pleadings enshrined in Order VI, Rule 17 of the CPC can be pressed with respect to amendment in the PLA.
 - ii) In a pledge transaction, a financial institution only maintains constructive possession over the pledged stock through the *Muqadam* but practically, the customer maintains its physical custody over the pledged stock and operates it in concert with the creditor in accordance with the terms and conditions of the Letter of Pledge.
 - iii) The statutory protection ordained in Section 23 of the Ordinance shall apply to safeguard the legitimate rights and interests of the Plaintiff Bank.
- Conclusion:**
- i) See above analysis No.i
 - ii) See above analysis No.ii
 - iii) See above analysis No.iii

50. Lahore High Court
Shaheen Baig v. Zaheer Ahmed Loan
Civil Revision No. 69585/2023
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC906.pdf>

- Facts:**
- The petitioner, acting as a general attorney, sold property to the respondent. However, one of the vendors had passed away before the transfer, leading to litigation. A prior suit by the legal heirs of the deceased vendor resulted in the cancellation of the sale deed. The respondent, after settling with the legal heirs, filed a suit for recovery, which was partially decreed by the Trial Court and upheld by the Appellate Court. The present civil revision challenges these concurrent findings.
- Issues:**
- i) Whether Section 34, CPC empowers the Court to grant interest on the principal amount adjudged payable from the commencement of the suit until the realization of decretal amount?
 - ii) Whether the principle of unjust enrichment applies to prevent undue financial gain at another's expense?
 - iii) Whether a change in legal position in light of judicial findings constitutes approbation and reprobation?
 - iv) Whether granting an annual increase for the period before institution of the suit is justified under the scope of Section 34 CPC?
 - v) Whether a compensatory increase can be awarded on equitable grounds under

the doctrine of *restitutio in integrum*?

- Analysis:**
- i) It is evident that the grant of interest from the date of institution of the suit falls within the discretion of the Court. Though the same cannot be claimed as a matter of right, the Court is vested with the discretion under Section, 34 CPC. As far as the grant of interest for the period prior to the institution of the suit is concerned, the same can be granted in the ways spelled out by the Supreme Court of Pakistan in case of Ghulam Abbas *supra*, which includes equitable grounds.
 - ii) It is pertinent to examine the equitable principle of unjust enrichment. Under common law, unjust enrichment primarily pertains to contract law but has been extended to the constitutional matters to prevent undue financial gain at another's expense.
 - iii) A lot of emphasis has been laid on the point that the respondent has been approbating and reprobating (...) The doctrine of approbation and reprobation, which prevents a party from taking contradictory positions to another's detriment, does not apply to the respondent as the latter, initially, relied on the petitioner's representation that deceased Muhammad Saleem had received his share. However, once judicial findings established otherwise, the respondent adjusted his position accordingly, which does not constitute approbation and reprobation but rather a necessary rectification in the light of legal determinations.
 - iv) In this regard, suffice to observe that the 5% annual increase awarded by the Courts below is not interest in the sense contemplated under Section 34, CPC, which governs the grant of interest as a discretionary relief on a principal sum adjudged by the Court, typically from the date of filing of the suit until realization. Interest under Section 34, CPC is compensatory for the time value of money and generally applies where there exists a delay in payment of an ascertained debt or obligation. However, in the present case, the awarded 5% increase does not fall within this statutory definition of interest.
 - v) In the instant case, the increase has been given as a compensatory measure, granted on equitable grounds, to neutralize the impact of inflation and currency devaluation suffered by the respondent due to the petitioner's wrongful conduct. This aligns with the doctrine of *restitutio in integrum*, which aims to restore the injured party to the position they would have occupied but for the wrongful act.

- Conclusion:**
- i) Yes, Section 34 CPC empowers the Court to grant interest from the date of institution of the suit until realization, as a matter of judicial discretion.
 - ii) The principle of unjust enrichment applies to prevent undue financial gain at another's expense.
 - iii) A change in legal position based on judicial findings does not amount to approbation and reprobation.
 - iv) See above analysis No iv.
 - v) A compensatory increase may be awarded on equitable grounds under the doctrine of *restitutio in integrum*.

51. Lahore High Court
Shahid Saleem v. Govt. of Punjab, etc.
Writ Petition No.11052 of 2024
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC1174.pdf>

Facts: The petitioner was serving in a government department when disciplinary proceedings were initiated against him for alleged misconduct involving document tampering and forgery. Initially, a lesser penalty of demotion was imposed, but after the matter was remanded for procedural reasons, a de-novo inquiry resulted in the imposition of a harsher penalty of removal from service.

Issues

- i) Can harsher punishment on same charges violates principle of proportionality and gives impression of double jeopardy?
- ii) Can the High Court interfere in factual controversies or substitute departmental findings?
- iii) Is it unjust to impose a harsher penalty for exercising right of appeal, in violation of the doctrine of estoppel?

Analysis:

- i) Moreover, the principle of proportionality in service law dictates that punishment must correspond to the gravity of the misconduct. The Competent Authority, in the first instance, determined that demotion was an appropriate response to the alleged misconduct. There was no aggravated misconduct in the de-novo inquiry and therefore, imposing a more severe penalty, upon rehearing the same set of allegations, violates the principle of proportionality and creates an impression of double jeopardy in the disciplinary proceedings.
- ii) The same are settled principles of law that the High Court cannot interfere in matters involving factual controversy and cannot substitute the findings of the departmental authorities with that of its own,
- iii) It is untenable and unjust to penalize an individual for exercising his legal right to prefer an appeal by subjecting him to a harsher penalty, on the same set of allegations. The government and its instrumentalities are bound by the principle that they cannot act to the detriment of an individual, merely, because he pursued a lawful remedy. This is consistent with the doctrine of estoppel, which prevents public authorities from acting in a manner that contradicts their prior conduct to the detriment of an individual.

Conclusion:

- i) Imposing a harsher penalty on the same charges after de-novo inquiry violates proportionality and implies double jeopardy.
- ii) The High Court is barred from interfering in factual disputes or overriding departmental conclusions.
- iii) Penalising an individual for filing an appeal contradicts fair treatment and breaches the doctrine of estoppel.

52. Lahore High Court
Bashiran Bibi, etc. v. Muhammad Aameen, etc.
C.M. No.73824 of 2022 in C.R. No.1593 of 2005
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC897.pdf>

Facts: This application, under Section 12(2) of the Code of Civil Procedure, 1908 is directed against the order passed in Civil Revision filed by respondent No.5, whereby the said petition was allowed and the findings of the Courts below, impugned therein, were set aside, and it was declared that the deceased (present respondent No.1) had transferred the suit property in favour of the respondent/petitioner, through the impugned gift mutation.

Issues

- i) Whether once a gift is executed validly, its preclude the donor to reclaim ownership?
- ii) Whether to constitute fraud under Section 12(2), CPC, there must be an intentional act designed to deceive the Court?
- iii) Whether the subsequent affidavit should be given overriding consideration qua the statement before the court?

Analysis:

- i)...In the present case, the disputed property was gifted away by predecessor of the parties, during his lifetime, thereby ceasing to be part of his estate. This Court is of the opinion that a gift, once validly executed, precluded the donor—deceased, from reclaiming ownership or modifying its legal consequences. Since the property in question had already vested in the respondent/petitioner through a legally recognized gift, neither respondents No.2 to 4 nor the applicants can lay any claim over it, under the subsequent gift mutation dated 08.07.1996 or the inheritance law, respectively.
- ii)... To constitute fraud under Section 12(2), CPC, there must be an intentional act designed to deceive the Court. The applicants' primary contention rests on the alleged non-disclosure of their existence by way of submission of incorrect pedigree table of the donor—deceased. Mere non-mentioning of certain family members (the applicants and *proforma* respondent No.6), does not amount to fraud unless it demonstrably alters the fundamental basis of a judicial decision, which is not the position in the present case inasmuch as the dispute was between the respondent/petitioner and respondents No.2 to 4, to whom the property was given away as gift although part thereof (64-Kanal) was earlier given to the respondent/petitioner and the deceased—the donor, actively participated in the legal proceedings.
- iii)... The applicants have laid significant emphasis on the affidavit purportedly sworn by the deceased, asserting his intention to distribute his entire property equitably among all the legal heirs, including his daughters—the applicants and *proforma* respondent No.6. However, the credibility and legal weight of this assertion are fundamentally undermined by the judicial proceedings wherein the deceased personally appeared before the Appellate Court below and

unequivocally recorded his statement in favor of the respondent/petitioner... It is a well-established principle of law that judicial proceedings are presumed to be conducted fairly, regularly, and with due process of law. Therefore, mere allegation of fraud, collusion or undue influence, without cogent and unimpeachable evidence, cannot vitiate the solemnity of the Court proceedings. In the present case, the appearance of the deceased before the Appellate Court below and his express confirmation of the paternity of the respondent/petitioner as also claim of the gift nullifies the applicants' contention that his subsequent affidavit should be given overriding consideration. The legal maxim "*Allegans Contraria Non Est Audiendus*" (one who contradicts his own statement is not to be heard) is fully applicable here, more so, when the deceased remained alive for 7 years after passing of the impugned order dated 19.05.2014 before purportedly giving an affidavit dated 01.01.2021, to support claim of the applicants but did not himself challenge the impugned order dated 19.05.2014 before the Supreme Court or before this Court by filing an application under Section 12(2), CPC, and died during the pendency of the present application filed by the applicants. Therefore, the said affidavit is of no help to the applicants.

- Conclusion:** i) once gift executed validly, it precludes the donor to reclaim ownership the validity of the gift made by their predecessor.
 ii) See above analysis No.ii
 iii) See above analysis No.iii
 iv) See above analysis No.iv

53. Lahore High Court
Muhammad Naeem Khan v. Mirza Muhammad Waheed etc.
C.R No.400-D/2023
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC1327.pdf>

Facts: The petitioner filed a suit for specific performance based on an agreement to sell against the respondents, who jointly own the suit property. The agreement was executed only by respondent No.1, who claimed to act as the authorized agent for respondent No.2. After notices were served, only respondent No.2 appeared in court, while respondent No.1 was declared ex-parte. Respondent No.1 later sought to set aside the ex-parte decree, which the Trial Court granted, ordering the petitioner to deposit the remaining sale consideration corresponding to respondent No.1's share. The petitioner did not comply with this order, resulting in the dismissal of his suit. An appeal against this dismissal was also rejected, leading to the current revision petition.

- Issues:** i) Whether a party who induces another into a contract through misrepresentation can benefit from its own wrongful act?
 ii) How the requirement to deposit the balance sale consideration be examined?

- iii) What does the principle of reciprocal obligations under the law of contract dictate?
- iv) How the Court's discretion to direct the plaintiff to deposit the balance sale consideration be exercised?

Analysis:

- i) It is settled principle of law that a party who induces another into a contract through misrepresentation cannot, at a later stage, benefit from its own wrongful act.
- ii) This Court is of the opinion that the requirement to deposit the balance sale consideration must be examined in the light of the surrounding circumstances.
- iii) At this juncture, suffice to observe that the principle of reciprocal obligations under the law of contract dictates that where one party's performance is contingent upon the other's compliance, the nonfulfillment of a material condition by one party absolves the other from immediate performance.
- iv) Having above analysis in sight, this Court is of the opinion that in suits for specific performance, under Section 12 of the Specific Relief Act, 1877, the Court's discretion to direct the plaintiff to deposit the balance sale consideration must be exercised in light of the equities of the case. It is also crucial to recognize a common pattern in cases where the vendors enter into agreements to sell but later on evade the performance, forcing the buyers to institute suits for specific performance.

Conclusion:

- i) A party cannot benefit from its own wrongful act.
- ii) It must be examined in the light of the surrounding circumstances.
- iii) See Above analysis no.iii
- iv) It must be exercised in light of the equities of the case.

54. Lahore High Court
Muhammad Rafique v. Mst. Suriya Bibi
Civil Revision No. 24-D of 2025
Mr. Justice Anwaar Hussain
<https://sys.lhc.gov.pk/appjudgments/2025LHC1180.pdf>

Facts: Respondent instituted a suit for declaration which was dismissed by the trial court, against which, the respondent preferred an appeal. The findings of the Trial Court were upended and the suit of the respondent was decreed by the Appellate Court. Hence, the present civil revision under Section 115 of the Code of Civil Procedure, 1908 has been filed against the judgment of the Appellate Court.

Issue:

- i) What is the effect of failure on the part of party to produce a witness, despite the other party's assertion that the sale consideration was paid in his presence?
- ii) Whether the existence of animosity between parties to a transaction can serve as a valid ground to discredit the statements of the marginal witnesses?

Analysis: i) Another significant aspect of the case is the failure of the respondent to produce

her husband as a witness, despite the petitioner's assertion that the sale consideration was paid in the respondent's drawing room in the presence of her husband. The husband, being a key witness with direct knowledge of the alleged transaction and/or the alleged fraud, was deliberately withheld, leading to the presumption that his testimony would not have supported the respondent's case.

ii) The Courts must remain cautious in attributing undue weightage to allegations of enmity, as disputes between relatives are inherently dynamic and subject to resolution. Past or present disagreements of the parties do not override documented legal transactions, particularly, where due process has been followed and independent evidence supports the transaction's validity. Even otherwise, if said argument is accepted, it would create a dangerous precedent where every transaction could be negated merely by alleging hostility, thereby undermining the sanctity of the attested documents. Therefore, the attempt to discard the statements of the marginal witnesses on the ground of animosity is legally untenable and does not, in any manner, dislodge the authenticity of the impugned sale mutations.

Conclusion: i) The principle of best evidence dictates that where a party avoids presenting a material witness without justification, an adverse inference must be drawn against such a party.
ii) The animosity between the parties, in itself, cannot diminish the evidentiary value of the testimony of the marginal witnesses of the impugned mutations.

55. Lahore High Court
M/s Al-Qadir Seed Corporation (Pvt) Ltd. through its Director v.
Federation of Pakistan, through Secretary Revenue Division
Petition No.81167 of 2024
Mr. Justice Raheel Kamran.
<https://sys.lhc.gov.pk/appjudgments/2025LHC1188.pdf>

Facts: Short facts of the case are that the petitioner is a Private Limited Company registered with Inland Revenue Zone for its tax affairs. Last date for filing of tax return for the year 2023 was 31.12.2023 and as audited accounts of petitioner's firm were not finalized, the petitioner filed income tax return as nil, with intention to revise the same within 60 days. In the meanwhile notice (impugned notice) was issued to the petitioner under section 177(1) of the Ordinance, whereby he was informed that his case had been selected for audit under section 177 of the Ordinance. The petitioner responded the impugned notice by filing, whereby he objected that issuance of impugned notice prior to lapse of 60 days after filing of tax return was barred under section 114(6) of the Ordinance, wherein time of 60 days has been granted for revising tax return. The reply was not considered by the respondents and they issued another notice. Thereafter, penalty notice under section 182(2) of the Ordinance was issued to the petitioner, which was followed by order under section 182(2).

Issue: i) Whether by invoking provision under Section 177 of the Ordinance as to selection for audit within the permissible period of 60-days for revision of the return resulting in disability of a taxpayer to revise the return within the stipulated period envisaged, under Section 114(6) of the Ordinance, does not render the latter provision redundant, which is a substantive provision of law?

Analysis: i) Section 114(6) of the Ordinance explicitly grants a taxpayer the right to revise a return within 60 days of its filing if any omission or wrong statement is discovered. This provision confers a substantive right upon taxpayers to correct errors or omissions in their returns without penalty provided the revised return is filed within the stipulated time. The proviso to Section 114(6) further clarifies that no approval from the Commissioner is required if the revised return is filed within the 60-days period. This underscores the legislative intent to provide taxpayers with a clear opportunity to rectify mistakes within the specified timeframe (.....)Section 114(6) is a substantive provision intended to facilitate voluntary compliance and correction of errors, whereas 177 provides enforcement mechanism. No overriding effect has been given under Section 177(1) above the provisions of Section 114 including sub-section (2) thereof; as such the same is to be construed harmoniously with other provisions of the Ordinance including Section 114(6) which confers right upon taxpayers to revise return with 60-days.

Conclusion: i) See above analysis No. i

56. Lahore High Court
National Highway Authority etc. v.
Ghulam Ali (deceased) through legal heirs etc.
Mr. Justice Malik Waqar Haider Awan
<https://sys.lhc.gov.pk/appjudgments/2025LHC1376.pdf>

Facts: The petitioners acquired land for motorway construction, and after litigation under Section 18 of the Land Acquisition Act, 1894 a decree for compensation was passed in favor of the respondents. The petitioners challenged the execution petition asserting that the same was time-barred.

Issues: i) What is the requirement of Section 31 of the Land Acquisition Act, 1894 regarding payment of Compensation amount?
 ii) What is the effect of “acknowledgement” on limitation period?
 iii) What is obligation of institutions of the State under Article-3 and Article 24 of the Constitution of Islamic Republic of Pakistan, 1973?

Analysis: i) Apart from this, Section 31 of the Act requires the payment of subject land at very initial stage and it is nowhere provided in the Act that in case of non-receiving of compensation or approaching for the same with delay, the right to

receive the compensation would be extinguished. As in the present case, the land is “acquired” and not a matter of sale and purchase between two parties, due to which legislature has intentionally employed the word “compensation” instead of price of land as the land owner cannot resist the process of acquisition which is a compulsory process, he only can make efforts to get enhanced compensation.

ii) As per Section 19 of the Limitation Act, 1908, after acknowledgements which are made by petitioners as per referred interim orders in paragraph No.4, a fresh period of limitation is to be computed.

iii) Article 3 of the Constitution of Islamic Republic of Pakistan (hereinafter called “the Constitution”) relates to elimination of exploitation of citizens of Pakistan. From the bare perusal of the said Article, it can safely be observed that State run institutions, working in a representative form, are not expected to exploit the vulnerability of citizens. Undeniably, State is like a mother and it is its primary duty to protect the rights of its children (citizens of Pakistan). In addition to above, Article 24 of the Constitution deals with protection of property rights and after going through said Article, it can safely be said that compensation rights of citizens would not be extinguished in any manner. It is pertinent to mention here that fundamental rights are a crucial aspect of State’s role in protecting its citizens. The Constitution guarantees several fundamental rights to its citizens. While focusing the matter in issue, I feel it necessary to observe here that substantial justice should not be ignored as it is a key principle of a fair and just society. This principle is fundamental to ensuring that the law is applied fairly and that people’s rights are respected.

Conclusion: i) Section 31 of the Land Acquisition Act, 1894 requires the payment of compensation for acquired land at very initial stage.
 ii) As per Section 19 of the Limitation Act, 1908, after acknowledgements, a fresh period of limitation is to be computed.
 iii) See above analysis (iii)

57.

Lahore High Court

The State v. Shahid alias Shahidi

Murder Reference No.234 of 2021

Shahid alias Shahidi v. The State, etc.

Criminal Appeal No.848 of 2022

Saddam Hussain v. The State, etc.

Criminal PSLA No.846 of 2022

Saddam Hussain v. The State, etc.

Criminal Revision No.847 of 2022

Mr. Justice Shehram Sarwar Ch, Mr. Justice Sardar Akbar Ali

<https://sys.lhc.gov.pk/appjudgments/2025LHC864.pdf>

Facts:

The complainant, along with two others, was riding a motorcycle behind his mother who was walking ahead on foot when three accused persons emerged from the paddy crop and opened fire, resulting in the death of the complainant’s

mother on the spot. The motive alleged was the refusal of a marriage proposal by the deceased, which led to resentment and grudge by the accused and his family.

Issues

- i) Whether unexplained delay in lodging the FIR and conducting postmortem creates doubt in the prosecution case?
- ii) Can conviction be based solely on the testimony of interested witnesses without corroboration?
- iii) Whether evidence of chance witnesses without convincing justification for their presence at the crime scene can be relied upon?
- iv) What is the effect of contradiction between medical evidence and ocular account?
- v) What is the legal consequence when prosecution fails to prove the motive it has set up?
- vi) Whether recovery of weapon alone is sufficient to uphold a conviction when direct evidence is disbelieved?
- vii) What is the standard for granting benefit of doubt to an accused in criminal cases?

Analysis:

- i) In the attending circumstances, the delay in reporting the matter to the Police creates many suspicions and doubts in the prosecution case particularly when eyewitnesses Saddam Hussain/ complainant (PW-1) and Muhammad Aslam (PW-2) are not only closely related inter-se to the deceased but also the residents of the same vicinity, in such a situation if these witnesses were present at the time and place of occurrence and also witnessed the scene of occurrence then such an inordinate and unexplained delay would never have occurred.
- ii) The testimony of an interested witness should be scrutinized with care and caution. It is further observed that: 1. Independent corroborating evidence is essential to test the validity and credibility of the testimonies of interested witnesses. 2. Capital punishment cannot be given on the testimony of an interested witness uncorroborated by any independent evidence.
- iii) Admittedly, the testimony of chance witness ordinarily is not accepted unless justifiable reasons are shown to establish his presence at the crime scene at the relevant time. In normal course, the presumption under the law would operate about his absence from the crime spot. The testimony of chance witness may be relied upon, provided some convincing explanations appealing to a prudent mind for his presence on the crime spot are put forth, when the occurrence took place otherwise his testimony would fall within the category of suspect evidence and cannot be accepted without a pinch of salt.
- iv) The contradiction in the ocular account of the occurrence as narrated by the prosecution witnesses and the medical evidence furnished by the doctor clearly establish that the prosecution has miserably failed to prove the charge against the appellant.
- v) It is cardinal principle of criminal justice that the prosecution has to suffer if set up a motive but fails to prove the same.

vi) when we have already disbelieved the ocular account, such recovery would not be sufficient for recording conviction of an accused on capital charge, because this type of corroborative evidence is always taken into consideration along with direct evidence.

vii) “MUHAMMAD IJAZ alias BILLA and another Versus The STATE and others” (2024 SCMR 1507), the Supreme Court of Pakistan has held that for giving benefit of doubt to an accused a single circumstance creating reasonable doubt in a prudent mind about guilt of accused is sufficient to make him entitled to such benefit.

- Conclusion:**
- i) Unexplained delay undermines prosecution credibility.
 - ii) Interested witness testimony requires independent corroboration.
 - iii) Chance witness evidence is unreliable without justification.
 - iv) Medical-ocular contradiction weakens prosecution case.
 - v) Failure to prove motive damages prosecution.
 - vi) Weapon recovery alone can't justify conviction.
 - vii) Single doubt entitles accused to acquittal.

58. Lahore High Court
The State v. Muhammad Dilawar and another
Murder Reference No.223 of 2021
Muhammad Dilawar and another v. The State
Criminal Appeal No.77117 of 2021
Mr. Justice Shehram Sarwar Chaudhry, Mr. Justice Sardar Akbar Ali
<https://sys.lhc.gov.pk/appjudgments/2025LHC1194.pdf>

Facts: Two individuals were tried and convicted for murder based on circumstantial evidence and confessional statements. They challenged their conviction and sentence before the High Court.

- Issues:**
- i) Whether unexplained delay in reporting an incident undermines the credibility of the prosecution's case?
 - ii) Whether conviction can be based solely on circumstantial evidence in absence of direct eyewitness account?
 - iii) Whether an extrajudicial confession without corroboration can sustain a conviction?
 - iv) Whether a retracted judicial confession recorded without mandatory precautions holds evidentiary value?
 - v) Whether recoveries made without independent witnesses and in violation of procedural safeguards are reliable?
 - vi) Whether medical evidence alone, without linking the accused, can establish guilt in a criminal trial?
 - vii) Whether unproven motive can support conviction in absence of reliable ocular evidence?

Analysis: i) We hold that this inordinate delay in setting the machinery of law in motion

speaks volumes against the veracity of prosecution version.

ii) It has been held in a number of cases by the Hon'ble Supreme Court of Pakistan that circumstantial evidence in an unseen occurrence should be like a well-knit chain and each circumstance was to be connected with each other to make one complete chain and if even one link of the chain is missing this would entitle the accused to be acquitted by giving him the benefit of doubt.

iii) The extrajudicial confession is always considered a weak type of evidence and can be procured at any time during the investigation when there is no direct evidence available to the prosecution. Moreover, the legal worth of the extrajudicial confession too is almost equal to naught, keeping in view the natural course of events, human behaviors, conduct and probabilities, in ordinary course. Needless to remark that extrajudicial confession has never been considered sufficient for recording conviction on a capital charge unless it is strongly corroborated by tangible evidence coming from unimpeachable source.

iv) Admittedly the said judicial confession had been retracted by appellant ... before the learned trial Court and in absence of any independent corroboration such retracted judicial confession could not suffice all by itself for recording or upholding the appellant's convictions

v) Such recovery is also in clear violation of section 103 of Code of Criminal Procedure, 1898. Therefore, the evidence of such recovery cannot be used as incriminating evidence against the accused/appellant, being evidence that was obtained through illegal means and hence hit by the exclusionary rule of evidence.

vi) In any case the medical evidence is a mere opinion of an expert and is confirmatory in nature and not corroboratory except those observations of the medico-legal officer, which were based on physical examination, which served as a corroboratory piece of evidence and that at the best would confirm the ocular account with regard to the seat and nature of injury, kind of weapon used in the occurrence, but could not identify the accused and thus the medical evidence is also of no help to the prosecution for connecting the appellants with the commission of the offence.

vii) Moreover, it is an admitted rule of appreciation of evidence that motive is only supportive piece of evidence and if the ocular account is found to be unreliable then motive alone cannot be made basis of conviction. Even otherwise a tainted piece of evidence cannot corroborate another tainted piece of evidence. We are therefore, of the view that the prosecution has failed to prove the motive part of the occurrence.

Conclusion: i) Yes, an unexplained delay in reporting the incident adversely affects the credibility of the prosecution's case.

ii) No, conviction cannot be based solely on inconclusive circumstantial evidence.

iii) No, uncorroborated extrajudicial confession is insufficient for conviction.

iv) No, a retracted confession recorded without observing mandatory safeguards holds no evidentiary value.

v) No, recoveries without procedural compliance and corroboration are unreliable.

- vi) No, medical evidence alone is insufficient to connect the accused with the commission of the offence.
- vii) No, a motive lacking independent substantiation holds no evidentiary weight.

59. Lahore High Court
Haq Nawaz v. The State
Mamoor v. The State, etc.
The State v. Haq Nawaz
Criminal Appeal No.76281 of 2021
Criminal Appeal No.77615 of 2021
Murder Reference No.220 of 2021
Mr. Justice Shehram Sarwar Ch., Mr. Justice Sardar Akbar Ali
<https://sys.lhc.gov.pk/appjudgments/2025LHC1118.pdf>

Facts: The appellant and his co-accused were tried by the Additional Sessions Judge for offences under sections 302/34 PPC. The trial court acquitted the co-accused but convicted and sentenced the appellant. In response, the appellant filed an appeal against his conviction and sentence. Additionally, the trial court sent a reference under Section 374 Cr.P.C. for the confirmation of the death sentence awarded to the appellant, while the complainant filed an appeal challenging the acquittal of the co-accused.

Issues:

- i) When the testimony of chance witness may be relied upon?
- ii) If same witness is disbelieved to the extent of co-accused, can conviction be recorded to other accused on the same set of evidence?
- iii) If prosecution withheld the best piece of evidence, what adverse inference can be drawn?
- iv) Whether prosecution has to suffer if set up a motive but fails to prove the same?

Analysis:

- i) The testimony of chance witness may be relied upon, provided some convincing explanations appealing to a prudent mind for his presence on the crime spot are put forth, when the occurrence took place otherwise his testimony would fall within the category of suspect evidence and cannot be accepted without a pinch of salt.
- ii) It is settled by now that the witnesses disbelieved to the extent of co-accused cannot be believed against the appellant and the conviction and sentence of appellant are not sustainable on the same set of evidence.
- iii) The prosecution withheld best available evidence and in view of Article 129(g) of Qanoon-e-Shahadat Order, 1984, adverse inference, that had this witness been produced before the learned trial court he would not have supported the prosecution case, can safely be drawn against the prosecution.
- iv) It is cardinal principle of criminal justice that the prosecution has to suffer if set up a motive but fails to prove the same.

- Conclusion:** i) It may be relied upon when some convincing explanations appealing to a prudent mind for his presence on the crime spot are put forth.
 ii) No conviction can be recorded.
 iii) That evidence would not have supported the prosecution case.
 iv) Yes, the prosecution has to suffer.

60. Lahore High Court
W.P. No.1280 of 2025
Abdul Ghaffar, etc. v. Additional District Judge, etc.
Mr. Justice Syed Ahsan Raza Kazmi
<https://sys.lhc.gov.pk/appjudgments/2025LHC809.pdf>

Facts: The petitioners have assailed the vires of impugned orders passed by the courts below. The petitioners filed a suit for specific performance of an agreement to sell against the respondents while alleging that their predecessor-in-interest had executed an agreement to sell with one Allah Nawaz Rabbani predecessor-in-interest of the respondents. After recording of evidence of both the parties, the petitioners moved an application under Article 59 of Qanun-e-Shahadat Order, 1984 for comparison of signatures and thumb impressions of Allah Nawaz Rabbani, on the alleged agreement to sell, receipt and register of stamp vendor with his personal documents i.e. old and computerized national identity cards and passports and his applications for renewal of his license. The learned trial court dismissed the application. Feeling aggrieved, the petitioners filed a Civil Revision which met the same fate. Hence, this petition.

Issue: i) Whether a party can be allowed to take a contradictory stance that is inconsistent with its earlier statements or actions, if not, which doctrine precludes a party from taking a different position before the court?

Analysis: i) A party cannot be allowed to take a contradictory stance or position that is inconsistent with their earlier statements or actions. In the context of the Article 114 Qanun-e-Shahadat Order, 1984, estoppel can be invoked when a party has taken a particular position or made a statement that is later contradicted by their actions or subsequent statements (...) such inconsistency of the petitioners falls under the mischief of doctrine of estoppel, which being an equitable doctrine precludes a party from taking inconsistent positions before the court. Furthermore, it is held in number of cases that one cannot be permitted to approbate and reprobate in the course of same proceedings.

Conclusion: i) See above analysis No. i

61. Lahore High Court

Malik Muhammad Sarfraz Nazam Awan v. Federal Government, Ministry of Commerce through its Secretary, Islamabad and 3 others

Writ Petition No. 8683 of 2024

Mr. Justice Syed Ahsan Raza Kazmi

<https://sys.lhc.gov.pk/appjudgments/2025LHC1092.pdf>

Facts: The petitioner challenged the validity of two letters through this Writ petition. One letter authored by the Executive Members of Trade Organization requesting a meeting to move a No Confidence Motion the President of the Bahawalpur Chamber of Commerce and Industries (BCCI) and second letter authored by the Director General of Trade Organization directing such a meeting be convened. The petitioner contended that the governing legal framework does not provide for a No Confidence Motion and that the impugned actions are therefore unlawful.

Issues

- i) How a company can be sued or initiate legal action on its behalf?
- ii) Whether the constitutional jurisdiction of High Court can be invoked without exhausting the alternate statutory remedies?
- iii) Whether Companies Act applies to proceedings related to registered trade organizations?
- iv) Whether any breach of the Companies Act would constitute a breach of the Rules and the license terms?

Analysis:

- i) It can be safely observed that a company has a separate legal identity. To sue or initiate legal action on its behalf, authorization through Board Resolution is required. However, if a company official is sued personally, no Board Resolution is needed, as individuals and the company are legally distinct entities.
- ii) ...This Court's Constitutional jurisdiction cannot be invoked as a routine matter of right. Instead, it has specific limitations that must be considered when exercising its discretionary powers. Article 199 of the Constitution outlines these limitations, including the requirement that alternate remedies must have been exhausted.
- iii) The Act references the Companies Ordinance, 1984¹, which has been repealed and replaced by the Companies Act, 2017. Consequently, all references to the term "Ordinance" within the Act must now be interpreted as references to the Companies Act, 2017. A "Registered Trade Organization" is by definition, an entity incorporated under the Companies Act, 2017². To obtain a license, a trade organization must be registered as a company with limited liability under the Companies Act, 2017³. Additionally, license holders are required to apply for incorporation within 30 days and secure incorporation within 90 days⁴. This position is further supported by a judgment of the Islamabad High Court, which unequivocally affirms that the Companies Act applies to proceedings related to registered trade organizations.
- iv) Specifically, Section 190 of the Companies Act, 2017, outlines the process for removing a chief executive by requiring a majority vote from the board of directors. Additionally, Clause 14(1) of BCCI's license requires compliance with

the Companies Act. Therefore, any breach of the Companies Act would constitute a breach of the Rules and the license terms. Section 14(3)(g) of the Act empowers the Regulator to direct trade organizations to comply with the Companies Act, 2017. In this case, the Regulator directed BCCI to convene an executive committee meeting to discuss a "No Confidence Motion." His direction are at par with Section 190 of the Companies Act 2017. Thus, Respondent No.2 (the Regulator) was well within its authority to issue the impugned direction.

- Conclusion:**
- i) To sue or initiate legal action on its behalf, authorization through Board Resolution is required.
 - ii) See above analysis No.ii
 - iii) See Above analysis No.iii
 - iv) See above analysis No.iv

62. Lahore High Court
Muhammad Rizwan v. The State and another
Crl. Misc. No. 10519-B of 2024
Mr. Justice Muhammad Jawad Zafar
<https://sys.lhc.gov.pk/appjudgments/2025LHC846.pdf>

Facts: By way of this common order, two bail petitions under section 497 of the Code of Criminal Procedure 1898 ("Code" or "Cr.P.C"), are being decided as both are emanating from same crime report lodged for the offences under Sections 3, 4, 13, 14, and 16 of the Prevention of Electronic Crimes Act 2016 ("PECA") and Sections 419, 420, 468, 471, and 109 of the Pakistan Penal Code 1860 ("PPC"), registered with Federal Investigation Agency ("FIA") Cyber Crime Reporting Centre.

- Issues:**
- i) What are the categories of law with respect to the rights and remedies and how the same can be defined?
 - ii) What is the nature of a statute providing change of forum?
 - iii) What is the operational applicability of a statute containing substantive rights and procedural law?
 - iv) Whether bail in a bailable offence is a substantive right or merely a matter of procedure?
 - v) Whether the amendment in Section 43 of PECA by the Amendment Act, to the extent it converts bailable into non-bailable will have retrospective applicability or will the same only apply prospectively?

- Analysis:**
- i) The law can be categorized as either substantive or procedural. Substantive law defines rights, while procedural law deals primarily with the process or remedies involved. Procedure is merely machinery, a means to an end, and its objective is to facilitate, not obstruct, the administration of justice.
 - ii) A statute providing change of forum, pecuniary or otherwise, is procedural in nature.

iii) It is a well-settled principle of interpretation of statute that where a statute affects a substantive right, it operates prospectively unless “by express enactment or necessary indictment” retrospective operation has been given. However, a statute, which is procedural in nature, operates retrospectively unless it affects an existing right on the date of promulgation or causes injustice or prejudice to the substantive right (...) an amendment in law will operate prospectively if it affects substantive rights unless the legislature expressly provides for retrospective application. Given that substantive rights cannot be taken away without clear legislative intent, any modification that alters a person's entitlement must be presumed to have future applicability, ensuring fairness and preventing undue prejudice. Conversely, an amendment in law operates retrospectively if it pertains purely to procedural matters, such as changes in the forum, mode of trial, or rules of investigation, unless it impacts vested rights or causes injustice. Procedural laws are generally presumed to have retroactive applicability unless expressly stated otherwise or if their application would disturb past and closed transactions, create new obligations, or impair existing rights.

iv) Grant of bail in bailable offences is an indefeasible vested (substantive) right to be granted as a matter of right, it is absolute and unconditional, with no contingencies affecting it.

v) As such, the Amendment Act, to this extent, will only apply prospectively.

- Conclusion:**
- i) The law is either substantive or procedural. Former defines rights, while the latter deals with the process and remedies.
 - ii) See above analysis No. ii
 - iii) See above analysis No. iii
 - iv) Bail in bailable offences is a vested, absolute and unconditional.
 - v) The Amendment Act will apply prospectively.

63. Lahore High Court
Sultan alias Panun v. The State, etc.
Criminal Appeal No. 328-J of 2023
Fida Hussain v. The State, etc.
Criminal Appeal No. 329-J of 2023
Niaz Hussain v. The State, etc.
Criminal Appeal No. 331-J of 2023
Inaam Mehdi v. The State, etc.
Criminal Revision No. 84 of 2023
Mr. Justice Muhammad Jawad Zafar
<https://sys.lhc.gov.pk/appjudgments/2025LHC825.pdf>

Facts: The appellants were convicted by the Trial Court for offences including murder, kidnapping, and trespass under the Pakistan Penal Code. They were sentenced to life imprisonment and directed to pay compensation to the legal heirs of the deceased. They challenged their conviction before the Lahore High Court, while the complainant filed a criminal revision seeking enhancement of their sentences.

- Issues:**
- i) What is the legal effect of an unexplained delay in the registration of the FIR?
 - ii) What is the legal implication of a delayed autopsy on the credibility of eyewitness testimony?
 - iii) What are the legal requirements for the credibility and admissibility of a chance witness's testimony?
 - iv) What is the legal consequence of non-compliance with Section 103 of the Cr.P.C. in the recovery of incriminating evidence from an inhabited locality?
 - v) What is the evidentiary value of the recovery of blood-stained weapons after a significant lapse of time?
 - vi) What are the legal requirements for summoning and examining prosecution witnesses and evidence?
 - vii) What is the procedure and significance of presenting defence evidence in a criminal trial?
 - viii) What is the distinction between the powers under Section 94 and Section 265-F of the Cr.P.C. regarding the summoning of evidence and witnesses?
 - ix) What is the scope and application of Article 129 of the Qanun-e-Shahadat Order, 1984 in criminal proceedings?
 - x) What are the powers of the court under Section 540 Cr.P.C. to summon or recall witnesses, and how do they impact the trial process?

- Analysis:**
- i) No plausible justification or adequate explanation has been furnished by the complainant (PW-5) concerning the delay in the registration of the Crime Report, which in and of itself makes the case of the prosecution suspicious.
 - ii) Generally, under the law laid down by the Honourable Supreme Court of Pakistan, delayed autopsy translates to absence of eyewitnesses from the venue of the crime when it took place and the witnesses are deemed to be chance witnesses at best.
 - iii) A chance witness, in legal parlance, is a witness who claims that he was present at the crime spot at the fateful time, albeit, his presence there was a sheer chance as in the ordinary course of business, place of residence and normal course of events because he is not supposed to be present on the spot, but at a place where he resided, carried on business or ran day to day affairs. It is in this context that the testimony of a chance witness is ordinarily not accepted unless justifiable reasons were shown to establish his presence at the crime scene at the relevant time. In normal course, the presumption under the law is that such a witness was absent from the crime spot. True that in rare cases, the testimony of a chance witness may be relied upon, provided some convincing explanations appealing to a prudent mind for his presence on the crime spot are put forth, when the occurrence took place otherwise, his testimony would fall within the category of suspect evidence and cannot be accepted without a pinch of salt.
 - iv) All the murder weapons were recovered from the houses of the appellants, however, no independent witnesses from the locality were associated with the search and seizure as mandated by Section 103 of the Code. In “Muhammad Azam v. The State” (PLD 1996 Supreme Court 67 (5-MB)), the Full Bench of the

Honourable Supreme Court of Pakistan held that Section 103 of the Code applies with full force and is mandatory when search is to be made of the place which is in an inhabited locality. In other words, it can be said that Section 103 is relatable to the place and not to the person. If the place is known where search is to be made, and that place is situated in a locality which is inhabited by the people, then it is necessary to join two or more respectable persons from that locality to witness the search.

v) Another astonishing factor which this Court has observed is that all the murder weapons recovered from the appellants were blood stained. It does not resonate with a judicious mind that the appellants would keep the murder weapons stained with blood as souvenirs for such a long duration despite having ample time to dispose them off or destroy them or at the very least, wash away the blood stains from them.

vi) The trial court is empowered, after ascertaining from the public prosecutor or complainant, to summon any person as a witness who is acquainted with the facts of the case and is able to give evidence. However, when it appears to the trial court that the witness is being called for the purpose of vexation, delay or defeating the ends of justice, it has the power to refrain from summoning such a witness.

vii) After completion of prosecution evidence, the trial court is under a bounden duty to allow the accused person to adduce his evidence, generally termed as defence evidence, and after entering in his defence, if the accused applies to the trial court to summon any person as a witness or for the production of a document, the trial court shall summon such witness or document.

viii) The only difference between the powers granted to the trial court under Section 265-F of the Code and Section 94 of the Code appears to be that the first can only be exercised during the course of trial after plea of the accused under Section 265-E of the Code and witnesses deemed essential can be summoned, whereas the latter can be exercised at any stage of 'any proceedings' where the court conducting the proceeding, inquiry or trial, as the case may be, considers the production of a document or other thing necessary.

ix) Article 129 of the Qanun-e-Shahadat 1984 ('QSO') allows the Courts to presume the existence of any fact, which it thinks is likely to have happened, regarding the common course of natural events and human conduct in relation to the facts of the particular case... This Court presumes the existence of this fact that the occurrence remained unwitnessed by virtue of Article 129 of QSO because the conduct of the witnesses as deposed by them is opposed to the common course of natural events and human conduct.

x) Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

- Conclusion:**
- i) The unexplained delay in the registration of the FIR renders the prosecution's case doubtful.
 - ii) A delayed autopsy suggests the absence of eyewitnesses at the crime scene, affecting the credibility of their testimony.
 - iii) The testimony of a chance witness is unreliable unless convincingly justified with a reasonable explanation for their presence at the crime scene.
 - iv) Non-compliance with Section 103 of the Cr.P.C. in the recovery process diminishes the evidentiary value of the recovered items.
 - v) The recovery of blood-stained weapons after a significant lapse of time is highly suspicious and lacks probative value.
 - vi) The trial court has the discretion to summon or refrain from summoning a prosecution witness if it deems the request vexatious or aimed at delaying justice.
 - vii) The trial court must allow the accused to present defence evidence and summon witnesses or documents upon request.
 - viii) Section 265-F Cr.P.C. applies during trial for summoning witnesses, while Section 94 Cr.P.C. can be invoked at any stage of proceedings for producing documents or objects.
 - ix) Under Article 129 QSO, courts may presume facts based on natural human conduct, and unwitnessed occurrences may be inferred when testimony contradicts common experience.
 - x) Section 540 Cr.P.C. empowers courts to summon, recall, or re-examine witnesses at any stage if their testimony is essential for a just decision.

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

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

Issues

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

- Analysis:**
- i) The scope of revision is inherently limited and may only be invoked when a finding of fact that influences the decision is either unsupported by evidence or results from misreading or non-reading of the material available on record. Upon the fulfillment of either of these conditions, it is incumbent upon this Court to exercise its revisional jurisdiction. In order to invoke the revisional jurisdiction, two conditions precedent constituting jurisdictional facts would require to be fulfilled: first, it should relate to proceedings, and second, the said proceedings should be before subordinate criminal Court.³
 - ii) It was straightaway observed that none of the recovered materials were exhibited in evidence by the prosecution before the learned Trial Court. Rule 14-H, Part B, Chapter 24, Volume III, of the Rules and Orders of the Lahore High Court (“High Court Rules and Order”) pertains to exhibits and provides a self-explanatory procedure for exhibiting a document and article to be read in evidence.
 - iii) the prosecution failed to produce the witness Muhammad Khalid, who, according to the PFSA report (Exh.PE), transmitted the samples to the PFSA. This omission raises concerns regarding the safe transmission of the parcel to the PFSA, thereby disrupting the chain of custody for the sample parcel...the non-production of witness Muhammad Khalid suffices to break the chain of custody and is sufficient to cast serious doubt about the integrity of the sample parcel, ultimately compromising the credibility and reliability of the PFSA report (Exh.PE).
 - iv) It is trite that the incriminating material and the circumstances from which inferences adverse to the accused sought to be drawn should be put to the accused when he is questioned under Section 342 of the Code, else the same cannot be considered as a piece of evidence against the accused.⁴ Akin to the principle enunciated hereinabove that any non-exhibition of article or document cannot be used against the accused person, similarly, any incriminating article or document which was not put to accused in his statement under section 342 of the Code cannot be used against him.⁵
 - v) Since the petitioner was not known to the prosecution witnesses and no identification parade was conducted in terms of Article 22 of the Qanun-e-Shahadat Order 1984 (“QSO”), nor were the features of the petitioner disclosed in the Crime Report, with a lack of explanation from the complainant as to how he identified the petitioner, the identity of the petitioner remains unclear and shrouded in mystery.
 - vi) It is trite that this Court can exercise its revisional jurisdiction *suo motu* to ensure effective superintendence and visitorial powers to make sure of the strict adherence to the safe administration of justice and to correct any error unhindered by technicalities.⁶
 - vii) It is trite that it is not necessary that there be multiple infirmities in the prosecution's 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 the benefit, not as a matter of grace or concession but as a matter of right.⁸

- Conclusion:**
- i) See above analysis No.i
 - ii) See above analysis No.ii
 - iii) See above analysis No.iii
 - iv) any incriminating article or document which was not put to accused in his statement under section 342 of the Code cannot be used against him.
 - v) See above analysis No.v
 - vi) Court can exercise its revisional jurisdiction *suo motu*
 - vii) A single or slightest doubt, if found reasonable, in the prosecution case would be sufficient to entitle the accused to the benefit of doubt

65. Lahore High Court
The State v. Muhammad Saleem
Murder Reference No. 09 of 2020&Criminal Appeal No. 18-J of 2020
Mr. Justice Muhammad Jawad Zafar
<https://sys.lhc.gov.pk/appjudgments/2025LHC1099.pdf>

Facts: The Sessions Court convicted the appellant under section 302(b) PPC, on the charge of murder of complainant's wife and sentenced him to death as ta'zir along with a sentence u/ 324 PPC as 5 years rigorous imprisonment and daman under section 337-F(ii) PPC for inflicting injuries upon the complainant's son.

- Issues:**
- i) Whether promptness of FIR and injuries upon the child witness prove the presence of witness at the place of occurrence?
 - ii) Whether in presence of trustworthy and reliable ocular and circumstantial evidence the delay in lodging the FIR is fatal?
 - iii) How many witnesses are required to prove the fact in issue in a murder case?
 - iv) Whether a child is a competent witness?
 - v) Whether an accused of murder case can be convicted on the basis of solitary statement of single witness?
 - vi) Whether delay in post-mortem examination solely is sufficient to extend benefit of doubt by brushing aside the prosecution evidence?
 - vii) Whether inmates are deemed to be natural witnesses and their testimony is to be discarded?
 - viii) What is value of medical evidence, whether ocular evidence can be given preference over medical evidence and it is sufficient to sustain conviction?
 - ix) Whether the testimony of police officials is as good as any other witness?
 - x) Whether without DNA comparison, the weapon of offence/recovery has any value?
 - xi) What facts constitute mitigating and extenuating circumstances, whether these circumstances have value to secure acquittal of the accused?

Analysis: i) The promptness with which the Crime Report got lodged, especially considering the existence of Injured Child Witness (PW-10), not only confirms

the presence of PWs at place of occurrence. In addition thereto, the Crime Report was lodged by the complainant (PW-9), inmate of the house where the occurrence took place along with the stamp of injuries on the person of Injured Child Witness, are conclusive proof of their presence at the venue of occurrence.

ii) The so-called delay as averred by the learned counsel for the Appellant, is out of question, especially considering the ratio decidendi laid down in the aforementioned cases, in as well as the case of “Sheraz Asghar v. The State” (1995 SCMR 1365), wherein it was held that ‘[b]esides, 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’. Even otherwise, the honourable Supreme Court of Pakistan observed in “Zar Bahadur v. The State” (1978 SCMR 136) that mere delay does not wash away the reliability of the ocular account or trustworthiness of the same.

iii) Article 17 of the Qanun-e-Shahadat 1984 (“QSO”) does not spell the number of witnesses required to prove a fact in issue in a case under Section 302 of the PPC in terms of Article 18 of QSO.

iv) Under the law, a child as young as eight is fully competent to depose as a witness, because said child has the capacity and intellect to depict and comprehend what he is deposing about. Rationality test is invoked by the courts of law as a means of determining whether a child is a competent witness or otherwise. Said test stems from the combined reading of Article 3 and Article 17 of the Qanun-e-Shahadat 1984 (“QSO”) after conducting voir dire. It is trite that voir dire constitutes a sort of inquiry conducted within a trial to determine ancillary issues that are essential for adjudication and it falls within the discretion of the learned Trial Court to assess the competence of a child witness by posing various questions, based on which questions, it is deciphered whether the child witness has passed the rationality test and is deemed to be a competent witness or otherwise.

v) It is the quality, and not the quantity, of witnesses that matters and an accused facing trial for offence of qatl-e-amd can be convicted based on solitary testimony of a single witness.

vi) Insofar as the aspect of delay of almost 11 hours and 30 minutes in conducting post-mortem examination, it is observed that one person lost her life while Injured Child Witness (PW-10) was evacuated to the hospital as a means to save his person. Possibility of time being consumed in transportation might led to delay in post-mortem examination which was still fairly good as the doctor has opined approximately that it ranges from twelve to twenty four hours. In similar circumstances, where the FIR was lodged with promptness but the autopsy was conducted with delay, the Honourable Supreme Court of Pakistan has held, in “Muhammad Asif and another v. Mehboob Alam” (2020 SCMR 837), that ‘[i]n a country where the medical facility cum availability of paramedics for the job assigned is not an easy task, the consumption of such a time seems to be quite

reasonable hence, the prosecution evidence cannot be brushed aside on this score alone to extend the benefit of doubt as claimed'. Therefore, this contention is repelled.

vii) It needs no reiterating that inmates are deemed to be natural witnesses and their testimonies, especially considering their relationship with the deceased, cannot be discarded.

viii) The value and status of medical evidence is always corroborative in its nature, which alone is not sufficient to sustain the conviction. It is settled law that where ocular evidence is found trustworthy and confidence inspiring, the same is given preference over medical evidence and the same alone is sufficient to sustain conviction of an accused.

ix) Witnesses of the recovery being police officials is of no consequence because it is trite that the testimony of police officials is as good evidence as of any other witness unless the accused establishes that the police witness who appeared against him had personal motive to falsely implicate him in the offence.

x) The murder weapon (P-1) was deposited in the PFSA on 16.07.2019, and according to the serologist report pertaining to murder weapon (Ex.PT), '[h]uman blood was identified', however, no corresponding DNA was conducted to connect the murder weapon (P-1) with the occurrence despite the depositing of murder weapon (P-1) in the PFSA well in time as well as the availability of samples of deceased in the shape of blood stained cotton and buccal swabs. Therefore, the recovery, due to lack of corresponding DNA comparison becomes inconsequential.

xi) that no corresponding DNA was conducted to connect the murder weapon (P-1) with the occurrence despite availability of samples of deceased in the shape of blood stained cotton and buccal swabs of the deceased. Similarly, buccal and nail swabs of the deceased were taken and sent for analysis, however, no corresponding DNA samples of the Appellant were sent for comparison. According to Aftab Ali Shahid JFS Crime Scene Unit Multan (PW-5), three live rounds (P-5/1-3) were found at the place of occurrence, however, entire prosecution case is silent qua this aspect. All these three circumstances, although attract illustration (g) of Article 129 of QSO, yet at the same time, have no probative value in terms of securing an acquittal when taken in conjunction with fact that the testimonies of the eyewitnesses, inclusive of injured witness, remained unshattered and rather it a mere omission on part of the investigating agency due to their lethargic attitude and as a consequence thereof, it can merely be termed as a mitigating and extenuating circumstance and not otherwise.

- Conclusion:**
- i) Promptness of FIR and injuries upon injured prove the presence of witness at the place of occurrence.
 - ii) In presence of trustworthy and reliable ocular and circumstantial evidence the delay in lodging the FIR is not fatal.
 - iii) The QSO, 1984 does not tell the number of witnesses required to prove a fact in issue in a case under Section 302 PPC.

- iv) A child is a competent witness if he passes the rationality test.
- v) An accused of murder case can be convicted on the basis of solitary statement of single reliable witness.
- vi) The delay in post-mortem examination solely is not sufficient to extend benefit of doubt by brushing aside the prosecution evidence.
- vii) The inmates are deemed to be natural witnesses. Their testimony cannot be discarded due to their relation with the deceased.
- viii) See above analysis No. viii
- ix) The testimony of police officials is as good as any other witness.
- x) See above analysis No.x
- ix) See above analysis No.ix

66. Lahore High Court
Mst. Misbah Farooq etc. v. M/s. Daewoo Pakistan Express Bus Service Ltd. etc.
RFA No. 1123 of 2014
Mr. Justice Faisal Zaman Khan, Mr. Justice Khalid Ishaq
<https://sys.lhc.gov.pk/appjudgments/2025LHC1065.pdf>

Facts: An appeal was filed against a partial decree granted in a suit for damages filed due to an accident involving a passenger bus. The claim centered on alleged negligence resulting in permanent injury and emotional and financial hardship to the appellants.

Issues:

- i) What are the essential conditions for the applicability of the doctrine of *res ipsa loquitur* in civil negligence claims?
- ii) Is the doctrine of *res ipsa loquitur* applicable in determining negligence in motor vehicle accident claims where the exact cause of the accident is contested?
- iii) Does the Civil Court have jurisdiction to entertain suits for damages not specifically covered under statutory enactments like the Contract Act or Fatal Accidents Act?
- iv) In tortious claims for damages, is it sufficient to prove suffering and loss without establishing a direct and proximate breach of duty by the defendant?
- v) Can an offer to pay compensation under a statutory schedule be treated as an unqualified admission of liability in tort claims?

Analysis:

- i) *Res ipsa loquitur* means an inference of Negligence in Civil Proceedings, it permits an inference of a defendant's negligence from the happening of an event and thereby creates a prima facie case of negligence sufficient for submission to a Court... the plaintiff must establish: (i) the event must be of a kind which ordinarily does not occur in the absence of someone's negligence; (ii) it must be caused by an agency or instrumentality within the exclusive control of the defendant; (iii) it must not have been due to any voluntary action or contribution on the part of the plaintiff.
- ii) It may be an inference that such accidents do not ordinarily occur but since the Plaintiffs had opted to take a specific position that occurrence was owed to bus's

mechanical and fitness failure, therefore, they had to prove it by producing some evidence but they failed to do so... The above makes it abundantly clear that in the case in hand the doctrine of *res ipsa loquitur* is not attracted and normal rule of evidence prevails, therefore, the onus of proving negligence on part of the defendant was on the Appellants/Plaintiffs, particularly when the defendant had unrooted the prima facie presumption

iii) However, this does not mean that there is no remedy for even laying a claim for such damages in Punjab as the Suit is not regulated by any specific Law in Punjab for the time being. The answer lies in Section 9 of the C.P.C as it would operate and vest jurisdiction in the Civil Court to adjudicate the suits for recovery of damages of the nature filed by the Appellants/Respondents and the Civil Court was not robbed of its jurisdiction to try the Suit as the said provision is all encompassing. This is based on well settled position of law that Ouster of Jurisdiction of Civil Court conferred upon it under Section 9 cannot be readily inferred and an ouster by special law has to be specific, clear and unambiguous. Exclusion of jurisdiction of civil court must be expressed and ouster clause, ousting general law's jurisdiction, must be construed very strictly.

iv) This brings the Court to the conclusion that in a suit for damages, the wrong done to the plaintiff must be proved to be immediate, direct or proximate result of the act, or acts of negligence attributed to the defence... it is not proved that those have occurred due to a direct negligence by the Defendants... The Appellants/Plaintiffs were not only required to prove that they sustained all such losses which they had claimed, instead they had to prove at the outset that the liability ensued from any breach by the Defendant Company, which they have failed to establish in this case.

v) The learned counsel for the Appellants/Plaintiff has half-heartedly attempted to argue that by offering to pay the amount in terms of Thirteenth Schedule of West Pakistan Motor Vehicle Ordinance, 1965, the Defendant Company has admitted the liability, therefore, they were liable to pay the damages sustained by the Appellants/Plaintiffs. We are not impressed by this submission as it is well settled by now that an admission by the Defendant should be unambiguous, unqualified and specific and cannot be inferred for granting a claim or Decree.

- Conclusion:**
- i) The doctrine of *res ipsa loquitur* requires specific essential conditions to be fulfilled for its application.
 - ii) The doctrine of *res ipsa loquitur* is not applicable where plaintiffs allege specific causes and fail to prove them with evidence.
 - iii) The Civil Court retains jurisdiction under Section 9 CPC in the absence of a specific statutory bar.
 - iv) In tort claims, plaintiffs must establish a direct and proximate breach of duty by the defendant to claim damages.
 - v) A payment offer under statutory provisions does not amount to an unqualified admission of liability.

67. Lahore High Court
Muhammad Irshad. Vs. The State, etc.
Mr. Justice Tanveer Ahmad Sheikh
CrI. Misc. No.7151-B/2025
<https://sys.lhc.gov.pk/appjudgments/2025LHC1359.pdf>

Facts: Pre-arrest bail petition of the petitioner was dismissed from Sessions court in case registered under Section 406 and 408 of Pakistan Penal code, 1908 and he filed bail petition before High court.

Issues:

- i) What is the combined effect of Section 3 of Pakistan Penal Code, 1860 and Sections 188 and 403 of Criminal procedure Code, 1898?
- ii) Whether section 188 Cr.PC imposes any bar on registration of FIR for an offence committed by citizen of Pakistan abroad?
- iii) What is requirement for claiming protection against double Jeopardy under Section 403 Cr.PC?

Analysis:

- i) Combined study and critical analysis of the above provisions leads to an inference that if a person commits any offence in a foreign country, which is also an offence under the Pakistan Penal Code, he may be tried or convicted in Pakistan in the same manner as if the offence was committed within Pakistan.
- ii) Section 188 of Cr.P.C. does not create any bar to the registration of a crime report under section 154 of Cr.P.C. in Pakistan for an offence committed by a citizen of Pakistan abroad. If any reference in this regard is required that can be had from (2011 YLR 2882).
- iii) So far as Section 403 of Cr.P.C. is concerned, the protection available there under can be claimed by an accused only if he has been tried for a crime by a court of competent jurisdiction and he is thereafter convicted or acquitted of the charge and that conviction/acquittal remains intact.

Conclusion:

- i) See above analysis (i)
- ii) See above analysis (ii)
- iii) See above analysis (iii)

68. Lahore High Court
Mst. Bisma alias Sana v. The State
CrI. A. No. 664 of 2024
Mr. Justice Sadaqat Ali Khan, Mr. Justice Tariq Mahmood Bajwa
<https://sys.lhc.gov.pk/appjudgments/2025LHC1029.pdf>

Facts: Appellant preferred this criminal appeal against conviction pronounced by the Trial Court under Section 9(1)-6c of CNSA 1997 and sentenced to 10-years R.I. with fine Rs.1,25,000/- and in default thereof to further undergo 02-months S.I. with benefit of section 382-B Cr.P.C.

Issue:

- i) What is evidentiary value of non-production of sample bearer as witness in recovery cases of narcotics?

ii) What is requirement for a convicted person to establish in a criminal appeal to claim benefit of doubt?

Analysis:

i) In many cases, the Hon'ble Supreme Court had given the benefit of doubt in addition to other facts, that prosecution had not produced sample bearer in the witness box. No doubt, in case of non-appearance of sample bearer, in the report of Chemical Examiner, different columns are available, one of the same is relating to the officer who submitted the parcels/sample bearer. The Hon'ble Supreme Court had not considered that the entry was enough and had cured the factum of non-production of sample bearer and had recorded ratio that it was necessary for the prosecution to produce the sample bearer.

ii) Appellant is not required to create a series of dents and doubts in the prosecution case but for giving benefit of doubt if a single doubt is created even then the defence is entitled to the benefit of doubt not as a matter of grace and concession but as a matter of right.

Conclusion:

i) Production of sample bearer as witness in cases of narcotics is necessary as mere entry in record is not sufficient.

ii) Single doubt in criminal case is sufficient to extend benefit in favour of accused as matter of right.

69. Lahore High Court
Criminal Appeal No.78420-J of 2019
Irfan Ali v. The State
Murder Reference No.308 of 2019
The State v. Irfan Ali
Ms. Justice Aalia Neelum Chief Justice, Mrs. Justice Abher Gul Khan
<https://sys.lhc.gov.pk/appjudgments/2025LHC1032.pdf>

Facts: Appellant and others faced charges of *qatl-i-amd*, *attempt to commit qatl-i-amd* and multiple *hurts*. Trial court convicted the appellant and sentenced him to death as *Tazir* along with compensation under section 544-A, Cr.P.C. to the legal heirs of the deceased. So far as rest of accused are concerned, they were acquitted. Appellant preferred appeal while the trial court forwarded reference for confirmation or rejection of death sentence and now both (Criminal Appeal and Murder Reference) are being decided by this judgment.

Issue:

i) What does the timely registration of FIR ensue?

ii) What do the injuries on the injured witness indicate and what is the legal worth of the deposition of such witness?

iii) In what circumstances, recovery is a relevant factor?

iv) What is the legal principle qua establishing the guilt of accused and what is the exception to this rule?

v) Whether a solitary fire-arm injury is considered as a mitigating circumstance?

vi) What is the rule as to conversion of death sentence into life imprisonment?

- Analysis:**
- i) It needs no scholarly discussion that timely registration of an FIR eliminates the potential for the manipulation of facts and indicates the likely presence of eyewitnesses at the crime scene.
 - ii) The presence of a witness, injured during the occurrence is always considered well beyond doubt, because it has stamp of injuries on his person (...) Where a witness to the incident has been injured, the testimony of such a witness is generally considered to be very reliable, as he is a witness that comes with a built-in guarantee of his presence at the crime scene.
 - iii) The pistol was recovered upon the appellant's disclosure and thus was relevant under Article 40 of Qanun-e-Shahadat Order, 1984.
 - iv) It is cardinal principal of law that prosecution has to prove the guilt of accused by standing upon its own leg without any shadow of doubt, however Article 121 of Qanun-e-Shahadat Order 1984, is an exception to the general rule.
 - v) It is well settled that the infliction of solitary firearm injury is also considered an acknowledged mitigating circumstance warranting conversion of death sentence into imprisonment for life.
 - vi) We are also not oblivious of the fact that even the slightest circumstance can be enough to convert death sentence of an accused into life imprisonment and no extraordinary circumstances are necessary to effect this change.

- Conclusion:**
- i) See above analysis No. i.
 - ii) Injuries on the injured-witness demonstrate his presence at the scene of occurrence and the testimony of such witness is reliable.
 - iii) See above analysis No. iv
 - iv) See above analysis No. v
 - v) Infliction of solitary injury is considered as a mitigating circumstance.
 - vi) A slightest circumstance is enough to convert death sentence of an accused into life imprisonment.

LATEST LEGISLATION/AMENDMENTS

1. Vide Notification No.F.2(1)/2025-Pub dated 25-03-2025, amendment is made in paragraph 13 of The High Court Judges (Leave, Pension and Privileges) Order 1997.
 2. Vide Notification No.SO(P-I)2-2/2023(P) dated 19-02-2025 published in the Punjab Gazette, amendments are made in rule 219, 254, rule 254-A is inserted and rule 257 is substituted.
 3. Vide Notification No. SO(CAB-I)2-18/2018(ROB) dated 19-03-2025, amendments are made in first and second schedule of The Punjab Government Rules of Business, 2011.
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SELECTED ARTICLES

1. MANUPATRA

<https://articles.manupatra.com/article-details/The-Role-and-Impact-of-Technology-in-Enhancing-Legal-Aid-Accessibility-An-Urban-Perspective>

The Role and Impact of Technology in Enhancing Legal Aid Accessibility: An Urban Perspective by Twisha Rangra

Over the past decade, India has witnessed rapid digitalization, having spearheaded efforts for technology adoption across all industrial sectors as well as its societal facets¹. However, the legal-tech landscape remains underutilized. While the market for providing legal aid services has been gaining traction, there is a significant gap between availability and accessibility of the same, as it is yet to fully benefit from contemporary technological advancements, which underscores the need for further study. The web-based survey of 205 respondents along with literature review conducted for this study revealed a considerable lack of awareness regarding online legal aid services. However, there is clear intent and willingness to adopt the same, though it is restricted by concerns over trust, data privacy and security, user experience and reliability. Despite technology's impact on the current legal landscape, its role in ensuring access to justice remains underdeveloped. Digital legal aid services have the potential to bridge justice gaps by overcoming geographical, financial and temporal barriers. While traditional methods of availing legal services remain as most preferred, more innovative solutions² are gaining traction. To fully utilize technology in this field it is important to address concerns about privacy, security and accessibility.

2. MANUPATRA

<https://articles.manupatra.com/article-details/Securing-The-Future-IP-Frameworks-In-The-Age-Of-Disruptive-Technologies>

SECURING THE FUTURE: IP FRAMEWORKS IN THE AGE OF DISRUPTIVE TECHNOLOGIES BY Chandresh Tiwari

The paper analyses how disruptive technologies have impacted intellectual property (IP), with a special focus on blockchain, artificial intelligence (AI), augmented and virtual reality (AR/VR), quantum computing and cybersecurity links. These technologies are altering innovation, and a thorough investigation needs to be done into how they affect copyright, patent law, trade secrets and cooperative dynamics. The paper explores how decentralized ledgers and smart contracts might change conventional IP systems in the setting of blockchain technology and intellectual property. Blockchain's effectiveness and openness offer solutions to long-standing challenges, setting the way for a time when intellectual property ownership is effectively and safely recorded. AI's rise represents a serious threat to patent law, posing concerns concerning ownership, eligibility, and the rapidity at which patents are reviewed. This research analyzes the delicate waltz that occurs between artificial intelligence and patent law, emphasizing the importance of cooperative efforts to reconsider innovation norms and find an equilibrium between

development and the law. The simultaneous use of IP with AR and VR challenges the trademark and copyright landscapes. The research paper studies how these fully immersive experiences reshape company identities and innovative thinking, prompting the creation of complex legal structures that achieve a balance between innovation and protection. Biotechnology, specifically gene editing technologies such as CRISPR-Cas9, exposes the complex structure of DNA and creates problems with intellectual property rules. The paper highlights the need for a harmonious framework that tackles ethical issues and encourages growth as it negotiates the complex waltz between patents and innovation. The research highlights patents as crucial resources for preserving technological breakthroughs in the area of cyber security. It addresses the rise in patent applications, challenges with the examination processes, and how industry participants and legal experts have to collaborate to handle this changing environment. The paper proposes cooperation among legal specialists, lawmakers, and industry participants as disruptive technologies shift the IP field. These innovative technologies must be effectively integrated into the complex web of intellectual property due to the evolving conditions of innovation and IP protection.

3. Lawyers Club India

<https://www.lawyersclubindia.com/articles/trump-administration-taking-action-against-underground-surrogacy-in-california-law-related-to-surrogacy-that-you-must-know--17576.asp>

Trump Administration Taking Action Against Underground Surrogacy in California: Law related to surrogacy that you must know! By Swabhiman Panda

California has emerged as a center for “commercial surrogacy,” a practice whereby foreigners effectively rent American wombs in return for U.S. citizenship. Officials say these couples often live in upscale apartments or homes in the Los Angeles suburbs, which residents call “baby farms.” Illegal Chinese birthing organizations organize the trips and charge up to \$100,000. However, these practices in USA is not something new but can be traced going back a decade. Acting U.S. Attorney Joseph McNally told NewsNation that 30,000 Chinese children were born with U.S. citizenship through this “system.” These were criminal organizations that were active in the United States as well as recruiters in China. Hospitals were contacted by the organizers of this event. It was a business. These schemes’ organizers were in charge of thousands of babies’ birth tourism. It’s pertinent to note here that Lax U.S. laws governing international surrogacy allow foreign nationals, to “rent a womb” from American women. However, Trump administration has started taking strong action against the corrupt practices that have been prevalent in America for a while. A contentious executive order intended to terminate birthright citizenship was signed by President Trump in January, though it hasn’t been put into effect yet but Trump administration is cracking down on an underground industry in California in which Chinese nationals pay money to baby brokers to bring pregnant Chinese women into the country and have their infants delivered as US citizens.

Probation is a common alternative to incarceration for those navigating the criminal justice system in Colorado. Understanding the nuances of probation violations is essential for individuals on probation and their families, as these violations can lead to serious legal repercussions, including the possibility of jail time. In Colorado, probation violations can occur for a variety of reasons, including failure to complete mandated programs, issues with reporting to a probation officer, or engaging in illegal activities. Each of these violations carries specific consequences that can dramatically impact a person's life and future.

4. Lawyers Club India

<https://www.lawyersclubindia.com/articles/precautions-best-practices-and-common-mistakes-in-drafting-a-legal-notice-17575.asp>

Precautions, Best Practices, and Common Mistakes in Drafting a Legal Notice by Sankalp Tiwari

A legal notice serves as a formal communication tool in legal disputes, providing an opportunity for resolution before litigation. It is an essential aspect of legal due process, allowing parties to negotiate, rectify disputes, and comply with obligations without court intervention. The historical evolution of legal notices showcases their significance in pre-litigation processes, with statutory frameworks in different jurisdictions mandating their use in specific legal matters. This article delves into the essential components of a legal notice, the methodology of drafting one, and the various ways in which it can be served. Furthermore, it examines the legal ramifications of sending and receiving a legal notice, emphasizing the importance of drafting precision, adherence to legal principles, and avoiding common pitfalls. Through a comprehensive analysis, this article provides an in-depth understanding of the role of legal notices in dispute resolution.

5. Lawyers Club India

<https://www.lawyersclubindia.com/articles/6-powerful-ways-ai-voice-effects-are-changing-the-game-for-content-creators-17565.asp>

6 Powerful Ways AI Voice Effects Are Changing the Game for Content Creators by Yaksh Sharma

Artificial intelligence has transformed the digital landscape, especially in content creation. One of the most exciting advancements is AI-driven voice effects, which allow creators to modify, enhance, and generate voices with ease. Whether for gaming, podcasts, social media videos, or professional presentations, AI voice effects are revolutionizing the way people engage with audio. Here are six powerful ways AI voice effects are making a difference. These innovations not only save time and effort but also open up new creative possibilities. With AI voice effects, users can experiment with different tones, accents, and styles, making content more dynamic and engaging. As AI technology continues to evolve, the potential for high-quality, customizable voice experiences will only expand.

