# LAHORE HIGH COURT

# BULLETIN

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FORTNIGHTLY CASE LAW BULLETIN

(16-05-2025 to 31-05-2025)

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

Prepared & Published by the Research Centre Lahore High Court

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## LATEST LEGISLATION/AMENDMENTS



## SELECTED ARTICLES

**1.** **Supreme Court of Pakistan**
**Dr. Muhammad Asif v. Dr. Sana Sattar and others**
**Civil Review Petition No. 458 of 2024 in Civil Petition for Leave to Appeal No. 2514 of 2024**
**Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi**
https://www.supremecourt.gov.pk/downloads_judgements/c.r.p._458_2024.pdf

**Facts:** The review petition arises from a custody dispute concerning two children, resolved through prior litigation, wherein custody was granted to one parent. The petitioner challenges the final order on grounds of insufficient consideration of child participation and best interest standards.

**Issues:** i) Whether courts are bound to hear the voice of the child in custody and guardianship proceedings?
ii) Should the term "welfare" under Section 17 of the Guardians and Wards Act, 1890 be interpreted in light of the CRC and the Constitution?
iii) Are courts obligated to adopt a child-centered and participatory approach in all matters involving children?
iv) Can a mother's employment status be used to deny her custody of her children?
v) Should courts promote Alternative Dispute Resolution (ADR) in custody and guardianship disputes involving children?

**Analysis:** i) The earlier proceedings regrettably failed to provide the children an opportunity to be heard, an omission that undermines both domestic constitutional protections and our international commitments... We underline that a child must be heard so that her best interests can be properly understood and protected. The participation of a child in legal proceedings is not a formality; it is fundamental to a justice system that respects the dignity and agency of the child.
ii) In this light, Section 17 of the Act, must be interpreted through the lens of the CRC and the doctrine of updating construction of statutes. This interpretive approach empowers courts to move beyond archaic conceptions of 'welfare' and adopt a rights-based framework that gives full effect to the dignity, agency, and voice of the child. To harmonize Section 17 with the CRC, the term 'welfare' must not be understood in isolation. Instead, it must be interpreted within the CRC's normative framework, thereby transforming the concept into one that is inclusive, participatory, and rights-affirming. While 'welfare' is a broader, more traditional term, and 'best interests' its more structured and contemporary legal counterpart, the two are not irreconcilable. Through a dynamic interpretation of 'welfare' using the doctrine of updating construction, courts can incorporate the core elements of the best interest's standard, most notably, the child's right to participation. Such an interpretation not only aligns domestic law with Pakistan's international obligations but also with its constitutional values, notably the rights to life, dignity, equality, and the protection of childhood, as guaranteed under Articles 9, 14, 25, and 34 of the Constitution. Though Section 17 was enacted in a different era, it must now be read as a 'living' provision. The principle that

statutes extend to new circumstances has evolved into the modern doctrine of updating construction. Given that continuous statutory revision is rarely feasible and societies often function under inherited laws, courts operate on the presumption that legislation is 'always speaking', meant to apply in evolving social and legal contexts. This interpretive approach ensures that statutes remain effective and aligned with contemporary values, including shifting constitutional and human rights norms. The phrase 'welfare of the minor' can no longer be confined to its colonial-era meaning. Instead, it must be enriched by the modern, internationally recognized concept of the best interests of the child, as codified in Article 3 of the CRC, to which Pakistan is a State Party. The 'welfare' standard is thus not static, it is a living standard that encompasses a child's emotional, psychological, cultural, and developmental needs, extending far beyond material well-being or parental preference.

iii) It must be underscored that courts are bound to approach all matters involving children through the lens of a dedicated child-centered and child justice framework, a judicial philosophy grounded in both legal and moral obligations to safeguard, nurture, and empower children within the justice system.

iv) The mere fact that the mother, is a working mother, cannot be held against her in custodial determinations as her professional commitments do not diminish her role as a mother and the primary caregiver, unless established otherwise.

v) In matters involving children, such as custody, guardianship, and family disputes, the courts must recognize that a strictly adversarial approach often exacerbates conflict, delays resolution, and undermines the child's sense of stability and security. In contrast, Alternative Dispute Resolution ('ADR'), particularly mediation, offers a more collaborative, efficient, and child-sensitive mechanism for resolving such disputes. While the CRC does not explicitly reference the term ADR, its spirit and structure clearly support its use. Article 3 of the CRC demands that the best interests of the child be a primary consideration in all actions concerning children, while Article 12 guarantees the child's right to express views freely and to have those views given due weight. In General Comment No. 12 (2009), the UN Committee on the CRC explicitly encourages States to develop mechanisms that ensure meaningful child participation in family law proceedings, including through non-judicial and informal processes such as mediation. Such processes must be voluntary, child-friendly, and facilitated by professionals trained to respect the evolving capacities of the child and prioritize their best interests. Properly designed ADR mechanisms reduce the psychological burden on children, promote parental cooperation, and lead to faster, more sustainable outcomes that support the child's long-term welfare. Accordingly, Family Courts and Guardianship Tribunals must prioritize mediation as a first recourse, particularly where parties demonstrate a willingness to engage in good faith. Adjudication should be pursued only when mediation fails or is deemed unsuitable due to concerns of safety, coercion, or imbalance of power. This approach not only aligns with Pakistan's international obligations under the CRC but also reinforces the constitutional commitment to protect the dignity, welfare, and future of every child.

**Conclusion:** i) Yes, courts must hear the child in such proceedings.
ii) Yes, it must be interpreted in line with CRC and constitutional values.
iii) Yes, a child-centered and participatory approach is mandatory.
iv) No, a mother's employment status cannot be a ground for denial of custody.
v) Yes, courts should promote ADR in such disputes.

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**2.** **Supreme Court of Pakistan**
**Muhammad Niaz Khan v. R.P.O. Sheikhupura Region at Lahore, etc.**
**C.P.L.A. No. 2283-L/2016**
**Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi**
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2283_l_2016.pdf

**Facts:** Disciplinary proceedings were initiated against a police officer for alleged faulty investigation, resulting in his dismissal. On departmental appeal, the penalty was reduced to a two-stage pay reduction, and he was reinstated. The Punjab Service Tribunal further modified the penalty to a one-stage reduction, prompting the petitioner to file a constitutional petition before the Supreme Court seeking full exoneration and reinstatement with all benefits.

**Issues:** i) Whether the principle of proportionality can be applied when the foundational basis for disciplinary action is unproven?
ii) What are the four-step proportionality test to assess the legality and fairness of administrative and disciplinary actions?
iii) Whether courts must follow a clear and careful reasoning process when using proportionality in cases involving basic human rights?
iv) Whether a tribunal is bound to grant full reinstatement with all benefits upon finding the disciplinary proceedings flawed and evidence lacking?

**Analysis:** i) Without proven misconduct, there can be no legitimate objective warranting disciplinary action. Any penalty, however minor, is thus disproportionate by default. The absence of evidence removes the legal basis for any sanction.
ii) The principle of proportionality provides a structured framework for judicial review of administrative actions. Developed across various constitutional jurisdictions, it involves a four-step test: (i) the measure must pursue a legitimate aim; (ii) be suitable to achieve that aim; (iii) be necessary, in that no less restrictive alternative exists; and (iv) strike a fair balance between the measure's impact on individual rights and the public interest. This Court has recently introduced and adopted this four-stage test to assess the legality and fairness of administrative and disciplinary decisions. Such framework ensures that any interference with rights is justified, necessary, and lawful.
iii) Proportionality promotes a stable and systematic method of constitutional adjudication. Courts employing this approach are expected to articulate clearly the reasoning behind their decisions at each stage of the analysis thereby enhancing transparency, accountability, and legitimacy in judicial reasoning. Proportionality must, therefore, be applied with discipline, care, and sensitivity to context, particularly where fundamental rights and human dignity are at stake.

iv) Once the Tribunal reached the conclusion that the disciplinary proceedings conducted against the petitioner were procedurally defective and lacked any supporting evidence—meaning there was neither credible oral nor documentary proof to substantiate the allegations of misconduct—it became a legal and constitutional imperative for the Tribunal to fully reinstate the petitioner. This reinstatement was to include not only restoration to his original position but also all consequential service-related benefits as if the disciplinary penalty had never been imposed. The principles of natural justice and constitutional guarantees under Articles 4, 14, and 25 of the Constitution demand that in situations where injustice is evident and no wrongdoing is proven, the response must be one of complete correction and exoneration. A partial or compromised remedy, such as merely reducing the penalty despite a finding of innocence, undermines fairness and fails to uphold the constitutional commitment to justice. Thus, the Tribunal's role is not to mediate or soften the disciplinary action but to wholly rectify the injustice where it is clearly established that the foundational basis for punishment does not exist.

**Conclusion:** i) No, proportionality does not apply where the basis for action is unproven.
ii) Yes, the four-step proportionality test is essential to ensure that administrative actions are justified, necessary, and lawful.
iii) Yes, proportionality requires structured reasoning and careful contextual application where fundamental rights are involved.
iv) Yes, the tribunal must fully reinstate with benefits when proceedings are flawed and unsupported by evidence.

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**3.** **Supreme Court of Pakistan**
**Shahbaz Latif v. DIG Pakistan Railways Headquarters Officer, Lahore etc.**
**C.P.L.A. No. 2646/2023**
**Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi**
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2646_2023.pdf

**Facts:** The petitioner was wrongly appointed in public service due to the reason that he secured less marks in Matriculation against the required threshold. Petitioner had rendered 15 years of continuous service. The only question for determination before the Supreme Court is whether the petitioner is liable to refund the salary received during period of service.

**Issues:** i) What is the validity of public employment secured through misrepresentation or tampered credentials?
ii) What does the doctrine of *quantum meruit*, mean?
iii) What does the doctrine *quantum meruit* enable a party to do?
iv) In what circumstance, does the doctrine *quantum meruit* permit award of reasonable compensation?
v) On what principle, does the doctrine *quantum meruit* rest?
vi) Does the doctrine of *quantum meruit* furnish any grounds to preclude retrospective recovery of salary?

vii) Does the principle *quantum meruit* find statutory recognition in Pakistani law?

viii) What is the idea on which the doctrine of *administrative acquiescence* based?

ix) In presence of silence, can the department take retrospective punitive measures?

x) What prevents the employer from making a retrospective recovery of wages?

**Analysis:** i) It is trite that public employment secured through misrepresentation or tampered credentials is void ab initio and confers no vested right upon the appointee.

ii) The doctrine of *quantum meruit*, literally meaning "as much as he has earned" or "as much as he deserves".

iii) It enables a party to claim reasonable compensation for services rendered or work performed, even where a contract is void, unenforceable, or otherwise defective.

iv) This equitable principle permits reasonable compensation for services rendered where one party has knowingly accepted and benefited from the work of another, even in the absence of a valid or enforceable contract.

v) The doctrine rests not merely on contractual notions, but on the broader equitable premise that a person who has received and retained a benefit should not be allowed to do so without paying reasonable compensation, particularly where the services were not intended to be gratuitous.

vi) The doctrine of quantum meruit furnishes both a moral and legal basis to preclude retrospective recovery of salary.

vii) The principle finds statutory recognition in Section 70 of the Contract Act, 1872, which provides: *"Where a person lawfully does anything for another person...not intending to do so gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered."*

viii) This doctrine is based on the idea that if a person, observing another about to perform an act that might infringe upon their rights, remains silent in circumstances where an objection might have prevented the act, they may later be estopped from objecting.

ix) Administrative silence over such an extended period, particularly where it results in the receipt and acceptance of services, may amount to acquiescence and estop the department from seeking retrospective punitive measures.

x) Principles of equity, good conscience, and public interest dictate that in the absence of fraud or dishonest conduct by the employee, retrospective recovery of wages is not only unjust, but contrary to settled legal precedent.

**Conclusion:** i) Such procured employment is void ab initio.

ii) See above analysis No.ii

iii) To claim reasonable compensation for the services rendered.

iv) Where one party has knowingly accepted and benefited from the work of another.

v) See above analysis No. v
vi) Yes. Both moral and legal basis
vii) Yes. Section 70 of the Contract Act, 1872
viii) Silence over infringement of rights, despite having the opportunity to raise an objection, operates as estoppel.
ix) The department cannot seek retrospective punitive measures.
x) See above analysis No. x

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**4.** **Supreme Court of Pakistan,**
**Frontier Holdings Limited through its Chief Executive, Islamabad and another v. Petroleum Exploration Pvt. Limited through its Chief Executive Officer, Islamabad.**
**Civil Petitions No. 1982 & 1983 of 2025**
**Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi.**
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1982_2025.pdf

**Facts:** A dispute between the parties was referred to arbitration under International Chamber of Commerce (ICC), London, resulting in a partial foreign arbitral award dated 12.12.2024 and a separate cost award dated 31.03.2025. These awards were filed for enforcement before the High Court under the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011. Upon admitting the enforcement petition, the learned Single Judge granted interim relief, restraining the respondents from assigning or encumbering their working interest in Badin Fields. However, this interim relief was suspended by a Division Bench through the impugned order in an intra-court appeal. The petitioners now seek leave to appeal, challenging the impugned Order.

**Issues:** i) Whether the Supreme Court is empowered, under Orders XI, XX, and XXXIII of the Supreme Court Rules, 1980, to grant leave and suspend the impugned order of a High Court Division Bench?

**Analysis:** i) For completeness, it is clarified that a collective reading of Orders XI, XX, and XXXIII of the Supreme Court Rules, 1980 establishes that this Court, while entertaining a petition arising out of an order of a Division Bench of a High Court, is competent to grant leave and suspend the impugned order.

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

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**5.** **Supreme Court of Pakistan**
**District & Sessions Judge (Authority), Jhang, etc. v. Ghulam Shabbir**
**C.P.L.A. No. 2987-L/2019**
**Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi**
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2987_l_2019.pdf

**Facts:** Disciplinary proceedings were initiated against a civil servant on charges of corruption and misconduct, culminating in dismissal from service by the competent authority. The Tribunal, while affirming the charges, reduced the

penalty to forfeiture of two years of service. The order was challenged before the Supreme Court through the present petition.

**Issues:** i) Can a tribunal reduce a major penalty in disciplinary proceedings after finding the charges proven?
ii) Is the principle of proportionality applicable in disciplinary actions against civil servants?
iii) What are the four-step proportionality test to assess the legality and fairness of administrative and disciplinary actions?
iv) Does a tribunal need to clearly explain its reasons when changing a disciplinary penalty based on proportionality?

**Analysis:** i) The Tribunal without explicitly mentioning it, has relied upon the principle of proportionality to reduce the penalty imposed on the respondent." "The Tribunal's decision to substitute the major penalty of dismissal with forfeiture of two years of service fails the proportionality test.
ii) At its core, the principle of proportionality requires that when an administrative authority exercises discretionary power, it must strike a fair balance between the adverse effects of its decision on the rights, liberties, or interests of individuals and the legitimate aim or purpose the decision seeks to achieve.. The principle of proportionality also finds firm footing within our constitutional framework, particularly in Article 4..., Article 14..., and Article 25.
iii) A more refined version of the *principle of proportionality* analysis adopts a structured, four-stage test, requiring courts to address the following questions to determine whether an impugned measure is constitutionally or legally justifiable. It includes: (i) *Legitimacy*: Does the action pursue a legitimate objective recognized by law? (ii) *Suitability* (Rational Connection): Is the measure capable of achieving that objective, i.e., is there a rational nexus between the means employed and the aim pursued? (iii) *Necessity*: Could the same objective have been achieved through a less restrictive or less onerous alternative? and (iv) *Proportionality stricto sensu* (Balancing): Does the measure maintain a fair balance between the severity of its impact on the individual and the importance of the public interest it serves?
iv) The application of the principle of proportionality cannot rest on bare assertions or subjective impressions. Rather, it is a structured principle that demands cogent reasoning and a transparent, systematic evaluation of the nature, gravity, and context of the established misconduct, assessed against the penalty imposed… In the absence of a clear, structured, and transparent justification, the Tribunal cannot simply conclude that a penalty is excessive based on personal belief or an undefined sense of fairness.

**Conclusion:** i) No, a tribunal cannot reduce a major penalty without fulfilling the legal criteria for proportionality.
ii) Yes, the principle of proportionality is applicable in disciplinary proceedings.
iii) The structured proportionality test requires assessing legitimacy, suitability,

necessity, and balancing to justify any impugned measure.
iv). Yes, structured reasoning is mandatory for modifying penalties based on proportionality.

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**6.** **Supreme Court of Pakistan**
**Additional Collector of Customs, Faisalabad through Collector of Customs v. M/s. Fatima Enterprises, Multan & another**
**C.P.L.A.2475-L/2024**
**Mr. Justice Munib Akhtar, Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb**
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2475_l_2024.pdf

**Facts:** The adjudicating authority's decision against the respondent was reversed by the Appellate Tribunal on the ground that the order-in-original was time-barred by holding that the extension granted by the Board under subsection (4) was ineffective as it was sought after the limitation period under subsection (3) had expired; High Court upheld this finding and dismissed the Department's reference thereafter department sought leave to appeal to the said decision.

. **Issues:** i) Whether the prescribed statutory timeline for issuing an order was mandatory or directory?
ii) Whether the power to extend time under section 179(4) of the Customs Act is limited to exceptional circumstances?

**Analysis:** i) It was held that the timelines were mandatory and not directory and any breach thereof invalidated the order-in-original. The timelines could, however, be extended in terms of s. 74 of the 1990 Act, within the framework set out in para 12 of the judgment Collector of Sales Tax, Gujranwala and others v Super Asia Mohammad Din and others 2017 SCMR 1427, 2017 PTD 1756 ("Super Asia"). Later, some doubt was expressed in this Court as to the correctness of the principles enunciated in Super Asia. However, a Larger Bench of this Court has recently, by judgment dated 14.05.2025 in Wak Ltd. v Commissioner Inland Revenue CA 634/2018 and other connected matters, upheld the decision in Super Asia and has reaffirmed the correctness of the views expressed and principles enunciated therein.
ii) For present purposes, the point is that there is clearly a difference between a power of extension to allow the doing of the requisite act or thing within an "appropriate" time period on the one hand, and a power to extend a time-limit in "exceptional circumstances" on the other. The latter expression is more restricted than the former term. The power of the Board, in other words, to grant an extension under s. 179(4) of the Customs Act is much narrower and more circumscribed. It must also be kept in mind that s. 74 is a general provision, applying to "any" act or thing required to be done within a specified timeframe, whereas s. 179(4) moves within a much more circumscribed locus, being relatable only to matters of adjudication within the four corners of the section itself. Furthermore, the power to extend a time-limit under subsection (4) must be

understood and applied while keeping in mind that the timelines set out in subsection (3) have been held to be mandatory and not directory, in terms of the decisions noted above.

**Conclusion:** i) The timelines set in subsection (3) of s. 179 of Customs Act, 1969 are mandatory and not directory.
ii) The power to extend time under section 179(4) of the Customs Act is limited to exceptional circumstances

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**7.** **Supreme Court of Pakistan**
**Mst. Parveen Ara v. Muhammad Hanif and others**
**Civil Appeal No.47-K of 2021**
**Mr. Justice Muhammad Ali Mazhar & Mr. Justice Syed Hasan Azhar Rizvi**
https://www.supremecourt.gov.pk/downloads_judgements/c.a._47_k_2021.pdf

**Facts:** An ejectment application under Sindh Rented Premises Ordinance 1979 ("SRPO"), filed by the respondent on the ground of personal bona fide need, was accepted. The possession of demised premises was handed over by the appellant to the landlord /respondent. Later on, the appellant filed an application for restoration of possession on the grounds as provided under Section 15-A of the SRPO. The learned Rent controller accepted the application for restoration of possession but in appeal the application was dismissed up to High Court. Hence appeal before Supreme Court.

**Issues:** i) What does mean by the term 'personal use', whether the land lord can seek ejectment on the ground of 'personal use'?
ii) Upon which party thy initial burden to prove the 'good faith' lies?
iii) On what grounds the tenant can seek the restoration of possession of premises which was earlier given to the landlord?
iv) What period is provided for the tenant to apply for restoration of possession?
v) Whether the application for restoration of possession can be rejected on the point of laches?
vi) Whether the need of a servant can be equated with 'personal need'?
vii) What is difference between the remedies the court is bound to give and the discretion to grant by the court.
viii) What is meant by the phrase 'no man is above the law'?
ix) What powers enjoys by the Rent Controller under Section 20 of the SRPO?

**Analysis:** i) If we conscientiously explore the definition of personal use in juxtaposition with the condition of ejectment sought to be achieved on the foothold of clause (viii) of Sub-section 2 of Section 15 of the SRPO, it undoubtedly resonates that the landlord has to prove that he/she requires the premises in good faith for his/her own occupation or use or for the occupation or use of his/her spouse or any of his children.(---) It is unequivocally clear from unembellished reading of the above provisions that the ejectment of the tenement can be sought by the landlord/owner if the premises is required in good faith for personal use.

ii) Unambiguously, the initial burden of proof that the premises is required in good faith shall be on the landlord, and once this burden is discharged, then the onus to prove the contrary is shifted on the tenant.

iii) According to the letter of law, Section 15-A encompasses two indispensable limbs: reletting the building or premises after obtaining possession to any person other than the previous tenant, or putting it to a use other than personal occupation within one year of such possession. If any violation or breach of this provision is committed, the tenant may apply to the Controller for an order directing that he/she shall be restored to possession of the building or the premises, as the case may be

iv) However, at the same time, the tenant cannot be given an unlimited period of time to apply under Section 15-A of the SRPO. The one-year time period cannot be construed as a period of limitation for the tenant to apply, but this right cannot be extended indefinitely at the leisure of the tenant. Such an application should be preferred within a reasonable period of time, and it is for the Rent Controller to decide whether the application is hit by laches, rather than applying the limitation period as provided under the residuary Article 181 of the Limitation Act.

v) So, in our view, for all intents and purposes, the principle of deciding question of laches may be elected/opted by the Rent Controller, and if the application seems to have been filed beyond a commonsensical or reasonable period of time, or the tenant failed to approach vigilantly or was found in deep slumber, the application may be rejected on the point of laches.

vi) While deciding a crucial question under a special law, neither any controversy with regard to the relationship of principal or agent is involved, nor can the personal need of a landlord be equated with the need of a servant, which is totally alien to the provisions of the SRPO.

vii) The doctrine of "ex debito justitiae" refers to the remedies to which a person is entitled to as of right, as opposed to a remedy which is discretionary. This maxim applies to the remedies that the court is bound to give when they are claimed, as distinct from those that it has discretion to grant, where it is the foremost duty of the Court to do complete justice.

viii) The turn of phrase "no man is above the law" explicates that everyone must obey the law and no one is above the law. The law is a signpost and benchmark for amenable demeanour in the society, so it should be obeyed subject to its sanctions and legal consequence in case of default. The law of land obliges its due implementation with full force to all people, heedless of their status, race, or religion, and should be treated equally and fairly and also entitled to the equal protection of the law not only in substantive but also in procedural justice.

ix) In order to resolve this controversy, the learned Rent Controller, under Section 20 of the SRPO, has the powers of a Civil Court under the CPC in respect of the following matters, namely (a) Summoning and enforcing the attendance of any person and examining him on Oath; (b) Compelling production or discovery of documents; (c) Inspecting the site; and (d) Issuing commission for examination of witnesses or documents.

**Conclusion:** i) See above analysis No. i
ii) The initial burden of proof shall be on the landlord.
iii) See above analysis No. iii
iv) See above analysis No. iv
v) The application may be rejected on the point of laches.
vi) The personal need of a landlord cannot be equated with the need of a servant.
vii) See above analysis No. vii
viii) See above analysis No. viii
ix) See above analysis No. ix

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**8.** **Supreme Court of Pakistan**
**Ahmed Owais Peerzada, Chief Commissioner (Rtd) Federal Land Commission, Islamabad v. Principal Secretary to the Prime Minister, Prime Minister's Secretariat, Islamabad & others.**
**CPLA No.44 of 2022**
**Mr. Justice Muhammad Ali Mazhar, Mr. Justice Syed Hasan Azhar Rizvi**
https://www.supremecourt.gov.pk/downloads_judgements/c.p._44_2022.pdf

**Facts:** This Civil Petition for leave to appeal is directed against an Order passed by the Federal Service Tribunal (FST) on a Misc. Petition moved in an appeal for the implementation of the FST judgment. The petitioner was recommended for promotion to BS-22 and his dossier was included in the agenda of the High-Power Selection Board (HPSB) meeting for consideration, but due to paucity of time, his case could not be considered. Upon attaining the age of superannuation, he retired from service. He invoked the jurisdiction of the FST and filed a service appeal, which was decided with directions to the Establishment Division to put up his case before the competent forum for consideration of proforma promotion with effect from the date of the HPSB's meeting. The judgment of the FST attained finality as no appeal was filed against it. Although a summary was submitted to the Prime Minister, his case was again deferred in a subsequent HPSB meeting due to a lack of time. Despite the petitioner filing a Misc. Petition for implementation, the FST's directions were not acted upon, compelling him to approach the FST a third time. However, the FST disposed of the Misc. Petition without determining whether its own judgment had actually been implemented or not.

**Issues:** i) Whether a retired civil servant, who was eligible and recommended for promotion before retirement, can be considered for proforma promotion after superannuation?
ii) Whether the Federal Service Tribunal (FST) has the jurisdiction and responsibility to ensure the implementation of its final judgments, even in the absence of explicit procedural rules?
iii) Whether a final and unchallenged judgment of the FST is binding upon the government authorities, and must be implemented in full unless stayed or overturned by the Supreme Court?

**Analysis:** i) The petitioner's name was recommended for promotion and his case was also included in the agenda of the HPSB meeting as Item No.6, but he could not be considered due to paucity of time (…)We do not agree with this argument of the respondents that the appellant was deferred by the HPSB for promotion to BS-22 as he was ignored due to paucity of time, therefore, he cannot be granted pro forma promotion despite the fact that he was fully eligible for consideration of promotion which was not made due to inordinate delay on the part of the respondents (…)If a civil servant is unjustly denied promotion and he reached the age of superannuation, he can also be provided relief after superannuation under the SRO No. 1/18/2002-CP-11 dated 20.2.2002.

ii) It is an onerous duty of the FST, being the first judicial fact finding forum provided for the civil servants, to ensure the implementation of its orders/judgments, come what may, unless it is set aside by this Court (…)To ensure timely and proper execution and implementation of its judgments and orders, the FST, while exercising its jurisdiction under Section 5 of the Service Tribunals Act, 1973, is always deemed to be a Civil Court with all powers as are vested in such court under the CPC for execution (…)In case of delay or evasion, it should take all necessary steps to enforce compliance with its judgments or orders to alleviate the suffering of the recipient of the judgment or order, rather than divesting itself of jurisdiction or simply disposing of the MP without ensuring proper implementation.

iii) If the department had any reservations or was dissatisfied with the FST's main judgment, it could have challenged it before this Court. However, once the judgment attained finality, there was no lawful justification to prolong the matter rather than implement it (…) Unless the order of FST is suspended specifically by an order of the Supreme Court, the same must be implemented forthwith. Finality of judgments ensures the culmination of the judicial process (...) it is in the interest of the state that there should be an end to the litigation.

**Conclusion:** i) Retirement is not a bar for consideration of promotion of an officer who was already qualified to be promoted but could not be considered for any reason after his retirement.

ii) Even in the absence of a specific rule governing implementation or execution of FST judgments, the Tribunal is not stranded, helpless, or incapacitated and has the jurisdiction and responsibility to ensure the implementation of its final judgments.

iii) See analysis iii above.

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**9.** **Supreme Court of Pakistan**
**Ammar Bashir v. Irfan Shafi Khokhar and others**
**C.A. No. 202/2025**
**Mr. Justice Shahid Waheed, Mr. Justice Salahuddin Panhwar, Mr. Justice Aamer Farooq**
https://www.supremecourt.gov.pk/downloads_judgements/c.a._202_2025.pdf

**Facts:** The appellant, an unsuccessful candidate in a provincial assembly election, challenged the declaration of the respondent as returned candidate, alleging malpractices and irregularities. His election petition was dismissed by the Election Tribunal due to non-compliance with statutory requirements regarding verification on oath. The present lis arises out of the challenge to the said dismissal before the Supreme Court.

**Issues**: i) Whether Article 225 of the Constitution mandates that election disputes must be initiated only through an election petition before the designated Tribunal?
ii) Whether the Elections Act, 2017 is a self-contained code that exclusively governs the conduct of elections and resolution of related disputes?
iii) Whether the right to contest an election is a statutory right subject to limitations imposed by law?
iv) Whether the verification of an election petition must comply with Section 144(4) of the Elections Act, 2017 and Order VI Rule 15 of the CPC, and whether such compliance is mandatory?
v) What is the significance of administering an oath in the verification of an election petition?
vi) Whether the verification of an election petition must be formally attested by a competent authority under Section 139 CPC to ensure its validity?
vii) What are the essential requirements for attestation of verification in an election petition, and whether non-compliance with these mandatory requirements entails penal consequences?

**Analysis:** i) Before delving into the moot question, it is essential to clarify that Article 225 of the Constitution establishes a clear framework relating to disputes over elections to a House or a Provincial Assembly. Specifically, it stipulates that any challenge to such elections can only be initiated through an election petition that must be submitted to a designated Tribunal, following procedures determined by the Act of Majlis-e-Shoora (Parliament).
ii) This Act encompasses the entire election process, beginning with the issuance of a notification that calls upon a specific constituency to elect its representative(s). It extends through to the final resolution of any disputes that may arise regarding the election outcome. Various provisions within the Elections Act, 2017, address different stages of this process, thereby creating a comprehensive legal framework governing elections. Similarly, any challenge to such an election must adhere strictly to the protocols established by this legislation. The Elections Act, 2017, functions as a fully self-contained code, meaning that any assertions or claims about elections or electoral disputes must be within its provisions. (…) An election petition, as defined under the Act, constitutes a statutory procedure where standard principles of equity and common law do not apply; rather, the process is governed exclusively by the rules and regulations set forth within the statute itself.

iii) This framework implies that the right to contest an election is not inherent but is instead a construct of statute and is, consequently, subject to specific statutory limitations.

iv) It is now well recognised that the verification of an election petition is a fundamental requirement as stipulated in sub-section (4) of Section 144 of the Elections Act, 2017. Such verification must be conducted in accordance with the detailed processes outlined in Order VI Rule 15 of the Code of Civil Procedure, 1908 (CPC). It is important to emphasise that, under the Elections Act of 2017, verifying an election petition though requires the submission of an oath that aligns with civil law; this process carries significant penal consequences.

v) The oath serves as a vital element in the validation of an election petition. There are several critical reasons for this: first, it serves to establish accountability for the statements and claims made within the petition, binding the individual who signs the verification to the accuracy and truthfulness of the contents. Second, it aims to deter the submission of baseless and reckless allegations that lack factual substantiation. Third, the success of a candidate who has been elected should not be overturned lightly, as such actions could undermine the democratic process. Fourth, nullifying an election carries serious implications not only for the elected representatives and their constituency but also for the broader public, particularly since conducting a re-election involves substantial expenditures from public funds and administrative resources. Fifth, the introduction of false claims not only burdens the Tribunal with unnecessary work, consuming time that could be dedicated to genuine cases, but also obstructs those who truly seek justice through the legal system.

vi) This verification process mustn't be treated as a routine formality by the deponent. Instead, as a solemn declaration, it must be formally attested by an Oath Commissioner or any authorised officer who is competent to administer oaths under section 139 CPC, ensuring that the Oath has been correctly, physically, and authentically administered to the election petitioner or deponent. This meticulous process not only upholds the integrity of the electoral system but also reinforces the seriousness of the claims being made

vii) Among the essential requirements for valid attestation of the verification are the following: (i) it must explicitly state the date and place of its making, ensuring that the context of its execution is clear2; (ii) it must clearly indicate the presence of the election petitioner before the Oath Commissioner, affirming that the deponent was physically present during the attestation process3; and (iii) the identification of the election petitioner must be accurately referenced, in particular by using their Computerized National Identity Card, providing a reliable means of confirming their identity. These requirements are not mere formalities; rather, they are mandatory in nature, as non-compliance entails penal consequences including rejection of the election petition, reflecting the binding legislative intent that a statutory act must be performed strictly in the prescribed manner.

**Conclusion:** i) Article 225 requires that election disputes be initiated solely through an election petition before the designated Tribunal.

ii) The Elections Act, 2017 provides a comprehensive legal framework covering all stages of the election process, including dispute resolution.
iii) The right to contest an election is a statutory right and is subject to the limitations prescribed by law.
iv) Verification of an election petition in accordance with Section 144(4) of the Elections Act, 2017 and Order VI Rule 15 of the CPC is mandatory and carries penal consequences.
v) Administering an oath in verification is essential to ensure accountability, deter false claims, and uphold the integrity and efficiency of the electoral and judicial process.
vi) The verification must be formally attested by a competent authority under Section 139 CPC to maintain the validity and integrity of the election petition.
vii) The essential requirements for attestation are not mere formalities; they are mandatory, and non-compliance renders the election petition liable to rejection with statutory penal consequences.

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**10.** **Supreme Court of Pakistan**
**Ahsin Ali v. The State**
**Jail petition No.389 and 549 of 2023**
**Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan**
https://www.supremecourt.gov.pk/downloads_judgements/j.p._389_2023_07032025.pdf

**Facts:** The petitioners were convicted for the murder of an individual during an attempted robbery at a poultry farm, caught red-handed at the scene by prosecution witnesses. The trial court awarded death sentence and life imprisonment respectively, which was upheld by the High Court. Hence, instant Jail Petitions have been filed.

**Issues**: i) Whether a conviction for murder can be sustained where the accused's only role was allegedly catching hold ('Jappah') of the deceased, while fatal blows were inflicted by another?
ii) Whether the failure to specify in the post-mortem report that the fatal injuries were caused by a hatchet or danda, and which side of the hatchet was used, creates a material contradiction in the prosecution's case?
iii) Whether the absence of a proven motive affects the awarding of death sentence and convictions under sections 393 and 449 PPC?
iv) Whether international human rights obligations and constitutional guarantees support the reduction of death sentence to life imprisonment where motive is not proved?

**Analysis:** i) We were able to lay on hands on the judgments rendered by this Court in the cases of Muhammad Anwar vs. The State (1981 SCMR 850) and Ahmad Ali vs. The State (2021 SCMR 470). In these cases, 'Jappah' was attributed to the petitioners/accused of the said cases while fatal blows were attributed to another

co-accused. This Court found force in the submission of the petitioners of the said cases that their case is distinguishable from that of co-accused acquitted them of the charges while accepting their appeals. In Zarin Shah and 2 others vs. The State (1974 SCMR 376) it was held that. (…) Hence, on these grounds, we are of the view that the prosecution has failed to prove its case beyond reasonable doubt against the accused Muhammad Ramzan alias Jani.

ii) The contradiction pointed out by learned counsel for the petitioners that in the post-mortem report, which, although attributes the cause of death to severe head injuries however does not specify the nature of the weapon used — whether it was a hatchet, a Danda, or any other incriminating object is not significant because the prosecution witnesses have not stated that (…) petitioner used the right side of the hatchet. The lacerated wounds mentioned in the postmortem report of the deceased can be caused with the wrong side of the hatchet and as such there is no material contradiction between the ocular account and medical evidence of the prosecution.

iii) It is a settled principle of law that while awarding death sentence and convicting an accused motive has to be given prime importance since without there being an unshattered motive proven by the prosecution, death sentence cannot be awarded, rather in such cases death sentences are usually converted into sentences for life imprisonment (...) Likewise, if the motive of robbery punishable under section 393 PPC is not proved then offence of trespass punishable under section 449 PPC in order to loot any article from the poultry shed of the deceased is also not proved.

iv) In the case of Muhammad Yasin and another vs. The State and other (2024 SCMR 128), while elaborating on the issue of motive (…) Moreover, the state of Pakistan is signatory to the International Covenant on Civil and Political Rights (the "ICCPR") and the same is ratified by the Federal Government in 2010 (…) Interestingly, the Federal Government had reservations on certain articles of the ICCPR, including the aforementioned Article 6. However, the said reservations were subsequently withdrawn by the Federal Government except for the Articles 3 and 25. Hence, the withdrawal of said reservations give full force to said Articles. This also shows that the state of Pakistan is fully committed to fulfil its international obligations and commitments so as to achieve the highest level of civil and political rights of its citizens and non-citizens`(…) The phrase 'most serious crimes' is elucidated in the ICCPR's General Comment No. 6 of 1982 (…) Similarly, the phrase 'inherent right to life'-is explained in General Comment No. 6 of 1982 (…) The Resolution No. 1984/50 by the United Nations Economic and Social Council (the "ECOSOC"), titled as the 'Safeguards Guaranteeing Protection of Rights of those Facing Death Penalty' state as (…) The aforementioned settled proposition of law, recently reiterated by this Court, states the quantum of sentence may be reduced from the death penalty to the life imprisonment if the prosecution fails to establish motive. This principle is in conformity with the Article: 6 of the ICCPR, which stipulates that the death penalty may be only imposed for the 'most serious crimes (…) Similar to Article 2(1) of the ICCPR, the fundamental 'right to life' is also rooted in Article 9 of the

Constitution of Pakistan, 1973 (the "Constitution") as established by this Court in Shehla Zia and others v. WAPDA (PLD 1994 Supreme Court 693). Article 4 of the Constitution grants protection from any action which is 'detrimental to the life, liberty, body, reputation or property of any person' except taken in accordance with law. The 'right of dignity' under Article 14 of the Constitution is inviolable.

**Conclusion:** i) Conviction for murder cannot be sustained where the accused's role was limited to holding the deceased and fatal blows were inflicted by another.
ii) Failure to specify the weapon or side of the hatchet used does not create a material contradiction in light of consistent ocular and medical evidence.
iii) Unproven motive warrants reduction of death sentence to life imprisonment and failure to prove motive of robbery nullifies charges under sections 393 and 449 PPC.
iv) Where motive is not proven, international covenants and constitutional guarantees support reducing the death sentence to life imprisonment.

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**11.** **Supreme Court of Pakistan**
**Qurban Ali v. The State**
**Jail Petition No.403 of 2022**
**Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan**
https://www.supremecourt.gov.pk/downloads_judgements/j.p._403_2022.pdf

**Facts** FIR was registered against the petitioner/ appellant under section 302/34 of the Pakistan Penal Code for allegedly killing his wife and children. Trial court convicted and sentenced him to death which was upheld by the High Court. Through Jail Petition, the petitioner assailed his conviction before Supreme Court of Pakistan.

**Issues:** i) Who is entitled to benefit for contradiction and doubts in prosecution evidence?

**Analysis:** i) The depositions of various prosecution witnesses, complainant etc., as noted above, do reflect contradictions and doubts. It is a settled proposition of law that in case of contradictions and doubts the benefit of the same must be extended to the accused. Reference in this regard may be made to the case reported as Abdul Jabbar and another versus The State (2019 SCMR 129) wherein it was observed that: "it is the settled principle of law that once a single loophole is observed in a case presented by the prosecution much less glaring conflict in the ocular account and medical evidence or for that matter where presence of eye-witnesses is not free from doubt, the benefit of such loophole/lacuna in the prosecution case automatically goes in favour of an accused."

**Conclusion:** i) In case of contradictions and doubts in prosecution evidence the benefit must be extended to the accused.

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**12.** **Supreme Court of Pakistan**
**Khair Muhammad & Zahoor Ahmed v. The State**
**Criminal Petitions No. 132 of 2018 & Jail Petition No. 120 of 2023**
**Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan & Mr. Justice Malik Shahzad Ahmad Khan**
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._132_2018.pdf

**Facts:** The petitioners were convicted by the trial court and sentenced to life imprisonment under the charge of murder of complainant's son. The conviction was maintained from the Hon'ble High Court. Hence petitions were filed before the Honorable Supreme Court.

**Issues:** i) Whether identification of the accused becomes doubtful if the source of light is not given in the site map?

ii) Whether reliance can be placed upon the result of FSL report where the crime empties are sent for FSL report after the recovery of the weapon of offence?

iii) How the CDR (call data record) can be proved with regard to the respective mobile phones?

iv) Whether a document i.e CDR etc., without the signatures of the concerned officer or the company's seal or a letter of authentication, can be relied upon?

v) Whether an accused is entitled to the benefit of a reasonable doubt as a right?

**Analysis:** i) Furthermore, no recovery has been made in regards a supposed alternate source of light and the site map again does not mention any source of light or place from where such source may have been recovered. The identification of the petitioners is thus not free from doubt.

ii) The law in this regard is well settled that no reliance can be placed upon the result of an FSL report where the crime empties were sent for FSL report after the recovery of the weapon of offence.

iii) Admittedly, it has not been proved whether the mobile phones allegedly recovered from the deceased and the petitioners were in their personal use, nor has it been proved which SIMs were recovered from the mobile phones and to whom they were issued. Again, the names of the deceased and petitioners were absent from purported CDR except in the form of handwriting subsequently interpolated into the document.

iv) Thus, it is also of foremost importance that the Call Data Record (CDR) must bear the endorsement/authentication of the cellular/telecom company which has issued it. A bare document such as the CDR without any signature of the concerned officer of the cellular / telecom company issuing the CDR cannot be considered for the purposes of trial and relied upon until and unless it bears the company's seal or a letter of its authentication.

v) Since reasonable doubts abound and these would accrue as of right to the petitioners, we are sanguine that the petitioners are entitled to the benefit of the same.

**Conclusion:** i) In absence of source of light the identification of the accused become doubtful.
ii) No reliance can be placed upon the result of an FSL report where the crime empties were sent for FSL report after the recovery of weapon.
iii) See above analysis No.iii
iv) See above analysis No. iv.
v) An accused is entitled to the benefit of a reasonable doubt as a right.

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**13.** **Supreme Court of Pakistan**
**Muhammad Kamran v. The State and another**
**Criminal Appeal No. 91/2024**
**Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Salahuddin Panhwar, Mr. Justice Ishtiaq Ibrahim**
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._91_2024.pdf

**Facts:** The appellant allegedly committed the murder by firing inside the house of the deceased and her father. Based on these allegations, the appellant was booked in an FIR. After a regular trial, the Trial Court convicted the appellant for an offence under section 302(b) of the Pakistan Penal Code (PPC) and sentenced him to death, along with a directive to pay compensation. This conviction and sentence were subsequently upheld and confirmed by the High Court. Hence, the present appeal is filed by leave of this Court.

**Issues:** i) Whether a single fatal shot constitutes a mitigating factor?

**Analysis:** i) The defense's argument that a single shot constitutes a mitigating factor is untenable. Targeting the chest with a firearm is a deliberate act aimed at causing death, not an act done in the heat of passion or without intent to kill. Furthermore, it is no mitigating circumstance to shoot a woman in the chest and then plead for leniency on the basis that only one shot was fired. A single fatal shot to the chest is sufficient to demonstrate lethal intent. The absence of a second shot does not dilute the severity of the crime.

**Conclusion:** i) No, a single fatal shot does not constitute a mitigating factor, especially when the act is not done in the heat of passion or without the intent to kill.

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**14.** **Supreme Court of Pakistan**
**Bashir-ud-Din and Sharif-ud-Din v. The State**
**Criminal Appeal Nos.26, 27 & 28 of 2021**
**Mr. Justice Muhammad Hashim Khan Kakar,**
**Mr. Justice SalahuddinPanhwar, Mr. Justice Ishtiaq Ibrahim**
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._26_2021.pdf

**Facts:** Appellants were convicted by trial court and sentenced to death, life imprisonment and payment of fine for commission of offences under section 302,396 and 460 PPC. Their appeals were dismissed from High Court. Supreme

Court of Pakistan, while deciding appeals, upheld conviction, however, modified death sentence to life imprisonment.

**Issues:**

i) What is confession and what is its evidentiary value?
ii) What standard of evidence is required for proof of fact?
iii) Can confession of an accused be considered as evidence against co-accused?
iv) Can conviction be sustained, if confession is retracted?
v) If the motive is shrouded in mystery, what would be its effect on quantum of punishment?
vi) Whether firing a single shot from firearm can be considered a mitigating factor?

**Analysis:**

i)The Black's Law Dictionary defines confession, as a criminal suspect's oral or written acknowledgment of guilt, often including details about the crime. Apart from the dictionary meaning, writers like John H. Wigmore defined confession as "an acknowledgment in express words, by the accused in a criminal case, of the truth of the main fact charged or of some essential part of it. To make it more simple it is the admission of the accused regarding the commission of the offence. Coming to the evidentiary value of the confession, as per the law of confession in Pakistan, it recognizes two types of confessions; one being the extra-judicial confession and the second being the judicial confession. It is pertinent to mention that both confessions have a distinct evidentiary value, the former constitutes a weak piece of evidence unless corroborated with strong piece of evidence as held in Imran Case, that the extra-judicial confession was not sufficient for recording conviction on a capital charge unless it was strongly corroborated by tangible evidence coming from unimpeachable source, for the very reason that it may be deposed in front of any person, of any locality, any profession, and even any character, but it is upon the Judge, whether he believes in the existence of the occurrence and veracity of the version as deposed in the extra-judicial confession. The latter, which is in the instant case is the judicial confession, that is attributed with a high degree of confidence Ipso Facto, as it is recorded by a Judicial officer in a court in consonance with Section 164 and 364 of the Cr.P.C. and it is commonly relied upon for maintaining conviction by the superior courts of Pakistan. Reference in this regard can be plethora of judgments in Pakistan.

ii) Conceptual analysis of Article 2(4), Qanun-e-Shahadat, 1984 shows that in order to prove a fact asserted by a party, it does not require a perfect proof of facts, as it is very rare to have an absolute certainty on facts. This provision sets the standard of a prudent man for determining the probative effect of evidence under the circumstances of the particular case. The judicial consensus that has evolved over time is that the standard of 'preponderance of probability' is applicable in civil cases, the standard of 'proof beyond reasonable doubt in criminal cases, and the in-between standard of clear and convincing proof in civilcases involving allegations of a criminal nature. All these three standards are, in fact, three different degrees of probability, which cannot be expressed in mathematical terms, and are to be evaluated under the circumstances of particular

case, as provided in clause (4) of Article 2 of the Qanun-e-Shahadat, 1984, and observed in Salamat Case.

iii) The Judicial confessional statement… is recognized by law as against the other coaccused as circumstantial evidence, under Article 43.the law of the land itself allows the consideration of such statement as circumstantial evidence against the other co-accused, in addition to that the sub-continental precedent of India has reasoned the jurisprudence behind this provision, Article 43 of the Qanun-e-shahadat Order 1984 is PariMateria to the Section 30 of the Indian Evidence Act 1872.The confessional statement of the coaccused, wherein he has implicated both himself and the other accused, may also be considered a relevant circumstance against the convict in terms of Article 43 of the Qanun-e-Shahadat, 1984. This provision lays down that when two or more persons are jointly tried for the same offence, and a confession made by one of them is duly proved, the court may take such confession into consideration as circumstantial evidence against the others.It is to be noted that a different view also exists in criminal law, that as far as confessional statement of one accused is concerned, it may be taken into consideration against the other accused persons if the confession substantially implicates themaker himself, to the same extent as the other accused persons against whom it is sought to be taken into consideration. However, this cannot be considered as a prevailing view in our opinion and it would be sufficient when the accused attributes to himself even a minor role, which is different from other coaccused, it will still be acceptable if by confessing to that minor role, it leads to the maker's incrimination in the case. The position, however, would be different and confession would not be acceptable, where while making the alleged confession, an attempt is made by the maker of it to throw the blame on the other accused persons, making himself a mere unwilling spectator, in this regard reliance is placed on numerous judgments of India.

iv) Even though the confession was subsequently retracted, a conviction can still be sustained if there exists other corroborative and incriminating evidence against the appellants. It is pertinent to note that once a confessional statement is found to be true and voluntary, it can form the basis for conviction. In this regard, reference may be made to the case of Muhammad Amin.

v) As far as the motive is concerned, it is important to highlight that the prosecution's case reveals two conflicting narratives regarding the motive: one asserts that the murder occurred during a robbery/dacoity, while the other proposes thepossibility of a targeted killing. Consequently, the true motive remains shrouded in mystery. Both versions have surfaced in the evidence, yet neither diminishes the culpability of the appellants, nor any of the version was supported by cogent evidence. It was held in Muhammad Yaqoob Case and Ali Asghar alias Aksar case that, where the motive for the offence is shrouded in mystery then the extreme penalty of death is not warranted. In addition to that, it has been held in numerous cases that when motive is neither proved, nor satisfactorily established, in that circumstance the extreme penalty of death is usually avoided.

vi) There are precedents of this Court recognizing that the act of firing a single shot from a firearm may constitute a mitigating factor warranting the imposition of an alternate sentence. In support of this principle, reliance is placed on the authoritative judgment of this Court in Shameem Khan Case.

**Conclusion:** i) See above analysis (i)
ii) See above analysis (ii)
iii) Yes. Confession of an accused is circumstantial evidence against co-accused.
iv) Yes. conviction can still be sustained if there exists other corroborative and incriminating evidence.
v) Where the motive for the offence is shrouded in mystery then the extreme penalty of death is not warranted.
vi) Yes. Firing a single shot from a firearm may constitute a mitigating factor.

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**15.** **Supreme Court of Pakistan**
**Gul Tiaz Khan Marwat v. The Registrar Peshawar High Court, Peshawar & others**
**C.R.P.557 of 2020 in C.A.353 of 2010**
**Justice Amin-Ud-Din Khan, Senior Judge, Justice Jamal Khan Mandokhail, Justice Shahid Bilal Hassan, Justice Shakeel Ahmad, Justice Ali Baqar Najafi**
https://www.supremecourt.gov.pk/downloads_judgements/c.r.p._557_2020.pdf

**Facts:** Through this petition filed under Article 188 of the Constitution of Islamic Republic of Pakistan, 1973, read with order XXVI Rule 1 of the Supreme Court Rules 1980, review has been sought of the judgment dated passed by this Court whereby Civil Appeal arising out of Constitution Petition, filed by the petitioner challenging the validity of the judgment/order, passed by the Peshawar High Court in Writ Petition, was dismissed

**Issues** i) What is the forum of appeal under Rule 12 of the Peshawar High Court Ministerial Establishment (Appointment and Conditions of Service) Rules 1989, read with the provisions of the [Khyber Pakhtunkhwa] Civil Servants (Appeal) Rules, 1986?
ii) What are essential grounds of review?

**Analysis:** i) However, after consulting the said provisions of the rules, they agreed that under Rule 12 of the 1989 Rules read with Rule 3 of the 1986 Rules, the right of appeal had been provided to the petitioner, and such rules would mutatis mutandis apply to the petitioner's case, which was to be heard by a Bench of two judges to be nominated by the Chief Justice, as per the statement showing delegation of powers of the Gazetted and non-Gazetted establishment under the Rules of 1960. However, in exercise of powers conferred under Article 208 of the Constitution, the Peshawar High Court with the approval of the Governor Khyber Pakhtunkhwa, has made the Rules of 2020, and in terms of Rule 16, if any order affecting the terms and conditions of service of a member of the establishment is

passed or any penalty is imposed by legislation, an appeal shall lie to the Chief Justice. Where any such order is passed or penalty imposed by the Chief Justice, other than an appeal from an order of the Registrar, an appeal shall lie to a Bench of three senior most judges of the Court. Furthermore, while the 1989 rules stand repealed, under Rule 22 of the 2020 Rules such repeal shall not affect anything duly done or suffered before these rules.

ii) It is by now settled that a reviewable ground would essentially be one where the decision was per incuriam or where error is so evident that it is floating on the surface of the record, having substantial impact on the final outcome of the case as happened in the instant case, thereby constituting a valid ground for review.

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

ii) See above analysis No. ii

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**16.** **Supreme Court of Pakistan**
**Muhammad Naseer Butt v. Additional District Judge, Lahore, etc.**
**C.P.L.A. No.3519 of 2021**
**Mr. Justice Yahya Afridi (Chief Justice), Mr. Justice Muhammad Shafi Siddiqui, Mr. Justice Miangul Hassan Aurangzeb**
https://www.supremecourt.gov.pk/downloads_judgements/c.p._3519_2021.pdf

**Facts:** The daughters of the petitioner instituted a suit for the recovery of maintenance, which was decreed by the family court. The decree was subsequently enhanced by the appellate court. The High Court dismissed the petitioner's challenge to the appellate court's judgment. The matter remained pending before being referred to mediation, where the parties reached a settlement submitted to the Court.

**Issues:** i) What is the role and importance of mediation in the judicial process, particularly in familial disputes, and how should courts integrate mediation into the litigation process?

ii) What legal frameworks and judicial measures establish and support mediation as a mainstream dispute resolution tool in Pakistan?

**Analysis:** i) Mediation is not merely an alternative to litigation; it is a paradigm shift in dispute resolution, built on the principles of collaboration, confidentiality, and party autonomy. It offers a non-adversarial framework that empowers parties to shape the outcome of their own disputes, guided by a neutral facilitator rather than a judicial determination. (…) Courts must embrace a pro-mediation ethos, particularly at the initial stages of litigation. Judges and lawyers must be sensitized to identify cases fit for mediation and facilitate their referral in a timely manner. Litigants, likewise, should be encouraged to consider mediation and other methods of alternative dispute resolution as a first resort, rather than a last recourse.

ii) The statutory recognition and legislative frameworks provided by the Alternative Dispute Resolution Act, 2017, and subsequent provincial legislations underline mediation's established legal validity. Recent judicial directions and

rules, such as the ADR Mediation Accreditation (Eligibility) Rules, 2023 and Mediation Practice Direction (Civil) Rules, 2023, further consolidate mediation as a mainstream dispute resolution tool within Pakistan's judicial ecosystem.

**Conclusion:** i) Mediation should be embraced early as an effective, collaborative alternative to litigation.
ii) See analysis No. ii.

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**17.** **Supreme Court of Pakistan**
**Muhammad Amjad Naeem vs. The State, through PG Punjab and another**
**Criminal Petition No.170 of 2023**
**Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel**
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._170_l_2025_23042025.pdf

**Facts:** This petition for leave is arising out of FIR registered under section 406 PPC, therein the complainant, who runs an automobile showroom alleged that the petitioner purchased four vehicles between October 2021 and January 2022 through partial payments and written agreements, promising to pay the remaining amounts later. However, after taking possession of the vehicles, the petitioner failed to pay the outstanding dues and became untraceable, allegedly misappropriating all the vehicles.

**Issues:** i) What are the essential elements required to establish the offence of criminal breach of trust under Section 406 of the Pakistan Penal Code?
ii) What does the term *"entrustment"* mean under Section 405 of the Pakistan Penal Code?
iii) How does "entrustment" differ from "investment" in a business venture under the context of criminal breach of trust?
iv)Whether a transaction involving money or property given under a sale agreement amounts to entrustment?
v)Whether the relationship between a seller and purchaser amounts to entrustment under Section 405 PPC for criminal breach of trust?
vi) Whether failure to pay profits or breach of contract amounts to criminal breach of trust without clear entrustment of property?
vii) What is the general principle regarding the grant of bail in cases involving non-bailable offences under Section 497(1) Cr.P.C.?
viii)Whether bail can be denied solely on the basis of an unsubstantiated apprehension that the accused may abscond?
ix) Whether the mere use of terms like "trust" or "amanat" in business transactions constitutes entrustment for criminal breach of trust?
x)Whether mere nomination of an accused in multiple FIRs is sufficient ground to refuse bail?

**Analysis:** i) A plain reading of aforesaid section reveals that, there are two requisite elements which are necessary to establish a case of criminal breach of trust. Firstly, the accused must have been entrusted with a property as trust (amanat), or must have dominion over it as trust (amanat). Secondly, after such entrustment or dominion is created, the accused must have breached that trust by either dishonestly misappropriating or converting the property to his own use, or dishonestly using or disposing of it in violation of any direction of law, an express or implied legal contract related to the discharge of the trust, or willfully allowing another person to do any of these acts.

ii) The term 'entrustment', as used in section 405 P.P.C, means that a property is given to a person as a trust (amanat), whereby, a confidence is reposed in the recipient person and he is obligated to return the same to person making the entrustment. The attachment of this obligation in the entrustment implies that the ownership of the property in question remains with the person who has given the property and has not been transferred, in any manner, to the person receiving the property, who is only temporarily given possession/custody of the entrusted property for a specific purpose and the same property is to be returned by the said person.

iii) In a situation where property or money is invested in a business venture it is utilized for some business purpose, whereas, in a situation of entrustment, the property in question is given for a specific purpose — namely, to be returned— and cannot be used for any other purpose by the recipient.

iv) It is also trite law that where money or property is given as part of an agreement to sell or in the due course of a transaction of sale, the same does not amount to an entrustment.

v) In the case of a sale, the ownership of the concerned property does not remain with the person giving the property, but rather, it stands transferred to the recipient. Consequently, the concerned property is not to be returned to the owner so there is no concept of entrustment or trust (amanat), as required for criminal breach of trust, in a transaction of sale. Therefore, as there can be no entrustment between a seller and a purchaser, relations between a shop-keeper and customer, vendor and vendee, or seller and purchaser does not come within the ambit of criminal breach of trust as defined in section 405 P.P.C.

vi) It is also well recognized that mere failure to pay profits, or a breach of promise, agreement or contract in the absence of clear entrustment of property, do not attract criminal breach of trust.

vii) The principle that bail should be granted as a rule and withheld only in exceptional circumstances, particularly in cases involving non-bailable offences, not falling within the prohibitory clause of section 497(1) Cr.P.C., has been developed and applied in numerous judgments of this Court.

viii) Bail should not be withheld simply on the basis of an unsubstantiated apprehension that the concerned accused will abscond, unless such apprehension is based on some solid material available on the record, such as past behavior of accused.

ix) The mere use of expressions such as "trust" or "amanat" within the context of business transactions does not, by itself, amount to an act of entrustment so as to attract the offence of criminal breach of trust.
x) The view taken by the Learned High Court in the impugned judgment that the petitioner cannot be granted bail because he is nominated in three other FIRs is misplaced, because as discussed above, only previous conviction can furnish a ground for refusal of bail.

**Conclusion:** i) See above analysis No.i
ii) Entrustment under Section 405 PPC means temporary possession with duty to return property.
iii) Investment in business differs from entrustment, which requires property to be returned and not used otherwise.
iv) Money or property given in a sale transaction does not constitute entrustment.
v) Ownership transfer in sales excludes entrustment; thus, seller-purchaser relations do not fall under criminal breach of trust.
vi) Failure to pay profits or breach of contract without clear entrustment does not constitute criminal breach of trust.
vii)The principle mandates granting bail as a norm, withholding it only in exceptional cases not covered by Section 497(1) Cr.P.C. viii) Bail cannot be denied on mere suspicion of absconding without solid evidence like the accused's past conduct.
ix) Use of terms like "trust" or "amanat" in business does not alone constitute entrustment for criminal breach of trust.
x) Mere nomination in multiple FIRs is not sufficient to refuse bail; only a prior conviction can justify denial.

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**18.** **Lahore High Court**
**Shiraz Ahmad v. The State, etc.**
**Crl. Rev. No.39709 of 2024**
**Justice Miss Aalia Neelam (Chief Justice).**
https://sys.lhc.gov.pk/appjudgments/2025LHC3190.pdf

**Facts:** The petitioner, along with others, is facing trial for alleged offences under Sections 295-A, 295-B, and 298-C of the Pakistan Penal Code (PPC), read with Section 11 of the Prevention of Electronic Crimes Act, 2016 (PECA), and Section 196 of the Code of Criminal Procedure (Cr.P.C.), 1898. During the trial, the petitioner filed an application seeking sanction from the authority under Section 196 Cr.P.C. for the court to take cognizance of the offence under Section 295-A PPC. After hearing arguments from both sides, the trial court dismissed the application. The petitioner has now filed this criminal revision against that dismissal.

**Issues:** i) What is the primary purpose of the Prevention of Electronic Crimes Act, 2016?
ii) Which court has jurisdiction over offences under PECA 2016 and Sections 295-A to 298-C of the PPC?

iii) Whether Section 196 Cr.P.C. applies to proceedings before a court constituted under a special statute?

**Analysis:** i) The Prevention of Electronic Crimes Act 2016 has been promulgated to prevent unauthorized acts concerning information systems and to provide mechanisms for related offences as well as procedures for investigation, prosecution, trial, and international cooperation with respect thereto and for matters connected therewith or ancillary thereto.
ii) The offences under Section 11 of the Prevention of Electronic Crimes Act, 2016, and Sections 295-A, 295-B, 295-C, and 298-C of the Pakistan Penal Code, 1860, are interlinked and to be tried by a court established under Section 44(1) of the Prevention of Electronic Crimes Act, 2016.
iii) Section 196 of the Cr.P.C. would not apply to proceedings before a court constituted under a special statute that is inconsistent with the provisions of the Special Act.

**Conclusion:** i) The Prevention of Electronic Crimes Act 2016 aims to prevent cyber offences and establish procedures for their investigation, prosecution, and trial.
ii) Offences under Section 11 of PECA 2016 and Sections 295-A to 298-C PPC are interlinked and triable by the court under Section 44(1) of PECA.
iii) Section 196 Cr.P.C. does not apply to proceedings before a court constituted under a special statute**.**

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**19.** **Lahore High Court**
**Master Riaz Ahmad, etc. v. The State, etc.**
**Crl. Appeal No.14068 of 2019**
**Yaseen Farooq v. Master Riaz Ahmad, etc.**
**Crl. Revision No.16319 of 2019**
**Yaseen Farooq v. Muhammad Shahbaz alias Gogi, etc.**
**P.S.L.A No.16318 of 2019**
**Ms. Justice Aalia Neelum, (Chief Justice)**
https://sys.lhc.gov.pk/appjudgments/2025LHC3235.pdf

**Facts:** The appellants have challenged the impugned judgment passed by the learned Additional Sessions Judge in a private complaint filed under sections 302, 109, 148, and 149 of the Pakistan Penal Code (PPC), along with the State case under the same provisions, whereby the trial court convicted and sentenced them. It is pertinent to mention that the complainant also filed a Criminal Revision for the enhancement of the sentence awarded to the appellants and a Petition for Special Leave to Appeal (P.S.L.A.) against the acquittal of respondents No. 1 to 6. Since all these matters arise from the same judgment of the trial court, they are being disposed of through a consolidated judgment.

**Issues:** i) What should a court do if there is even the slightest doubt about the involvement of the accused in a criminal case?
ii) What are the dual roles of enmity in the context of criminal occurrences?

iii) Under what circumstances can a court's judgment be considered perverse or illegal?

**Analysis:** i) The courts, while appreciating the evidence in criminal cases, must recognize the higher degree of proof required in a criminal case compared to a civil case. The evidence presented by the prosecution should be legally admissible. If there is the slightest doubt regarding the involvement of the accused, the court should not convict the accused.
ii) Enmity, as is well known, is a double-edged weapon that cuts both ways. On one hand, it provides a motive for the accused to commit the occurrence in question; on the other hand, it equally provides an opportunity for the first informant to implicate their enemy. Proof of motive by itself may not be grounds to hold the accused guilty. The accused's motive to commit the crime, based on their actions, cannot, by itself, lead to a judgment of conviction.
iii) This court has also taken note of the settled principle of criminal jurisprudence that unless it can be shown that the lower court's judgment is perverse or that it is 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, the double presumption of innocence is attached to his case.

**Conclusion:** i) If there is any doubt regarding the accused's involvement, the court should not convict the accused.
ii) It can act as a motive for the accused to commit a crime and also serve as a basis for the complainant to falsely implicate the accused.
iii) If there is gross misreading or non-reading of evidence that leads to a miscarriage of justice.

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**20.** **Lahore High Court**
**Shiraz Ahmad v. The State, etc.**
**Crl. Revision No.37104 of 2024**
**Ms. Justice Aalia Neelum (The Chief Justice)**
https://sys.lhc.gov.pk/appjudgments/2025LHC3197.pdf

**Facts:** Petitioner preferred criminal revision against order passed by trial court, whereby written request for adjournment due to absence of counsel for the accused/petitioner was declined and examination-in-chief of seven prosecution witnesses was recorded in presence of accused.

**Issues:** i) Whether the recording of prosecution evidence in the absence of the petitioner's counsel violates the right to a fair trial?

**Analysis** i) Recording of evidence is not a ritual; it is a solemn duty to be performed by the trial court. The entire edifice of the case depends on the recording of the examination-in-chief of the witnesses in presence of the accused. Considering the importance of recording evidence, both the Criminal Procedure Code, 1898, and

the Qanun-e-Shahadat Order, 1984, address this aspect of the trial. Section 353 Cr.P.C. is as under:-

Evidence to be taken in presence of accused: Except as otherwise expressly provided, all evidence taken under Chapters XX, XXI, XXII, and XXII-A shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

The section allows the trial court to record the evidence if the accused is present or to do so in the presence of their counsel if the court dispenses with the accused's attendance. The learned counsel for the petitioner argues that the petitioner was denied the right to counsel under Article 10(1) of the Constitution of the Islamic Republic of Pakistan, 1973, which is misconceived as the petitioner was represented by his counsel after his arrest.(…) The petitioner is not denied the right to a fair trial.

**Conclusion:** i) Section 353 Cr.P.C mandates that evidence must be recorded in the presence of the accused or their counsel if the former's attendance is dispensed with..

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**21.** **Lahore High Court**
**Shiraz Ahmad v. The State**
**Crl. Revision No. 39743 of 2024**
**Ms. Chief Justice Aalia Neelum**
https://sys.lhc.gov.pk/appjudgments/2025LHC3194.pdf

**Facts:** This criminal revision under section 435 Cr.P.C. read with section 439 Cr.P.C. is directed against the order passed by the learned Additional Sessions Judge, whereby charge under sections 295-A, 295-B, 295-C and section 11 PECA was framed against the petitioner and the application filed by the petitioner for framing the charge against the accused was disposed of.

**Issues** i) Whether at time of framing of charge, the court has to focus on the material/evidence collected during the investigation?

ii) Whether at the time of framing of charge, the probative value of the material/evidence on record can be assessed?

**Analysis:** i) At the stage of framing charges, the court must focus only on materials collected during the investigation that can be legally translated into evidence, rather than on any additional evidence the prosecution may present during the trial, which begins only after the charges are framed and the accused denies them. The trial judge is not merely a post office to frame the charge at the instance of the prosecution. The judge must sift through the evidence to determine whether sufficient grounds exist for proceeding. Evidence includes the statements recorded by the police or the documents submitted before the court.

ii) At the time of framing the charges, the probative value of the material on record cannot be assessed, and the material presented by the prosecution must be accepted as true. The purpose of framing a charge is to inform the accused of the clear, unambiguous, and precise nature of the accusation they will confront

during the trial. At this stage, the court is concerned not with proving the allegation but rather with evaluating the material and forming an opinion as to whether there is a strong suspicion that the accused has committed an offence, which, if put to trial, could prove their guilt. The framing of the charge is not a stage at which the final test of guilt is applied.

**Conclusion:** i) The court must focus only on materials collected during the investigation ii) At the time of framing the charges, the probative value of the material on record cannot be assessed, and the material presented by the prosecution must be accepted as true.

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**22.** **Lahore High Court**
**Gujranwala Electric Power Company etc. v. Ahsan etc.**
**Writ Petition No. 2296 of 2020.**
**Mr. Justice Shujaat Ali Khan**
https://sys.lhc.gov.pk/appjudgments/2025LHC3379.pdf

**Facts:** The private respondents, after serving requisite Grievance Notices, approached Labour Court by filing Grievance Petitions with the prayers for their reinstatement and regularization in service on the ground that after satisfactory completion of nine months' service, they attained the status of permanent workmen, which were accepted with order of their reinstatement and direction to petitioner-GEPCO to treat them as permanent woarkmen. Being aggrieved, the petitioner-GEPCO filed independent appeals, which were dismissed by the Punjab Labour Appellate Tribunal (PLAT). Being dissatisfied with decisions of the fora below, the petitioner-GEPCO has filed these petitions.

**Issues:** i) Whether the Grievance Petition is maintainable before the Labour Court?
ii) Whether the scope and application of any enactment determines the area of its operation?
iii) What is effect of indemnity clause in an enactment?
iv) Whether section 17 of State-owned Enterprises (Governance and Operations) Act, 2023 ensures independence of the Board of Directors (BODs)?
v) Whether the GEPCO falls within the definition of commercial establishment as defined under section 2(b) of the Industrial and Commercial Employment (Standing Orders) Ordinance 1968?
vi) Whether GEPCO qualifies as an industry and its employees fall under the Industrial and Commercial Employment (Standing Orders) Ordinance 1968?
vii) Whether the Industrial and Commercial Employment (Standing Orders) Ordinance 1968 applies to employees governed by statutory rules notified in the official Gazette?
viii) Where can an employee governed by the master and servant principle seek remedy for service related grievance?
ix) Does inclusion of a subject in the Legislative List limit the jurisdiction of Labour Court established under relevant law?

x) Whether proceedings can be initiated under the repealed Ordinance 2000 after the enactment of the Act, 2010?

ix)Whether article 25 of the Constitution 1972 provides shield against any kind of discrimination?

x) What is effect of concealment of any fact at time of getting a job?

**Analysis:** i)There is no cavil with the fact that electricity falls within the category of federal subject but said fact cannot be used to deprive the Labour Court of its jurisdiction to try an issue between the employer and employee in relation to terms & conditions of the latter.

ii) I am of the view that the scope and application of any enactment determines the area of its operation. Section 3 of the Act, 2023, deals with scope and application of said enactment….it is more than clear that the Act, 2023 has been enforced for the smooth working of the state-owned companies with specific reference to the appointment of its Chief Executive and the Directors of the Board but nowhere in the entire Act, 2023 not a single reference has been made to the terms & conditions of the employees of state-owned companies.

iii) There is no cavil with the fact as per section 23 ibid indemnity has been given against filing of suit, prosecution or other legal proceedings in respect of their duties but the said indemnity is not applicable to proceedings filed by the private respondents for the reason that they sought declaration from the Labour Court regarding their permanent status after completion of nine months of satisfactory service. Even otherwise, the sought for indemnity does not absolve the management of petitioner-GEPCO to discharge its duties with specific reference to the provisions of the Ordinance, 1968, especially when the same has been made applicable to the employees of Generation Companies(GENCOs) and DISCOs etc.

iv)I have gone through section 17 of the Act, 202, a cursory glance over the above quoted provision shows that though independence of the BoDs has been ensured but the said independence has been confined to the policies relating to the functioning of the state-owned companies in particular appointment of the Chief Executives of the state-owned companies, in a transparent manner.

v)The above provision entertains no ambiguity to the effect that the provisions of the Ordinance, 1968, are not confined to the commercial establishment rather the industrial establishment is also covered under the said enactment in respect of terms & conditions of its employees.

vi) We have to go through section 2(bb) of the Ordinance, 1968…The above quoted provision clarifies that any entity which is involved in electrical undertakings falls within the definition of an industry. Insofar as the status of the petitioner-GEPCO is concerned, since its main role is distribution, service and sale of electric power, in my humble estimation, the same falls within the definition of an industry, thus, the provisions of the Ordinance, 1968, are applicable to its employees. The said observation of this Court also finds support from Office Memorandum, dated 29.01.2011, issued by the erstwhile PEPCO, whereby it was clarified that the Rules, 1978, are not applicable to its employees

rather they are governed under the provisions of the Ordinance, 1968 and it was advised that all the proceedings initiated under the Rules, 1978, would be dealt with under the provisions of the Ordinance, 1968.

vii) According to the second proviso to section 2 of the Ordinance, 1968, the provisions of the said enactment are not applicable to employees of the provincial or federal government departments whose terms & conditions of service are governed under the statutory rules which were duly notified in the Official Gazette.

viii) It is well entrenched by now that when an employee is governed under the principle of master-and-servant and in case of any grievance in relation to his terms & conditions of service he can only approach the forums established under the Labour Laws.

ix) From the above, it is vividly clear that mere mentioning of a subject in the Legislative List in the Constitution does not determine the power of legislation rather the same shows that which government would deal with the said matter. Moreover, according to Article 175 of the Constitution, the government has the jurisdiction to establish courts for various subjects and since the Labour Courts have been established under the provisions of the Labour Laws enacted by the relevant government, the same cannot be denuded of their powers to deal with a matter covered under the provisions of the Ordinance, 1968.

x)Moreover, through Office Memorandum bearing No.3/10/2010-R-II, dated 17.03.2010, issued by the Secretary to Government of Pakistan, Cabinet Secretariat, Establishment Division, Islamabad, it was clarified that the Ordinance, 2000 having been repealed, no proceedings could be initiated against government employees under the said enactment but GEPCO authorities, in utter violation of the Act, 2010 and the subsequent clarification, applied the provisions of the Ordinance, 2000 to the private respondents.

xi) Article 25 of the Constitution provides shield against any kind of discrimination and if any act of the executives is found tainted with mala-fide or discrimination, same cannot be allowed to continue.

xii) It is well established by now that a person who is found involved in concealment of a fact, at the time of getting job against a particular post, is not entitled to any leniency… It is well settled by now that eligibility criteria for appointment against a particular post is to be determined on the basis of public advertisement.

**Conclusion:** i) See the above Para No.i

ii) The scope and application of an enactment defines its operational limits, it cannot apply beyond what is expressly covered.

iii)An indemnity clause protects official acts but does not bar private claims for statutory rights unless expressly included.

iv) Section 17 ensures independence of BODs only in policy matters, particularly in appointing Chief Executives, not in all aspects of governance.

v) See the above Para No.v

vi) GEPCO qualifies as an industry and its employees are governed by the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968, not the rules of The Pakistan Wapda Employees (Efficiency and Discipline) Rules, 1978.
vii) No, the Ordinance does not apply to employees of governments governed by duly notified statutory rules.
viii) Such an employee can only approach forum established under the labour laws.
ix)The Legislative list only indicates legislative competence; labour courts validly exercise jurisdiction under laws enacted by the competent government.
x)Once the Ordinance 2000 was repealed, initially proceedings is unlawful.
xi)Article 25 of the Constitution of Pakistan provides shield against discrimination.
xii) See the above Para No.viii

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**23.** **Lahore High Court**
**The State v. Muhammad Arshad etc.**
**Murder Reference No.88 of 2024**
**Muhammad Arshad etc. v. The State etc.**
**Criminal Appeal No.923 of 2024**
**Jahanzeb @ Jana Sheedi v. The State etc.**
**Criminal Appeal No.1087 of 2024**
**Mr. Justice Sadaqat Ali Khan, Mr. Justice Muhammad Amjad Rafiq**
https://sys.lhc.gov.pk/appjudgments/2025LHC3447.pdf

**Facts:** The appellants have challenged their conviction and award of death sentence in a murder case registered against them.

**Issues:** i) What is effect of minor and general discrepancies occurring due to delayed cross-examination?
ii) Whether any presumption is attached to the plea of alibi of the accused or to be proved through independent evidence?
iii) What is the purpose behind the infliction of sentence?
iv) What adverse effects would be cause by taking lenient view in heinous offences?

**Analysis:** i) The discrepancies in the statements of the PWs pointed out by learned counsel for the appellants (Muhammad Arshad and Farhat Ullah) are minor and general in nature, occur in every case when witnesses (who are human beings) are cross-examined at later stage as in present case, are not fatal to the prosecution case.
ii) Mere presumption cannot be equated with proof in order to qualify or to substantiate the plea of alibi, Muhammad Arshad (appellant) was required to discharge the onus cast upon him to substantiate the plea of alibi.
iii) The purpose behind the infliction of sentence is twofold. Firstly, it would create such atmosphere which could become a deterrence for the people who have inclination towards crime and; secondly, to work as a medium in reforming the

offence. Deterrent punishment is not only to maintain balance with gravity of wrong done by a person but also to make an example for others as a preventive measure for reformation of the society.

iv) If in any proved case lenient view is taken, then peace, tranquillity and harmony of society would be jeopardized and vandalism would prevail in the society. Now-a-days the crime in the society has reached an alarming situation and in the mental propensity towards the commission of crime with impunity is increasing. Sense of fear in the mind of a criminal before embarking upon its commission could only be inculcated when he is certain of its punishment provided by law and it is only then that the purpose and object of punishment could be assiduously achieved. If a Court of law at any stage relaxes its grip, the hardened criminal would take the society on the same page, allowing the habitual recidivist to run away scot-free.

**Conclusion:** i) Minor and general discrepancies occurring due to delayed cross-examination are not fatal to the prosecution case.

ii) No presumption is attached to accused's plea of alibi, rather to discharge the onus cast upon him to substantiate the plea of alibi.

iii) Infliction of sentence serves twofold purpose; firstly, deterrence for the people who have inclination towards crimes. Secondly, to work as a medium in reforming the offence.

iv) If in any proved case lenient view is taken, then peace, tranquillity and harmony of society would be jeopardized and vandalism would prevail in the society.

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**24.** **Lahore High Court**
**Mst. Nasreen Fatima v. Muhammad Abbas Khan etc.**
**Civil Revision No. 280 of 2025**
**Mr. Justice Masud Abid Naqvi**
https://sys.lhc.gov.pk/appjudgments/2025LHC3167.pdf

**Facts:** The plaintiff/petitioner filed a suit for specific performance of an oral agreement to sell & cancellation of mutation. Learned trial court partially decreed the suit. Feeling aggrieved, the plaintiff/petitioner filed an appeal and learned Additional District Judge, dismissed the appeal. Being dissatisfied, the plaintiff/petitioner has filed the instant Revision Petition.

**Issue:** What is the effect of a plaintiff's failure to appear as a witness in a suit for specific performance of an oral agreement?

**Analysis:** The plaintiff herself opted not to appear before the learned trial court and to make her statement on oath as required by law for appearance of a witness to take oath before the court for a correct statement (...) The plaintiff has not exhibited any medical report/documentary evidence to prove her health conditions, restricting her not to appear in the witness box. The plaintiff's bad health is not proved and only grounds left for her non-appearance are not valid legal grounds. (…) The facts & circumstances of the case reflects that she did not appear before the court

to depose in person just to avoid the test of cross-examination or with the intention to suppress some material facts from the court and it can safely be presumed adversely against the plaintiff/petitioner as provided in Article 129(g) of Qanun-e-Shahadat Order 1984.

**Conclusion:** The plaintiff's failure to appear as a witness without substantiated medical or legal justification warrants an adverse inference under Article 129(g) QSO, 1984.

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**25.** **Lahore High Court**
**Rahil Butt and 21 others v. The Federation of Pakistan through Secretary Establishment Division, Islamabad and 114 others**
**Writ Petition No.1180 of 2022**
**Mr. Justice Mirza Viqas Rauf**
https://sys.lhc.gov.pk/appjudgments/2025LHC3087.pdf

**Facts:** The petitioners were appointed as lecturers through the recruitment process conducted by the Federal Public Service Commission, Islamabad. In this writ petition, they have challenged the status of respondents No.5 to 115 on the ground that they were appointed without due process of law.

**Issues:** i) What is the etymology of the word *quo warranto*?
ii) From which system did the writ of *quo warranto* originate?
iii) Being the special form of legal action, what can the Court require the public office holder in the writ of *quo warranto*?
iv) What is the primary object and purpose of writ of *quo warranto*?
v) What is the nature of *quo warranto* proceedings?
vi) Who can move for the issuance of a writ of *quo warranto*?
vii) On which factor is the very issuance of writ of *quo warranto* dependent?
viii) What does the Court have to ensure with respect to the person holding the public office?
ix) Is there any limitation period provided for filing a constitutional petition?
x) On what principles is the delay in filing a constitutional petition to be analysed?
xi) Can a right accrued by the expiry of the limitation period be disregarded in a mechanical manner?
xii) Can the delay in filling a constitutional petition abridge the court's power to examine the validity of an appointment?
xiii) What is the sole constitutional concern emanating from Article 199(1)(b)(ii) of the Constitution?
xiv) What does the term "Locus poenitentiae" denote?
xv) Whether an order, once passed, becomes irrevocable and past and closed transaction?
xvi) Can the rights gained on the basis of an illegal order be sustained?
xvii) What can be inferred from Section 21 of the General Clauses Act, 1897?
xviii) What is purpose of promulgation of the Civil Servants Act (LXXI of 1973)?
xix) What does section 5 of the Civil Servants Act, 1973 postulate?

xx) On whom does Section 25 of the Civil Servants Act, 1973 bestow power to make such rules as appear necessary for carrying out its the purposes?
xxi) For what purpose were the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 (hereinafter referred to as "Rules, 1973") framed under Section 25 of the Act, 1973?
xxii) What are the underlying principles of the Rules 10, 11 and 12 the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973?
xxiii) What sort of powers does Article 242 of the Constitution confer upon Majlis-e-Shoora (Parliament) and the Provincial Assembly?
xxiv) What is the primary object of Article 242 of the Constitution?
xxv) What is the legal basis for the establishment of Commission?
xxvi) What is the underlying authority for framing the Federal Public Service Commission (Functions) Rules, 1978?
xxvii) What is the prescribed procedure for the Commission to test the persons who may have been appointed to a civil post?

**Analysis:** i) Quo warranto is a latin word. In the literal sense it means by what authority or warrant (…) In simple words quo warranto is used to test a person's legal right to hold an office and not to evaluate the person's performance in the office. In legal parlance quo warranto refers to a prerogative writ issued by a court to inquire into the authority of a person holding a public office or exercising a public franchise. It essentially asks by what warrant and compels the person to demonstrate his/her right to hold the position or exercise the power.
ii) The writ of quo warranto originates from English common law way back in 12th century. It was initially used by the crown to determine if someone was rightfully exercising a privilege or office granted by the crown, or if they were intruding on royal prerogatives.
iii) Quo warranto is a special form of legal action issued to resolve a dispute over whether a specific person has the legal right to hold the public office that he or she occupies (…) While dealing with laches, particularly in case of petition of quo warranto in terms of Article 199(1)(b)(ii) of the Constitution, requiring or calling a person holding public office to show under what authority of law he/she claims to hold the office.
iv) The prime object and purpose of quo warranto is to challenge the legitimacy of a person's claim to a public office or franchise, for determining if the appointment or grant of the right was made in accordance with law so as to ensure that public offices are occupied by individuals with proper authority and that public franchises are exercised legally.
v) The proceedings in terms of writ of quo warranto are in the nature of inquisitorial and not adversarial.
vi) It is not necessary that the person invoking writ of quo warranto should be aggrieved as is required in the case of writ of mandamus, certiorari or prohibition. Anybody can move for issuance of writ of quo warranto as a whistleblower but blowing of whistle must be for the benefit of public in general and not for the personal vengeance and gains with malafide intent.

vii) The very issuance of writ of quo warranto is dependent upon the judicial conscious of the court and it cannot be claimed as a matter of right by the person, approaching the court.

viii) The principle of equity and consciousness are the guiding factors for issuance of writ of quo warranto on the one hand and simultaneously court has to ensure that person holding the public office is legally entitled to hold such office and his status is not tainted with any nasty.

ix) There is no cavil to the legal proposition that though no limitation is provided for filing a constitutional petition but it is to be brought within reasonable time, which ordinarily is reckoned as ninety days.

x) The effect of delay in filing the constitutional petition is to be analyzed on the basis of facts and circumstances of each case.

xi) There can be no second opinion that expiry of period of limitation creates a substantial right in favour of one party which cannot be swayed away in a mechanical manner unless strong valid reason for delay beyond the control of delinquent party have been put forth.

xii) Mere delay would not operate as a bar, for the reason that authority of the court to examine the validity of an appointment to a public office, on constitutional and legal grounds, cannot be abridged on technicalities.

xiii) The sole constitutional concern emanating from Article 199(1)(b)(ii) of the Constitution is to protect the “public office” and more importantly the public institution behind it.

xiv) “Locus poenitentiae” is a latin term used primarily in legal contexts, meaning "a place of repentance" or "an opportunity to withdraw." Locus poenitentiae is the power of receding till a decisive step is taken.

xv) It is not a principle of law that order once passed becomes irrevocable and past and closed transaction.

xvi) If the order is illegal then perpetual rights cannot be gained on the basis of such an illegal order.

xvii) In terms of Section 21 of General Clauses Act, 1897 it can safely be inferred that the authority which can pass an order, is entitled to vary, amend, add to or to rescind that order, as locus poenitentiae is the power of receding till a decisive step is taken, but it is not a principle of law that order once passed becomes irrevocable and past and closed transaction.

xviii) In order to regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of Pakistan, and to provide for matters connected therewith or ancillary thereto the Civil Servants Act (LXXI of 1973), (hereinafter referred to as “Act, 1973”) was promulgated.

xix) Section 5 of the Act, 1973 postulates that appointments to an All-Pakistan Service or to a civil service of the Federation or to a civil post in connection with the affairs of the Federation including any civil post connected with defence, shall be made in the prescribed manner by the President or by a person authorized by the President in that behalf.

xx) Section 25 of the Act, 1973 bestows power upon the President or any person authorized by the President in this behalf to make such rules as appear to him to be necessary or expedient for carrying out the purposes of the Act, 1973.

xxi) In furtherance thereof, the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 (hereinafter referred to as "Rules, 1973") were framed so as to regulate the method of appointment and promotion etc. of the civil servants

xxii) Rule 10 being component of Part III unequivocally and explicitly dictates that initial appointment in BS-16 and above are equivalent, except those which under the Federal Service Commission (Function) Rules, 1978 does not fall within the purview of Commission, shall be made on the basis of tests and examinations conducted by the Commission. Rule 11 on the other hand deals with the initial appointment to a post in basic pay scales 1 to 15 and equivalent, other than those mentioned in Rule 10 and mandates that it shall be made on the recommendation of the departmental selection committee after the wide publication of the vacancies in the newspaper. Rule 12 ordains that a candidate for initial appointment to a post must possess the prescribed educational qualifications and experience and that he or she must be within the prescribed age limit, except it otherwise provided in the rules framed for the purpose of relaxation thereof.

xxiii) Article 242 of the Constitution commands and mandates that Majlis-e-Shoora (Parliament) in relation to the affairs of the Federation, and the Provincial Assembly of a Province in relation to the affairs of the Province, by law provide for the establishment and constitution of a Public Service Commission.

xxiv) The prime object and purpose of Article 242 of the Constitution is to ensure the transparency in the process of civil service.

xxv) In furtherance of the mandate under Article 242 of the Constitution, Ordinance was promulgated and Commission was established. Section 7 of the Ordinance outlines the functions of the Commission to carry out the purpose and object of the Ordinance.

xxvi) In terms of the powers conferred upon the Federal Government by Section 10 of the Ordinance the Federal Public Service Commission (Functions) Rules, 1978 were framed.

xxvii) In terms of Rule 5, the Commission is empowered, on a reference made by the appointing authority, to test persons who may have been appointed to a civil post without observing the prescribed procedure or without fulfilling the prescribed qualifications, experience and age limits, and advise whether they are fit to hold the post to which they were appointed, and, if not, whether they are fit to hold any other civil post in the same or lower Basic Scale compatible with their qualifications and experience.

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

ii) The writ of quo warranto originated from English common law.

iii) The Court, in terms of Article 199(1)(b)(ii) of the Constitution, can require public office holder to show under what authority of law he/she claims to hold the office.

iv) The primary object and purpose of quo warranto is to challenge the legitimacy of a person's claim to a public office or franchise.
v) The nature of *quo warranto* proceedings is inquisitorial.
vi) Anybody can move for issuance of writ of quo warranto.
vii) Quo warranto is dependent upon the judicial conscious of the court.
viii) The principle of equity and consciousness are the guiding factors and the court has also to ensure that person holding the public office is legally entitled to hold such office.
ix) There is no limitation for filing a constitutional, however, reasonable time is provided, which is reckoned as ninety days.
x) Delay in filing the constitutional petition is to be analysed on the basis of facts and circumstances of each case.
xi) No. Expiry of limitation period creates a substantial right in favour of one party which cannot be disregarded in a mechanical manner.
xii) No. Delay in filling a constitutional petition cannot abridge the court's power to examine the validity of an appointment.
xiii) The sole constitutional concern is to protect the public office.
xiv) See above analysis No. xiv.
xv) No. It is not a principle of law.
xvi) No. rights gained on the basis of illegal order cannot be sustained.
xvii) See above analysis No. xvii
xviii) The purpose of promulgation of the Civil Servants Act, 1973 was to regulate the appointment of persons and the terms and conditions of service of persons in, the service of Pakistan.
xix) See above analysis No. xix
xx) On President or any other person authorized by the President.
xxi) The Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 were framed to regulate the method of appointment and promotion etc. of the civil servants.
xxii) See above analysis No. xxii
xxiii) See above analysis No. xxiii
xxiv) To ensure the transparency in the process of civil service.
xxv) Under Article 242 of the Constitution, Ordinance was promulgated and Commission was established.
xxvi) Federal Government
xxvii) See above analysis No. xxvii

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**26.** **Lahore High Court**
**Mr. Amir Sajjad v. Commissioner Inland Revenue, Jhelum Zone and others**
**I.T.R. NO.40 of 2025**
**Mr. Justice Mirza Viqas Rauf, Mr. Justice Rasaal Hasan Syed**
https://sys.lhc.gov.pk/appjudgments/2025LHC3156.pdf

**Facts:** This reference application, made under Section 133 of the Income Tax Ordinance, 2001, originates from the order of the Appellate Tribunal, Inland Revenue,

whereby the Tribunal remanded the matter to the Assessing Officer for de novo proceedings concerning the applicant's appeal.

**Issues:** i) Whether the Tribunal is vested with the powers to remand the case to the Commissioner?

**Analysis:** i) Section 132 of the Ordinance deals with decision of appeals by the Tribunal and Sub-Section (4) ordains as under:-

> (4) Where the appeal relates to an assessment order, the Appellate Tribunal may, without prejudice to the powers specified in sub-section (3), make an order to-
> (a) affirm, modify or annul the assessment order;
> (b) remand the case to the Commissioner for making such enquiry or taking such action as the Tribunal may direct; or
> (c) make such order as the Appellate Tribunal may deem fit.
> [Underlining is supplied for emphasis]

From the bare perusal of the above referred provision of law it is manifestly clear that the Tribunal is vested with the powers to remand the case to the Commissioner for making such enquiry or taking such action as the Tribunal may direct or make such order as it deems fit.

**Conclusion:** i) Yes, the Tribunal is vested with the powers to remand the case to the Commissioner for making such enquiry or taking such action as the Tribunal may direct or make such order as it deems fit.

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**27.** **Lahore High Court**
**Salamat Ali v. Sabohi Naz**
**R.F.A. No.27359/2024**
**Mr. Justice Ch. Muhammad Iqbal**
https://sys.lhc.gov.pk/appjudgments/2025LHC3273.pdf

**Facts:** The respondent filed a suit for recovery of a loan amount allegedly advanced to the appellant, who issued a cheque in return. Upon presentation, the cheque was returned by the bank due to it being linked to a photo account requiring the drawer's presence. The trial court decreed the suit. Hence; this appeal.

**Issues** i) Whether the withholding of key witnesses attracts a presumption against the plaintiff under Article 129(g) of the Qanun-e-Shahadat Order, (QSO) 1984?
ii) What constitutes the legal definition of 'dishonour' of a negotiable instrument?
iii) What procedure has the State Bank of Pakistan prescribed for opening a 'photo account' for an illiterate individual?
iv) What are the operational requirements for a 'photo account' as per the terms and conditions of commercial banks?
v) Does a cheque made payable to 'cash' create a legal obligation in favour of a specific individual?

**Analysis:** i) The respondent/plaintiff neither produced her real brother to prove her claim of his friendship with the appellant/defendant nor produced Muhammad Ahtisham and Muhammad Sagheer which flaw amounts to withholding of the best evidence. Thus it would be legally presumed that had the said witnesses produced in the evidence, they would have deposed against the respondent/plaintiff, as such, presumption under Article 129 (g) of Qanun-e-Shahadat Order, 1984 clearly operates against her.

ii) The word dishonour means "to refuse to accept or pay a draft or to pay promissory note when duly presented. An instrument is dishonoured when necessary or optional presentment is duly made and due acceptance or payment is refused, or cannot be obtained then the prescribed time, or in the case of bank collection, the instrument is reasonably returned by midnight deadline; or presentment is excused and instrument is not duly accepted or paid".

iii) Further, the State Bank of Pakistan in its Circular No.10 dated 29.03.2003 has prescribed following procedure for opening of a 'photo account' in case of an illiterate individual: "(iv) In case of illiterate person, a passport size photograph of the new account holder besides taking his right and left thumb impression on the specimen signature card."

iv) In compliance of the aforesaid direction of the State Bank of Pakistan, all the commercial banks issued Terms & Conditions for opening of 'photo accounts' and in this regard, for reference, the relevant portion of Terms & Conditions Governing the Account issued by the commercial bank [Bank Alfalah] is reproduced as under: "1.5 Opening of photo accounts is subject to provision of proper identification duly supported by two attested passport size photographs besides taking customer's thumb impression on the SS card. Photo account cannot be operated unless the customer comes to the Bank and puts his/her thumb impression on the cheque in the presence of Bank Officer."

v) Another aspect of the matter is that the cheque in question was not issued in favour of the respondent/plaintiff rather it bears the word "cash" which, as per the stance of the bank authorities, means that any person holding the cheque can receive the amount of the cheque.

**Conclusion:** i) Failure to produce key witnesses raises a legal presumption against the plaintiff under Article 129(g) QSO, 1984 due to withholding of best evidence.

ii) A negotiable instrument is only considered dishonored if it is duly presented and payment or acceptance is refused or cannot be obtained.

iii) For illiterate individuals, opening a photo account requires photographs and thumb impressions as per the State Bank's directive.

iv) Operation of a photo account is conditional upon the account holder's personal appearance and thumb impression before the bank officer.

v) A cheque marked 'cash' is payable to the bearer and does not confer any specific legal entitlement to a named individual.

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**28.** **Lahore High Court**
**Sarja etc. v. Syed Zahid Hussain Shah etc.**
**W.P.No.18521/2024**
**Mr. Justice Ch. Muhammad Iqbal**
https://sys.lhc.gov.pk/appjudgments/2025LHC3281.pdf

**Facts:** Through this constitutional petition, the petitioners/successors of Noor Muhammad have challenged the validity of order dated passed by the Full Board-II, Board of Revenue, Punjab whereby the request of the petitioners to purchase the evacuee land was turned down.

**Issue:** i) Whether subsequent purchasers can claim better title than their vendors?
ii) What are the guidelines issued by superior courts for disposal of the evacuee property?
iii) Whether the Notified Officer has the jurisdiction to sell the evacuee land through private treaty?
iv)What is the duty of learned Presiding Officers when they deal with matters relating to public property and public interest?
v) What is meant by public purpose?
vi) What is the law which commands that all the evacuee properties stood transferred to the government for its utalization for public purpose and the same went out from the jurisdiction of Notified Officer?

**Analysis:** i) Subsequent vendees have to soar and sink with their vendors and they are debarred to claim any better title.
ii) The superior Courts of this country have settled this issue that the evacuee property, either urban or agricultural can only be disposed of by the authorities through unrestricted open public auction (...) the state assets must be disposed of in fair transparent, universally recognized modus operandi of public auction, thus all the organs of the state are placed under mandatory obligation to comply with the orders of the Hon'ble Supreme Court of Pakistan as enshrined in Article 189 of the Constitution of the Islamic Republic of Pakistan and any deviation whereof that would indeed be nullity void ab initio in the eyes of law.
iii) Admittedly the jurisdiction of the Notified Officer has been restricted to the pending proceedings as envisaged under Section 2 of the Act, 1975 and he has no unlimited power rather he had to exercise its jurisdiction with the precincts prescribed under the law regulations, rules, policies and instructions on the subject (…) the Notified Officer / Chief Settlement Commissioner has no jurisdiction to sell the evacuee land through private treaty and the only mode for disposal of the state assets is to put the same to unrestricted transparent open public auction but the Chief Settlement Commissioner while deciding the application in violation of above consistent law allowed the appellant to purchase the land on market price which in itself is a kind of private treaty, thus these findings being contrary to law are liable to be set aside.
iv) The learned Presiding Officers are also required to exercise caution when they are dealing with matters relating to public property and public interest of which

the Courts of law are the final custodians. It is true that we have never leaned in favour of giving of preferential treatment to the Government departments or agencies but then we are equally obliged, while granting relief, to ensure that public interest is not permitted to be jeopardized and public property is not allowed to be squandered through mere collusion of some representative of a Government agency.

v) The term **'Public Purpose'** has been defined in Black's Law Dictionary (5th Edition) as under:-

> "A public purpose or public business has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity and contentment of all the inhabitants or residents within a given political division, as, for example, a State, the sovereign powers of which are exercised to promote such public purpose or public business."

vi) Whereas the Evacuee Property and Displaced Persons Laws (Repeal) (Amendment) Act, 2022 (XXI of 2022) has been promulgated and Section 3 whereof deals with the transfer of the evacuee properties. For ready reference, Section 3 of the Act ibid is reproduced as under:

> "**3. Transfer of property**.– All properties, both urban and rural, including agricultural land, other than such properties attached to charitable, religious or educational trusts or institutions, whether occupied or un-occupied, which may be available for disposal immediately before the repeal of the aforesaid Acts and Regulations or which may become available for disposal after such repeal as a result of cancellation of any fraudulent allotment shall stand transferred to the Government for utilization for public purposes."

**Conclusion:** i) See above analysis No. i
ii) See above analysis No. ii.
iii) See above analysis No. iii.
iv) See above analysis No. iv
v) See above analysis No.v
vi) See above analysis No.vi

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**29.** **Lahore High Court**
**Adamjee Insurance Company Limited V. Muhammad Ramzan and another**
**Insurance Appeal No.29992/2022**
**Mr. Justice Ch. Muhammad Iqbal**
https://sys.lhc.gov.pk/appjudgments/2025LHC3373.pdf

**Facts:** Appellant preferred appeal against the judgment passed by the Insurance Tribunal, whereby recovery claim of respondent regarding loss of crops and livestock was accepted.

**Issues:** i) Whether a borrower is entitled to recover insured claim or loss of crops and livestock, along-with liquidated damages under compulsory insurance policy linked to an agriculture loan in a calamity effected area?

ii) Whether casual departmental appeals causing waste of public resources are justified?

**Analysis** i) The respondent No.1 availed loan facility from respondent No.2/bank by mortgaging his land. The loan was compulsorily insured with the appellant. The area where the land of the respondent No.1 was situated, badly affected by flood upon which it was declared calamity hit area vide notification dated 25.09.2014. The meager amount of insurance claim Rs.1,31,000/- of the insured / respondent No.1 is pending against the appellant and it is legal right of the respondent No.1 to recover the same.

ii) The Hon'ble Supreme Court of Pakistan in a case titled as Pakistan through Chairman FBR and others Vs. Hazrat Hussain and others (2018 SCMR 939) has held that the departments should not file appeals/ revisions as a matter of routine resulting into wastage of public time and money.

**Conclusion:** i) See Analysis No.i

ii) See Analysis No.ii

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**30.** **Lahore High Court**

**Abdul Haq v. Province of the Punjab through District Revenue Officer / Collector, Gujrat & others**

**Writ Petition No.41936 of 2019**

**Mr. Justice Muhammad Sajid Mehmood Sethi**

https://sys.lhc.gov.pk/appjudgments/2025LHC3200.pdf

**Facts:** Through instant petition, petitioner has sought direction from this Court for the respondents to restrain from recovering the decretal amount of maintenance allowance or from attaching his immovable property being Special Attorney of the principal against whom recovery proceedings are pending before the Revenue hierarchy for attachment of immovable property.

**Issues:** i) Whether an attorney can be held personally liable for obligations not expressly conferred under the power of attorney?

ii) Whether the recovery of a maintenance decree can be lawfully effected under section 13(3) of the West Pakistan Family Courts Act, 1964, when the judgment-debtor is avoiding execution?

**Analysis:** i) It is a well-settled principle of law that a power of attorney must be construed strictly, and only those acts, duties, and obligations that are expressly conferred upon the attorney may be lawfully performed by him. This principle ensures that no implied or assumed obligation can be fastened upon an agent beyond what has been clearly and expressly delegated.

ii) If the judgment-debtor is residing abroad or is otherwise avoiding execution, the proper legal recourse lies under section 13(3) of the West Pakistan Family Courts Act, 1964, which permits the recovery of the decretal amount as arrears of land revenue.

**Conclusion**: i) No implied or assumed obligation can be fastened upon an agent beyond what has been clearly and expressly delegated under the power of attorney.
ii) See analysis No.2.

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**31.** **Lahore High Court**
**Younas Masih v. The State**
**Criminal Appeal No.28362 of 2022**
**Mr. Justice Asjad Javaid Ghural and Mr. Justice Muhammad Waheed Khan**
https://sys.lhc.gov.pk/appjudgments/2025LHC3078.pdf

**Facts:** The appellant was tried by the learned Additional Sessions Judge/ Gender Based Violence Court, in respect of offences under sections 376(iii) P.P.C. for committing rape with a victim aged about 10/11 years old. The learned trial court convicted and sentenced the appellant. Feeling aggrieved, the appellant lodged this Criminal appeal assailing his conviction and sentences. The learned trial court submitted Murder Reference under section 18(2) of the Anti Rape (Investigation and Trial) Act, 2021. seeking confirmation of the sentence of death awarded to the appellant.

**Issues** i) Whether the delay in setting the law into motion is fatal to prosecution in Rape cases?
ii) Whether the conviction is possible on the sole testimony of victim in Rape Cases?
iii) Whether non-detection of semen is fatal to prosecution case?

**Analysis:** i) No doubt general principle, evolved in our criminal jurisprudence is that delay in setting the law into motion was normally considered as an indication of deliberation, consultation and premeditation but in cases of rape involving honour and dignity of a rape survivor and family, such stringent principle cannot be applied. In such like cases, there are multifarious factors including societal stigma, fear of disbelief, cultural norms, victim blaming, fear of retaliation, concern about privacy and lack of support, which plays crucial role and often prevents the victim from reporting the horrible incident with much promptitude...In a society, where a highly educated working woman avoided to report the incident of rape happened in her school, apparently in order to save the repute of the school, it cannot be expected from a household lady, who was dependent upon other male members of her family to set the law into motion with promptitude. Moreso, reporting the cases of rape in our country are comparatively low due to fear of stigmatization and lack of trust in the legal system…In a society where 3/4$^{th}$ of the incidents of sexual abuse went unreported due to internalized shame, fear of judgment, perception of credibility, exposure and vulnerability and impact on identity, reporting of an incident of rape is an exception and not the delay in reporting such matter. Many victims or their family members may need time to process their experience before coming forward and their choices should be respected

ii) A rape is often a crime that occurs in secrecy, making it challenging to obtain direct evidence or witnesses. The sole testimony of the victim in such like cases is vital and unless there are compelling reasons which necessitate corroboration of her statement, Court should find no difficulty to rely upon the personal account of a victim of sexual assault to convict an accused, where her testimony was credible and consistent.

iii) This submission is also not helpful for the defence for more than one reasons. Firstly, as has been observed supra the medico legal examination of the victim was conducted two days after the occurrence, as such after such a long time there seems no possibility of availability of semen at the time of examination. Secondly, detection of seminal material in the vaginal swabs of the victim is just a corroboratory piece of evidence and merely due to its non-detection the other overwhelming ocular and medical evidence cannot be discarded.

**Conclusion:** i) The delay in setting the law into motion is not fatal to prosecution case in rape cases.

ii) In rape cases, the sole testimony of victim is vial.

iii) non-detection of semen is not fatal to prosecution in rape cases

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**32.** **Lahore High Court**
**Munir Ahmad Chishti v. Federation of Pakistan**
**Writ Petition No. 236915/2018**
**Mr. Justice Tariq Saleem Sheikh**
https://sys.lhc.gov.pk/appjudgments/2025LHC3070.pdf

**Facts:** The petitioner, a retired civil servant, filed a writ petition seeking proforma promotion, claiming that he had unblemished career and was eligible for promotion to BS 22 but remained deprived because of administrative delays. He sought proforma promotion through a writ petition after his representation was declined by the competent authority.

**Issues:** i) What is proforma promotion and what are its legal consequences for a civil servant?

ii) What is the scope of jurisdiction conferred on service tribunals under Article 212 of the Constitution, and what is its effect on the jurisdiction of other courts?

iii) What is the extent of authority of the Service Tribunal to grant proforma promotion, and what are limitations on its jurisdiction in such matters?

iv) What is the constitutional bar on the High Court's jurisdiction under Article 212 of the Constitution in service matters, and what would be effect of its violation?

**Analysis:** i) Proforma promotion is a notional advancement granted retrospectively to a civil servant who was eligible for promotion during service but was denied the opportunity due to no fault of their own and circumstances beyond their control. It confers only financial and symbolic benefits without reinstating the officer in service and does not affect the seniority of any serving official. Common

justifications include delays caused by pending inquiries, policy embargoes, or administrative inaction. The Supreme Court has endorsed the principle underlying proforma promotion in Secretary Ministry of Finance and others v. Muhammad Anwar (2025 SCMR 153).

ii) Article 212(1)(a) of the Constitution stipulates that the appropriate Legislature may, by Act, establish tribunals with exclusive jurisdiction over matters relating to the terms and conditions of persons who are or have been in the service of Pakistan, including disciplinary issues. Article 212(2) states that where such a tribunal is established, no other court shall entertain proceedings in respect of matters within the tribunal's jurisdiction.

iii) In Government of Pakistan and others v. Hameed Akhtar Niazi and others [PLD 2003 SC 110 : 2003 PLC (CS) 212]., the Service Tribunal directed that the appellant be granted proforma promotion from the dates his juniors were promoted and ordered re-fixation of his pay and pension. The Supreme Court set aside that order, holding that promotion is not a right and falls exclusively within the discretion of the competent authority. Seniority is only one factor among others, such as competence, antecedents, and availability of posts, which must be considered in each case. The Service Tribunal had no jurisdiction to grant retrospective promotion or to assume the functions of the appointing authority, particularly where the competent forum had not made any evaluation... The power to grant proforma promotion lies exclusively with the appointing authority, who must be affirmatively satisfied that the civil servant was, through no fault of their own, wrongfully prevented from serving in the higher post. This Court lacks jurisdiction not only because no such determination has been made but also for the reason that it cannot assume the functions of the appointing authority.

iv) The High Court, as a constitutional court, should always be mindful of the jurisdictional exclusion contained under Article 212 of the Constitution. Any transgression of this constitutional limitation will render its order void and illegal. Therefore, unless the jurisdiction of the Service Tribunal is ousted under section 4(1)(b) of the STA, as described above, the assumption of jurisdiction by the High Court in respect of matters of terms and conditions of a civil servant is unconstitutional and impermissible.

**Conclusion:** i) see above analysis (i).
ii) see above analysis (ii)
iii) see above analysis (iii)
iv) see above analysis (iv)

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**33.** **Lahore High Court**
**Qamar-ul-Islam v. Province of Punjab, etc.**
**C.R. No.654 of 2013**
**Mr. Justice Jawad Hassan**
https://sys.lhc.gov.pk/appjudgments/2025LHC3173.pdf

**Facts:** The plaintiffs, claiming to be legal heirs of a previous purchaser, filed a suit for declaration and permanent injunction regarding certain land, asserting ownership

based on a registered sale deed. The defendants, representing government authorities, denied the claim, asserting that the property had been lawfully mutated in their favour decades earlier and contested the suit on grounds including limitation and lack of possession. The trial court decreed the suit in favour of the plaintiffs. The Appellate Court reversed the judgment and decree of the Trial Court. Hence; this Civil Revision.

**Issues** i) Whether possession follows title and what is the legal presumption in the absence of evidence to the contrary?
ii) What is the legal presumption attached to entries in the revenue record?
iii) Whether it is mandatory for a court to decide miscellaneous applications pending before it prior to the final adjudication of the main lis?
iv) Does taking possession under a revenue entry constitute actual denial to start limitation?
v) Should greater weight be given to the findings of the appellate court?

**Analysis:** i) In this regard reliance is placed on the judgment of the Hon'ble Supreme Court of Pakistan reported as "Haji MUHAMMAD YUNIS (DECEASED) through legal heirs and another Versus Mst. FARUKH SULTAN and others" (2022 SCMR 1282), wherein it has been held that: 15. Possession follows the title. This is a well settled principle. Therefore, unless contrary is proved by cogent evidence, an owner is presumed to be in possession of his property.
ii) As per the provision contained in section 52 of the West Pakistan Land Revenue Act, 1967, the presumption of truth is attached to the entries in the record of rights and periodical records.
iii) it is a well-established principle of law that miscellaneous applications pending before a court must ordinarily be decided prior to final adjudication of the main lis,
iv) The Hon'ble Supreme Court of Pakistan in the judgment reported as Mst. RABIA GULA and others Versus MUHAMMAD JANAN and others (2022 SCMR 1009) has affirmed that where the beneficiary of an entry in the revenue record also takes over the possession of the land on the basis of sale or gift transaction, as the case may be, recorded in that entry. His action of taking over possession of the land in pursuance of the purported sale or gift is certainly an "actual denial" of the proprietary rights of the purported seller or donor. Therefore, in such a case, if the purported seller or donor does not challenge that action of "actual denial" of his right, within the prescribed limitation period, despite having knowledge thereof, then his right to do so becomes barred by law of limitation.
v) Even otherwise, it has been held by the Hon'ble Supreme Court of Pakistan, that the findings of the learned appellate court should be given weightage.

**Conclusion:** i) Ownership implies possession unless proven otherwise.
ii) Revenue entries are presumed to be correct under law unless rebutted with strong evidence.

iii) Pending miscellaneous applications should generally be resolved before the court decides the main case.
iv) Taking possession under a revenue entry amounts to actual denial of the previous owner's rights, triggering the limitation period to challenge it.
v) Appellate court findings are given weightage.

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**34.** **Lahore High Court**
**M/s Ejaz Brothers v. Federation of Pakistan, National Tariff Commission etc.**
**Writ Petition No.1695 of 2024**
**Mr. Justice Jawad Hassan.**
https://sys.lhc.gov.pk/appjudgments/2025LHC3058.pdf

**Facts:** The petitioners through these constitutional petitions have challenged notices issued by the National Tariff Commission (*NTC*) for initiating anti-circumvention investigations under Section 63(4) of the Anti-Dumping Duties Act, 2015, based on a complaint alleging that foreign exporters were bypassing anti-dumping duties through product modification. Petitioners claim they import a Two Side Coated Bleach Board, already verified by Customs. The original anti-dumping duties were imposed in 2018 on One Side Coated Board and extended after a sunset review. The current notices arise from a fresh complaint filed in 2025.

**Issues:** i) Whether anti-dumping investigations and anti-circumvention proceedings address different aspects of unfair trade practices?
ii) What is the focus of anti-dumping investigations?
iii) What is the focus of anti-circumvention proceedings?
iv)What is the key difference between Anti-dumping investigations and anti-circumvention proceedings?
v) Whether Section 63 of the Anti-Dumping Duties Act effectively empowers the *NTC* to investigate and prevent attempts to circumvent imposed anti-dumping duties?
vi) Whether disputed questions of fact can be adjudicated within the scope of constitutional jurisdiction?
vii) Whether the resolution of factual disputes falls within the exclusive domain of the NTC as the proper forum under the law?
viii) Which remedy is available to aggrieved parties against the NTC's determination?
ix) Whether a writ petition is maintainable against the mere issuance of a show cause notice?

**Analysis:** i) Anti-dumping investigations and anti-circumvention proceedings are both trade remedies, but they address different issues related to unfair trade practices.
ii) Anti-dumping investigations focus on whether a foreign exporter is selling goods in a foreign market at prices below their cost of production or below a comparable price in the exporter's home market, potentially harming domestic industries.

iii) Anti-circumvention proceedings, on the other hand, investigate whether measures against dumping or subsidies are being circumvented, meaning thereby the product is being imported in a way that evades the original anti-dumping or countervailing duty.

iv) In essence, the anti-dumping investigations are about preventing unfair pricing practices, while anti-circumvention proceedings are about ensuring that existing anti-dumping measures are not bypassed through various methods.

v) Anti-circumvention measures have been defined under Section 63 of the "Act" which deals with the mechanism for final review of anti-dumping duties and outlines the procedure for handling the termination of anti-dumping duties; object whereof is to empower the "NTC" to investigate and address practices where exporters or importers attempt to evade imposed anti- dumping duties and includes actions such as change in pattern of trade, process or work for which there is insufficient due cause or economic justification e.g. slight modifications of products, misclassification or routing goods through third countries to avoid imposed duties.

vi) Arguments and pleadings of the parties have raised disputed question of facts and factual controversy which cannot be decided in the constitutional jurisdiction as this Court cannot enter into factual realm or embark upon an exercise to determine the controverted questions of facts.

vii) The resolution of such like issues is left to be decided by the proper forum prescribed by a law i.e. "*NTC*" which has only invited all interested parties to submit their reply/comments or evidence.

viii) Once the "*NTC*" passes the determination, the aggrieved parties will have the remedy to file an appeal before the Tribunal under Section 70 of the "Act" read with Rule 30 (7) of the "Rules".

ix) Mere issuance of show cause notice is not an adverse order and writ petition against it is not maintainable

**Conclusion:** i) Anti-dumping and anti-circumvention proceedings are trade remedies addressing different unfair trade issues.

ii) Anti-dumping investigations assess if foreign goods are sold below cost or home market prices, harming domestic industries**.**

iii) Anti-circumvention proceedings investigate if imports evade existing anti-dumping or countervailing duties through altered practices.

iv) See above analysis No.iv

v) **S**ee above analysis No.v

vii) Disputed facts cannot be resolved in constitutional jurisdiction as the Court cannot determine factual controversies.

viii) Aggrieved parties may appeal the NTC's determination before the Tribunal under Section 70 of the Act.

ix) Issuance of a show cause notice is not an adverse order; hence, a writ petition against it is not maintainable.

**35.** **Lahore High Court**
**Sher Muhammad v. Karam Hussain**
**Civil Revision No. 883 of 2016**
**Mr. Justice Jawad Hassan**
https://sys.lhc.gov.pk/appjudgments/2025LHC3050.pdf

**Facts:** In suit for permanent injunction filed by the Respondent/plaintiff against the Petitioner/defendant, the Petitioner/defendant got recorded his statement. Pursuant to aforesaid statement, the suit was dismissed being infructuous but said judgment and decree was assailed by the Respondent/plaintiff before the learned Additional District Judge that was set aside with direction to the Petitioner/defendant to abide by his statement recorded before the trial court. Feeling aggrieved, the Petitioner/defendant filed Civil Revision before this Court which was disposed of. After passing aforesaid order by this Court, the trial Court proceeded to dismiss the suit of the Respondent/plaintiff. The said judgment and decree was then assailed by the Respondent/plaintiff by filing appeal before the learned Additional District Judge which was accepted, hence this revision.

**Issue:** Whether a party's undertaking recorded before a court carries the same binding legal effect as a formal decree or injunction?

**Analysis:** The enforceability of an undertaking given by a party before a Court is well-established in law, and such undertakings can be executed by the Executing Court as if they were formal decrees. Once a party submits to an undertaking, the Executing Court is empowered to enforce compliance, even in the absence of a formal decree. This ensures that solemn commitments made before judicial forums are honored, upholding the sanctity of court proceedings and preventing abuse of process.

**Conclusion:** A party's undertaking recorded before a court carries the same binding legal effect as a formal decree or injunction.

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**36.** **Lahore High Court**
**Afzaal alias Phali v. The State, etc.**
**Criminal Appeal No.15845/2022**
**The State v. Afzaal alias Phali**
**Murder Reference No.66/2022**
**Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa**
https://sys.lhc.gov.pk/appjudgments/2025LHC3040.pdf

**Facts:** The appellant stood convicted with death sentence in a murder case.

**Issues:** i) How the speed of bullet affect the witness's sight to locale of injury to deceased?
ii) Whether a witness can retreat with accuracy the seat of injury when live shots are being fired?
iii) How the acquittal of co-accused would affect the case of convict?

iv) How the presence of neutral court witnesses at the place of occurrence, would be taken?

**Analysis:** i) It is relevant to mention here that speed of bullet fired from firearm weapon is more than the speed of sound, therefore, shot fired from firearm weapon hits first to the victim whereas its sound is subsequently heard by the person due to difference of their speed as mentioned above; hence, when after hearing report/sound of shot fired from firearm weapon, person looks towards the victim, till then, fire shot already hits the victim and in such circumstances, a person witnessing the occurrence while seeing oozing of the blood makes estimation regarding locale of injury caused by such shot and if shot fired by the firearm weapon has hit at the body which is covered by wearing clothes of the victim, then after hitting of fire shot, blood oozes and spreads on the wearing clothes at and adjacent area of the wound where shot has hit and in such circumstances minor variation regarding estimation by the human being about exact locale of receiving of firearm shot does occur naturally.

ii) During turmoil when live shots are being fired, witnesses in a momentary glimpse/glance make only tentative assessment of points where such fire shots appeared to have landed and it becomes highly improbable to mention their location with exactitude.

iii) Though co-accused have been acquitted in this case yet while applying principle of sifting grain from chaff if ocular account produced by the prosecution through statements of complainant Abid Mehmood (PW-1) and Ghulam Mustafa (PW-2) is corroborated by other evidence, then same can be used and relied against the appellant.

iv) The said Court witnesses were not belonging to any party, their presence at the place of occurrence, at the time of occurrence was quite natural and established beyond shadow of doubt.

**Conclusion:** i) The fired bullet travels at speed more than sound, it hits first to target before its sound strikes the ears of witness. Therefore, due to this speed difference exact locale of injury could be mistaken by the observer because blood would have been spread over the wearing cloths of victim making a chance of mistake for the witness.

ii) When live shots are being fired, witnesses in a momentary glimpse/glance make only tentative assessment of points where such fire shots appeared to have landed and it becomes highly improbable to mention their location with exactitude.

iii) In case of acquittal of co-accused, the principle of sifting grain from the chaff would apply.

iv) Presence of neutral court witnesses would be natural and established, when they have no connection to any party.

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**37.** **Lahore High Court**
**Muhammad Adnan alias Chanda v. The State**
**Murder Reference No.86/2022 & Criminal Appeal No.27397-J of 2022**
**Mr. Justice Farooq Haider &. Mr. Justice Ali Zia Bajwa**
https://sys.lhc.gov.pk/appjudgments/2025LHC3207.pdf

**Facts:** The Sessions Court convicted and sentenced the appellant under section 302 PPC, on the charge of murder of complainant's brother. One co-accused was acquitted by the learned trial court. Hence the appeal was filed by the convict; a separate appeal was filed by the complainant against the acquittal of co-accused. Murder reference was also sent to the Hon'ble Lahore High Court.

**Issues:** i) What is the effect of delayed FIR on the case of prosecution?
ii) What would be the effects if prosecution fails to explain the delay in FIR?
iii) Whether the chance witnesses are bound to prove valid reason to show their presence at the place of occurrence?
iv) Whether the evidence of witnesses the reason of whose presence at the place of occurrence is not established can be seen as "suspect" and it can be accepted?
v) Whether the evidence of a witness, who introduces dishonest improvement or omission, can be relied upon?
vi) What is the value and status of medical evidence in criminal cases?
vii) What is the effect of empty shells if it is not mentioned in column No.22&23 of the inquest report?
viii) What is the effect of PFSA report if safe custody of pistol is not proved?
ix) Whether warrants of arrest and proclamation issued with blank columns have any value against the accused?
x) Whether the abscondence can be viewed as proof for the crime?
xi) Whether single dent\circumstance is sufficient for acquittal of the accused?
xii) What kind of presumption is attached to the acquittal of the accused, whether the court should straightaway disturb such acquittal?

**Analysis:** i) By now it is well settled that First Information Report (Crime report) is the corner stone and foundational element of the case of prosecution and if same has not been recorded promptly after the occurrence, then superstructure raised on the basis of said FIR in the form of case of prosecution is bound to fall.
ii) It is well settled that when there is delay in reporting the incident to the police, then prosecution is under obligation to explain such delay and failure to do that will badly reflect upon the credibility of prosecution version and same is fatal for the case of prosecution.
iii) Both the aforementioned witnesses are chance witnesses and they were bound to bring on record and prove valid, cogent and acceptable reason to show/establish their presence at the time and place of occurrence.(---) Therefore, both cited eye witnesses i.e. Mobashir Hussain (complainant/PW-6) and Altaf Hussain (PW-7) could not bring any material to establish convincing and acceptable reason to show their presence at the time and scene/place of occurrence.

iv) In above scenario, evidence of both aforementioned cited witnesses, who could not explain/establish any valid reason/cause regarding their stated presence at the stated time, at the place of occurrence, is "suspect" evidence and cannot be accepted without pinch of salt.

v) By now it is well settled that witnesses who introduce dishonest improvement or omission for strengthening the case, cannot be relied.

vi) So far as medical evidence is concerned, it is trite law that medical evidence is mere supportive/confirmatory type of evidence; it can tell about locale, nature, magnitude of injury and kind of weapon used for causing injury but it cannot tell about identity of the assailant who caused the injury; therefore, same is also of no help to the prosecution in peculiar facts and circumstances of the case.

vii) Suffice it to say that Inquest Report of the deceased (Exh.PP) was prepared at the place of occurrence and availability of any empty shells was not mentioned in column No.22 & 33 of the inquest report which makes availability of empty shells at the place of occurrence as doubtful and in this regard.

viii) parcel which was having pistol and three live bullets was not sent to the PFSA, Lahore for comparison/examination rather parcel received over there was simply having pistol and test fires in it, therefore, safe custody of said parcel of the pistol and bullets has been compromised and not established which ultimately makes report of Punjab Forensic Science Agency, Lahore (Exh.PT) as inconclusive, inconsequential and of no helpful to the case of prosecution. Therefore, aforementioned recovery is of no avail to the case of the prosecution.

ix) Suffice it to say that perusal of warrant of the arrest (Exh.PB) reveals that as per contents of said warrant neither any police official nor any other public servant/person was asked through said warrant to arrest the appellant rather said column is blank. Similarly, perusal of proclamation (Exh.PD) also reflects that it has not been mentioned therein that under which period/how many days and on which date, the appellant had to surrender rather said columns are blank. Therefore, warrant Exh.PB and Proclamation Exh.PD are defective.

x) Abscondence is not the substantive piece of evidence, it can neither be viewed as proof for the crime nor can cure defects of the case of prosecution and in this case, when ocular account has been discarded then absconsion is of no help to the case of prosecution at all.

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

xii) Even otherwise, after acquittal, accused person has attained double presumption of innocence and courts are always slow to disturb the same.

**Conclusion:** i) In case of delayed FIR the superstructure raised on the basis of said FIR would fall.

ii) It will badly reflect upon the credibility of prosecution version and same is fatal for the case of prosecution.

iii) See above analysis No.iii.

iv) See above analysis No.iv

v) Evidence of a witness, who introduces dishonest improvement or omission, cannot be relied.
vi) See above analysis No.vi
vii) See above analysis No. vii
viii) See above analysis No. viii
ix) See above analysis No. ix
x) See above analysis No. x
xi) See above analysis No. xi
xii) After acquittal, accused person has attained double presumption of innocence and courts are always slow to disturb the same.

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**38.** **Lahore High Court**
**Sheroz Yousaf v. The State**
**Criminal Appeal No.9929-J/2022**
**The State v. Sheroz Yousaf**
**Murder Reference No.13/2022**
**Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa**
https://sys.lhc.gov.pk/appjudgments/2025LHC3308.pdf

**Facts:** The appellant challenged his conviction and death sentence awarded in a case FIR registered against him for murder.

**Issues:** i) What is the scope of substitution of real culprits in murder cases?
ii) What is the effect of minor inconsistencies and discrepancies in statements of witnesses with the passage of time?
iii) What would be effect of when a crime empty is not found suitable for comparison by Punjab Forensic Science Agency?
iv) What is effect of bald denial by defence to the accusations, without producing any defence evidence?

**Analysis:** i) Substitution of the real culprit is rare phenomenon in our society; in this regard, case of "IRSHAD AHMAD and others versus The STATE and others" (PLD 1996 Supreme Court 138) can be advantageously referred, relevant portion from page No.143 of the same is as under:-

> *"Undoubtedly, the substitution is a phenomenon of rare occurrence, because even the interested witnesses would not normally allow the real murderers of their relation to escape by involving innocent persons."*

ii) Minor inconsistencies and discrepancies do occur/appear in the statements of witnesses with the passage of time, since it is natural that memory of any person with the afflux of time may fade, therefore, such inconsistencies/discrepancies cannot destroy the case of prosecution when same are not hitting vital aspects of the case. Ocular account has been found as confidence inspiring and trustworthy.
iii) As per report of Punjab Forensic Science Agency (Exh.PU), pistol (P-1) recovered from the appellant was found in mechanical operation condition, three cartridge cases, out of four mentioned above were identified as having been fired from the pistol (P-1) recovered from the appellant, however, 4th empty cartridge

case due to lack of sufficient suitable corresponding microscopic markings was not found as fit for comparison to identify or eliminate that it was fired from pistol (P-1) or not; projectile bullet was identified as having been fired from the pistol recovered from the appellant, however, bullet core was found as not suitable for comparison, therefore, said recovery has provided corroboration to the ocular account.

iv) Version of the appellant is a bald denial, neither he opted to appear under Section 340(2) Cr.P.C. as his own witnesses in support of his defence version as well as in disproof of allegation levelled against him nor he opted to produce defence evidence in support of his version. Furthermore, nothing could be found from the record in support of version of the accused.

**Conclusion:** i) Substitution of the real culprit is rare phenomenon in our society.

ii) It is natural that memory of any person with the afflux of time may fade, therefore, such inconsistencies/discrepancies cannot destroy the case of prosecution when same are not hitting vital aspects of the case.

iii) Empty cartridge which is found not suitable for comparison due to lack of sufficient suitable corresponding microscopic markings, to identify or eliminate that it was fired from pistol or not; would not adversely effect prosecution case.

iv) A bald denial by accused without adducing any defence evidence would not serve a useful purpose to him, when prosecution case stands proved.

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**39.** **Lahore High Court**
**Mst. Marayam v. The State, etc.**
**Crl. Misc. No.9980-B/2025**
**Mr. Justice Farooq Haider**
https://sys.lhc.gov.pk/appjudgments/2025LHC3484.pdf

**Facts:** The petitioners seek their post-arrest bail in a case registered against them for the offence u/s 302 PPC.

**Issues:** i) What is effect of identification parade at bail stage, when facial feature of the accused were not disclosed?

ii) What is effect of post mortem, at bail stage, with uncertain cause of death and no time between the death & post mortem?

iii) What is the nature of relief of bail?

iv) What effect an error would cause in grant or refusal of bail to the accused?

**Analysis:** i) Though other features of the accused were disclosed yet facial features of any accused were not disclosed by Mohtaj-ur-Rehman and Muhammad Iqbal witnesses, therefore, evidentiary value of the identification of Imtiaz Hussain (petitioner) through identification parade would be seen during trial of the case.

ii) Time between injuries and death was not given by the Medical Officer as per post-mortem examination report and furthermore after receipt of reports from the experts, it has been finally opined by the Medical Officer that cause of death in this case is uncertain and manner of death is undetermined. When all

aforementioned circumstances are taken into consideration in totality, then case of the prosecution against both the petitioners i.e. Mst. Mariyam and Imtiaz Hussain, at present, requires further probe/inquiry and falls within the purview of sub-section 2 of Section 497 Cr.P.C..

iii) Bail is a procedural relief i.e. mere change of custody from State to surety and has no bearing on ultimate fate of the case.

iv) Liberty of a person is a precious right which has been guaranteed by the Constitution of Islamic Republic of Pakistan, 1973. 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.

**Conclusion:** i) When facial features of the accused are not disclosed, the evidentiary value of such identification parade would be seen during trial of the case.

ii) When cause of death is not certain and time since death is not given, the case of accused persons would become one of further inquiry.

iii) See above analysis no. (iii).

iv) Error in granting bail is better than error in refusal. Error in granting bail is rectified by the ultimate conviction of the accused.

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**40.** **Lahore High Court**
**Muhammad Jehan Zeb Noon v. The State, etc.**
**Writ Petition No.52318 of 2024**
**Mr. Justice Farooq Haider**
https://sys.lhc.gov.pk/appjudgments/2025LHC3481.pdf

**Facts:** Petitioner through constitutional petition has challenged the order of Magistrate Section-30, whereby application for constituting District Standing Medical Board with regard to alleged injuries was dismissed.

**Issues:** i) Whether omission to seek Medical Specialist opinion for a serious injury warrants constitution of District Standing Medial Board?

**Analysis** i) it was clearly mentioned regarding injury No.1 that there was crushed cricoid cartilage with exposed hypopharynx of Muhammad Anas (injured mentioned above), therefore, final evaluation of the same after obtaining opinion from Ear, Nose, Throat (ENT) Specialist (as apprised by learned Assistant Advocate General Punjab under instructions of Medical Officer) was necessary, however, same has not been done during his medical examination and such omission necessitates constitution of the Medical Board for doing the needful in this regard.

**Conclusion:** i) Opinion of Medical Specialist is necessary for final declaration of injury.

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**41.** **Lahore High Court**
**Sohail v. Station House Officer, etc.**
**Writ Petition No.13839 of 2025**
**Mr. Justice Farooq Haider**
https://sys.lhc.gov.pk/appjudgments/2025LHC3151.pdf

**Facts:** Petitioner through constitutional petition has sought quashment of FIR registered under allegations of criminal breach of trust on the grounds that allegations made basis to register FIR reveal business transaction, therefore, no offence is made out, hence FIR is liable to be quashed.

**Issues:** i) Whether offence of criminal breach of trust is made out, if a carrier misappropriates any entrusted property?
ii) Whether FIR can be quashed solely on the grounds that it is false, mala fide, or suffers jurisdictional defect?
iii) Whether mala fide intent can be determined without trial in writ jurisdiction?

**Analysis** i) It is relevant to mention here that offence of criminal breach of trust has been defined under Section: 405 PPC and same is punishable under Section: 406 PPC (…) perusal of aforementioned illustration (f) clearly reveals that if a carrier is entrusted with property to be carried by land or water and he misappropriated property then he has committed criminal breach of trust.
ii) It is now well settled that quashing of F.I.R. is an extraordinary relief which can only be granted if the F.I.R. does not disclose the commission of any offence or there is any jurisdictional defect in the registration of the case; this Court always avoids to quash the F.I.R. merely by appreciation of oral or documentary versions of the parties without providing chance to cross-examine or confronting the same. By now it is also well settled that First Information Report (F.I.R.) cannot be quashed merely on the plea that same is false and concocted.
iii) It goes without saying that same is a question of fact, which requires proof by producing evidence without which the same cannot be resolved and admittedly said exercise cannot be done under constitutional jurisdiction of this Court.

**Conclusion:** i) A carrier entrusted with goods who dishonestly misappropriates the property commits criminal breach of trust.
ii) Quashing of FIR is an extraordinary relief, which relief can be granted only when it does not disclose an offence or suffers from jurisdictional defects.
iii) Mala fide is question of fact, which can only be determined after recording of evidence.

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**42.** **Lahore High Court**
**Muhammad Ali alias Ali Hassan v. The State**
**Crl. Appeal No.20548-J/ 2022**
**Murder Reference No.17/ 2022**
**Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa**
https://sys.lhc.gov.pk/appjudgments/2025LHC3468.pdf

**Facts:** FIR was registered against the appellant and others for intentionally murdering son of the complainant by firing multiple shots with pistol. The trial court convicted the appellant under Section 302(b), 337A(i), 337F(i) PPC and sentenced him to death along with payment of Daman while acquitted the co-

accused. The High Court found prosecution evidence unreliable due to contradictions and lack of corroboration, leading to acquittal of the appellant.

**Issues:** i) What is responsibility of prosecution when there is delay in reporting the occurrence to police?
ii) How the "opinion of expert" should be evaluated by court?
iii) What is rigor mortis and how it develops in a dead body?
iv) In how much time rigor mortis starts appearing and fully develops and far how log it persists.?
v) Whether conviction of an accused is possible on the basis of an evidence when co-accused have been acquitted on the basis of same evidence?
vi) What is evidentiary value of medical evidence?
vii) Whether recovery of weapon of offence serves any purpose if crime empties are not sent to Punjab Forensic Science Agency for comparison?

**Analysis:** i) It is well settled that when there is delay in reporting the incident to the police, then prosecution is under obligation to explain such delay and failure to do that will badly reflect upon the credibility of prosecution version. In this regard, guidance has been sought from the case of "Mst. ASIA BIBI versus The STATE and others" (PLD 2019 Supreme Court 64); relevant portion from paragraph No.29 of said case law is hereby reproduced: - "There is no cavil to the proposition, however, it is to be noted that in absence of any plausible explanation, this Court has always considered the delay in lodging of FIR to be fatal and castes a suspicion on the prosecution story, extending the benefit of doubt to the accused. It has been held by this Court that a FIR is always treated as a cornerstone of the prosecution case to establish guilt against those involved in a crime; thus, it has a significant role to play. If there is any delay in lodging of a FIR and commencement of investigation, it gives rise to a doubt, which, of course, cannot be extended to anyone else except to the accused…"
ii) It goes without saying that as far as "opinion of expert" is concerned, it should be based upon the settled principles on the subject and relevant treatises but if it is otherwise then same has to be examined carefully on touchstone of relevant principles on the subject and treatises and if it has been found contrary to those, then it shall be taken as ipse dixit and Court shall make its opinion while preferring settled principles on the subject found in relevant treatises;
iii) , rigor mortis means rigidity of death, it is a condition characterised by stiffening, shortening and opacity of the muscles which follow the period of primary relaxation. It is due to chemical changes involving the proteins of the muscle fibres and it marks the end of the muscle's cellular or molecular life. The contractile element of the muscle consists of protein filaments of two types, viz, myosin and actin. They lie in interdigitating manner. In the relaxed state, the actin filaments interdigitate with the myosin filaments only to a small extent but when the muscle contracts, they interdigitate to a great extent. The principal factor concerned in the process of contraction and relaxation of the muscle is the presence of the enzyme ATP which is in high concentration in a resting muscle.

Its production and utilisation are constantly balanced in life. After death, ATP is resynthesised for a short time depending upon the glycogen available locally, but after this glycogen is used up, ATP cannot be resynthesised. This leads to the fusion of myosin and actin filaments into a dehydrated stiff gel resulting in the condition known as rigor mortis. During rigor mortis, the reaction of the muscle changes from slightly alkaline to distinctly acid owing probably to the formation of lactic acid. Rigor mortis persists until autolysis of myosin and actin filaments occurs as a part of putrefaction. Every muscle in the body, voluntary and involuntary, takes part in the process, including the musculature of the heart and blood vessels, the iris of the eye, the platysma of the skin, and the dartos of the scrotum..

iv) According to Parikh"s Textbook of Medical Jurisprudence and Toxicology, rigor mortis first appears in involuntary muscles and then in voluntary muscles. It is not dependent on the nerve supply as it develops in paralysed limbs also. It is tested by gently bending the various joints of the body. In the involuntary muscles, rigor mortis appears in the heart within a hour after death. In the voluntary muscles, the sequence is as follows: Rigor mortis first appears as a rule in the muscles of the eyelids (3-4 hours), and then in the muscles of the face (4- 5 hours), neck and trunk (5-7 hours), followed by muscles of the upper extremities (7-9 hours) and then the legs (9-11 hours). The last to be affected are the small muscles of the fingers and toes (11-12 hours). When rigor mortis is thus established, the jaw, neck, and extremities become fixed in position with the arms bent at the elbows and the legs at the knees and hips, and movements at the joint are possible only within a very limited range. The rigidity generally passes off, in the same order in which it occurred, due to autolysis of muscle proteins. In Indian subcontinent i.e. Pakistan, Bangladesh and India, rigor mortis commences in 2-3 hours after death, takes about 12 hours to develop from head to foot, persists for another 12 hour, and takes about 12 hours to pass off. Thus, the presence and extent, or absence of rigor mortis helps to provide a rough estimate of the time since death. As for example, if rigor mortis has not set in, the time since death would be within 2 hours and if it has developed, the time since death would be within about 12-24 hours. The factors which influence rigor mortis include age, health and mode of the death also and according to Parikh"s Textbook of Medical Jurisprudence and Toxicology, the onset of rigor is later and the duration longer in the strong muscular person and similarly in cases of sudden death, in healthy adults, a late onset and a long duration is usual. In Modi's Medical Jurisprudence & Toxicology, it has been categorically mentioned that in general, rigor mortis sets in one to two hours after death, is developed in about twelve hour.

v) .. equally effective role of causing firearm injuries to Kamran (deceased of the case) was attributed to Muhammad Ali (present appellant) as well as Muhammad Zubair (co-accused), however, Muhammad Zubair and Muhammad Asad Ullah have been acquitted on the basis of same evidence and on the same facts, which acquittal is still holding the field and the same has even not been challenged uptill now as confirmed by learned Deputy Prosecutor General, therefore, said evidence

now can only be relied and used against present appellant if same is strongly corroborated by the independent evidence..

vi) As far as medical evidence is concerned, it is trite law that medical evidence is mere supportive/confirmatory type of evidence; it can tell about locale, nature, magnitude of injury, duration of the injury and kind of weapon used for causing injury but it cannot tell about identity of the assailant who caused the injury; therefore, same neither can provide any corroboration nor is of any help to the prosecution in peculiar facts and circumstances of the case..

vii) So far as recovery of pistol .30-bore from the appellant through recovery memo (Ex.PC) is concerned, suffice it to say that any empty cartridge was not sent for comparison and as per report of Punjab Forensic Science Agency, Lahore (Ex.PL), said pistol was only found in working condition, hence said report is inconsequential and recovery of the pistol is of no help to the case of prosecution; in this regard, guidance has been sought from the case of "LIAQAT ALI and another versus The STATE and others" (2021 SCMR 780).

**Conclusion:** i) When there is delay in reporting the incident to the police, then prosecution is under obligation to explain such delay.

ii) See above analysis(ii)

iii) See above analysis(iii)

iv) See above analysis(iv)

v) Said evidence can only be relied and used against co-accused if same is strongly corroborated by the independent evidence.

vi) Medical evidence is mere supportive/confirmatory type of evidence.

vii) If crime empties are not sent to Punjab Forensic Science Agency for comparison then its report is inconsequential and recovery of the pistol is of no help to the case of prosecution.

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**43.** **Lahore High Court**
**Irfan Ali v. The Station House Officer etc.**
**Writ Petition No.10470/2025**
**Mr. Justice Muhammad Waheed Khan**
https://sys.lhc.gov.pk/appjudgments/2025LHC3102.pdf

**Facts:** The petitioner sought recovery of his cousin from the unlawful custody of police officials. Pursuant to the court's order, a bailiff discovered the alleged detainee confined in police lock-up. The detainee had been arrested based on data from the "Travel Eye App" and was wanted in a criminal case registered at another police station in Karachi. Despite repeated communication from the arresting officers, the relevant police station did not take custody or initiate transfer of the detainee. The detainee was held for more than 24 hours without being presented before a magistrate, violating legal requirements.

**Issues:** i) Whether the detention of the accused for more than 24 hours without being produced before a magistrate is lawful?

ii) Different Apps used by Punjab Police and their significance.

iii) Different laws to deal with accused arrested under Section 54 of Code of Criminal Procedure.

iv) Whether Article 10(2) bars detention beyond 24 hours without magisterial approval?

v) Provision of Transfer of accused in Police Order, 1934.

vi) Whether a police officer can lawfully pursue and arrest a person without warrant anywhere in Pakistan?

**Analysis:** i) According to Section 61 of Code of Criminal Procedure 1898 (Cr.P.C), the police cannot detain any person for more than 24 hours and the police is bound to produce him before the learned Area Magistrate… According to Sections 60 and 61 of Cr.P.C, the Police Officer making arrest of accused was bound down to produce him before the Magistrate without any unnecessary delay… And thereafter, Magistrate deals with the accused and regulates the custody of such accused in the manner provided under Section 167 of the Cr.P.C.

ii) Different Apps used by Punjab Police are "Travel Eye App", "Hotel Eye App" and "E-Gadget App" which operate in the following manner:-

"E-Police App: It is used by the Police to detect the criminals by entering CNIC".

"Travel Eye App: It is used at the bus stands/terminals to detect criminals by police. The cashiers of bus terminals enter CNIC of the passengers while issuing the ticket".

"Hotel Eye App: It is used by the police in hotels to make surveillance of the hotel visitors".

"E-gadget App: It is used by the police at mobile shops and markets to detect the stolen mobiles. The shopkeepers enter IEMI number of the mobile phones"

….these "apps" introduced by the Punjab Police are serving the purpose and the Police is effectively arresting the accused/absconders and others involved in different criminal cases all over Pakistan, hence, have great significance and a direct impact on the expeditious and prompt flow of the administration of justice.

iii) On going through the relevant provisions of different laws i.e, the Constitution of Islamic Republic of Pakistan, 1973, Criminal Procedure Code 1898 (Cr.P.C), High Court Rules and Orders Volume III, Chapter 11, Part-B (Remands to Police custody), Police Rules 1934, Chapter 26, Rule 20 (Transfer of arrested persons) it is clear that they provide different guidelines and mechanism to deal with the accused arrested by the Police in terms of Section 54 Cr.P.C or otherwise…

iv) Article 10(2) of the Constitution of Islamic Republic of Pakistan, 1973, provides as under:- 10 (2): Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the nearest magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

v) Whereas, in CHAPTER XXVI of Police Order, 1934 (Arrest, escape and custody, is enshrined in the following manner:- "26.20. Transfer of arrested persons. (1) If a police Officer lawfully arrested a person, without a warrant, in a district in which the investigation, enquiry and trial cannot be held, and the

offence is nonbailable or such person cannot give bail, he shall take or send such person before the District Magistrate of 1st class or Magistrate having jurisdiction over the area and obtain an order for the transfer of the prisoner to the district in which the offence was committed"

vi) According to Section 58 of the Cr.P.C, the Police Officer had been authorized to pursue and arrest such persons from any place in Pakistan, which is reproduced as under:- 58. Pursuit of offenders into other jurisdiction: A police-officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this Chapter pursue such person into anyplace in Pakistan. [Explanation: In this section, '"police-officer' includes a police-officer acting under this Code as in Azad Jammu and Kashmir].

Explanation added by Code of Criminal Procedure (Amendment) Act, VIII of 1993.

**Conclusion:** i) Detention beyond 24 hours without judicial remand is unlawful.

ii) See above analysis No ii.

iii) See above analysis No iii.

iv) Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of such arrest.

v) See above analysis No v.

vi) According to Section 58 of the Cr.P.C, the Police Officer had been authorized to pursue and arrest such persons from any place in Pakistan.

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**44.** **Lahore High Court**
**Mst. Khadija Bibi, etc. v. Judge Banking Court, etc.**
**C.M. No.7334 of 2018 in W.P. No.3876 of 2006**
**Mr. Justice Ahmad Nadeem Arshad**
https://sys.lhc.gov.pk/appjudgments/2025LHC3264.pdf

**Facts:** The predecessor of the applicants mortgaged his property to obtain a loan from a bank but defaulted on repayment. The bank auctioned the property under Section 15 of the Financial Institution (Recovery of Finances) Ordinance, 2001. The auction purchaser paid the full bid amount, and the predecessor withdrew the balance. The auction was not challenged by him during his lifetime. However, the Banking Court did not confirm the statement of accounts as it was filed beyond the statutory 30-day period. The auction purchaser's application for possession was dismissed, leading to a writ petition, which was allowed. The applicants, as legal heirs, filed a Section 12(2) CPC application alleging fraud and misrepresentation in the prior High Court proceedings.

**Issues:** i) Can Section 12(2) C.P.C. be invoked without establishing fraud, misrepresentation, or lack of jurisdiction during judicial proceedings?

**Analysis:** i) The provisions of Section 12(2) C.P.C. can only be pressed into service when fraud has been practiced upon the Court during the proceedings of case and order, judgment & decree was obtained on the basis of such fraud and misrepresentation

or want of jurisdiction. The scope of said provision is restricted and the applicants are obliged to prove that fraud or misrepresentation was committed by the adversary in connection with the proceedings of the Court and to prove the following aspects: i. The fraud and mis presentation was practiced during the proceedings in the Court; ii. Alleged fraud included untrue statements by respondents who did not believe to be true and has committed active concealment of facts; iii. Judgment was obtained on the basis of forged documents; iv. The order, judgment/decree was collusively obtained. v. The order/judgment/decree suffered with want of jurisdiction.

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

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**45.** **Lahore High Court**
**Anjuman Dukandaran Samdani Market**
**W.P No. 3438 / 2024**
**Ms. Justice Abid Hussain Chattha**
https://sys.lhc.gov.pk/appjudgments/2025LHC3290.pdf

**Facts:** The petitioner, Anjuman Dukandaran Samdani Grain Market, filed this constitutional petition challenging the order passed by the Additional Deputy Commissioner (Revenue). The impugned order upheld the Market Committee, decision to reassess and enhance the rent of shops asserting that due process was followed.

**Issues:** i) Is a Market Committee legally competent to fix rent of immoveable properties under its management?
ii) Does the fixation of rent by a Market Committee require compliance with any procedural or statutory framework?
iii) Does the Punjab Rented Premises Act, 2009 limit the authority of a Market Committee in rent enhancement?
iv) Is the remedy of appeal under Rule 21 of the 1979 Rules maintainable after the enactment of Section 24 of the Punjab Agricultural Marketing Regulatory Authority Act, 2018?

**Analysis:** i) A Market Committee under the overall regulatory umbrella of PAMRA is an independent and separate body corporate fully competent to deal with its moveable and immoveable properties subject to the conditions attached by the provisions of the Act itself which includes the power to fix rent qua its leased properties located in a public market regulated by it and rented out to its registered members or licensees… A Market Committee is under an obligation to fix market based rents with respect to its leased properties to fetch maximum revenue to ensure that the Market Committee may function as a financially solvent and economically viable entity fully capable to perform its functions under the Act to ensure best services to all stakeholders in the business of marketing of agricultural produce…a Market Committee is not only competent to fix and collect rents with respect to its immoveable properties in the manner

stated above but also empowered to cancel registration of market functionaries in case of default in payment of dues and can also initiate civil and criminal proceedings by invoking Sections 25 & 27 of the Act…

ii) "It is imperative to note that after passing of the rent fixation order… by the Chairman MC, TTS, PAMRA as apex regulatory body issued instruction… , constituting a Committee at District level for renting out shops by a Market Committee with terms of reference including the settlement of terms and conditions of rented properties after obtaining assessment from Excise and Taxation Department as reserve price, directing auction upon proper advertisement and ensuring incorporation of necessary details in the lease agreements… Currently, latest instructions dated 13.03.2025 are in field with the same mandate but with a reconstituted Committee. Needless to state that a Market Committee under the Act is obliged to comply with the orders of PAMRA… It, therefore, follows that due process has been adopted by MC, TTS during assessment of rent of shops which is liable to be paid by the members of the Anjuman and in case of non-payment, the defaulting members of the Anjuman are liable to be dealt with in accordance with law.

iii) It is also noted that there is no substance in the contention of the Petitioner that the rent could not be increased by more than 10% per annum or 25% after 3 years as there is no such stipulation in the Rented Premises Act… Section 6 thereof unequivocally provides that the rent between the landlord and the tenant shall be determined through a tenancy agreement including the rate of rent, rate of enhancement, due date and mode of payment of rent… There is no prohibition in the Rented Premises Act that the existing rents could not be enhanced or rationalized subject to existing tenancy agreements to conform to market realities…

iv) Section 24 thereof specifically provides for appeal against the order of Market Committee to the Director of Agriculture (E&M), Punjab and thereafter, to the Special Secretary, Agriculture Marketing… Rule 21 of the Rules of 1979 providing remedy of appeal before Respondent No. 3 became inapplicable being inconsistent to the express provisions of Section 24 of the Act and the applicable regulations made under the Act… Notwithstanding the fact that the remedies of two appeals provided under Section 24 of the Act were not availed by the Petitioner and as such, this Petition is not maintainable yet the same has been merely entertained to give a conclusive finding in this behalf considering that the case is of first instance.

**Conclusion:** i) A Market Committee is legally empowered to fix the rent of its immoveable properties.

ii) Fixation of rent must comply with applicable departmental instructions and ensure procedural fairness.

iii) The Punjab Rented Premises Act, 2009 does not restrict the Market Committee's authority to revise rent.

iv) The remedy under Rule 21 is inapplicable; appeals must be filed under Section 24 of the 2018 Act.

**46.** **Lahore High Court**
**The Bank of Punjab v. M/s Hira Textile Mills Limited and 08 others**
**C.O.S. No. 55735 / 2022 & P.L.A. Nos. 67952, 66029, 75802 & 68570 of 2022**
**Mr. Justice Abid Hussain Chattha**
https://sys.lhc.gov.pk/appjudgments/2025LHC3488.pdf

**Facts:** A Bank instituted a suit for recovery of Rs. 276,196,889/- under Section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001 against a corporate borrower and its directors who had furnished personal guarantees. The borrower had been availing finance facilities since 2007, which were restructured through mutual agreement. The restructuring included creation of Demand Finance (DF-I and DF-II) with agreed markup terms. Despite acknowledging the liability and restructuring terms in its Annual Report 2020, the borrower defaulted. The defendants sought leave to defend, raising objections to markup calculation, maintainability of the suit, and authenticity of documents.

**Issues:** i) Whether a restructuring arrangement qualifies as "finance" under the Financial Institutions (Recovery of Finances) Ordinance, 2001?
ii) Whether restructuring or extension of repayment constitutes an "obligation" under the Ordinance?
iii) Whether cost of funds or markup can be lawfully imposed on a restructured amount by mutual agreement under the Ordinance?

**Analysis:** i) Restructuring is also a ‘‘finance’’ in terms of Section 2(d)(iii) of the Ordinance which explicitly provides that ‘‘finance’’ includes… ‘‘any other financial engagement which a financial institution may give, issue or undertake on behalf of a customer, with a corresponding obligation by the customer to the financial institution’’. Similarly, Section 2(d)(ix) of the Ordinance also stipulates that ‘‘finance’’ includes „any other facility availed by a customer from a financial institution’’…It follows that restructuring is infact a mutually beneficial financial transaction based on convenience and expediency by which a financial institution postpones the recovery of amount due under the defaulted facilities to a future date and the customer accepts such postponement to avoid default and clear the liability based on its future cash flows.
ii) Correspondingly, Section 2(e)(i) ordains that ‘obligation’ includes ‘any agreement for the repayment or extension of time in repayment of a finance or for its restructuring or renewal or for payment or extension of time in payment of any other amounts relating to a finance’
iii) There is no prohibition under the Ordinance to impose cost of funds in the nature of markup with mutual consent of the parties on the restructured amount for the reason that upon restructuring, the due amount which ought to have come in the coffer of the financial institution before restructuring, is allowed to remain with the customer for a future date to which a cost may be applied. Hence, by mutual agreement, the parties could validly agree qua such costs at a particular rate which could be levied and recovered in the manner as stipulated in the

Restructuring Contract. In other words, Restructuring Agreement is nothing but a financial accommodation for all intents and purposes and cost of funds and / or markup, by whatever nomenclature it may be described, can validly be agreed and recovered upon default for the simple reason that a financial institution has agreed for deferment or postponement of the amount due at an early date with the consent of the borrower as a defaulting party to a future date.

**Conclusion:** i) See above analysis No i.
ii) See above analysis No ii.
iii) There is no prohibition under the Ordinance to impose cost of funds in the nature of markup with mutual consent of the parties on the restructured amount.

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**47.** **Lahore High Court**
**Kaumedex v. Managing Director, Punjab Public Procurement Regulatory Authority etc.**
**W.P No.14049/2025**
**Mr Justice Anwaar Hussain**
https://sys.lhc.gov.pk/appjudgments/2025LHC3356.pdf

**Facts:** The petitioner along with respondent No.6 participated in the tendering process floated by respondent No.5 ("Procuring Agency"). The petitioner submitted its tender and the Technical Evaluation Committee ("TEC") held the petitioner successful. The proposal of respondent No.6 was declined and he approached the Grievances Redressal Committee ("GRC"), which rejected the grievance. Thereafter, he approached respondent No.1. Decisions of the TEC, as also the GRC, were set aside. Hence, this constitutional petition

**Issues:** i) Which bidder has been declared non-responsive?
ii) Is there a distinction between "changing the substance of a bid" and "supplying missing declarations of eligibility"?
iii) How may the deficiencies in requirements be addressed through post-bid clarifications?
iv) Which principles must be balanced by the procurement regime?
v) What does Rule 33(2) of the PPRA Rules stipulate?
vi) What does the Court expect from the procuring agencies?

**Analysis:** i) Any bidder who fails to meet compulsory parameters/requirements was liable to be declared as non-responsive.
ii) There is a marked distinction between changing the substance of a bid (such as price or type/brand of the product) and supplying missing declarations of eligibility.
iii) Deficiencies in those requirements may be addressed through post-bid clarifications, which is permissible under Rule 33(2) of the PPRA Rules, provided such clarifications do not change the essence of the bid.
iv) It is imperative to state that the procurement regime must balance the principles of fairness and transparency with procedural practicality.

v) Rule 33(2) of the PPRA Rules permits flexibility to cure such procedural deficiencies, provided the core integrity and competitive standing of the bid remain unaffected.
vi) It is expected that procuring agencies shall revisit their bidding documents so as to distinguish between procedural compliance and substantive eligibility.

**Conclusion:** i) Who fails to meet compulsory requirements.
ii) Yes. There is a distinction between changing the substance of a bid and supplying missing declarations of eligibility.
iii) Through post-bid clarifications in light of Rule 33(2) of the PPRA Rules.
iv) Principles of fairness and transparency with procedural practicality.
v) See above analysis No. v
vi) Procuring agencies shall revisit their bidding documents so as to distinguish between procedural compliance and substantive eligibility.

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**48.** **Lahore High Court**
**Tariq Mehmood Aamir v. Government of the Punjab**
**Writ Petition No.52251 of 2022**
**Mr. Justice Anwaar Hussain**
https://sys.lhc.gov.pk/appjudgments/2025LHC3368.pdf

**Facts:** The petitioners were initially inducted into the prosecution service on a contract basis in 2007. Their services were later terminated, leading to litigation which were adjudicated upon by a Learned Division Bench of the Hon'ble Lahore High Court which held that the petitioners were entitled to the benefit of a notification dated 10.11.2010 which pertains to the regular appointment of contract employees in BS-16 and above. The Supreme Court dismissed Government's appeals in 2019; subsequently, the petitioners were appointed on a regular basis in 2022, but these appointments were treated as fresh. The petitioners applied to the department seeking regularization w.e.f. 10.11.2010. upon denial, they filed the present petitions.

**Issues:** i) Whether contractual employees are entitled to regularization from the date of their initial contract appointment or only from the date of their actual regularization under the Regularization Policy?

**Analysis:** i) In case of Dr. Javed Iqbal (2021 SCMR 767), the contours of the notification were analyzed by the Supreme Court, while formulating the following legal question:
"The question before us is whether the date of regularization of contract employees is the date of their initial appointment on contract basis or the date of their regularization under the Regularization Policy dated 10.11.2010?"
While addressing the above quoted legal question, the Apex Court held as follows:
"7. ...It is underlined that contractual employees enjoy no vested right to regularization (see Contract Appointment Policy), much less to be regularized

from any particular date. The benefit of regularization extended to them under the Regularization Policy is prospective in nature and there is no legal justification to give it retrospective application. Any such step would totally negate the purpose and significance of the Contract Appointment Policy and leave no distinction between a contractual and a regular employee. This has been the tenor of the jurisprudence evolved by this Court. Reference can be made to the judgment of a five-member Bench of this Court dated 29.01.2018, passed in Civil Review Petition No. 471/2015, and the unreported judgments dated 13.03.2010 passed in C.Ps. Nos. 318-L to 330-L of 2018 and dated 21.07.2020 passed in C.Ps. Nos. 194-L/2020, etc. It is also important to underline that the consistent governmental policies on regularization have finally manifested in the Punjab Regularization of Service Act, 2018, which specifically provides for regularization with immediate effect."

The Supreme Court's interpretation in case of Dr. Javed Iqbal supra reinforces the understanding and the necessity of treating regularization as a fresh appointment to maintain the integrity of the civil service system and protect the rights of the existing civil servants. It is imperative to observe that both regular and contractual employees are governed by two separate and distinct Legal Frameworks—Contractual appointments are governed by specific terms and conditions distinct from those applicable to the regular civil servants. Therefore, allowing the contract employees to claim seniority from the date of notification would infringe upon the rights of existing regular civil servants, disrupting established hierarchies and entitlements.

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

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**49.** **Lahore High Court**
**Malik Muhammad Akram Bhatti v. Nadeem Abbas etc.**
**Election Petition No.20955/2024**
**Mr. Justice Anwaar Hussain**
https://sys.lhc.gov.pk/appjudgments/2025LHC3460.pdf

**Facts:** The petitioner challenged the declaration of the returned candidate in a general election for a specified electoral constituency. The grievance arose due to the summary rejection of the election petition by the Tribunal on the ground of defective verification and non-compliance with procedural requirements.

**Issues** i) Does the doctrine of *fait accompli* and the act of the Court prevent the Tribunal from rejecting a petition after issuing notice?

ii) Does the term 'decision' under Section 155 include summary rejection of an election petition under Section 145?

iii) Does the term 'decision' include judgment, order, or sentence when not specifically defined in the Constitution?

iv) Does the Elections Act, 2017 distinguish between the Tribunal's power to reject a petition under Section 145 and the decisions it may render under Section 154?

v) Can the heading of Section 154 be used to interpret 'decision' as including rejection of a petition before trial?
vi) Does the term 'final decision' under Section 155 include both dismissal and rejection of an election petition for the purpose of appeal?
vii) Does identification by an Advocate without details meet the mandatory verification requirements under Section 144(4) of the Act and Order VI Rule 15, CPC?

**Analysis:** i) In the first place, a judicial forum vested with the power to decide a lis remains seized of the matter until it decides it conclusively. To impose the doctrine of fait accompli upon the issuance of notice by the Tribunal flies in the face of the established principle that no one should be prejudiced by the act of the Court. It is against propriety and public policy to suggest that a forum, once made aware of a procedural oversight, cannot rectify it. (…) Such an interpretation would be antithetical to the well-established judicial characteristic that a forum vested with judicial power must have inherent authority to nip unmeritorious litigation in the bud. The power of the Tribunal to summarily reject the petition cannot be considered extinguished merely upon the issuance of notice.
ii) The term decision is one of broad connotation and includes the adjudication of a lis. The larger connotation of the term decision as used in Section 155 of the Act cannot be diminished by a narrow interpretation. It is worth noting that Section 145 of the Act empowers the Tribunal to summarily reject the election petition on account of nonconformity.
iii) The Supreme Court, in the case reported as Hafiz Abdul Waheed v. Asma Jehangir and another (PLD 2004 SC 219) when faced with the argument that various terms such as judgment, decision, order, and sentence had been used in Chapter 3-A of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution") but only decision of the Federal Shariat Court was rendered binding, rejected such a narrow construction and observed that the term decision had not been defined in the Constitution and was used generically. The Supreme Court held that the expression decision in Article 203GG includes the judgment, order, or sentence (if any) passed by the Federal Shariat Court.
iv) Section 145(1) of the Act empowers the Tribunal to summarily reject the election petition for non-conformity and noncompliance with Sections 142, 143 or 144 of the Act, if the election petition is found to be in compliance with said provisions; the Tribunal would proceed with the trial of the petition in accordance with the procedure laid down in the subsequent provisions. Section 154 of the Act spells out various kinds of orders the Tribunal could pass at the conclusion of the trial, however, these orders have also been collectively referred to as decisions, as is evident from the heading of Section 154 of the Act.
v) Here, it is significant to state that while a heading is not conclusive in interpreting a provision of law, it can nevertheless serve as a guiding tool. The heading of Section 154 of the Act sheds light and aids interpretation, indicating that various orders the Tribunal may pass are encompassed within the term decision and may be used interchangeably therewith. Rejection of the petition is

one such type of order the Tribunal may pass, while taking up the objection of maintainability, prior to conclusion of trial.

vi) The legislature has not framed Section 155 of the Act to state that an appeal may only lie against a decision made under Section 154; rather, it broadly states that an appeal may be filed against any decision. Hence, the phrase final decision must be construed to include all decisions that conclusively determine the rights of the parties—i.e., final as opposed to interim or partial decisions—rather than being limited by distinctions between dismissal and rejection. While no appeal is provided against an interim decision, both dismissal and rejection fall within the fold of final decisions and can be appealed.

vii) Mere mention of identification by an individual, even if an Advocate, without any details of how and on what basis such identification was made, fails to satisfy the mandatory requirements of Section 144(4) of the Act read with Order VI Rule 15, CPC.

**Conclusion:** i) The Tribunal retains inherent power to reject a petition even after notice, and such authority is not barred by the doctrine of *fait accompli* or the act of the Court.

ii) The term 'decision' in Section 155 broadly includes summary rejection under Section 145 for non-conformity.

iii) The Supreme Court interprets 'decision generically to include judgment, order, or sentence when not explicitly defined.

iv) The Act distinguishes between rejection for non-compliance before trial under Section 145 and final decisions after trial under Section 154.

v) The heading of Section 154 supports interpreting 'decision' to include pre-trial rejection on maintainability grounds.

vi) 'Final decision' in Section 155 encompasses both dismissal and rejection, making both appealable.

vii) Verification lacking detailed identification by an Advocate fails to meet legal requirements under Section 144(4) and Order VI Rule 15, CPC.

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**50.** **Lahore High Court**
**SYMPL Energy Pvt Ltd. v. Presiding Officer, etc.**
**W.P. No.28913 of 2025**
**Mr. Justice Anwaar Hussain**
https://sys.lhc.gov.pk/appjudgments/2025LHC3362.pdf

**Facts:** The respondent filed a complaint against the petitioner before the Consumer Court. The petitioner raised the objection of limitation before the learned Consumer Court but his application to dismiss the complaint stood rejected.

**Issues:** i) What is the limitation period for filing a claim under the Punjab Consumer Protection Act, 2005?

ii) Whether the limitation period provided by the Section 28(4) of the Act is absolute or any discretion vest with the court?

iii) From what point the limitation period is commuted and whether the same is

stretchable?

iv) What does the expression 'frivolous or vexatious' as used in Section 35 of the Act mean?

v) Whether a time barred claim become frivolous due to limitation?

**Analysis:** i) There is no cavil to the legal position that the limitation period provided under Section 28 (4) of the Act, for filing a claim, is 30 days from the date of accrual of cause of action.

ii) The said period of limitation is not so absolute as to leaving no room for filing claim beyond the stipulated period of 30 days as evident from the first proviso to Section 28(4), which vests discretion within the Court to allow a claim to be filed within such time as the Court may allow if it is satisfied that there was sufficient cause for not filing the complaint within the specified period. Similarly, the second proviso lays down an upper ceiling of 60 days from the expiry of warranty or guaranty and if no period is specified one year from the date of purchase of the product or providing of services. Thus, the legislature in its wisdom has conferred discretion for extending the limitation for filing of a claim beyond the stipulated period of 30 days.

iii) The August Supreme Court while upholding the view of this Court rendered in case reported as Muhammad Ashraf Vs. Sheikh Muhammad Akram etc. (2022 CLD 638) enunciated that the statutory period of 30 days is to run from the date of accrual of cause of action. However, the said case, by no means denuded the Trial Court from its discretionary power of extension of limitation period vested under the law.

iv) This provision is aimed at curbing baseless or malicious complaints. The terms "frivolous" and "vexatious", as used in Section 35 of the Act, carry distinct legal connotations. According to Black's Law Dictionary (Tenth Edition by Bryan A. Garnder) a "frivolous" action is one that lacks any legal basis or merit and often brought to harass or embarrass the opposing party and a "vexatious" proceeding, similarly, refers to one instituted without probable cause, primarily intended to cause inconvenience or expense to the defendant. This Court is of the opinion that such terms do not encompass matters where there exists a genuine legal issue, even if that issue pertains to limitation.

v) A complaint that is barred by time may ultimately fail on legal grounds, but it does not, on that count becomes frivolous or vexatious when relationship of customer-service provider is admitted. Claims that are hit by limitation must be addressed under the scheme provided in Section 28 of the Act. A complaint that may be time barred is not per se frivolous. Rather, it must be tested on the touchstone of whether there is sufficient cause for condonation under the first or second proviso to Section 28(4) of the Act.

**Conclusion:** i) As per Section 28(4) of the Punjab Consumer Protection Act, 2005 limitation period to file a claim is 30 days.

ii) Such period of limitation is not so absolute as to leaving no room for filing claim beyond the stipulated period of 30 days. The court in its discretion can

allow a claim beyond such period, if it is satisfied that there was sufficient cause.

iii) The statutory period of 30 days is to run from the date of accrual of cause of action.

iv) A "frivolous" action is one that lacks any legal basis or merit and often brought to harass or embarrass the opposing party and a "vexatious" proceeding, similarly, refers to one instituted without probable cause, primarily intended to cause inconvenience or expense to the defendant.

v) A complaint that is barred by time may ultimately fail on legal grounds, but it does not, on that count becomes frivolous or vexatious.

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**51.** **Lahore High Court**
**Munir Ahmad Bhatti v. Mehmood Ahmad Tahir Bhatti and another**
**Review Petition No. 25308 of 2025**
**Mr. Justice Sultan Tanvir Ahmad & Mr. Justice Hassan Nawaz Makhdoom**
https://sys.lhc.gov.pk/appjudgments/2025LHC3300.pdf

**Facts:** The petitioner filed the Review Petition before the High Court in which he challenged the judgment passed by the High Court with the concurrence of the parties. The version taken by the petitioner was that he never accorded the consent for the judgment under review.

**Issues:** i) Whether an affidavit of an advocate is persuasive against the sanctity of a judicial order?

ii) Whether review jurisdiction can be exercised to disturb an order passed with consent of the parties?

iii) Whether factual allegation against the court should be accepted lightly?

iv) Whether correctness of an order of trial court can be seen in the review petition by the High Court?

v) What is the purpose of cross-examination?

vi) Whether correctness of a conclusion arrived by the court can be reviewed?

**Analysis:** i) The law, with respect to credence of any statement of a Judge, is well settled. In "Fayyaz Hussain" case1, the Supreme Court of Pakistan refused to accept affidavit of a learned Advocate to persuade against the sanctity of judicial order.

ii) In "Syed Ali Ahmed Shah" case the Supreme Court of Pakistan has dealt with situation where, in review jurisdiction, the applicant sought to disturb an order passed with consent of the parties. The Honourable Supreme Court ruled that review jurisdiction can only be exercised in exceptional cases, where error is apparent on the face of record that can be rectified without reappraisal or re-examination of evidence and merits

iii) This aspect is also examined by this Court in several cases and with observation that orders, judgments, decree and proceedings can no doubt be judiciously and legally examined by Courts of appeal, revision, or superintendence, however, factual allegations of such nature should not lightly be accepted to label the proceedings of the Court as wrongly recorded.

iv) To seek review of the judgment, next are the grounds of error by the learned trial Court in comprehending the concept of cross-examination or other alleged errors in the proceeding of the learned trial Court. We are afraid that we are not hearing appeal or a petition against any order of the learned trial Court. The grounds as to the incorrectness in the view adopted by learned trial Court, therefore, are not tenable.

v) There are several precedents, including "Muhammad Shafi" case, whereby, it has been settled that purpose of cross-examination is to assist the Courts in bringing the truth to light by disclosing or clarifying the matters, which witnesses may wish to conceal or confuse from motive of partisanship.

vi) Besides verity of statement of a learned Judge, the applicant wants to disturb correctness of a conclusion arrived after a conscious perusal of record and in depth examination of the relevant area, which was a subject matter in the constitution petition.

**Conclusion:** i) An affidavit of an advocate is not persuasive against the sanctity of judicial order.

ii) Review jurisdiction cannot be exercised to disturb an order passed with consent of the parties

iii) Factual allegation against the court should not be accepted lightly.

iv) See above analysis No. iv

v) See above analysis No. v

vi) See above analysis No. vi

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**52.** **Lahore High Court**
**Ahmed Raza v. Judge Family Court etc.**
**Writ Petition No. 23252/2021**
**Mr. Justice Malik Waqar Haider Awan**
https://sys.lhc.gov.pk/appjudgments/2025LHC3423.pdf

**Facts:** Through this constitutional petition, petitioner has challenged the validity of order whereby the Family Court decided the controversy regarding decision of the suits on special oath while holding that petitioner cannot back out of his offer/proposal (made during his cross-examination) for decision of the suits on special oath on Holy Quran.

**Issues:** i) Whether a unilateral offer, without mutual acceptance, can create a binding obligation in judicial proceedings?

ii) Whether an unaccepted offer becomes ineffective when the parties proceed with subsequent stages of litigation, indicating implied refusal?

**Analysis:** i) To my mind, offer/proposal made by the petitioner was not for all times to come and there was no mutuality of promise between the parties. When an offer/proposal was made by the petitioner and it was not accepted by the adversary at the same stage of trial, it would be deemed that agreement between the parties could not mature.

ii) It is a well-established jurisprudence that refusal can be either expressed or implied. An express refusal is a clear and direct statement rejecting an offer/proposal. An implied refusal, on the other hand, is established through actions, behaviour or silence that indicates the party's unwillingness to accept the same. When the parties had chosen to next stages of trial while letting behind the offer/proposal without acceptance, the offer/proposal would deem to be ineffective.

**Conclusion**: i) See analysis No i.
ii) The offer/proposal would deem to be ineffective if the parties had chosen to next stages of trial while letting behind the offer/proposal without acceptance.

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**53.** **Lahore High Court**
**Habib Metropolitan Bank Pakistan Limited v. Presiding Officer District Consumer Court Sialkot etc.**
**FAO No. 7458/2024**
**Mr. Justice Waqar Haider Awan**
https://sys.lhc.gov.pk/appjudgments/2025LHC3436.pdf

**Facts:** The Consumer Court awarded various amounts to the complainant, including lawyers' fees incurred in proceedings before this Court and the Supreme Court. The Bank challenged only the award of lawyers' fees through the instant appeal.

**Issues:** i) Whether the Consumer Court can award lawyers' fees incurred in proceedings before the High Court and the Supreme Court under Section 31(g) of the Punjab Consumer Protection Act, 2005?
ii) Whether the Consumer Court can determine "actual costs" of litigation incurred in proceedings before other courts under Section 31(g) of the Punjab Consumer Protection Act, 2005?

**Analysis:** i) To my mind, awarding lawyers' fee by the Consumer Court to respondent No.2 incurred by him to plead his case before this Court as well as the Supreme Court of Pakistan amounts to exceeding its jurisdiction and stepping into the jurisdiction of Superior Courts as it is an admitted fact that the Supreme Court of Pakistan has not allowed Civil Petition filed by respondent No.2 with costs. Awarding fee of lawyers who pleaded the case of respondent No.2 before this Court as well as the Supreme Court of Pakistan amounts to altering and modifying the judgment of the Supreme Court of Pakistan which is not covered under Section 31(g) of the Act. The Consumer Court can exercise jurisdiction only to its own extent qua complaints filed before it.
ii) It would be significant to elaborate the term "actual costs" mentioned in Section 31(g) of the Act. I am of the considered view that the Consumer Court, being a subordinate court, can only determine the actual costs of litigation incurred by a litigant in relation to the proceedings pending before it and not the costs incurred to the proceedings before another court, such as this Court or the Supreme Court of Pakistan.

**Conclusion:** i) The Consumer Court cannot award lawyers' fees for proceedings before the High Court and Supreme Court under Section 31(g) of the Act.
ii) The Consumer Court cannot determine "actual costs" for proceedings before other courts.

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**54.** **Lahore High Court**
**Muhammad Sarwar (deceased) through legal heirs etc.v. Mst. Anwar Kishwar Mirza etc.**
**Civil Revision No. 4542/2016**
**Mr. Justice Malik Waqar Haider Awan**
https://sys.lhc.gov.pk/appjudgments/2025LHC3427.pdf

**Facts:** Through this Civil Revision, the petitioners have challenged the validity of the judgments rendered by the learned Civil Judge and the learned Additional District Judge, respectively. The former judgment dismissed the application for the restoration of the suit filed by the predecessor-in-interest of the petitioners, while the latter judgment upheld this dismissal, resulting in the appeal preferred by the petitioners also being dismissed.

**Issues:** i) How does Section 5 of the Act apply to civil revisions following the amendment mentioned in Article 162-A?
ii) What is the nature of the law of limitation according to the settled law**?**
iii) Can limitation run against void orders affecting the rights of any person?

**Analysis:** i) Pursuant to a legislative amendment to the First Schedule of the Act (Article 162-A) dealing with limitation period for filing a civil revision under Section 115 CPC, now Section 5 of the Act extends to civil revisions as well, enabling Courts to condone delays but subject to sufficient cause shown by the party seeking condonation. It is incumbent upon the party seeking such indulgence to establish justifiable grounds warranting the exercise of discretion under Section 5 of the Act.
ii) Now it is settled law that law of limitation cannot be considered merely a formality and required to be observed being mandatory in nature as the purpose of introduction of law of limitation was to help vigilant and not indolent and helping hand might not be extended to a litigant who remained in deep slumber.
iii) It is well-settled principle of law that question of limitation being not a mere technicality cannot be taken lightly and rights accrued to other party due to limitation cannot be snatched away without sufficient cause and lawful justification which is missing in the case in hand. By now, it is settled law that limitation would run even against void orders affecting rights of any person.

**Conclusion:** i) Section 5 of the Act allows Courts to condone delays in filing civil revisions, but subject to sufficient cause for the delay.
ii) The law of limitation is considered mandatory in nature.
iii) Yes, limitation can run against void orders affecting the rights of any person.

**55.** **Lahore High Court**
**Muhammad Anjum Sharif v. Nisar Ahmad**
**C.R. No.746-D of 2024**
**Mr Justice Malik Muhammad Awais Khalid**
https://sys.lhc.gov.pk/appjudgments/2025LHC3253.pdf

**Facts:** The respondent ("plaintiff") instituted a suit against the petitioner ("defendant"), alleging that he had borrowed a certain amount from him. After a full-fledge trial, the suit was decreed. The petitioner preferred an appeal, which was dismissed by the learned appellate court; hence this civil revision.

**Issues:** i) Whether Article 79 of Qanun-e-Shahadat Order, 1984 ('The QSO') is directory or mandatory?
ii) What is the nature of the presumption attached under Article 129 of 'The QSO'?
iii) What will be the legal consequences of non-attestation of an instrument in compliance with Article 17(2)(a) of 'The QSO'?
iv) Upon whom does burden of prove lie under Article 117 of 'The QSO'?
v) What is the underlying rule on which Article 117 of 'The QSO' is based?
vi) What is the proper sequence involved in the proving and disproving of a fact?

**Analysis:** i) The provision of this Article is mandatory and non-compliance will render the document inadmissible in evidence.
ii) An adverse presumption is attached under Article 129 of 'The QSO' when a person withholds the best evidence.
iii) The instrument shall be invalid in case it is not attested by the required number of witnesses and its enforceability under the law shall have no effect if it is not admitted by the executant, as prescribed in Article 17(2)(a) of 'The QSO'.
iv) When a person is bound to prove the existence of any fact, the burden of proof lies on that person.
v) The said Article is based on the rule of incumbit probatio qui dicit, non qui negat, which means that the burden of proving a fact rests on the party who substantially asserts the affirmative of the issue and not upon the party who denies it.
vi) Under Article 119 of 'The QSO', the party would be bound to prove positively specific plea or fact by producing convincing and cogent evidence, where after opposite party could be required to disprove the same.

**Conclusion:** i) Article 79 of 'The QSO' is mandatory.
ii) An adverse presumption
iii) The instrument shall be invalid and unenforceable.
iv) Who asserts the existence of any fact.
v) See above analysis No. v
vi) See above analysis No. vi.

**56.** **Lahore High Court**
**Shakeel Ahmad v. The State**
**Criminal Appeal No.22031 of 2022**
**The State v. Shakeel Ahmad**
**Murder Reference No.35 of 2022**
**Mr. Justice Muhammad Tariq Nadeem, Mr. Justice Raja Ghazanfar Ali Khan**
https://sys.lhc.gov.pk/appjudgments/2025LHC3222.pdf

**Facts:** The appellant challenged the vires of judgment of learned trial court; wherein, the trial court awarded death sentence to the appellant in a murder case.

**Issues:** i) What is the effect of delay in lodging of FIR?
ii) What is the effect of giving up a PW when examination-in-chief recorded?
iii) Whether an injured witness is always truthful, due to the stamp of injuries on his person?
iv) What benefit is to be given to accused in a case of multiple assailants?
v) What is effect of confession/guilty plea u/s 265E CrPC, when the trial court proceeded with the trial to record evidence?

**Analysis:** i) There is an unexplained delay of about twenty two hours and thirty five minutes in lodging of the FIR. The aforementioned delay in the registration of F.I.R. gives reasonable clue that either the incident remained un-witnessed or narrator of ocular account had no previous acquaintance with the actual assassin..
ii) It is pertinent to mention here that though Allah Mafi alias Mafia Bibi (PW.2) got recorded her examination-in-chief but later on she was given up by Liaqat Ali (complainant) being won over. By withholding the cross-examination of such an important witness, an adverse inference in terms of Article 129 Illustration (g) of Qanun-e-Shahadat Order, 1984 is drawn that had she appeared for cross-examination, she would not have supported the case of prosecution.
iii) Though the remaining two witnesses namely Liaqat Ali (PW.1) and Mst.Ameena Bibi (PW.3) were having stamp of injuries on their persons yet they cannot be considered to be the truthful witnesses solely on the ground of their being injured.
iv) A careful review of the testimony of Ameena Bibi (PW.3) reveals that although she claimed that the appellant hit her with a sota blow but it does not inspire the confidence, required for conviction of the appellant in this case, in the absence of independent corroboration, especially considering the overall inconsistencies that led to the acquittal of principal accused Musa. Moreover, the injury allegedly attributed to the appellant on the head of Ameena Bibi (PW3) was simple in nature, and the possibility of misidentification or exaggeration during a chaotic incident involving multiple assailants cannot be ruled out. In the interest of justice benefit of doubt must also be extended to the appellant regarding the charge of hurt.
v) A trial court has the discretion to convict on a guilty plea under Section 265-E Cr.P.C., if it chooses to record prosecution evidence under Section 265-F Cr.P.C.,

this discretion must be exercised with utmost care, and ordinarily, awarding a capital sentence solely on such an admission should be avoided, with the prosecution's evidence being recorded in the interest of justice. Furthermore, a learned Division Bench of this Court in "Khalid Mehmood vs. The State" (2024 P.Cr.LJ 1212) unequivocally held that if a trial court proceeds with the trial after a guilty plea under Section 265-E Cr.P.C., that confession cannot subsequently be used to the accused's detriment… The underlying rationale is that once a trial court opts to record the entire prosecution evidence, its decision must be grounded in the evidence produced during the trial, and not solely on the initial confession. In the present case, the learned trial court appears to have acted contrary to these established legal principles and the evidence on record by convicting the appellant Shakeel Ahmad based on his initial plea of guilt after having conducted a full trial.

**Conclusion:** i) Delay in registration of FIR is considered as the occurrence is unwitnessed or narrator has no previous acquittance.
ii) By withholding the cross-examination of such an important witness, an adverse inference in terms of Article 129 Illustration (g) of Qanun-e-Shahadat Order, 1984 is drawn.
iii) Witnesses having stamp of injuries on their persons yet cannot be considered to be the truthful, solely on the ground of their being injured.
iv) The possibility of misidentification or exaggeration during a chaotic incident involving multiple assailants cannot be ruled out.
v) A trial court has the discretion to convict on a guilty plea under Section 265-E Cr.P.C., if it chooses to record prosecution evidence under Section 265-F Cr.P.C., that confession cannot subsequently be used to the accused's detriment. Once a trial court opts to record the entire prosecution evidence, its decision must be grounded in the evidence produced during the trial, and not solely on the initial confession.

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**57.** **Lahore High Court**
**The State v. Muhammad Ijaz Mithu Shah And Connected Matters**
**Murder Reference No.146 of 2021**
**Ms. Justice Aalia Neelum (The Chief Justice), Ms. Justice Abher Gul Khan**
https://sys.lhc.gov.pk/appjudgments/2025LHC3133.pdf

**Facts:** The case arose from a homicide incident wherein two accused persons were convicted and sentenced to death and life imprisonment, respectively. Both convicts filed separate criminal appeals challenging their convictions, while the complainant filed a criminal revision for enhancement of sentence and an appeal against acquittal of two co-accused. The Trial Court's reference for confirmation of the death sentence was also placed before the Lahore High Court for adjudication.

**Issues:** i) Whether the unexplained delay in FIR registration renders the prosecution's case doubtful?

ii) Can an FIR be treated as substantive evidence if the complainant is not examined?

iii) Whether the testimony of chance witnesses without plausible explanation is reliable?

iv) Does making dishonest improvements render a witness's statement untrustworthy?

v) What is the effect of withholding an injured eyewitness?

vi) Does contradiction in time of death and time of occurrence affect the prosecution's case?

vii) What is the effect of unproved motive on the prosecution case?

viii) What is the evidentiary value of a weapon recovery not matched by forensic evidence?

ix) Can medical evidence alone establish the culpability of an accused?

x) Is a criminal appeal maintainable if filed after the expiry of limitation?

**Analysis:** i) The intervening duration of about 8-hours between the time of incident and autopsy since remained unexplained, thus gives an indication that the FIR was not registered at the time mentioned in the relevant column.

ii) Admittedly complainant Syed Muhammad Sibtain Shah died prior to recoding of his evidence before the Court, though, in such circumstances, FIR could be brought on record through secondary evidence, yet it could not be termed as a corroboratory piece of evidence keeping in view the non-appearance of the complainant, who did not appear in the witness box and was not subjected to cross-examination.

iii) The presence of both the PWs at the spot, in the manner they claimed, makes them chance witnesses and their depositions suspect evidence.

iv) It is settled principle laid down for the appraisal of evidence that a witness who pollutes his evidence through dishonest improvements indeed compromises his own integrity which renders him unworthy of any credence.

v) However, we have observed that afore-said Zia-ur-Rehman did not appear before the trial court in support of the injury received by him and to explain delay in conducting his medical examination despite receiving firearm injury. No attempt on part of the prosecution to call him as court witness is oozing from the perusal of record. The legitimate inference which can be drawn from the withholding of such important piece of evidence is in accordance with Article 129 Illustration (g) of Qanun-e-Shahadat Order, 1984 which is to the effect that had Zia-ur-Rehman appeared in the witness box, he would not have supported case of prosecution.

vi) It is also worth mentioning here that according to complaint (Ex.PM), the occurrence took place at 02:15 p.m., but in the postmortem report (Exh.PD) the time of death of the deceased has been mentioned as 01:30 p.m. on 28.12.2019 i.e. 45 minutes before happening of the alleged occurrence. These lacunas on part of the prosecution also create serious doubts in the veracity of the prosecution case.

vii) It is well settled that once the motive is set up by the prosecution and the same is not proved, the prosecution shall suffer.

viii) The PFSA report reveals that the pistols recovered from the appellants were examined and found to be in mechanical operating condition, however it was opined by the expert of PFSA that "Because of differences in individual characteristics the items C1 to C4 cartridge cases could not have been fired in the items P.1 to P3 pistols". In view of above, the recovery of pistols at the instance of appellants is inconsequential and is of no use to the prosecution for considering it a corroborative piece of evidence.

ix) Suffice it to say in this regard that the medical evidence leads this court to tell the cause of death but does not provide the detail about the actual culprit.

x) The appellant has not explained the sufficient cause for the delay in filing the appeal. The Criminal Procedure Code 1898 provides the time limit for filing an appeal against acquittal as 30 days under Section 417 (2-A) Cr.P.C. Therefore, an application for condonation of delay under Section 5 of the Limitation Act 1908 was not maintainable due to the bar contained in Section 29 (2) (a) and (b) of the Limitation Act 1908. There being the particular limitation of thirty days prescribed by the statute mentioned above, the provision of Section 5 of the Limitation Act, 1908, has lost its applicability in the issue. Needless to observe that lapse of time is, in a criminal matter, sufficient to protect a person who has been acquitted against the other judicial process.

**Conclusion:** i) Unexplained delay in FIR registration casts serious doubts on the prosecution's narrative.

ii) FIR cannot serve as substantive evidence without examination of its maker.

iii) Testimony of unexplained chance witnesses lacks reliability.

iv) Dishonest improvements render witness testimony untrustworthy.

v) Withholding of an injured eyewitness raises adverse presumption against the prosecution.

vi) Contradiction in timings casts serious doubt on the veracity of the prosecution.

vii) Unproved motive undermines the prosecution's version.

viii) Weapon recovery is inconsequential when not forensically linked to the offence.

ix) Medical evidence alone does not establish the identity of the assailant.

x) Appeal filed beyond limitation is not maintainable in law.

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**58.** **Lahore High Court**
**Malik Muhammad Imran & 3 others v. The State & another**
**Criminal Appeal No.63397 of 2019**
**Tariq & 2 others v. The State & another**
**Criminal Appeal No.1005 of 2019**
**(Arshad alias Sohni v. The State & another**
**Criminal Appeal No.1200 of 2019**
**Ashraf Ali v. Malik Muhammad Imran & 3 others**
**Criminal Revision No.64108 of 2019**
**The State v. Malik Muhammad Imran**
**Murder Reference No.134 of 2019**
**Hon'ble Chief Justice Ms. Aalia Neelum, Mrs. Justice Abher Gul Khan**

https://sys.lhc.gov.pk/appjudgments/2025LHC3333.pdf

**Facts:** The appellants have challenged their convictions in a case FIR registered with the allegations of murder. However, the complainant filed criminal revision for the enhancement of conviction of the convicts.

**Issues:** i) What is the impact of delayed FIR, when a Rapat in Ronznamcha already stood registered immediately after the occurrence?
ii) What is the evidentiary value of injured witness in a case having more number of assailants?
iii) What evidentiary value would be attached to positive PFSA report, when ocular account stands disbelieved?
iv) How omissions/improvements would be looked into, when the investigation officer recorded their statements without any omission?
v) What is the impact of non-ascribing an injury to any assailant?
vi) What is the impact of non-producing the Radiologist before the trial court?
vii) What is effect of not proving the motive, which is set by the prosecution?

**Analysis:** i) The incident in this case occurred on 30.05.2017 at about 4:30 p.m. but the matter was reported to the police on 03.06.2017 at about 6:05 p.m. i.e. after the delay of 04- days & 1½ hour but no plausible explanation was offered by the prosecution for such long delay. We have also noticed that immediately after the occurrence Rapat No.18 dated 30.05.2017 was entered at 5:50 p.m. wherein it was specifically mentioned that Akbar Ali, Asrhaf, Muhammad Idrees, Salman, Muhammad Usman, Naeem Abbas in injured condition came at Police Station Kassowal and stated that Imran along with 12 other named and 7/8 unknown accused who were armed with Dands, Sotas and firearm weapons injured them. It is worth mentioning here that when the occurrence had already been reported in the form of Rapat No.18, there was no occasion for the complainant to re-report the matter through written application (Exh.PM) after the delay of more than four days…it can be concluded that in fact Rapat No.18 was the exact information which was conveyed to police immediately after the incident. However, later on the facts were concocted and the FIR was chalked out after deliberation and consultation.
ii) For handing down guilty verdict to an accused in such incident, the testimony of an injured eyewitness is still required to be tested on the touchstone of the principles laid down for the appraisal of evidence. To say that an injured witness of murder incident seldom tells lie might be true in a case of single accused but is an overstatement when the number of assailants is more than one. It will wholly be unjust to raise the superstructure of conviction on the deposition of injured witness, without subjecting it to strict test of scrutiny for adjudging his credibility.
iii) The positive reports of PFSA further lose legal acceptance as corroboratory piece of evidence when seen in the context that the ocular account stands disbelieved.
iv) Ghulam Farid SI (PW.19) during cross-examination stated that he correctly recorded the statements of PWs. In this way, no question arises that any omission

in recording the statements of eyewitnesses remained on part of the Investigating Officer. In this view of the matter, the omissions/improvements made by the afore-mentioned eyewitnesses rendered them unworthy of any credence as their credibility was compromised.

v) The medical evidence contradicts the ocular account whereby the single firearm injury from .30 bore pistol was attributed to Malik Muhammad Imran (appellant). In such scenario, the existence of second shot at the skull of the deceased which is not attributed to anybody casts a colossal doubt to the prosecution case.

vi) It is settled that once Radiologist is not produced in proof of the x-ray report qua the declared injuries, the same cannot be used for maintaining the conviction of the accused.

vii) It is well settled that once the motive is set up by the prosecution and the same is not proved, the prosecution shall suffer.

**Conclusion:** i) When a Rapat is recorded immediately after occurrence but a considerable delay in lodging FIR, diminishes its value with the label of concoction and deliberation.

ii) The testimony of injured witness is not trustworthy without corroboration, when a large number of assailants. However, an injured witness of murder incident seldom tells lie might be true in a case of single accused.

iii) Positive PFSA report loses legal acceptance, when ocular account is disbelieved.

iv) When there is no omission on the part of investigation officer while recording statement of witnesses, any omissions/improvements made by the eyewitnesses rendered them unworthy of any credence.

v) The existence of second shot which is not attributed to anybody casts a colossal doubt to the prosecution case.

vi) When Radiologist is not produced in proof of the x-ray report qua the declared injuries, the same cannot be used for maintaining the conviction.

vii) See above analysis (vii)

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**59.** **Lahore High Court**
**The State v. Qalab Abbas**
**Murder Reference No.67 of 2020**
**Ms. Justice Aalia Neelum Chief Justice, Ms. Justice Abher Gul Khan**
https://sys.lhc.gov.pk/appjudgments/2025LHC3110.pdf

**Facts:** Appellants challenged their conviction and sentence to death and imprisonment for life with compensation under Section 544-A Cr.P.C to legal heirs for causing hurt and murderer of two persons whereas two co-accused were acquitted by extending them the benefit of doubt; a criminal appeal against their acquittal and a murder reference for confirmation of the death sentence have also been clubbed for adjudication.

**Issues:** i) Whether delayed FIR affects the credibility of prosecution case in a capital offence case?

ii) Whether material dishonest improvements render a witness's statement unreliable?
iii) Whether a dying declaration is admissible and reliable for conviction under the required legal conditions?

**Analysis:** i) FIR in this case has been chalked out with a considerable delay and that too after due consultation and deliberation. Thus, a cautious approach ought to be adopted by the Courts for evaluating the evidence especially in a case of capital charge.
ii) The approach of the Supreme Court of Pakistan qua the material dishonest improvement is consistently against the maker of such statement, whereby the fresh facts introduced during trial are discarded from consideration.
iii) Dying declaration is admissible under Article 46 of Qanun-e-Shahadat Order, 1984 and if duly proved it can be used for raising superstructure of conviction. However, at the same time we are compelled to observe here that dying declaration only attains acceptability if firstly it is proved to have been made by the deceased; secondly it is free from tutoring; thirdly the maker of such statement was having full control over his faculties so as to make a lucid statement and to exclude all hypothesis that the same was not made by him under whispering of death and fourthly the statement must be attested or endorsed either by a Magistrate or by the medical officer.

**Conclusion**: i) Delayed FIR affects the credibility of prosecution case in a capital offence case
ii) See above Analysis No.2.
iii**)** Dying declaration is admissible and reliable if it is proved to have been made by the deceased; secondly it is free from tutoring; thirdly the maker of such statement was having full control over his faculties and fourthly the statement must be attested or endorsed either by a Magistrate or by the medical officer.

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**60.** **Lahore High Court**
**Khudadad v. The State & another**
**Criminal Appeal No.62278 of 2020**
**The State v. Khudadad**
**Murder Reference No.148 of 2020**
**Ms. Justice Aalia Neelum The Chief Justice, Mrs Justice Abher Gul Khan**
https://sys.lhc.gov.pk/appjudgments/2025LHC3318.pdf

**Facts:** A murder took place at a rural dwelling where deceased was shot and killed following a brief altercation. The incident was reportedly witnessed by close relatives of the deceased. Medical evidence recorded multiple gunshot wounds with signs of close-range firing. The investigation involved recovery of a pistol from the accused and alleged matching of crime scene bullet casings with the weapon. The Appellant was convicted but he denied involvement, asserting false implication due to personal enmity and weaknesses in the prosecution's account. Appellant filed Criminal Appeal challenging his conviction and sentence whereas

trial court forwarded a murder reference to seek confirmation or rejection of the death sentence imposed on the convict.

**Issues:** i) Whether the non-production of the police constable who carried the complaint for FIR registration casts doubt on the prosecution's case?
ii) Whether the unexplained delay in submission of police papers for autopsy undermines the credibility of the prosecution's version?
iii) Whether dishonest improvements make a witness unreliable?
iv) Difference between 30 bore and 9mm pistols.
v) Whether blackening around wounds indicates the distance from which the shot was fired?
vi) Whether failure to prove a specifically alleged motive weakens the prosecution's case?
vii) Whether inconsistency between medical and ocular evidence creates doubt in the prosecution's case?
viii) Whether the absence of crime empties in the inquest report casts doubt on the validity of the forensic report?
ix) Whether it is preferable in law to acquit a guilty person than to convict an innocent one?

**Analysis:** i) While dealing with the issue of non-production of a police constable who brought the complaint to the police station for the registration of FIR, the Supreme Court of Pakistan in case reported as Minhaj Khan v. The State (2019 SCMR 326) held as under:-

"……the non-production of Constable Jehanzeb Khan who took the written complaint and was an eye-witness of the occurrence and of the recovery memorandums; and the inexplicable conduct of the Complainant PW-2 in not proceeding to the police station himself to register the FIR are matters of concern and collectively of incredulity. The conclusion therefrom that we draw is that the prosecution had failed to establish its case against the petitioner beyond reasonable doubt, or, at worst, that the petitioner was involved in a false case for ulterior reasons."

ii) The unexplained delay in submission of police papers to the Medical Officer and holding autopsy is always considered fatal for the prosecution case and leads us to conclude that the story of the prosecution was cooked up after procuring the attendance of false eyewitnesses. Reliance in this context may be placed upon the case reported as Muhammad Ilyas v. Muhammad Abid alias Billa (2017 SCMR 54).

iii) It is settled principle laid down for the appraisal of evidence that a witness who pollutes his evidence through dishonest improvements indeed compromises his own integrity which renders him unworthy of any credence. Reliance is placed upon the case reported as Sardar Bibi and another v. Munir Ahmed and others (2017 SCMR 344)

iv) As regards 30 bore pistol it is typically a term used in India and Pakistan and corresponds roughly to a 30 inch caliber and it denotes a rifled firearm with a bore

diameter of approximately 0.30 inches. It also causes significant cavitation.

On the other hand 9mm pistol denotes a bullet with a diameter of 9mm (0.355 inches) common used in semi-automatic pistols. The term 9mm handgun fires a 9mm diameter bullet and causes less severe cavitation.

The nutshell of afore-said facts is that both the weapons are entirely different in their make and appearance.

v) According to the medical jurisprudence, the blackening occurs when a shot is fired from a distance of 6 to 12 inches and vanishes if the distance is more than three feet… In case reported as Amin Ali and another v. The State (2011 SCMR 323) the Supreme Court of Pakistan while citing the Modi's Medial Jurisprudence held as under:-

"Thus from such a distance injury with blackening cannot be caused as it can be caused from a distance of less than 3 feet as per Modi's Medial Jurisprudence."

In another case reported as Muhammad Zaman v. The State and others (2014 SCMR 749) the Supreme Court of Pakistan observed that:- "In Modi's Medical Jurisprudence and Toxicology (21st Edition) at page 354, it has been held that "Blackening is found, if a fire-arm like shot-gun is discharged from a distance of not more than 3 feet".

vi) It is well settled that once the motive is set up by the prosecution and the same is not proved, the prosecution shall suffer. Reliance in this context may be placed upon the case reported as Sarfraz and another v. The State (2023 SCMR 670).

vii) It is now a settled principle of law that variation in the medical and ocular account totally mars the case of the prosecution. Reliance is placed upon the case reported as Abdul Jabbar and another v. The State (2019 SCMR 129) wherein the Supreme Court of Pakistan while dilating upon inconsistency between medical ocular evidence observed as under:-

"It is the settled principle of law that once a single loophole is observed in a case presented by the prosecution much less glaring conflict in the ocular account and medical evidence or for that matter where presence of eye-witnesses is not free from doubt, the benefit of such loophole/lacuna in the prosecution case automatically goes in favour of an accused."

viii) Both the crime empties and recovered pistol were sent to the office of PFSA for comparison and the report therefrom shows that both matched with each other. The afore-mentioned positive report lost its significance when seen in the context of column No.22 & 23 of inquest report according to which no crime empty was recovered from the place of occurrence…The PFSA report can further be denied from consideration on the score that both crime empties and the pistol recovered from the appellant were dispatched to the office of PFSA after the arrest of the appellant… In such circumstances, the blankness of columns No.22 & 23 manifestly makes it clear that no crime empty was secured from the spot and apparently the same were planted by the police so as to knit the evidence for corroborating the statements of eyewitnesses. Reliance in this regard may be placed upon the case reported as Mansab Ali and another v. The State (2024 PCrLJ 617)

ix) As per saying of the Holy Prophet (صلی اللہ علیہ وسلم), the mistake in releasing a criminal is better than punishing an innocent person. Same principle was also followed by the Supreme Court of Pakistan in the case reported as Ayub Masih v. The State (PLD 2002 Supreme Court 1048), wherein, it was observed as under:-

"…. It will not be out of place to mention here that this rule occupies a pivotal place in the Islamic Law and is enforced rigorously in view of the saying of the Holy Prophet (p.b.u.h) that the "mistake of Qazi (Judge) in releasing a criminal is better than his mistake in punishing an innocent."

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

ii) Unexplained delay in submission of police papers to the Medical Officer and holding autopsy is always considered fatal for the prosecution case.

iii) Dishonest improvements renders a witness unreliable.

iv) See above analysis No iv.

v) See above analysis No v.

vi) The motive is set up by the prosecution and if the same is not proved, the prosecution shall suffer.

vii) Variation in the medical and ocular account totally mars the case of the prosecution.

viii) See above analysis No viii.

ix) See above analysis No ix.

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## LATEST LEGISLATION/AMENDMENTS

1. Vide Notification No. SOR-III(S&GAD)1-15/2022 dated 25-04-2025; amendments are made in The Punjab Mines Labour Welfare Organization Service Rules, 1981.
2. Vide Notification No. SOR-III(S&GAD)1-5/2006 dated 29-04-2025; amendment is made in the schedule of The Punjab Excise, Taxation and Narcotics Control Department Service Rules, 1980.
3. Vide Notification No.SO(P&P)4-22/2024 dated 19-05-2025; The Punjab Probation and Parole Service Rules, 2025 is promulgated.
4. Vide Notification No. FD(FR)II-4/2025 dated 21-05-2025; amendments are made in the second schedule of The Punjab Delegation of Financial Powers Rules, 2016.
5. Vide Notification No. SO(TAX)3-5/2015 dated 27-05-2025; amendments are made in the schedule of The Appellate Tribunal of Punjab Revenue Authority Service Rules, 2017.

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## SELECTED ARTICLES

1. **HARVARD LAW REVIEW**
   https://harvardlawreview.org/print/vol-138/the-forgotten-history-of-prison-law-judicial-oversight-of-detention-facilities-in-the-nations-early-years/

   **The Forgotten History of Prison Law: Judicial Oversight of Detention Facilities in the Nation's Early Years by Wynne Muscatine Graham**

   *Prison law is characterized by judicial deference to penal administrators. Despite the well-documented horrors that occur behind prison walls, federal and state courts often decline to intervene, asserting, among other things, that prisoners' rights are limited and that the judicial branch lacks the power and expertise to get involved in the inner workings of detention facilities. Moreover, jurists often assume that the nation's first courts largely stayed out of prisons and jails, and contemporary judicial deference is therefore historically rooted. This Article complicates that historical narrative. It shows that the nation's Founding generation established an expansive system of judicial oversight over prisons and jails that lasted through much of the nineteenth century. During that period, state and local judges across the fledgling republic conducted regular inspections of detention facilities; set prison and jail rules and policies; appointed, removed, and occasionally served as penal administrators; managed the funding and building of jail facilities; and remedied abuses. On occasion, federal courts also interceded on behalf of prisoners. Relying on neglected state statutes, case law, and reports, as well as the writings of prison theorists and observers, this Article explores the oft-ignored history of American prison law. In so doing, this Article shows how far modern courts have diverged from their early predecessors, especially at the state and local levels. For jurists — and particularly originalists — who use history to inform contemporary doctrine, this Article provides a fuller account of the early relationship between courts and prisons. Finally, this Article reveals a model of judicial oversight from which scholars and advocates can learn.*

2. **MANUPATRA**
   https://articles.manupatra.com/article-details/Criminal-Psychology-and-Theories-of-Criminology-Punishments-Understanding-the-Mind-Of-Offenders-In-India

   **Criminal Psychology and Theories of Criminology & Punishments: Understanding the Mind of Offenders In India By Pankaj Pandey**

   *In order to understand the complex patterns of crime and its effects on society, criminology— the scientific study of crime and criminality - has become a crucial field of study. In order to lessen the impact of criminality and improve public security, criminologists seek to understand the causes, effects, and control of crime. Given the social, economic, and cultural diversity of India, criminology is especially important there. Indian economic growth, urbanization, and social transformation have created new challenges for the criminal justice system and the law enforcement machinery. In the words of Indian criminologist Dr. R.N. Kaul, "Criminology in India must address the root causes of crime, i.e., poverty, inequality, and social injustice." (Kaul, 1975) Scholars*

*like Dr. Singh have emphasized that an all-encompassing strategy to avoid control should be adopted based on sociology, psychology, law, and economics. (Singh, 2012) Indian Journal of Criminology, a publication of Indian Society of Criminology, is an appropriate venue for scholars to submit research on crime and criminal justice in India. Worldwide, criminology uses inter-disciplinary theories to explain crime and its impact. Criminological theories like classical, positivist, and strain theories provide frameworks to explain crime patterns and design effective interventions. (Siegel, 2020) With the understanding of these theories and their application to the Indian scenario, criminologists can develop context-specific interventions to fight crime and provide justice.*

**3. HARVARD LAW REVIEW**

https://harvardlawreview.org/print/vol-138/excited-delirium-policing-and-the-law-of-evidence/

**Excited Delirium, Policing, and the Law of Evidence by Osagie K. Obasogie**

*Police use of force continues to be a significant problem in American law and society. Recent discussions have focused on doctrinal issues such as what type of force is considered "reasonable" under the Fourth Amendment and the propriety of qualified immunity as a defense that can shield law enforcement from civil litigation. However, there has been little commentary on how these and other legal questions might be informed by medicine — specifically, victim diagnoses that might effectively absolve officers from criminal prosecution or civil liability. One prominent example concerns excited delirium, which is thought to be a psychiatric issue characterized by the acute onset of extreme agitation that can become so severe that someone might die spontaneously, on their own, without anyone to blame except the person's own mental condition. This diagnosis has been used by coroners, medical examiners, forensic pathologists, and law enforcement to suggest that some deaths in police custody occur not because the decedent was subject to unlawful force, but because the mysterious onset of a psychiatric illness led them to die suddenly. But there are significant problems with this claim. Notably, since its inception in the 1980s, researchers have found little evidence that this medical condition exists. This lack of proof leads to a critical question: How did law become so welcoming to excited delirium when medical and scientific communities continue to have serious reservations? This Article provides the first empirical assessment of how excited delirium has been treated as an evidentiary matter within federal courts. In doing so, it explores how federal courts deploy Federal Rule of Evidence 702 to understand the claims made by expert witnesses in cases regarding the admissibility of excited delirium as a medical diagnosis that might explain deaths in police custody. The findings show that excited delirium often enters evidentiary proceedings as a contested medical concept. Yet, through the machinations of the law of evidence, these claims exit courtroom proceedings as legally relevant facts. How this transmutation happens, and the evidentiary moves that make it possible, highlight the extent to which legal doctrine can settle an otherwise unsettled — if not wholly discredited — area of medicine to make deaths in police custody seem natural, blameless,*

*and unproblematic. Understanding how the law of evidence contributes to concealing what might otherwise be seen as unreasonable uses of force is critical for ongoing discussions concerning police reform..*

4. **Lawyers Club India**
https://www.lawyersclubindia.com/articles/punishment-for-abusing-a-judge-delhi-high-court-upholds-conviction-of-a-lawyer-17743.asp

**Punishment for Abusing a Judge: Delhi High Court Upholds Conviction of a Lawyer by Adv. Sanjeev Sirohi**

*It has to be definitely taken most seriously that none other than the Delhi High Court itself has in a most learned, laudable, landmark, logical and latest judgment titled Sanjay Rathore vs State (Govt of NCT of Delhi) & Anr in CRL.REV.P. 128/2024 and cited in Neutral Citation: 2025:DHC:4401 that was pronounced as recently as on 26.05.2025 has minced absolutely just no words to hold in no uncertain terms that the advocate's act of abusing, threatening and outraging the modesty of the woman judge during proceedings was not merely misconduct but a direct assault on the justice system. It is a no-brainer that we thus see that in this leading case, the Delhi High Court refused to reduce the sentence of an advocate who was convicted for his unjustified act holding that such conduct attacked the very foundation of judicial decorum and institutional integrity. No doubt, an advocate has to be most cautious while speaking with any person and here the abuse was made on a Judge and that too female and so no wonder that action had to follow as we see in this leading case!.*

5. **MANUPATRA**
https://articles.manupatra.com/article-details/ENFORCEABILITY-OF-ARBITRAL-AWARDS-IN-ARBITRATION-HURDLES-TO-THE-IMPLEMENTATION-OF-THE-COVETED-MECHANISM

**Enforceability of Arbitral Awards In Arbitration: Hurdles To The Implementation Of The Coveted Mechanism by Namitha Udayan & Sharen M Sam**

*While arbitration is heralded as the cost-effective and time-effective alternative to litigation, certain drawbacks are a nip in the bud to implementing this meritorious mechanism. The article aims to analyse the drawbacks and proffer recommendations to resuscitate the mechanism from its apparent state of fallow. The Parliament, prompted by the UNCITRAL, devised the Arbitration & Conciliation Act, 1996, a key enactment which transformed the outlook of arbitration in India. Before 1996, the mechanism was regulated by The Arbitration Act, 1940, The Arbitration (Protocol and Convention) Act, 1937 and The Foreign Awards (Recognition and Enforcement) Act, 1961. The Act sets out two types of arbitration based on its character, i.e., it may be international or domestic. International commercial arbitration has been defined under Section 2(1)(f) of the Act and according to Hon'ble Justice Vijender Jain2 , "International Commercial Arbitration: has been defined to mean, in short, an arbitration relating to a commercial dispute which has at least one of the parties belonging to a foreign country. Such a party may be an individual, firm or a company," whereas domestic arbitration refers to an*

*arbitration where the parties belong to India. The arbitral awards are also divided into two categories, namely foreign and domestic based on the same characteristic of differentiation.*

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