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FORTNIGHTLY CASE LAW BULLETIN

(16-06-2025 to 30-06-2025)

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**
Federal Public Service Commission, through its Chairman, Islamabad v. Dr. Shumaila Naeem and Others
Civil Petition No. 651 of 2025
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._651_2025_17062025.pdf

Facts: The respondent joined government service as a Medical Officer, based on her domicile of origin. Following her marriage to a civil servant of another domiciled region, she was transferred on deputation. Subsequently, during service, she changed her domicile to that of her husband. On the basis of her new domicile, she applied for an advertised post of Associate Professor. She successfully passed the written examination but her candidature was rejected by the Federal Public Service Commission ("FPSC"). Dissatisfied with the FPSC's decision, she preferred a departmental representation, which, along with her subsequent review petition, was dismissed. However, her appeal under Section 7(3)(d) of the FPSC Ordinance, 1977 ("Ordinance") before the High Court was allowed ("impugned judgment"), whereby the impugned decisions rejecting her candidature were set aside. Feeling aggrieved, the petitioner filed petition for leave to appeal.

Issues: i) Whether the FPSC can be represented by private advocates?
ii) What is the scope of authority vested in the FPSC, and does the announcement of results and recommendations confer a vested right to appointment upon a candidate?
iii) Who is a civil servant?
iv) Whether the doctors employed in PIMS and other federal institutions are civil servants section 2(1)(b) of the Civil Servants Act, 1973?
v) What are the historical origins of the term "domicile"?
vi) How is the term 'domicile' defined across different jurisdictions?
vii) What are the essential elements that constitute domicile?
viii) What are the different types into which domicile may be categorized?
ix) How is domicile understood in administrative and legal contexts?
x) What is the legal framework governing the change of domicile in Pakistan?
xi) Whether the acquisition of the domicile of the husband is optional?
xii) Can a civil servant legally change his domicile after joining government service?
xiii) What exception exists to the general principle that the domicile of a civil servant stands frozen upon entering the civil service?
xiv) What is the real role of the Supreme Court and it's Judges?

Analysis: i) As an attached department of the Establishment Division, the FPSC is a Federal Government entity and, as a matter of settled law, must be represented by government counsel, not private advocates.

ii) The FPSC retains the authority to determine eligibility, and mere success in the examination or a conditional recommendation does not confer a vested right to appointment.

iii) It is settled by this Court that a civil servant is someone who holds a civil post in connection with the affairs of the Federation and who has been employed by the competent authority i.e., either by the FPSC or the Provincial Public Service Commission in the prescribed manner after following the due process of law and having gone through the process of competition.

iv) Moreover, this Court has already held that doctors employed in PIMS and other federal institutions hold civil posts and are civil servants within the meaning of Section 2(1)(b) of the Civil Servants Act, 1973.

v) Modern scholarship traces its origins to Roman law, with English Canon Law serving as the vehicle for its transmission into the common law tradition. The term "domicile" is derived from the Latin domicilium (from domum colere - to inhabit or cultivate a home), and its Dutch counterpart woonplaats, both evoking the notion of a permanent legal home "this is where you are, because this is where you belong."

vi) Across jurisdictions, legal dictionaries and judicial pronouncements consistently define domicile as a person's legal home to which they intend to return whenever absent. Lord Chelmsford aptly described it as the "intention of a permanent home."(...) In Lord Westbury's words, domicile is "a relation which the law creates between an individualand a particular locality or country."

vii) Thus, domicile has two essential components: (i) factum - the physical fact of residence; and (ii) animus manendi - the intention of remaining there permanently.

viii) Domicile may be categorized as: (i) Domicile of origin: acquired by operation of law at birth; (ii) Domicile of choice: adopted voluntarily by a legally competent person intending to make a place their permanent home; and (iii) Domicile of dependence: determined by the domicile of another, such as a spouse, parent, or legal guardian.

ix) Domicile, though often perceived as administrative, is a foundational legal concept that shapes an individual's access to rights, opportunities, and entitlements. It is not merely a declaration of permanent residence, but a legal construct that governs access to public services, education, employment, political participation, and regional entitlements. Domicile can influence taxation, voting rights, and eligibility for regional quotas in civil service recruitment.

x) In Pakistan, the concept of domicile is recognized in Part II of the 1925 Act, Section 17 of the Citizenship Act, 1951 ("1951 Act"), and the Schedule to Rule 310-A of the Civil Service Regulations ("CSR") Volume I. These provisions acknowledge changes of domicile through dependence, voluntary relocation, choice, or marriage. The procedural framework for obtaining, modifying, renewing, or cancelling domicile is outlined in the Citizenship Rules, 1952.

xi) It is therefore held that a married woman retains the legal discretion, choice or agency to either adopt her husband's domicile or retain her own.

xii) Once a candidate enters the civil service against a post allocated to a particular province or region, their domicile is considered "frozen" to maintain the integrity of this federal balancing mechanism.

xiii) An exception to the general principle under O.M. 1971 whereby the domicile of a civil servant stands frozen upon entering the civil service, has been carved out in the case of female officers who marry during service.

xiv) The Supreme Court is not merely a forum for resolving disputes; it is the constitutional conscience of the nation, tasked with producing progressive and principled jurisprudence that breathes life into the Constitution and bridges the distance between law and the lived realities of the people. It is the ultimate guardian of fundamental rights and the final sentinel against executive or legislative overreach. Judges of this Court are not passive interpreters of text, they are the custodians of liberty, equality, and institutional independence. The Court must remain alive to the evolving aspirations of society and innovate new remedies to advance justice. Judges are to act with integrity and courage, to resist all encroachments, external or internal that threaten to erode the autonomy of the judiciary or subvert the rule of law. Judges must not fall prey to the lure of small, short-term benefits, whether of elevation, power, or personal comfort that may accrue if they speak the language of authority rather than that of the Constitution. Such benefits are illusory and transient. The true reward of a judge lies in preserving the dignity of the institution and the trust of the people. It is also the solemn duty of judges of this Court to call out, with moral clarity and institutional courage, those among their ranks who surrender to the power of the day at the cost of constitutional principles. Critique from within, when rooted in fidelity to the Constitution, is not disloyalty, it is the highest form of service to the judicial institution. History is a vigilant witness. It does not remember those who accommodated power, but those who stood resolute in defense of principle. The jurisprudential legacy of a judge is not built on appeasement but on principled defiance when the soul of justice is imperiled. Courts must never become tools of expediency. Rather, they must be lighthouses of constitutional morality and guardians of democratic integrity. History will not absolve judges who abandon their constitutional duty; it will remember them not as dispensers of justice, but as collaborators in injustice.

Conclusion: i) The FPSC, being a Federal Government entity, cannot be represented by private advocates.

ii) See above analysis No.ii

iii) A civil servant is a person who holds a civil post in connection with the affairs of the Federation and is employed by the competent authority in the prescribed manner.

iv) Doctors employed in PIMS and other federal institutions are civil servants within the contemplation of Section 2(1)(b) of the Civil Servants Act, 1973.

v) See above analysis No. v

vi) See above analysis No. vi

vii) There are two essential components of domicile i.e. (i) factum, and (ii) animus manendi

viii) Domicile may be categorized as: (i) Domicile of origin, (ii) Domicile of choice, and (iii) Domicile of dependence.
ix) See above analysis No. ix
x) Part II of the Succession Act, 1925, Section 17 of the Citizenship Act, 1951, the Schedule to Rule 310-A of the Civil Service Regulations Volume I and Citizenship Rules, 1952.
xi) It is optional for a married woman either to adopt her husband's domicile or retain her own.
xii) After entry into service, the domicile of a civil servant stands "frozen."
xiii) A female officer who marry during service.
xiv) See above analysis No. xiv

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2. **Supreme Court of Pakistan,**
Tahir Kazmi etc. v. Inspector General of Police, Punjab, Lahore, etc
Civil Petitions No.3453-L/2019 and 23-L/2022
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi.
https://www.supremecourt.gov.pk/downloads_judgements/c.p._3453_l_2016.pdf

Facts: Both petitioners, serving in the Punjab Police, were penalized through departmental proceedings and later reinstated by the Punjab Service Tribunal. The first petitioner, a Head Constable, was compulsorily retired, but upon review, his penalty was reduced to forfeiture of two years' approved service, and the intervening period was treated as leave without pay. The Tribunal reinstated him but upheld the treatment of the intervening period. The second petitioner was removed from service due to 46 days of unauthorized absence; his penalty was modified to forfeiture of three years' service with similar treatment of the intervening period. Both petitioners now challenge the denial of back benefits and the modified penalties through these petitions.

Issues: i) What is the doctrine of constructive continuity and how does it affect the legal status of a civil servant whose removal or penalty is later found to be unlawful?
ii)What does the doctrine of constructive continuity propose regarding a civil servant's rights after unlawful dismissal?
iii)How does the concept of constructive continuity reinforce the principles of legal restoration and administrative fairness in service jurisprudence?
iv)How does the concept of constructive continuity ensure legal and financial restoration for a wrongfully removed public servant?

Analysis: i) What we now seek to formally recognize is that this fiction amounts to more than a technical adjustment, it is a constructive legal state that reconstructs the continuity of service and restores the civil servant to the position he or she would have occupied had the illegal order not been passed. We propose to refer to this idea as the doctrine of constructive continuity.
ii) The doctrine of constructive continuity, therefore, proposes that once a dismissal or removal is declared unlawful, the civil servant shall be deemed to have remained in continuous service during the period of absence and shall be entitled, subject to

lawful deductions or limitations, to all the salary, allowances, increments, and service-related benefits that would have accrued had the unlawful act not occurred. The purpose of this doctrine is not merely to provide compensation but to restore the legal and institutional integrity of the employment relationship.
iii) The concept of constructive continuity, as articulated here, reinforces this consequence and gives expression to the broader principles of legal restoration and administrative fairness that underpin service jurisprudence.
iv)It ensures that a wrongfully removed public servant is treated, for all legal and financial purposes, as having continued in service, thereby entitling them to the salary, benefits, and emoluments that would have accrued but for the wrongful termination.

Conclusion: i)The doctrine of constructive continuity treats unlawful removal as never having occurred, restoring the civil servant's original service status.
ii) The doctrine of constructive continuity deems service uninterrupted after unlawful removal, ensuring full benefits and restoring employment integrity.
iii)Constructive continuity upholds legal restoration and administrative fairness in service jurisprudence.
iv)Constructive continuity ensures full legal and financial entitlements for wrongfully removed public servants.

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3. **Supreme Court of Pakistan**
Asad Hussain v. The Controller General of Accounts Federal Co-operative Building, Sector G-5/2, Islamabad and another
C.P.L.A. 2258/2023
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2258_2023.pdf

Facts: The petitioner, who served as an Assistant Private Secretary (BS-16) in the Accountant General's office, was given the current charge of Private Secretary (BS-17) but was not promoted during several Departmental Promotion Committee (DPC) meetings. He was eventually promoted in the DPC meeting later on, but he filed a departmental appeal arguing that he should have been promoted retroactively from the date, when the Private Secretary position first became vacant. This appeal was dismissed, leading him to file a service appeal with the Federal Service Tribunal, which was also dismissed, Hence, the present appeal by leave of this Court.

Issues: i) What is the established principle regarding the promotion of civil servants in relation to the availability of vacancies?
ii) What is the primary purpose of every sanctioned post within a government department or public institution and What must happen when a post falls vacant?

Analysis: i) It is also a well-established principle, both in local and foreign jurisprudence, that a civil servant's promotion must be considered from the date a vacancy in their quota becomes available, provided they are otherwise eligible at that time. The

competent authorities must apply their mind judiciously and cannot delay promotion on administrative pretexts once a substantive vacancy arises.
ii) It is a settled principle of public administration that every sanctioned post within a government department or public institution exists to serve a defined functional need and must be filled promptly upon falling vacant. So long as the post continues to exist and has not been formally abolished or frozen pursuant to a lawful policy decision such as due to budgetary constraints or other demonstrable administrative exigencies, it must be filled within a reasonable time. Unjustified delays in this regard not only disrupt the efficient functioning of the institution but also weaken its service delivery capacity. Vacancies, when left unattended, often lead to informal arrangements and ad hoc delegations of authority that foster opacity, enable nepotism, and corrode the principles of merit and transparency.

Conclusion: i) The established principle is that a civil servant's promotion must be considered from the date a vacancy in their quota becomes available, provided they are otherwise eligible at that time.
ii) The primary purpose of every sanctioned post is to serve a defined functional need within the government department or public institution. When a post falls vacant, it must be filled promptly to ensure the efficient functioning of the institution.

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4. **Supreme Court of Pakistan**
Mst. Fakhra Jabeen v. Wasif Ali and another
Civil Petition Nos.768 & 827 of 2022
Mr. Justice Syed Mansoor Ali Shah, Mr. Justice Athar Minallah, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.p._768_2022.pdf

Facts: A wife sought recovery of dower in cash and property under a registered marriage contract, leading to differing interpretations by courts below on the enforceability and construction of the dower clauses, which were ultimately adjudicated by the Supreme Court.

Issues: i) Whether the entries in different columns of a Nikahnama regarding dower are to be construed based on their headings or the parties' true intent?
ii) Whether ambiguities in the terms of a marriage contract/ Nikahnama should be interpreted in favour of the husband or evaluated in light of the free consent and rights of the wife?
iii) Whether a Nikahnama, as a registered document, enjoys a presumption of truth that can only be rebutted by cogent evidence?
iv) Whether dower can validly consist of both cash and immovable property simultaneously under Muslim Family Law?
v) Whether the failure of a Nikah Registrar to accurately record the terms of dower affects the enforceability of the agreed dower between the parties?
vi) Whether courts, when interpreting marriage contracts, must consider socio-cultural factors that could impact the bride's free consent?

vii) Whether the rule of contra proferentem applies to interpret ambiguities in a Nikahnama against the drafting party to protect the wife's rights?

Analysis: i) It is settled law that the Nikahnama is a civil contract and it contains the terms and conditions agreed upon by the parties... It is, therefore, obvious that neither the headings nor the columns of the form of the Nikahnama, prescribed by the Rules of 1961, are conclusive or sacrosanct. It is the intent of the parties which would be the determining factor… The headings of the prescribed form of the Nikahnama are, therefore, guidance of the parties and they do not enjoy the status of conclusively determining the intention of the parties.

ii) The High Court was of the opinion and had erroneously referred to a purported settled law regarding principles of interpretation of a Nikahnama... We are afraid that such a declaration was contrary to the concept and the fundamental principles relating to a nikah… It is, therefore, an onerous duty of the court, while interpreting the contents of the Nikahnama, to take into consideration the factor of free consent of the bride and her freedom to settle the terms and conditions...

iii) The significance of the Nikahnama is evident from the fact that a presumption of truth is attached to it and, once it is registered, it enjoys the status of a public document… Likewise, there is a presumption of truth regarding the entries recorded in the Nikahnama.

iv) Dower is given by the husband to the wife... It is settled law that dower is the exclusive right of a bride. It can either be in the form of cash or property or both… The parties may, therefore, agree to dower being paid in cash in addition to and distinct from dower in any other form, such as immovable or movable property.

v) The headings of a column of the Nikahnama are, therefore, not conclusive nor sacrosanct... There could be ambiguities which are to be resolved... The intention of the bride and the groom, however, has to be ascertained... and therefore, the titles and headings of the columns of the prescribed form of the Nikahnama nor what has been recorded therein are the determinant factors.

vi) It is, therefore, an onerous duty of the court... to take into consideration the factor of free consent of the bride and her freedom to settle the terms... keeping in view the social and cultural milieu prevalent in the society.

vii) The rule of contra proferentem, known as the rule of interpretation against the person who has drafted the contract, can also be applied because it is a recognized principle of contractual interpretation.

Conclusion: i) The entries are to be interpreted on the basis of the true intention of the parties, not merely on the headings.

ii) Ambiguities are to be resolved with careful scrutiny, ensuring the protection of the wife's rights and free consent.

iii) A registered Nikahnama carries a presumption of truth rebuttable only by strong evidence.

iv) dower can simultaneously consist of cash and immovable property.

v) inaccuracies by the Nikah Registrar do not override the enforceability of what the parties actually intended and agreed.

vi) Yes, courts must consider socio-cultural factors that might affect the bride's free will.
vii) Ambiguities in a Nikahnama may be interpreted against the drafting party under the rule of contra proferentem to protect the wife's rights.

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5. **Supreme Court of Pakistan**
Muhammad Arshad v. Deputy District Food, Multan, etc
C.P.L.A.1919-L/2016
Mr. Justice Shahid Waheed, Ms. Justice Musarrat Hilali
https://www.supremecourt.gov.pk/downloads_judgements/c.p._1919_l_2016_16052025.pdf

Facts: The petitioner, a civil servant, was subjected to disciplinary proceedings under the PEEDA for alleged misconduct and corruption in relation to wheat procurement, which initially led to his dismissal from service. Upon re-inquiry, the allegations were not proved, but the Competent Authority disagreed with the findings and imposed a major penalty, which was upheld in departmental appeal and by the Service Tribunal. Hence, petition under Article 212(3) of the Constitution before the Supreme Court of Pakistan.

Issues: i) What are the legal obligations of the Competent Authority upon receipt of inquiry report to ensure fairness and adherence to law?
ii) How does Section 13 of the PEEDA, 2006 ensure a balance between administrative discretion and the employee's right to fair trial in disciplinary proceedings?
iii) Why is it essential for the Competent Authority to furnish reasons, when disagreeing with the findings of the Inquiry Officer, and how do these ensure adherence to principles of natural justice?

Analysis: i) A detailed analysis of this provision, together with the Guidebook for conducting inquiry, issued by the Government of the Punjab in its Services and General Administration Department (Regulation Wing) vide Notification No.SORI (S&GAD) I-30/2003(P-II) dated 17th of August, 2015, particularly, the model draft showcause notice attached thereto, reveals that upon receiving the inquiry report, the Competent Authority must ascertain whether the inquiry has been conducted in accordance with the prescribed provisions of the PEEDA. If it determines that the inquiry has been conducted properly, the next step is to evaluate whether the charges have been proved. If the charges are found not to be proved, the Competent Authority is required to exonerate the accused as per section 13(3) of the PEEDA. Quite the opposite, if the Competent Authority believes that the charges against an accused have been proved, it is obliged to issue a show-cause notice under section 13(4) of the PEEDA. This notice must include a copy of the inquiry report, and should contain: (a) the Competent Authority's statement that it has found no reason to differ or it has reason to differ with the recommendations of the Inquiry Officer; in case of dissent, the reasons thereof, alongwith the specifics of the charges that have been proved against the accused; (b) the details of the proposed penalties; and

(c) the recommendations made by the Inquiry Officer regarding the penalties,

and allowing the accused a period of seven days to respond or file additional defence in writing. After providing the opportunity for a personal hearing, the Competent Authority is to pass final orders under sub-section (5) of section 13 of the PEEDA. As regards the scenarios where the inquiry is deemed not to have been conducted per the legal framework, the Competent Authority, under section 13(6), has the responsibility to remand the inquiry back to the Inquiry Officer or Inquiry Committee. This may involve rectifying identified lapses or procedural formalities, or it may necessitate ordering a de novo inquiry to ensure compliance with legal standards. This structured and detailed approach is vital in safeguarding the rights of the accused and ensuring that disciplinary proceedings are conducted with fairness and in adherence to the law.

ii) The dissection of the PEEDA, particularly its section 13, let out that the legislation does not promote a culture of despotic use of authority within disciplinary proceedings. Rather in its preference, it seeks to strike a balance between the imperative of safeguarding employee rights and the necessity of maintaining an efficient disciplinary framework within the service. This objective has been sought to be achieved by instituting a system of accountability rooted in the principles of fairness, sound reasoning, and justifiable decision-making. In the pursuit of this objective, in the first instance, the recommendations put forth by the inquiry officer or the inquiry committee, as delineated in section 10 of the PEEDA, are not made binding on the Competent Authority so as to allow it the discretion to arrive at its own conclusions regarding the charges presented. It is not in the nature of an appeal from the Inquiry Officer to the Competent Authority. It is one and the same proceeding and stands concluded with the decision of the Competent Authority. Nevertheless, taking into account the principle of natural justice and fundamental right of fair trial, it is significant to emphasise that the Competent Authority is not bestowed with unbridled discretion to arrive at decisions that contradict the conclusions drawn by the Inquiry Officer. Instead, promoting a culture of justification and reasoning, the Competent Authority, upon receiving the inquiry report, is mandated to first examine the report along with all pertinent case materials meticulously and then render a decision supported by valid and justifiable reasons, specifically addressing two critical questions: First, has the inquiry been conducted in compliance with the stipulations framed in the PEEDA? Second, if the first question is affirmed, have the charges against the accused been proved?

iii) We think it unnecessary to refer by name or to quote from any of the often-cited authorities in which the courts have explained why it is essential to furnish reasons for a decision to be intuitive. They are far too well-known. From them, we derive that: Firstly, furnishing reasons allows the employee to find out whether any reviewable errors have occurred during the proceedings. Secondly, it enables the employee to gauge the extent to which his arguments presented to the Inquiry Officer and included in the inquiry report were comprehended and considered. Thirdly, the possibility of judicial review serves as a deterrent against arbitrary decision-making by the Competent Authority. Fourthly, the discipline of rendering reasoned decisions encourages the Competent Authority to be more meticulous and

rational in its conclusions. Finally, providing reasons enhances guidance for analogous future cases and promotes consistency in decision-making. Apart from that, to further enhance fairness in the disciplinary proceedings, in a situation where the Competent Authority is poised to differ with the inquiry report, it is also compulsory for the Competent Authority to communicate to the accused, under section 13(4)(a) of the PEEDA, the rationale behind its disagreement with the inquiry officer's findings of "not guilty", and that a charge has been proved against him, and then require him to offer his response or additional defence thereon in writing. This obligation empowers the delinquent employee to contest the reasons offered by the Competent Authority, ensures that his rights are preserved and that final decisions are not made without due consideration. This leads us to conclude that the law envisages that every step undertaken in disciplinary proceedings must align with the foundational principles of natural justice and procedural fairness, and any deviation from these principles risks undermining the validity of the final order, thereby calling into question the integrity and legitimacy of the entire disciplinary process.

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

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6. **Supreme Court of Pakistan.**
Manzoor Ahmed v. The State
Criminal Appeal NO. 167 OF 2023
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/crl.a._167_2023.pdf

Facts: The leave was granted by the august Supreme Court to look into the capital punishment confirmed and additional punishment for sodomy with imprisonment for life by the Hon'ble High Court in a trial conducted by the learned ASJ.

Issues: i) Whether delay in lodging FIR is per se fatal to the prosecution case?
ii) Which sort of care and caution is to be taken in cases of circumstantial evidence?
iii) What is evidentiary value of Retracted Confession and whether it could be basis for capital punishment?
iv) What is the value of a recovery affected from open place, accessible by the public?

Analysis: i) There is no cavil to the proposition that a delay in registering the FIR is not per se fatal to the prosecution case, the same must be explained to grant the belated FIR some sanctity of truth. The consequence of not explaining such delay has been explained in the case of Amir Muhammad Khan v. The State (2023 SCMR 566) where this Court highlighted that:

> *"Nowhere in the entire evidence, the prosecution has explained the reason for the delay in reporting the matter to the Police with such a*

delay. The delayed FIR shows dishonesty on the part of the complainant and that it was lodged with deliberation and consultation"

ii) A necessary caution must then be taken, i.e. where the prosecution case hinges entirely on circumstantial evidence, utmost care is required to arrive at a just decision. The law in this regard has been explained by this Court in the case of Ch Barkat Ali v. Major Karam Elahi Zia and another (1992 SCMR 1047) in the following words:

"Law relating to circumstantial evidence that proved circumstances must be incompatible with any reasonable hypothesis of the innocence of the accused. See 'Siraj vs. The Crown' (PLD 1956 FC 123). In a case of circumstantial evidence, the rule is that no link in the chain should be broken and that the circumstances should be such as cannot be explained away on any hypothesis other than the guilt of the accused."

iii) The appellant retracted his confession, pleading not guilty and submitted in his statement, under section 342 of the Cr.P.C., that the police forced him to make a confession. With regard to retracted judicial confessions this Court recently held in the case of Obaidullah v. The State (2025 SCP 177)6 that:

"It is true that the conviction and sentence of an accused can be maintained on the basis of a retracted judicial confession provided the said evidence appears to be trustworthy and the same is corroborated by some independent evidence. However, if the retracted judicial confession of an accused is not corroborated by any independent evidence or the same has been recorded in violation of the law on the subject then conviction and sentence of an accused cannot be sustained on the basis of said confession. Reference in this context may be made to the cases of Aala Muhammad Vs. The State (2008 SCMR 649), Muhammad Shafi Vs. Muhammad Raza (2008 SCMR 329), Muhammad Ismail Vs. The State (2017 SCMR 898) and Daniel Boyd Vs. The State (1992 SCMR 196)."

iv) The recovery has been effected from a place open and accessible to the public i.e. a mosque frequented by namazies, and so it cannot be claimed that the recovery was made from the appellant's exclusive possession. Moreover, the mashirs who had witnessed the recovery, were told by the police to arrive at the mosque telephonically. The recovery of the weapon of offence is also thus rendered doubtful.

Conclusion: i) A delay in registering the FIR is not per se fatal to the prosecution case, the same must be explained to grant the belated FIR some sanctity of truth.

ii) Utmost care and caution is to be taken in cases of circumstantial evidence, where the chain of circumstances must connect the neck of deceased at one end and that of the accused on the other end.

iii) The conviction and sentence of an accused can be maintained on the basis of a retracted judicial confession provided the said evidence appears to be trustworthy and the same is corroborated by some independent evidence.

iv) The recovery has been effected from a place open and accessible to the public cannot be claimed that the recovery was made from the exclusive possession of

accused.

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7. **Supreme Court of Pakistan**
Mushtaq Ahmed v. The State
Jail Petition No. 853 of 2017
Mr. Justice Athar Minallah, Mr. Justice Irfan Saadat Khan, Mr. Justice Malik Shahzad Ahmad Khan
https://www.supremecourt.gov.pk/downloads_judgements/j.p._853_2017.pdf

Facts: The petitioner was charged with murder and found guilty by the Trial Court, which sentenced him to death along with a direction to pay compensation to the legal heirs of the deceased or undergo further imprisonment in default. On appeal, the High Court upheld the conviction, modified the sentence from death to life imprisonment, maintained the compensation order, and extended the benefit of remission under the law.

Issues: i) What is the legal implication of a delayed post-mortem examination?
ii) What is the effect of contradictory witness statements regarding the motive for the offence?
iii) What is the legal effect of unnatural conduct of closely related prosecution eye-witnesses?
iv) Can benefit of doubt granted to co-accused be denied to another accused on identical evidence?

Analysis: i) It is a settled proposition of law that unexplained delay in conducting the postmortem examination causes damage to the prosecution's case.
ii) Moreover, no document with regard to the dispute concerning any financial matter has been furnished by him so as to justify that there was, apart from the fact that the deceased had married the daughter of the accused, difference between the parties with regard to any financial aspect. (...) The record further reveals a major contradiction in statement of the witnesses as according to some there were financial dispute between the deceased-Abdul Shakoor and the petitioner-Mushtaq, whereas some say that there was a grudge between Abdul Shakoor and Mushtaq on the ground that Abdul Shakoor had married Mushtaq's daughter against his wish.
iii) It is therefore evident that the conduct of the prosecution eye-witnesses who were closely related to the deceased was highly un-natural which shows that actually they were not present at the spot at the relevant time.
iv) The above aspect clearly leads to the conclusion that on the given set of facts/evidence - and when, as per the doctor, death was caused due to collective wounds - and benefit of doubt has been given by the Courts below to Liaqat Ali and Ali Raza (co-accused), who were allegedly carrying a gun and pistol respectively, then there is no reason why the said benefit of doubt could not be extended to the present petitioner.

Conclusion: **i)** Delay in post-mortem casts doubt on the prosecution case.
ii) Contradictory motives and lack of proof weaken the prosecution’s stance.

iii) Unnatural conduct of witnesses undermines their presence at the scene.
iv) Equal evidence warrants equal benefit of doubt to the petitioner.

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8. **Supreme Court of Pakistan**
Directorate of Intelligence & Investigation-FBR, through its Director & others v. Taj International (Pvt) Ltd & others along with 353 others Civil Appeals, Civil Petitions and Criminal Appeals etc.
Civil Appeals No.350 to 698 of 2016, 424, 511, 512, 673, 1183 and 1184 of 2020, Civil Petition No.1066 of 2018, Criminal Appeal No.177 of 2019 and C.M.A. No.12231 of 2021 in Civil Appeal No.673 of 2020.
Mr. Justice Shahid Waheed, Mr. Justice Irfan Saadat Khan, Mr. Justice Aqeel Ahmed Abbasi
https://www.supremecourt.gov.pk/downloads_judgements/c.a._350_2016.pdf

Facts: Petitioners have invoked the appellate jurisdiction of Supreme Court against the judgment (s)/order (s) passed by the High Courts of all provinces as well as Islamabad High Court, Islamabad in the matters relating to initiation of criminal proceedings on the allegation of tax fraud. Being dissatisfied with the said judgment (s)/order (s), they preferred the listed Civil and Criminal appeals which are being decided through this consolidated judgment on account of involvement of common questions of law.

Issues: i) How was the Sales Tax Act, 1990 (the "Act") introduced, what was the purpose of the amending the Act No. (III) of 1951?
ii) To which category does sales tax belong, and on whom does it fall on?
iii) What is the pivotal provision in a taxing statute, and what does it provide?
iv) What does the charging provision reflect?
v) Is any mechanism of assessment provided in the Sales Tax Act, 1990?
vi) What is the scheme of law in respect of imposition of penalties?
vii) Who can make an arrest, and under what circumstance can it be affected?
viii) What does the examination of section 33 of the Sales Tax Act, 1990 indicate?
ix) What is the yardstick for imposition of a sentence?
x) How is criminalisation under the Sales Tax Act, 1990 distinct?
xi) What do the criminal provisions of Income Tax Ordinance, 2001 provide?
xii) What condition is imposed by the Federal Excise Act, 2005 for initiation of criminal proceedings?
xiii) What intent of the legislature is reflected in Federal Excise Act, 2005 with regard to tax liability?
xiv) What is the constitutional scope of criminalization without recourse to the assessment proceedings?
xv) When are the penal provisions attracted?
xvi) What is meant by the term tax fraud?
xvii) Whether the Special Judge is competence to assess tax or determine the amount or loss of tax involved"?
xviii) What is the cumulative effect of the provisions of Sections 11, 25(5), 33, 37A and 37B of the Sales Tax Act, 1990?

xix) What are the prerequisites for invoking the provisions of Section 33 and 37A of the Sales Tax Act, 1990?
xx) Is there any provision in the Sales Tax Act which authorizes the tax officials to presume any tax liability in the absence of Assessment proceedings?
xxi) In Modern Democratic System of Government, how is the unbridled power and authority to impose tax arbitrarily controlled?
xxii) What is the concept behind the art of taxation?
xxiii) What are the four canons of taxation as defined by Adam Smith in his book "The Wealth of Nations" (1776)?
xxiv) What is the nature of imposition of tax?
xxv) What step is required to be taken prior to initiating criminal proceedings?
xxvi) What is the principle of interpretation of a taxing statute?
xxvii) Whether the initiation of criminal proceeding and arrest of registered person can be undertaken without investigative audit or issuance of show cause notice or providing opportunity to explain the matters?
xxviii) What factors determine the initiation of criminal prosecution under section 11 of the Act?

Analysis: i) The Sales Tax Act, 1990 has been introduced through Act (VII) of 1990, while amending the Act No. (III) of 1951 to consolidate and amend the law relating to the levy of a tax on the sale [importation, exportation, production, manufacture or consumption] of goods.
ii) Sale tax is species of indirect tax the incidence of which falls on the registered person under the Act, who is engaged in the sales, importation, exportation, production and manufacture of goods, however, its burden is borne by the end consumer unlike in the case of any direct tax in which the incidence and the burden is upon the same person i.e. Tax Payer. It is also regarded as value addition tax levied at multiple stages i.e. imports, exports, manufacture and sales of goods in respect of any taxable activity by a registered person.
iii) In a taxing statute, the most pivotal provision is the charging provision which creates the charge and defines the scope of the levy as well as the quantum of such charge or levy.
iv) Charging provision reflects that the Sales Tax under the Act is charged, levied and paid on taxable supplies made by registered person in the course or furtherance of any taxable activity carried on by him (…) that the Sales Tax shall be charged, levied and paid in respect of goods imported into Pakistan, at the rate of 18% of the value of taxable supplies made by the registered person irrespective of their final destination in territories of Pakistan (…) that in case where taxable supply is made to a person who has not obtained registration number or he is not an active taxpayer, there shall be charged, levied and paid a further tax at the rate of (four) percent of the value in addition to the rate specified in sub-Sections (1), (1B), (2), (5) (6) and Section 4.
v) A complete mechanism of Assessment is provided under a separate chapter of Assessment by the authorized officer under the law (…) Section 11 was the provision whereby, complete mechanism was provided.

vi) As per scheme of the law, after determination and quantification of the Sales Tax liability, in Chapter-VII under the heading "OFFENCES AND PENALTIES" penal provisions have been provided to be invoked in appropriate cases for the purposes of imposition of penalties, and default surcharge in terms of Sections 33 and 34 of the Act.

vii) In terms of Section 37A the power to arrest and prosecute any person who has committed tax fraud or any offence warranting prosecution under the Act has been given to an Officer of Inland Revenue not below the rank of Assistant Commissioner of Inland Revenue or any other officer of equal rank authorized by the Board in this behalf, who, on the basis of the material evidence, has reason to believe that such person has committed tax fraud.

viii) Perusal of the provisions of Section 33 of the Act reveal that criminal penalties are linked with the “tax loss” or “amount of tax involved and tax due”.

ix) Measure of sentence is linked with the “amount or loss of tax involved and tax due", and prima facie, cannot be imposed unless there is some determination or duly assessed tax liability of sales tax due through the processes of assessment for adjudication as per law.

x) Criminalization under the Act goes beyond the pale of retribution and deterrence and appears to be principally focused on recovery of tax.

xi) If we may examine the criminal provisions under the other tax laws i.e. Income Tax Ordinance, 2001, in Part XI of Chapter X of the said Ordinance, it provides for criminal prosecution under Sections 191 to 200, which simply provide for imposition of “fine”

xii) In the case of Federal Excise Act, 2005, such a linkage is visible, however, it has been pointed out that no criminal proceedings can be initiated under the said law without prior assessment of tax.

xiii) It reflects upon the clear intent of the legislature that primarily tax liability is a civil liability to be determined through process of Assessment or adjudication as per law, whereas, in case of wilful default, miscalculation, concealment or fraud penal provisions can be invoked to ensure tax compliance, recovery of tax and payment of additional amount of tax and/or penalty.

xiv) It, therefore, appears that criminalization under the Act while invoking the provisions of Section 37A, without recourse to the assessment proceedings, is being treated differently as compared with other tax laws, which is not only against the scope and application of taxing provisions of the Act but also, violates the settled principles of fairness and fair trial as guaranteed under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973.

xv) Penal provisions are only attracted once the Revenue Authorities can establish that the default in payment of tax was wilful and there was element of mens-rea on the part of tax payer, while not making payment of such amount of tax due.

xvi) In essence tax fraud is falsifying a tax invoice with the intention to understate the tax liability, or to underpay the tax liability or overstate the entitlement to tax credit or tax refund to cause loss of tax.

xvii) It is not within the competence or jurisdiction of the Special Judge to assess tax or determine the "amount or loss of tax involved" which is not part of the offence but of the sentence.

xviii) The cumulative effect of the provisions of Sections 11, 25(5), 33, 37A and 37B of the Act reflects upon the intention of legislature to provide for invoking criminal proceedings against such person who is found engaged in the offence of "tax fraud" through registration of FIR and arrest of a person found involved in such offence and also to effectuate recovery of amount of sales tax evaded and not paid by the registered person.

xix) The two prerequisites for invoking the provisions of Section 33 and 37A are: dependence of fine on the "amount or loss of tax involved." And the window of compoundability which is available to the taxpayer, who can pay the "amount of tax due alongwith such default surcharge and penalty as determined under the provisions of this Act."

xx) Under the Sales Tax Act there is no provision of law which authorizes the tax officials to presume any tax liability in the absence of Assessment proceedings, and to proceed against a Registered person or any person within the supply chain.

xxi) Under the Modern Democratic System of Government, which are run by the elected representative of the people under their respective Constitutions, the unbridled powers and authority to impose tax arbitrarily, without having any rationale or reasonableness, is now being regulated under the Constitutional restraints, whereby taxes are to be imposed reasonably, without discrimination and in such a manner that those may not encroach upon the fundamental rights of a person as guaranteed under the Constitution.

xxii) The art of taxation is regarded as the art of plucking a goose so as to gather the largest amount of feather by causing least squealing.

xxiii) Adam Smith, who is regarded as Father of Modern Economic System, in 18th Century in his book "The Wealth of Nations" (1776), has defined following four canons of taxation i.e. (i) equality, (ii) certainty, (iii) convenience of payment and (iv) economy in collection. While explaining the first two cannons of taxation as referred to hereinabove i.e. equality and certainty, the Author has propounded that "the subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion of their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state"(…) Similarly, it has been further propounded that "the tax which each individual is bound to pay ought to be certain, and no arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor, and to every other person. The uncertainty of taxation encourages the insolence and favours the corruption of an order of men who are naturally unpopular, even where they are neither insolent nor corrupt. The certainty of what each individual ought to pay is, in taxation, a matter of so great importance, that a very considerable degree of the inequality, it appears, is not so great an evil as a very small degree of uncertainty"

xxiv) Invariably, imposition of any tax either direct or indirect, including Sales Tax, is regarded as a civil liability to be recovered from the tax payer, not only to collect tax but also to regulate the economy and to facilitate the business activity,

however, in order to ensure tax compliance and the recovery of the amount of tax due, the penal provisions including imposition of surcharge and penalty are also incorporated in the taxing statutes.

xxv) Before invoking such provisions or adopting coercive measures for the recovery of the amount of tax due, the determination of tax liability through process of assessment or adjudication has to precede before initiating criminal proceedings, which otherwise depend upon willful default, mens-rea and commission of an offence of tax fraud with an intent to cause loss of tax involved or due.

xxvi) It is settled principle of interpretation of taxing statute that any provision of statute cannot be read in isolation, particularly, when it is dependent upon or complimentary to other provision of the law. In case of any ambiguity or overlapping of the provisions of law, harmonious construction is to be made, so that such provision of law may not render the other provisions as redundant or nugatory.

audit or issuance of show cause notice or providing opportunity to explain the matters, registration of F.I.R., initiation of criminal proceeding and arrest of registered person is without jurisdiction and lawful authority.

xxviii) We further hold that criminal prosecution follows adjudication and assessment of tax under Section 11 of the Act, therefore, pre-trial steps including arrest and detention cannot be given effect to unless the tax liability of the taxpayer is determined in accordance with law.

Conclusion: i) See above analysis No.i.

ii) Sale tax is species of indirect tax and it falls on the registered person engaged in the sales, importation, exportation, production and manufacture of goods.

iii) Pivotal provision, in a taxing statute, is the charging provision, and it provides the charge, scope of the levy and quantum of such charge or levy.

iv) See above analysis No. iv.

v) Yes. A complete mechanism of assessment is provided in section 11 of the Act.

vi) See above analysis No. vi

vii) An Officer of Inland Revenue not below the rank of Assistant Commissioner of Inland Revenue or any other officer of equal rank authorized by the Board in this behalf, has the power to arrest when he has the reason to believe that such person has committed tax fraud.

viii) Criminal penalties are linked with the “tax loss” or “amount of tax involved and tax due”.

ix) Sentence cannot be imposed unless liability of sales tax is determined and due through the processes of assessment.

x) See above analysis No.x

xi) The criminal provisions provide for the imposition of fine.

xii) No criminal proceedings can be initiated under the said law without prior assessment of tax.
xiii) That tax liability is a civil liability to be determined through process of Assessment.
xiv) Criminalization without recourse to the assessment proceedings is violative of the settled principles of fairness and fair trial as guaranteed under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973.
xv) Once the Revenue Authorities establish that the default in payment of tax was wilful and there was element of mens-rea on the part of tax payer.
xvi) See above analysis No.xvi
xvii) Yes. The Special Judge is competent to assess tax or determine the amount or loss of tax involved.
xviii) See above analysis No. xviii
xix) The prerequisites are: dependence of fine on the "amount or loss of tax involved." and the window of compoundability available to the taxpayer.
xx) There is no provision of law which authorizes the tax officials to presume any tax liability in the absence of assessment proceedings, and to proceed against a registered person.
xxi) The unbridled powers and authority to impose tax arbitrarily is regulated under the Constitutional restraints.
xxii) Plucking a goose so as to gather the largest amount of feather by causing least squealing.
xxiii) (i) equality, (ii) certainty, (iii) convenience of payment and (iv) economy in collection.
xxiv) Imposition of any tax is a civil liability.
xxv) Determination of tax liability through process of assessment.
xxvi) See above analysis No. xxvi.
xxvii) See above analysis No. xxvii
xxviii) Arrest and detention cannot be given effect to unless the tax liability of the taxpayer is determined in accordance with law.

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9. **Supreme Court of Pakistan**
Muhammad Arif Tarar and another v. Matloob Ahmad Warraich and others
C.P.L.A No.746-L OF 2025
Mr. Justice Shahid Bilal Hassan, Mr. Justice Aamer Farooq
https://www.supremecourt.gov.pk/downloads_judgements/c.p._746_l_2025.pdf

Facts: Petitioner filed an application under Order VI Rule 17 of the Code of Civil Procedure, 1908, seeking amendment of plaint. Trial court dismissed the application and petitioner(s) assailed said order by filing a revision petition, which was allowed by the Additional District Judge, thereby permitting the purported amendment. Respondent(s) filed a writ petition before the Lahore High Court challenging the order of the Additional District Judge concerned. The Lahore High Court accepted writ petition, thereby setting aside the revision order and dismissing the petitioner's amendment application; hence, the instant petition.

Issue: What is the effect of seeking an amendment in pleadings under Order VI Rule 17 CPC at a belated stage of proceedings without adequate justification?

Analysis: While it is true that the courts are empowered under Order VI Rule 17 of the Code of Civil Procedure, 1908 to permit amendment 'at any stage of the proceeding,' this discretion is to be exercised with caution and only in furtherance of justice (…) The petitioner sought to amend a factual assertion—specifically, relating to the 'alleged place' where the oral agreement was made—after a delay of ten years. Such a request raises serious questions about the bona fides of the petitioner(s) (…) The petitioner(s)' amendment was sought after a decade of pendency, and multiple adjournments, all the while failing to lead evidence. The attempt to insert a significant factual detail relating to the alleged oral agreement—namely the location of its execution—after such an extended lapse of time cannot be viewed as a benign clarification. Instead, it appears to be an effort to recalibrate the factual matrix of the petitioner(s)' case in light of the trial's trajectory.

Conclusion: Seeking an amendment in pleadings under Order VI Rule 17 CPC at a belated stage of proceedings, without adequate justification, cannot be allowed where it appears to be tactically motivated, introduces a new factual assertion central to the dispute, and causes prejudice to the opposing party.

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10. **Supreme Court of Pakistan**
Abdul Majeed and others v. Mst. Khalida Bibi (deceased) through LRs and others
C.P.L.A.No.990 of 2022
Mr. Justice Shahid Bilal Hassan, Mr. Justice Miangul Hassan Aurangzaib.
https://www.supremecourt.gov.pk/downloads_judgements/c.p._990_2022.pdf

Facts: The Respondents/plaintiffs instituted a suit for declaration by maintaining therein that predecessor of the parties was owner of agricultural land who died about 10/12 years ago, leaving behind three daughters and two sons; therefore, by operation of law, the respondents/plaintiffs became owner in land to the extent of their shares in the inheritance. The respondents/plaintiffs approached the concerned Halqa Patwari for seeking a copy of record of rights when it transpired that land had already been alienated through gift deed and they are no more owners of the land. Petitioners defended the gift transaction as well as the mutations whereof on the factual and legal parlances and pleaded the validity, genuineness of the transaction. The learned trial court decreed the suit of the respondent(s). The appeal was also dismissed by the learned appellate court and revision against order of appellate court was also dismissed by High Court. Hence this petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 has been brought.

Issue: i) What are basic ingredients of a valid gift?
ii) Whether a party can lead evidence beyond its pleadings in support of a plea?
iii) What are the two parts of gift which are to be independently established by providing of independent evidence?

iv) Whether a party to a suit can take benefits from shortcomings in the evidence of the other party?
v) What will be the period of limitation when the suit is relating to a continuing right?

Analysis: i) The basic ingredients for a valid gift are: offer, acceptance and delivery of possession.
ii) The parties are required to lead evidence inconsonance with their pleadings and that no evidence can be laid or looked into in support of a plea which has not been taken in the pleadings. A party, therefore, is required to plead facts necessary to seek relief claimed and to prove it through evidence of an unimpeachable character.
iii) Gift has two parts namely: the fact of the oral gift which has to be independently established by proving through cogent and reliable evidence the three necessary ingredients of a valid gift as noted above and secondly mutation on the basis of an oral gift has to be independently established and proved by adopting procedure provided in the Land Revenue Act, 1967 and the Rules framed thereunder as well as the evidentiary aspects of the same in terms of the Qanun-e-Shahadat Order, 1984.
iv) It is a well settled principle of law that the plaintiffs cannot get benefit from the weaknesses of the defendants alone, rather they have to prove their case on their own strength.
v) The legal framework governing such a claim, particularly for a suit seeking declaration and a request for consequential relief – such as possession—falls under Article 120 of the Limitation Act, 1908. According to this Article, the limitation period for the suit begins when the right to sue accrues.

Conclusion: i) See above analysis No. i
ii) No evidence can be laid or looked into in support of a plea which has not been taken in the pleadings.
iii) See above analysis No.iii
iv) The plaintiffs cannot get benefit from the weaknesses of the defendants alone
v) See above analysis No.v

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11. **Supreme Court of Pakistan**
Muhammad Ikram, etc v. The State
Jail Petition No.23/2023
Mr. Justice Naeem Akhtar Afghan, Mr. Justice Muhammad Hashim Khan Kakar, Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/j.p._23_2023.pdf

Facts: The petitioners, along with others, were accused of murdering two under-trial prisoners in a daylight attack near court premises. The incident was witnessed by both private individuals and police personnel. The petitioners were identified as assailants, and the case was supported by medical and forensic evidence, including recovery of weapons. The trial court convicted them, awarding death sentences,

which were upheld by the High Court under PPC, while acquitting them under the Anti-Terrorism Act.

Issues: i) Whether the presence of mitigating circumstances arising from personal enmity can justify the conversion of a death sentence into life imprisonment?

Analysis: i) If mitigating circumstances are present, a life imprisonment sentence may be appropriate in lieu of the death penalty. This Court in the case of Ghulam Mohy-ud-Din v State (2014 SCMR 1034) has determined that a Judge may be able to refrain from imposing the death penalty based on a single mitigating circumstance. The courts have acknowledged that the motivations behind the crime may be influenced by personal vendetta rather than a premeditated intent to murder in situations characterized by enmity.

Conclusion: i) See above analysis No i.

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12. **Supreme Court of Pakistan**
M/s Rafhan Maize Products Co. Limited v. The Appellate Tribunal Inland Revenue, Multan and others
Civil Petition No.2672-L- of 2024
Mr. Justice Munib Akhtar Mr. Justice Muhammad Shafi Siddiqui Mr. Justice Miangul Hassan Aurangzeb
https://www.supremecourt.gov.pk/downloads_judgements/c.p._2672_l_24.pdf

Facts: Petitioner being a subsidiary of multinational company engaged in the business of sale of various food products. The petitioner challenged the imposition of further tax under section 3(1A) of the Sales Tax Act, 1990, for sales made during specific tax periods, claiming the supplies were made to registered persons. The High Court upheld the Tribunal's interpretation equating suspended/blacklisted entities to unregistered persons; the Supreme Court reversed this view.

Issue: i) In what way the court is to interpret a fiscal statute?
ii) Which rule of construction should be applied while construing a tax statute?
iii)Does suspension or blacklisting of a registered taxpayer equate to being "unregistered" under fiscal statutes for the purpose of levying further tax?

Analysis: **i)** While dealing with the question of interpreting a taxing Statute in the case of Cape Brandy Syndicate1, Rowlatt, J observed as under:-

> "It simply means that in taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about at tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied, one can only look fairly at the language used." (…)

This jurisprudence is consistently followed by this Court in several cases. In the

case of Hirjina and Co. (Pakistan) Ltd.2 it was observed by this Court as under:-

> "we may here observe that interpreting the taxing statute the Courts must look to the words of the statute and interpret it in the light of what is clearly expressed. It cannot import provisions in the statute so as to support assumed deficiency."

ii) "… in order to contend that, while construing a taxing statute, strict construction is to be placed and in case of any ambiguity, the benefit should be given to the subject. It is a well-settled principle of law that all charges upon the subject must be imposed by clear and unambiguous language and a subject is not to be taxed unless the language of the statute clearly imposes the obligation and language must not be stretched in order to tax a transaction, which, had the Legislature thought of it, would have been covered by the appropriate words. It is also a well-sled principle of construction of a fiscal statute that one has to look merely at what is clearly said and there is no room for any intendment, there is no equity about a tax, there is no presumption as to a tax and nothing is to be read in and nothing is to be implied and one has to look fairly at the language used…."

ii. Can legislative amendments to fiscal laws be applied retroactively to tax periods preceding their enactment?

"… even the petitioner has not questioned its application to the returns under consideration."

No, retroactive application was not addressed as it was not substantiated in the present case.

iii) " in a situation where taxable supplies made to an entity whose registration was either suspended or consequently blacklisted, we may conclude that it is apparently not seen as the requirement of section 3(1A). The ibid provision calls for an additional tax of 1% only in a situation where the person to whom taxable supplies were made "has not obtained registration". Did he or did he not obtain registration is a simple question and the answer would serve the situation. The supplies made to the person was registered and this alone fulfils the prerequisites of section 3(1A). Any consequential event, which in any case has not "cancelled the registration" would not attract the situation of levying further tax of 1% and nothing more could be extracted by applying the above jurisprudence.

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

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13. **Supreme Court of Pakistan**
MST. SABRAN BIBI v. The State
Crl. P.L.A No.379/2025
Mr. Justice Ishtiaq Ibrahim
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._379_2025.pdf

Facts: The Sessions Court (Trial Court) convicted the petitioner under section 9(1)c of CNSA, on the charge of having in possession the charas, and sentenced the petitioner to rigorous imprisonment for nine years. The appeal of the appellant was failed from the High Court. Hence the Criminal petition was filed by the convict petitioner before the Hon'ble Supreme Court.

Issues: i) What is the effect of non-mentioning the name of customer, seizing officer or the witnesses in the site plan?
ii) What is the effect of delay in forwarding the seized items to PFSA?
iii) The accused brought on the record the CDR of the witnesses which shows their absence at the place of occurrence, how it can be beneficial to the accused?
iv) Whether two criminal cases registered against the convict petitioner within the same police station caste doubt and shows mala fide of the police?
v) If the defence put forward by the accused would prove true, whether it would affect the whole prosecution case?

Analysis: i) The site plan (Exh.PD) is silent with regard to the presence of any customer and the presence or positioning of the seizing officer, any accompanying police officials, or the witness to the alleged recovery proceedings. This glaring omission from the prosecution's own documentary evidence undermines the procedural sanctity and evidentiary reliability of the recovery proceedings.
ii) Such an inordinate delay in forwarding the seized items to PFSA inevitably casts a shadow of doubt on the integrity and authenticity of the samples. In such view of the matter the possibility of tampering, substitution, or contamination of the seized narcotics cannot be excluded.
iii) The mere denial by the said prosecution witnesses that their mobile phones were not in their possession at the material time, unsupported by any corroborative evidence such as the production of a second SIM, mobile swap record, or any logical explanation, does not suffice to rebut the documentary evidence produced by the petitioner. It is trite law that where circumstances create reasonable doubt in a prudent mind regarding the truth of the prosecution's case, the accused is entitled to the benefit of such doubt as a matter of right, not of concession.
iv) This sequence of events were in two separate criminal cases were registered against the petitioner within the same police station, and where both share common factual threads, raises serious questions about the prosecution's case. The consistent claim of the petitioner, supported by depositions from prosecution witnesses in the earlier case, lends material credence to her defence narrative. In such circumstances, the possibility of mala fide on the part of the police cannot be ruled out, particularly where animus and prior misconduct stand demonstrated on the record.
v) In a criminal case, it is the duty of the Court to review the entire evidence that has been produced by the prosecution and the defence. If, after an examination of the whole evidence, the Court is of the opinion that there is a reasonable possibility that the defence put forward by the accused might be true, it is clear that such a

view reacts on the whole prosecution case. In these circumstances, the accused is entitled to the benefit of doubt, not as a matter of grace, but as of right, because the prosecution has not proved its case beyond reasonable doubt.

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

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14. **Supreme Court of Pakistan**
Muhammad Amjad Naeem v. The State thr. PG Punjab and another
Criminal Petition No.170-L of 2025
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: The petitioner was denied post-arrest bail by the judgment under challenge, in a case registered under Section 406 of the Pakistan Penal Code (P.P.C.). Consequently, the petitioner has filed this petition seeking leave to appeal.

Issues: i) What are the two requisite elements necessary to establish a case of criminal breach of trust?
ii) What does the term 'entrustment' signify in the context of section 405 P.P.C.?
iii) **In what situations is it determined that no entrustment has been made?**

Analysis: i) 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. Both of these elements need to be present in order to constitute criminal breach of trust.
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. The entrusted property cannot be used by or disposed of in any other manner or for any purpose other than as was decided by the person making the entrustment. In this manner, entrustment creates a fiduciary relationship between the giver and receiver of the entrusted property. However, this does not automatically imply that entrustment has to comply with the technicalities of trust

law.
iii) An entrustment can arise in any situation wherein property has been entrusted in the above discussed manner leading to the creation of a fiduciary relationship between the giver and recipient of the entrusted property. However, there are a number of situations in which no entrustment is made, thereby excluding the possibility of the commission of criminal breach of trust as defined under section 405 P.P.C. Foremost among such situations are those in which money or property is invested, sold or given for a business purpose entailing a promise of profit.

Conclusion: i) See above analysis no.i
ii) See above analysis no.ii
iii) No entrustment is determined in situations where money or property is given for business purposes, such as investments or sales, where the expectation is for a return of profit rather than the return of the original property.

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15. **Supreme Court of Pakistan**
Iftikhar Ali Abbasi and others v. Ghulam Qadir and others.
Civil Petition No. 182 of 2025
Mr. Justice Sardar Tariq Masood, Mr. Justice Mazhar Alam Khan Miankhel
https://www.supremecourt.gov.pk/downloads_judgements/c.p._182_2025.pdf

Facts: The petitioners being defendants in the main suit for possession of the suit property have impugned the order of the High Court, whereby the concurrent findings of decreeing the suit of the respondents by the two Courts below were upheld and the civil revision of the petitioners was dismissed.

Issues: **i)** What is mechanism for assessment of assessment of quantum of mesne profit?
ii) Can a party legally be allowed to argue a new ground, which is not raised in the memo of petition?
iii) Can an alleged specific plea legally be considered as sufficient?
iv) Is court duty bound to record reason for granting permission to produce additional evidence under Order XLI Rule 27 of the Code of Civil Procedure, 1908?
v) Is particulars of document to be mentioned in application for permission to produce additional evidence?

Analysis: **i)** No doubt that mesne profit has been defined in Section 2(12) of the CPC but no specific criteria for award of mesne profit except Rule 12 of Order XX CPC is provided. This rule provides a mechanism for assessment of quantum of mesne profit…Order XX, Rule 12 of the Civil Procedure Code (CPC) deals with decrees related to possession and mesne profits. It allows the court to order an inquiry into the amount of mesne profits payable by a defendant who was in possession of a property, and to pass a final decree accordingly. This rule is particularly relevant in cases where a Section 2(121 of the Code of Civil Procedure (CPC) defines "mesne profits"…A bare perusal of the above rule would make it confirm that no hard and fast mechanism/rules can be made in this regard and the criteria for determining the quantum of mesne profit is subject to enquiry if the trial Court so directs. This

would mean that the quantum of award of mesne profit would depend on case to case basis.

ii) The petitioners have not taken any specific ground qua mesne profit in this petition for leave to appeal. This would amount to an acceptance of all the findings on petitioners. So this argument of the learned counsel has no force at all and legally cannot be allowed to argue a new ground, which is not raised in the memo of petition, unless specially permitted by the Court to argue.

iii) we are unable to see any previous decision qua the suit property between the same parties. Mere alleging a specific plea cannot legally be considered as sufficient unless proved on the record.

iv) No doubt the petitioners had applied for additional evidence and the law on the subject is very much settled but it cannot be claimed as of right and it is for the Court to decide whether any document to be produced or any witness to be examined to enable the Court to pronounce the judgment or for any other substantial cause and also when the Court from whose decree the appeal is preferred has refused to admit such additional evidence and for allowing such evidence to be recorded, the Court has to record reasons for such permission.

v) The perusal of the application for additional evidence moved by the petitioners would reflect that no particulars and details of the documents to be produced as additional evidence has been given by them. Mere a vague application in this regard would not suffice the purpose of an application under Rule 27 ibid.

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

ii) A party legally cannot be allowed to argue a new ground, which is not raised in the memo of petition, unless specially permitted by the Court to argue.

iii) Mere alleging a specific plea cannot legally be considered as sufficient unless proved on the record.

iv) See analysis Para No.iv.

v) See analysis Para No.v.

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16. **Lahore High Court**
Waqar Ahmad Khan v. The National Accountability Bureau, etc.
W.P. No. 21790 of 2025
Ms. Justice Aalia Neelum, (Chief Justice), Mr. Justice Farooq Haider, Mr. Justice Ali Zia Bajwa
https://sys.lhc.gov.pk/appjudgments/2025LHC4392.pdf

Facts: Through constitutional petitions, the petitioners challenged the order directing show cause for withdrawal of interim bail and freezing of bank accounts, raising jurisdictional objections and seeking to declare the said orders malafide and without lawful authority. The matter was referred to a Full Bench to determine the appropriate forum for hearing NAB-related constitutional petitions.

Issues: i) What is the object and scheme of the National Accountability Ordinance, 1999?

ii)Whether, given the seriousness of offences under the NAB Ordinance, it is appropriate for bail petitions to be heard by Division Benches of senior judges?

iii) Which Bench of the High Court has jurisdiction under the National

Accountability Ordinance, 1999, to hear appeals and revisions against final judgments and orders?

iv)What is the pecuniary threshold for an "offence" under the amended NAB Ordinance, 1999?

v)Whether, under the Civil Courts Ordinance, 1962 (as amended) and the High Court Rules & Orders, a regular first appeal with a value exceeding Rs.50 million must be heard by a Division Bench?

vi)Whether, under the amended law, trial courts and High Courts now have jurisdiction to entertain bail petitions in NAB matters, despite this right not being previously available.

vii)Whether, in light of *PLD 2021 SC 756*, the direction of the Supreme Court concerning the hearing of NAB matters by Division Benches remains operative.

viii)Whether, under the roster issued by the Hon'ble Chief Justice, NAB matters are to be heard by Division Benches even though constitutional petitions are otherwise heard by Single Benches.

ix)Whether the Supreme Court's observation is binding obiter dicta requiring Division Benches to hear NAB-related constitutional petitions?

Analysis:

i) The National Accountability Ordinance, 1999, is a federal legislative act and a special law designed to eliminate corruption and corrupt practices, holding individuals accountable for such acts. Its purpose is to ensure proper investigation of corruption cases so that those abusing authority and office are held responsible.

ii)The offences under the National Accountability Ordinance, 1999, are considered serious crimes. Therefore, given the gravity and seriousness of these offences, we believe it appropriate for Division Benches composed of senior Judges to hear bail petitions related to them.

iii)The scheme of the legal frame work under the National Accountability Ordinance, 1999 promulgated (as and amended from time to time) being the special law has specific provisions regarding appeal or revision by virtue of Section 32(b) of National Accountability Ordinance, 1999 about appeals and revisions against final judgment and order and cases in this regard filed before Lahore High Court, Lahore were heard by the Division Benches of this Court. Provisions of Section 32(b) & (c) stipulate that the Hon'ble Division Bench of this Court shall hear both the appeals and revisions. This jurisdiction shall apply to proceedings under the penal provisions of the National Accountability Ordinance, 1999.

iv) As per the amended National Accountability Ordinance, 1999, in section 5(o), the term "Offence" is defined with the threshold to the value not less than Rs.500 million in all aspects and the exact definition is to be read in conjunction with the penal provisions contained in Section 9(a), 30, 31, 33(f) and the Schedule Offences in National Accountability Ordinance, 1999.

v)At this stage, it is relevant to consider that Civil Courts Ordinance, 1962 as amended upto 2016, stipulates that the pecuniary jurisdiction for the determination of forum of an appeal or revision as envisaged in Section 18 of Civil Court Ordinance, 1962 as amended is Rs.50 Million and High Court Rules & Orders Part-V, Chapter-III, Part B, Rule 2(i)(a), reveals jurisdiction of a Single Judge and

Benches of the Court as under:-

"2. (1) Save as provided by these rules, the following cases shall be heard and disposed of by a Division Bench:- (i)(a) A Regular first appeal from the decree of a subordinate court, jurisdictional value of which exceeds that of the District Court prescribed by the Civil Courts Ordinance, 1962 (No.II of 1962) and any cross-objection to decree."

vi)Considering the severity of the offences, it is relevant to mention that at present, the jurisdiction has been granted to the trial courts and High Courts to entertain bail petitions under the amended law, a right that was not previously available.

vii) In the case of "NATIONAL ACCOUNTABILITY BUREAU through Chairman and another. Vs. Agha SIRAJ KHAN DURRANI and eight others" (PLD 2021 Supreme Court 756), the matter was brought before the Hon'ble Supreme Court of Pakistan (…) As mentioned earlier, the direction from the Hon'ble Supreme Court of Pakistan regarding the judgment remains in effect. The nature and scope of the provisions of the NAB Act with reference to the decision of the Hon'ble Supreme Court of Pakistan have been considered. We believe that the direction issued by the Hon'ble Supreme Court of Pakistan, keeping in view the gravity and seriousness of the offence and that the matters should be heard by the Division Bench of the High Court, is intact.

viii) The Hon'ble Chief Justice, under Rule 2, Part A of Chapter III of High Court Rules and Orders, Volume V, is authorized to issue a roster, and once a roster is issued, the benches are authorized to hear the cases. All cases related to NAB, as per the roster, have been assigned to division benches of this Court. All cases concerning NAB are to be heard by the Division Benches, even though the Single Bench typically hears a constitutional petition.

ix) However, the Division Bench should hear constitutional petitions involving NAB-related issues. Even if presented as an observation, such a statement functions as binding obiter dicta, given the Supreme Court's authoritative role in the country's judicial hierarchy. It is now well-understood that the obiter dicta of the Supreme Court are binding on all other courts.

Conclusion: i) The NAB Ordinance aims to eliminate corruption through accountability.

ii) It is appropriate, considering the gravity of offences, for bail petitions under the NAB Ordinance to be heard by Division Benches of senior judges.

iii) Division Benches have jurisdiction to hear such appeals and revisions.

iv) An offence falls under the NAB Ordinance only if it involves Rs.500 million or more.

v) A regular first appeal exceeding Rs.50 million must, by statutes and rules, be heard by a Division Bench.

vi) Under the amended law, trial courts and High Courts now have jurisdiction to hear bail petitions in NAB cases.

vii) The Supreme Court's direction that NAB matters be heard by Division Benches remains is intact.

viii) By virtue of the roster issued by the Hon'ble Chief Justice, NAB matters stand assigned to Division Benches, irrespective of their nature as constitutional petitions.

ix) It is binding obiter dicta that Division Benches hear NAB-related constitutional petitions.

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17. **Lahore High Court**
Muhammad Yaseen v. Govt. of Pakistan etc.
Writ Petition No. 37044 of 2024.
Mr. Justice Shujaat Ali Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC4079.pdf

Facts: The petitioner, while serving as an Officer Grade-I in a bank, was deputed to another government agency where his performance was consistently rated as outstanding; he was promoted to Assistant Vice President based on his service; however, his subsequent promotion to Vice President was denied due to alleged deficiencies in his performance appraisals; petitioner filed writ petitions and a contempt petition, which were disposed of with directions to seek remedy through representation before the competent authority. Upon rejection of his representation, petitioner approached this Court through the present constitutional petition.

Issues: i) Whether a constitutional petition is maintainable when the service rules are statutory in nature?
ii) Whether a conditional agreement is enforceable if the stipulated condition is not fulfilled within the prescribed period?
iii) Whether a dubious undertaking can be used against a party involved in multiple litigations with the other side?
iv) Whether the Bank is bound to implement the Countersigning Authority's order for improving an employee's APA rating over that of the Reporting Officer?

Analysis: i**)** If rules governing terms and conditions of service of an employee are statutory in nature, jurisdiction of this court to entertain a matter on behalf of such employee cannot be abridged.
ii) It is well settled by now that a conditional/ contingent agreement or compromise or contract loses its efficacy if the stipulated condition is not fulfilled by either side within the prescribed period and nobody can claim its enforcement.
iii) If the fate of the referred Undertaking is considered in the light of the afore-quoted judgment, there leaves no doubt that the same being dubious in nature cannot be used against the petitioner especially when the petitioner remained en-locked in multiple litigation with the Bank.
iv) When an employee of the Bank is on deputation in another department, remarks in his APAs by the supervisory authority in the borrowing department can be substituted by the Bank authorities while showing his posting in the Bank. Likewise, in none of the cases, under discussion, it has been declared that Bank management is not bound to implement order of the Countersigning Authority towards betterment of the rating of an employee in the APA as compared to that of the Reporting Officer.

Conclusion: i) A constitutional petition is maintainable when the service rules are statutory in nature.

ii) A conditional agreement is not enforceable if the stipulated condition is not fulfilled within the prescribed period.
iii) A dubious undertaking cannot be used against a party involved in multiple litigations with the other side.
iv) The Bank is bound to implement the Countersigning Authority's order for improving an employee's APA rating over that of the Reporting Officer.

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18. **Lahore High Court**
Abuzar Ghaffary v. Province of the Punjab etc
W.P.No.27688/2023
Mr. Justice Abid Aziz Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4120.pdf

Facts: The petitioner was removed from the service under section 4(1)(b)(v) of the Punjab Employees Efficiency, Discipline and Accountability Act, 2006 (PEEDA) after dispensing with the regular inquiry. Petitioner's departmental appeal was also declined, hence this Constitutional Petition.

Issues: i) What procedure will be followed under PEEDA if a regular inquiry is dispensed with?
ii) What duration of unauthorized absence from duty justifies the penalty of compulsory retirement or removal or dismissal from service?
iii) What length of absence confers discretion upon the authority to impose any one or more penalties prescribed under section 4 of the PEEDA?
iv) Is section 13(5)(ii) of the PEEDA *pari materia* withs ection 7(f)(ii) of PEEDA differing only in the inquiry procedure?

Analysis: i) Where the regular inquiry is dispensed with, the procedure prescribed under section 7 of PEEDA is to be followed.
ii) Where charge of absence from duty for a period of more than one year is proved, the penalty of compulsory retirement or removal or dismissal from service shall be imposed upon the accused.
iii) When the absence from duty is less than one year, the Authority has "discretion" to impose any one or more penalties prescribed under section 4 of the PEEDA.
iv) It is relevant to note that the provision of section 13(5)(ii) of the PEEDA is *pari materia* of section 7(f)(ii) of PEEDA except the former pertain to regular inquiry and later deals with procedure when inquiry is dispended with.

Conclusion: i) Procedure prescribed under section 7 of PEEDA.
ii) Absence from duty for a period of more than one year.
iii) Absence from duty less than one year
iv) See above analysis No. iv

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19. **Lahore High Court**
Nasir Jabbar v. Khalid Mahmood Akhtar (deceased) through his real father as his LR, etc.
Writ Petition No.2348 of 2017
Mr. Justice Sadaqat Ali Khan, J.
https://sys.lhc.gov.pk/appjudgments/2025LHC4228.pdf

Facts: Brief facts are that during pendency of the suit, plaintiff(s) produced witnesses before learned trial Court well mentioned in its interim orders but without recording their evidence, case was adjourned on the request of the defendant(s) or otherwise. According to interim orders witnesses of plaintiff(s) were present before the Court to record their evidence but case was adjourned on the request of the defendant(s) with a direction that evidence of the witnesses shall be recorded on the next date of hearing. On that date, witnesses were present before learned trial Court to record their evidence but learned counsel for the defendants raised objection that evidence of the witnesses alien to the list of witnesses could not be recorded, where after learned Civil Judge accepted the objection and did not allow the witnesses present in Court to record their evidence .Civil Revision filed by the plaintiff(s) against said order was dismissed by learned District Judge, Rawalpindi, hence this petition.

Issue: i) Whether a witness, present in Court but not named in the list of witnesses, required to be submitted within prescribed time, can lawfully be examined or not?

Analysis: i) Relevant Order XVI Rules 1 (1) (2) and 7 CPC are hereby reproduced as under:-

"ORDER XVI: SUMMONING AND ATTENDANCE OF WITNESSES

1. **Summons to attend to give evidence or produce document**. -- (1) Not later than seven days after the settlement of issues, the parties shall present in Court a [certificate of readiness to produce evidence, alongwith a] list of witnesses whom they propose to call either to give evidence or to produce documents.

   (2) A party shall not be permitted to call witnesses other than those contained in the said list, except with the permission of the Court and after showing good cause for the omission of the said witnesses from the list; and if the Court grants such permission, it shall record reasons for so doing.

   Power to require persons present in Court to give evidence or produce document. -- Any person present in Court may be required by the Court to give evidence or to produce any document then and there in his possession or power."

It is crystal clear that embargo under Sub-Rule (2) of Rule 1 of Order XVI CPC (reproduced above) is limited only to the witnesses who are to be summoned through the Court and does not extend to the witnesses who are to be produced voluntarily without involving the summoning powers of the Court, rather parties to the suit can produce their witnesses on their own before learned trial Court to record their statements alien to the list of witnesses required to be submitted within stipulated period under Sub-Rule (1) of Rule 1 of Order XVI CPC.

Conclusion: i) See above analysis No. i

20. **Lahore High Court**
Abdul Sattar v. Government of Punjab through Secretary Taxes, Revenue Department, Lahore and 3 others
Writ Petition No.2649 of 2023
Mr. Justice Mirza Viqas Rauf
https://sys.lhc.gov.pk/appjudgments/2025LHC4190.pdf

Facts: The petitioner purchased industrial land and paid stamp duty using the rate for flour mills due to the absence of specific ghee mill rates in the valuation table. An audit later revealed duty was paid for only 1 Bigga instead of the full area, leading to a deficiency notice. The petitioner contested the demand, but successive forums upheld the audit findings and directed recovery of the shortfall with penalty. Hence; this petition.

Issues: i) What is the object of the Stamp Act, 1899 and how is the valuation of immovable property determined under it?
ii) Who is authorised under the Act, 1899 to impound an instrument not duly stamped?
iii) Whether there is any legal impediment to the competent authority initiating proceedings and claiming deficient stamp duty on the basis of an audit note?

Analysis: i) The prime object and purpose of the Act, 1899 is to consolidate and amend the law relating to stamps. Section 3 of the Act,1899 signifies the instruments chargeable with duty. Manner and mode of payment of duties is prescribed in Section 10 of the Act, 1899. Section 27-A of the Act, 1899, provides the mechanism how the valuation of the immoveable property is to be calculated.
ii) From the bare perusal of Section 33 of the Act, 1899, it clearly manifests therefrom that every person having by law or consent of parties authority to receive evidence and every person in charge of a public office other than a police officer, before whom any instrument chargable with duty is either produced or comes in the performance of his functions shall if it in his opinion is not duly stamped, impound the same.
iii) After having a brief survey of relevant facts as well as applicable law, it can safely be observed that the proposition involved herein is neither intricate nor ticklish. The only question emerges for resolution is that when both sides are not disputing the mentioning of industrial rates of Flour Mill (above 04- kanal) i.e. Rs.82,280,000/- per Bigga in the sale deed then how much of the stamp duty is to be paid/levied by the petitioner on the sale instrument. The petitioner even himself valued his land in the sale deed as per D.C. rates as Rs. 82,280,000/- per Bigga but admittedly the total land, subject matter of sale deed, was 49-kanals 02 marlas which comes to 12.275 Bigga and thus the petitioner's sale deed, at the face of it, was not sufficiently stamped. This anomaly was observed by the Audit Officer, who then placed the matter before the Collector and as such petitioner was confronted with the demand notice of stamp duty deficiently paid and rightly so.

Conclusion: i) The Act aims to regulate stamp duties, detailing chargeable instruments, payment methods, and valuation of immovable property.
ii) Authorities empowered to receive evidence or in charge of public offices must impound unstamped or insufficiently stamped instruments
iii) Stamp duty must match the full land area at the declared rate.

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21. **Lahore High Court**
Commissioner Inland Revenue, Cantt Zone, Regional Tax Office, Rawalpindi v. Mr. Lal Faqeer & another
Income Tax Reference No.109 of 2024
Mr. Justice Mirza Viqas Rauf, Mr. Justice Rasaal Hasan Syed
https://sys.lhc.gov.pk/appjudgments/2025LHC4127.pdf

Facts: The taxpayer was confronted with unexplained investments by the tax department, leading to a revised assessment and tax demand. The appellate authority annulled the revised assessment, prompting the department's reference.

Issues: i) Can an assessment be amended under Section 122 of the Income Tax Ordinance, 2001 without first initiating and concluding proceedings under Section 111?
ii) Can simultaneous initiation of proceedings under Sections 111 and 122(9) be justified based on an earlier Supreme Court judgment, despite a later binding precedent requiring completion of Section 111 proceedings first?

Analysis: i) From the bare reading of the above provision of law, it is obvious thereunder that the Commissioner has been empowered to amend an assessment order: treated as issued under Sections 120 or 121 of the Ordinance by making such alterations or additions, as the Commissioner considers necessary… However, under Section 122(5) of the Ordinance, an assessment order in respect of a tax year, or an assessment year, shall only be amended under sub-section (1) and an amended assessment for that year shall only be further amended under sub-section (4) where, on the basis of definite information acquired from an audit or otherwise, the Commissioner is satisfied that any of the grounds in the said provisions are sufficient enough to make amendments… Section 122(8) of the Ordinance provides what constitutes definite information for the purposes of this provision… On the other hand, sub-section 9 of Section 122 of the Ordinance stipulates that no assessment shall be amended, or further amended, under this Section unless the taxpayer has been provided with an opportunity of being heard… From the joint analysis of both the above provisions of law, it becomes crystal clear that initiation and culmination of the proceedings under Section 111 of the Ordinance are sine qua non before taking any action in terms of Section 122 of the Ordinance to amend the assessment on the basis of proceedings undertaken under Section 111 of the Ordinance.
ii) So far as contention of learned counsel for the applicant department that in the light of principles laid down in case of Commissioner Inland Revenue Zone Bahawalpur, Regional Tax Office, Bahawalpur versus Messrs Bashir Ahmed (Deceased) through L.Rs.(2021 SCMR 1290) there is no impediment in the way of

applicant department to proceed under Section 111 and 122(9) of the Ordinance simultaneously…in the said case, notice under Sections 122(1), 122(5) and 122 (9) of the Ordinance was issued in the first instance which followed the notice under Section 111 of the Ordinance…The above cannot be termed as ratio decidendi and it may be an obiter dictum.. Even otherwise, in the case of Messrs Millat Tractors Limited, Lahore, supra, Bench of equal members of the Hon'ble Judges of the Supreme Court of Pakistan when held in clear terms that the proceedings under Section 122(9) of the Ordinance cannot be launched unless the proceedings under Section 111 of the Ordinance are initiated and completed, the judgment in the case of Messrs Millat Tractors Limited, Lahore, supra, is later in time which without any hint of doubt shall prevail.

Conclusion: i) No, an assessment cannot be amended under Section 122 without first initiating and concluding proceedings under Section 111.
ii) No, simultaneous initiation under Sections 111 and 122(9) is not justified when a later binding precedent mandates completion of Section 111 proceedings first.

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22. **Lahore High Court**
Jamia Masjid Hanfia Attock through President Rashid Rehman v. Mst. Surraya Bibi and 2 others
Civil Revision No.1133 of 2014
Mr. Justice Mirza Viqas Rauf
https://sys.lhc.gov.pk/appjudgments/2025LHC4343.pdf

Facts: The petitioner filed this revision petition challenging the order of first appellate court, whereby, the application of respondent under order 1, Rule 10 CPC was allowed. The respondent moved such application, before the 1st appellate court, being the subsequent purchaser of the suit property.

Issues: i) What is the object and purpose of Section 52 of the Transfer of Property Act, 1885?
ii) Whether any impediment is there in the way of subsequent purchaser to claim his impleading in the pending proceeding?
iii) Whether the subsequent purchaser could be impleaded as party at appellate stage?
iv) Whether a subsequent purchaser could claim any independent right, or to be impleaded in the pending proceedings?

Analysis: i) The very purpose and object of this provision is to protect the parties to the litigation against alienation of the property by their opposing party during the pendency of the litigation, so as to avoid deprivation of any right or interest of such party which he ultimately be held entitled by the court on the one hand and on the other to stop the adversary from alienating the property to a person alien to proceedings as it would result into an endless litigation. Prime principle embodied in Section 52 of the Act, 1882 is that if somebody purchases the property during the pendency of the litigation, he is bound to follow the decision of the court as his purchaser and he has to swim and sink together with his transferor and would be

precluded to claim any independent right or protection in the garb of such transfer of property. Section 52 of the Act, 1882 thus safeguards the rights and interests of the parties to litigation and discourages the alienation of the property subject matter of litigation to be alienated during the pendency.

ii) By virtue of Section 146 of the C.P.C. where any proceeding may be taken or application made by or against any person, then the proceeding may be taken or the application may be made by or against any person claiming under him. In furtherance Order I of the C.P.C. deals with the parties to suits and sub-rule (2) of Rule 10 of Order I of the C.P.C. postulates that the court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name, of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added. To this effect reference can also be made to Order XXII Rule 10 of the C.P.C. which regulates the procedure of the suit and provides that in case of assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the court, be continued by or against the person to or upon whom such interest has come or devolved.

iii) Section 107 of the C.P.C. bestows powers upon the appellate court as conferred and imposed by the C.P.C. on court of original jurisdictions in respect of suits instituted therein subject to conditions and limitations prescribed therein.

iv) A subsequent purchaser cannot claim any independent right or interest as compared to his transferor (vendor) but at the same time he is not precluded to claim his impleading as party in the pending proceedings because if his transferor opts to keep himself aloof from the proceedings after parting with his rights and interests in the property latter if not allowed to be impleaded would be deprived of his right to defend his cause and it would naturally offend the principle of natural justice.

Conclusion: i) The very purpose and object of this provision is to protect the parties to the litigation against alienation of the property by their opposing party during the pendency of the litigation, so as to avoid deprivation of any right or interest of such party.

ii) There is no impediment in the way of subsequent purchaser to claim his impleading in the pending proceeding.

iii) By virtue of section 107 of CPC appellate court has all the powers which a trial court has in its original jurisdiction. Therefore, the subsequent purchaser could be impleaded as party at appellate stage.

iv) A subsequent purchaser cannot claim any independent right or interest as compared to his transferor (vendor) but at the same time he is not precluded to claim his impleading as party in the pending proceedings.

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23. **Lahore High Court**
Jhelum Homeopathic Medical College v. Federation of Pakistan and others.
Writ petition no.401 of 2022
Mr. Justice Mirza Viqas Rauf
https://sys.lhc.gov.pk/appjudgments/2025LHC4022.pdf

Facts: The petitioners, who are institutions offering education in the field of Homeopathy, challenged the vires of Section 21(2) of the Unani, Ayurvedic and Homoeopathic Practitioners Act, 1965, as amended through the Act of 2021. They argued that the revised minimum eligibility criteria for admission raised from Matriculation to Intermediate (F.Sc. Pre-medical) with preference to higher science qualifications discriminated against students seeking admission in Homeopathy, and infringed their fundamental rights under Articles 4, 8, 18, 25, and 25A of the Constitution. The respondents, including the Federation of Pakistan, defended the amendment, asserting its constitutionality and necessity for maintaining educational standards.

Issues: i) Definition of ‘‘Homeopathy’’ as per Ayurvedic and Homoeopathic Practitioners Act, 1965.
ii) Definition of ‘‘Unani and Ayurvedic System of Medicine’’ as per Ayurvedic and Homoeopathic Practitioners Act, 1965.
iii) Whether there exists a prescribed mechanism for recognizing institutions that offer instruction in Unani, Ayurvedic, or Homeopathy systems of medicine?
iv) Amendment introduced in Ayurvedic and Homoeopathic Practitioners Act, 1965, enhancing the admission criteria for Homeopathy institutions to Intermediate with Science (F.Sc. Pre-medical).
v) Whether a constitutional challenge to legislation requires the challenger to prove that the law is in direct conflict with fundamental rights or constitutional mandates?
vi) Whether the principle of equality under Article 25 of the Constitution permits reasonable classification among differently placed persons?
vii) Whether the right to equality permits differential treatment based on intelligible differentia among unequals?

Analysis: i) Section 2 of the Act, 1965 provides definition of various terms used therein and Sub-Section (c) defines “Homoeopathy” as under:- (c) “Homoeopathy” means the Homoeopathic system of medicine, including the Bio-Chemic system of medicine, and “Homoeopath” means a practitioner of Homoeopathy, or Bio-Chemic System of Medicine;
ii) Sub-Section (k) of Section 2 of the Act, 1965 on the other hand provides definition of “Unani and Ayurvedic System of Medicine”, which reads as under:- (k) “Unani and Ayurvedic System of Medicine” means the Unani, Tib and Ayurvedic (including the Siddha) system of medicine, whether supplemented or not by such modern advances as the Council may, from time to time, determine’’
iii) Chapter II of the Act, 1965 deals with the teaching institutions and examinations and Section 17, being its part, provides mechanism for recognition of institutions imparting or desire to impart instructions in the Unani, Ayurvedic or Homeopathy System of Medicine according to the courses provided by the rules.

iv) Homeopathy and Unani or Ayurvedic System of Medicine are two different entities. Though initially, minimum qualifications for admission to recognized institutions of both was fixed as Matriculation with Science or equivalent examination of any University or Education Board in Pakistan but in the case of Unani or Ayurvedic System of Medicine, the preference was given to those having higher education with Science alongwith additional qualifications mentioned in Sub-Section (1) of Section 21 of the Act, 1965 but for the admission in Homeopathy in terms of Sub-Section (2) of Section 21 of the Act, 1965, preference was to be given to the candidates having intermediate and higher education with Science. Keeping in view the specific nature, the minimum qualifications required for admission to recognized institutions of Homeopathy, was, however, changed from Matriculation to Intermediate with Science (F.Sc. Pre-medical) or equivalent examination of any university or education Board in Pakistan established by or under any law for the time being in force but the candidates having Bachelor or higher education with science were given preference by introducing amendment through the Act, 2021.

v) There is no cavil that judiciary can examine the vires of legislation on the touchstone of the Constitution but the person throwing any challenge to the provisions of a statute is obliged to demonstrate that it either offends any of the fundamental rights or abrogate the provisions of the Constitution. Guidance to this effect, if needed, can be sought from Messrs SUI SOUTHERN GAS COMPANY LTD. and others versus FEDERATION OF PAKISTAN and others (2018 SCMR 802).

vi) Article 25 of the Constitution ordains that all citizens are equal before law and entitled to equal protection of law and also guarantees that there shall be no discrimination on the basis of sex but by now it is well entrenched principle that equality does not prohibit classification for differently placed persons. The doctrine of reasonable classification is founded on the assumption that the State has to perform multifarious activities and deal with a vast number of problems.

vii) Right of equality of citizens is always founded on an intelligible differentia, which distinguishes persons or things that are grouped together from those, who have been left out. Right of equality is always to be weighed amongst equal in all respects and it is not necessary that every citizen shall be treated alike in all eventualities.

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) Judiciary can examine the vires of legislation on the touchstone of the Constitution by establishing that such legislation offends any of the fundamental rights or abrogate the provisions of the Constitution.

vi) By now it is well entrenched principle that equality does not prohibit classification for differently placed persons.

vii) Right of equality is always to be weighed amongst equal in all respects and it is not necessary that every citizen shall be treated alike in all eventualities.

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24. **Lahore High Court**
Muhammad Saadullah etc. v. Province of Punjab through District Collector, Mandi Bahauddin
R.F.A. No.31408/2019
Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Malik Waqar Haider Awan
https://sys.lhc.gov.pk/appjudgments/2025LHC3988.pdf

Facts: The plaintiffs filed a suit for declaration, possession, and injunction over agricultural land, claiming inheritance from ancestors who allegedly owned the land per old revenue records but migrated during a health crisis. They alleged wrongful declaration of the land as state property. The defendants denied ownership, heirship, and raised limitation. The learned Civil Judge dismissed the suit, leading to this appeal.

Issues: i) Does fraud nullify even the most solemn legal proceedings and invalidate any gains obtained through it?
ii) Is a pedigree table alone sufficient to prove a relationship under Article 64 of the Qanun-i-Shahadat Order, 1984?
iii) Can a suit for declaration be entertained if filed after an extensive delay without a convincing day-to-day explanation?
iv) Can additional evidence be admitted at the appellate stage if it was available during trial but not presented, and is now being used merely to strengthen a weak case?

Analysis: i) It is settled law that fraud vitiates the most solemn proceedings and any edifice so raised on the basis of such fraudulent transaction, that stand automatically dismantled and any ill-gotten gain achieved by fraudster cannot be validated under any norms of laws.
ii) It is well settled that pedigree table alone by itself is not a conclusive proof of relationship unless relationship is proved through other corroborative, affirmative and trustworthy evidence as enunciated under Article 64 of Qanun-i-Shahadat Order, 1984.
iii) after lapse of about 110 years whereas Article 120 of the Limitation Act, 1908, prescribed a period of six (6) year for filing suit for declaration as such the suit of the appellants/ plaintiffs is badly time barred. The appellants/plaintiffs were under legal obligation to explain the reasons of delay of each and every day but no such convincing reason/explanation has been furnished for delayed filing of the suit and non-furnishing of the convincing explanation of delay disentitled the suitor for condonation of the delay.
iv) As regard the application under Order XLI Rule 27 C.P.C (…) for bringing on record different documents as additional evidence is concerned, suffice it to say that the appellants/plaintiffs have not pointed out any ground whereby the documents attached with this application may be considered vital for decision of

instant case. Further, these documents were available to the appellants/plaintiffs but they neither mentioned the same in the plaint, nor placed reliance or appended the same with plaint or produced in evidence before trial court as such at this belated stage it cannot be permitted to bring on record these documents. The appellants/plaintiffs intend to patch up weak portions of their case which cannot be allowed at this belated stage.

Conclusion: i) Fraud vitiates all legal proceedings and renders any gains from it legally invalid.
ii) A pedigree table alone does not prove relationship without corroborative and trustworthy evidence.
iii) A suit filed after an extraordinary delay without daily justification is time-barred and not entitled to condonation.
iv) Additional evidence available at trial cannot be introduced on appeal merely to strengthen a weak case.

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25. **Lahore High Court**
Province of the Punjab through its Chief Secretary etc. v. Chand Iqbal etc.
I.C.A No. 13336/2022
Mr. Justice Ch. Muhammad Iqbal & Mr. Justice Malik Waqar Haider Awan
https://sys.lhc.gov.pk/appjudgments/2025LHC3999.pdf

Facts: The respondents appointed as Deputy Accountant through Punjab Public Service Commission ("Commission"). Due to the allegation of leakage of 12 papers the "Commission" withdrew the result of tests/interviews. The finance department also terminated the services of respondents. The respondents assailed the termination in Writ petitions, which were accepted by the learned single Judge of High Court. Hence, the appeal (I.C.A) was filed by the Govt. of Punjab.

Issues: i) Whether the Govt. has power of termination of services of an employee during probation period without serving any notice?
ii) In which cases of termination of an employee the prior show cause notice is not necessary?
iii) In which cases the "Commission" can withdraw its earlier recommendations sent to the concerned department?
iv) Whether the High Court in its suo moto jurisdiction can grant a relief which has not been prayed?
v) Whether the "Commission" has power to conduct the test again?

Analysis: i) Even otherwise, Section 10 (1)(i) of the Punjab Civil Servants Act, 1974 empowers to the government to terminate the services of an employee during probation period even without serving any notice.(---) The services of the appellants/probationers could be terminated without notice during initial or extended period of probation.
ii) Where no stigma of misconduct including inefficiency or corruption was attached, same would be a case of termination simpliciter thus, question of any prior show cause notice would not arise.

iii) As per the Regulation 26 and 63 of Regulations-2016, the Commission is also competent to withdraw its earlier recommendations sent to the concerned department if a person has been found deficient in any conditionality regarding his / her eligibility as a candidate and if any error or omission in result or merit is found, even after dispatch of recommendation to the concerned department.

iv) Another aspect of the matter is that in the writ petition the respondents only challenged the termination letters whereas the withdrawal of the recommendations by the Commission in term of Regulation 26 read with Regulation 63 of Regulations-2016 were not challenged by the respondents. The respondents also did not challenge the decision of Commission dated 28.01.2021 and decision dated 07.04.2021 of Full Commission but learned Single Judge in Chamber in a suo moto action [in paragraph No.9 of the impugned judgment] also set aside the said decisions whereas it is well-settled law that High Court is debarred to take suo moto action due to want of jurisdiction in this regard.

v) The respondents/candidates who are opposing this withdrawal of recommendations had no vested right in the examination conducted by the respondents and the Commission has jurisdiction under the principle of the locus poenitentiae as well as Section 21 of the General Clauses Act, 1897 to make decision to conduct said test again and the said re-test will cause no prejudice to those candidates because if they have confidence in their abilities and intellect, then obviously in the next examination they would again be with better position.

Conclusion: i) The government has power to terminate the services of an employee during probation period even without serving any notice.

ii) See analysis No.ii.

iii) See analysis No.iii

iv) See analysis No.iv.

v) Commission has jurisdiction to make decision to conduct test again.

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26. **Lahore High Court**
DG Khan Cement Company Limited etc v. The Province of Punjab etc.
W.P. No. 49176/2024
Mr. Justice Ch. Muhammad Iqbal, Mr. Justice Hassan Nawaz Makhdoom, Mr. Justice Malik Waqar Haider Awan
https://sys.lhc.gov.pk/appjudgments/2025LHC3979.pdf

Facts: The petitioners, engaged in manufacturing cement, challenged the amendment in Rule 66 of Punjab Mining Concessions Rules, 2002 and related notifications increasing royalty rates based on ex-factory sale price of cement, alleging that such amendments were ultra vires the governing law and Constitution.

Issues: i) Whether the Government is competent under the Regulation of Mines & Oil Fields and Mineral Development (Government Control) Act, 1948, to amend Rule 66 of Punjab Mining Concessions Rules, 2002 and enhance royalty rates?

ii) Whether royalty constitutes a tax or compensation for use of property?

iii) Whether the principles of natural justice, particularly the right of hearing, were

violated by amending the Rules without hearing the petitioners?

Analysis: i) Under Section 2 of the Regulation of Mines and Oil Fields and Mineral Development (Government Control) Act, 1948, the government is competent to make Rules for exploration, mining and other production activities including the determination of rates and the conditions subject to which the royalties, rents and taxes are to be paid by licensees, lessees and grantees of mining concessions. (...) Rule 66 of the Rules ibid provides for the charging of royalty in respect of any mineral/different categories of minerals on the basis of fair market value. Sub-rule (1)(a) of Rule 66 of the Rules ibid, the government is empowered to notify the rates of the minerals. In this way, the government is empowered to charge the royalty of the minerals as provided in sub-Rule (1) of Rule 66 and the rates of royalty for construction and industrial minerals are to be notified by the government whereas determination of fair market value is to be made under sub-Rule (2) of Rule 66 of the Rules ibid.(...) The said amendment was approved by the Provincial Cabinet in its meeting held on 09.07.2024 after detail discussion in the light of dictum laid down by the Hon'ble Supreme Court of Pakistan in Messrs Mustafa Impex's case.(…). The Government under the Act, 1948 is competent to determine the rate of royalty. (…) The rate of royalty is neither arbitrary nor unreasonable. Further, the government is competent to enact or amend the Rules. The detail discussion and deliberations were made by the Provincial Government and thereafter, the amendments were approved. (...) Even otherwise, the amendment made by the Provincial Government is neither excessive nor impermissible rather it was fair compatibility according to the changed fiscal scenario as well as devaluation of currency. The Provincial Cabinet approved the amendment and Rules, 2002 upon which the Provincial Government notified the same. Thus, the amendment cannot be stigmatized as excessive delegation given the nature of mining operation and its peculiar details.

ii) As regard the argument (…) the royalty is a tax, suffice it to say that royalty is a share in produce reserved by the owner for permitting another person to explore and use the property. It is compensation and share of the product or profit reserved by the owner for permitting another person to use them.

iii) As regard (…) that while amending the Rules, 2002, the government did not afford hearing to the petitioners as such the said amendment/notification is against the law, suffice it to say that as discussed above, the Provincial Government is competent to frame/amend the Rules, 2002. Further, as per the terms & conditions of the agreement settled between the parties, the Provincial Government can revise rate of royalty from time to time as such there is no need to hear the petitioners. It is prerogative of the government to fix the rate of royalty and to make or amend the Rules, hence the principle of audi alteram partem is not applicable in this case.

Conclusion: i) The Government is competent under the governing law to amend Rule 66 and revise the royalty rates.

ii) Royalty is compensation for use of property, not a tax.

iii) The principle of audi alteram partem, is not attracted in the process of amending

royalty rates.

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27. **Lahore High Court**
Waqas Ahmad v. Dr. Muhammad Sarwar Khan, the Pro-Vice Chancellor, University of Agriculture, Faisalabad & another
Crl. Org. No.13091 of 2025
IN
W. P. No.4960 of 2025
Mr. Justice Muhammad Sajid Mehmood Sethi
https://sys.lhc.gov.pk/appjudgments/2025LHC4141.pdf

Facts: Brief facts are that during the pendency of this contempt petition, certain connected cases, pending adjudication before this Court, have been transferred to some other learned Bench upon submission of a power of attorney by an Advocate, whose name was placed in the "not before list" of this Court, which was not permissible under the law. They argue that neither power of attorney of such counsel could be filed in a pending case nor the same could be entertained by the office, rather the matter ought to have been placed before the Hon'ble Chief for obtaining permission to appear before the same Judge.

Issue: i) What is definition of Recusal in Black's Law Dictionary, (Seventh Edition)?
ii) Under what circumstances recusal may be sought?
iii) Whether judges readily accede to the request of their recusal from hearing a case and to decide the matter?
iv) How the court should adopt a balanced approach upon disclosure of a fact or situation that could give rise to a real risk of bias?
v) Under what circumstances recusal may become necessary?
vi) If a power of attorney is filed by an advocate in a pending case and the name of such advocate has been placed on the "not before it" of the Court, what would be the proper procedure, and who is competent to decide whether such advocate is permitted to appear in the case ?
vii) What is the current practice or prevailing practice regarding" not before list" and whether it should continue?

Analysis: **i)** "Removal of oneself as judge or policy-maker in a particular manner, esp. because of a conflict of interest".
While "recusation" has been given the meaning of:-
"1.Civil Law. An objection, exception, or appeal; esp., an objection alleging a judge's prejudice or conflict of interest.
ii) Recusal is sought solely to address circumstances where a conflict of interest or perceived bias may arise, potentially undermining the impartial and fair dispensation of justice.
iii) Judges should not readily accede to the request for their recusal from hearing a case and decide the matter of their recusal after properly weighing the ground agitated for making such request. Where it is apparent that the perception of impartiality is being created for some ulterior motive without any sound basis, the

judge must not yield to such strategy and abdicate performance of his duty.

iv) If, in any circumstance, a Judge becomes aware of a fact or situation that could reasonably give rise to a real risk of bias, it is generally prudent to disclose such information to the parties prior to the commencement of the hearing. Upon such disclosure, if an objection is raised, the Judge must approach it with a balanced and principled view: it would be equally improper to yield to a frivolous or unfounded objection as it would be to dismiss an objection that is substantial and well-grounded. However, where a reasonable and genuine doubt exists regarding the Judge's impartiality, such doubt must be resolved in favour of recusal in order to uphold public confidence in the judicial process. Conversely, where full and proper disclosure has been made and no objection is raised at the relevant time, the concerned party cannot subsequently claim that the disclosed matter gave rise to a real likelihood of bias.

v) If a Judge becomes aware that a personal bias or an improper consideration has influenced, or is likely to influence, the adjudicatory process to such an extent that it threatens judicial impartiality, recusal may become necessary.

vi) Rule 2 of Part-A, Chapter 6 of the Lahore High Court Rules and Orders, Volume V, reads as under:-

> "An Advocate shall not appear before a Judge with whom he has any tie or prospective tie of relationship except with the permission of the Chief Justice."

….(…) the proper course would be that, once a power of attorney is filed in a case pending before this Court by an Advocate whose name appears on the "not before list" of this Court, the matter shall first be placed before the Hon'ble Chief Justice for permission to receive such power of attorney. Upon grant of such permission, the case shall then be placed before the learned Bench seized of the matter, which, in the exercise of its judicial discretion, may determine whether to disclose the circumstances to the parties or to recuse itself, as may be appropriate, in order to uphold the institutional integrity of the Court.

vii) In this view of the matter, the current practice of the Office of this Court—whereby, upon the filing of a power of attorney by an Advocate whose name is on the "not before list", the case is reallocated to another learned Bench—is to be discontinued forthwith, as it is not supported by any formal policy, rule, or recognized legal principle and the procedure mentioned in the afore-referred rule is to be followed by the Office.

Conclusion: i) See above analysis No. i

ii) See above analysis No. ii.

iii) Judges should not readily accede to the request of recusal.

iv) Disclosure of the risk of bias to the parties by the court at the commencement of hearing.

v) Recusal becomes necessary where it threatens judicial impartiality.

vi) See above analysis No. vi

vii) The current practice of re-allocation of the case to another Bench is discontinued and Rule 2 of Part-A, Chapter 6 of the Lahore High Court Rules and Orders, Volume V should be followed.

28. **Lahore High Court**
Muhammad Babar Shah v. Muhammad Nadeem & others
Civil Revision No.197736 of 2018
Mr Justice Muhammad Sajid Mehmood Sethi
https://sys.lhc.gov.pk/appjudgments/2025LHC4382.pdf

Facts: Petitioner's suit for recovery was partly decreed by the Trial Court to the extent of earnest money. Feeling dissatisfied, both the parties preferred their respective appeals, which were dismissed by Appellate Court through a consolidated judgment and decree, hence, these revision petitions.

Issues: i) To whom does section 19 of the Specific Relief Act, 1877 grant right to claim compensation in addition to or in substitution for its breach?
ii) How is the relinquishment of right to seek specific performance of contract determined?
iii) Which factors enable the court to determine whether the stipulation of a specific time for performance of an agreement was not the essence of the contract?
iv) Whether the Court possesses the discretion to override the terms mutually agreed upon in the agreement?
v) In what circumstances, can an aggrieved claim reasonable compensation from the party responsible for breaching the contract?
vi) What are guiding principles for the award of reasonable compensation?
vii) What parameters are prescribes for the exercise of the revisional jurisdiction of High Court?

Analysis: i) Section 19 of the Specific Relief Act, 1877 gives right to claim compensation to the person suing for specific performance of contract in addition to or in substitution for its breach.
ii) The relinquishment of right to seek specific performance of contract is to be decided keeping in view the conduct of the parties and evidence led in this respect.
iii) Primarily it entirely depends upon the specific terms/language of the agreement and the relevant facts and circumstances of each case at the time of entering into the agreement and thereafter, which will enable the Court to decide whether the stipulation of specific time for performance of an agreement was not the essence of the contract or the Court while exercising its discretion in this regard could brush aside such agreed stipulation of timeframe merely for the reason that the agreement relates to a transaction involving sale of immovable property.
iv) When there was clear stipulation of the type incorporated by the parties in the agreement having regards to it, while exercising discretion such agreed terms cannot be disregarded by the Court.
v) The aggrieved party is entitled to recover reasonable compensation from the party guilty of breach of contract, only if actual loss or damage is proved to have been caused, except where the contract stipulates liquidated damages, in which case reasonable compensation may still be awarded, even if actual loss is not strictly proved.

vi) The Hon'ble Supreme Court in *Muhammad Abdur Rehman Qureshi v. Sagheer Ahmad* **(2017 SCMR 1696)** emphasized that Courts, while exercising equitable jurisdiction under Sections 19 and 22 of the Specific Relief Act, 1877, may decline specific performance and instead award reasonable compensation, particularly where inflation, depreciation in currency value, lapse of time, and market volatility make specific enforcement unjust or impracticable. Likewise, in *Liaqat Ali Khan v. Falak Sher* **(PLD 2014 Supreme Court 506),** the apex Court held that in circumstances involving material delay and substantial increase in property value, equitable relief could be moulded to avoid unjust enrichment and to balance the equities. The Sindh High Court, in *Miss Uzma Amjad Ali v. Saeeda Bano* **(2024 MLD 1115),** also endorsed the view that when specific performance is declined, monetary compensation may be granted, keeping in view the prolonged utilization of the buyer's funds and prevailing economic factors.

vii) There is no cavil that revisional jurisdiction is always exercised with great care and caution, while interfering with the concurrent findings of the learned Courts below but such findings are neither sacrosanct nor it is an inflexible rule that despite observing material flaws, the revisional Court will abdicate to exercise its jurisdiction (…) This Court under Section 115 of CPC is obliged and fully competent to correct such error in exercise of its revisional jurisdiction contemplated under the said provision of law. When once it is established on the record that concurrent findings are fraught with legal infirmities hedged in Section 115 of the Code ibid, it becomes the bounden duty of Court exercising revisional powers to curb and stifle such illegalities and material irregularities.

Conclusion: i) The person suing for specific performance of contract.

ii) It will be decided in light of conduct of the parties and evidence on record.

iii) The specific terms/language of the agreement and the relevant facts and circumstances of each case at the time of entering into the agreement.

iv) In presence of agreed stipulation in the agreement, the Court cannot disregard it.

v) If actual loss or damage is proved to have been caused.

vi) See above analysis No. vi

vii) See above analysis No. vii

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29. **Lahore High Court**
Muhammad Javaid Afzal v. Office of the Governor, Punjab, Lahore & others
Writ Petition No.49128 of 2024
Mr. Justice Muhammad Sajid Mehmood Sethi
https://sys.lhc.gov.pk/appjudgments/2025LHC4402.pdf

Facts: A female employee filed a complaint of workplace harassment against two male colleagues, alleging repeated misconduct including inappropriate touching, use of offensive language, and threatening behaviour. The competent authority in inquiry proceedings imposed the penalty of removal from service, which was upheld upon representation by Governor of Punjab.

Issues: i) Does absence of specific denial amount to admission in law?
ii) Is the determination of the quantum of punishment solely the prerogative of the competent authority, excluding judicial interference?
iii) Whether constitutional jurisdiction can be invoked after a decision has been made by the Governor under the Protection against Harassment of Women at the Workplace Act, 2010?
iv) Whether constitutional Courts should routinely interfere in matters decided under the specialized statutory framework of the Protection against Harassment of Women at the Workplace Act, 2010?
v) What is the constitutional foundation of the Protection against Harassment of Women at the Workplace Act, 2010?
vi) Under what circumstances can the High Court substitute the decision of competent authorities in writ jurisdiction?

Analysis: i) It is a well-settled principle of law that the absence of a specific denial amounts to an admission.
ii) it is a well-settled principle of law that the determination of the quantum of punishment falls within the exclusive domain of the competent authority, and judicial interference is not warranted.
iii) It is now judicially settled that the President and the Governor are designated as the final appellate forums to decide representations against decisions of the Ombudsperson.
iv) judicial review can only be exercised on well-established grounds such as coram non judice acts, denial of due process, mala fides, or violation of fundamental rights. (...) constitutional Courts ought not to interfere unless the proceedings suffer from jurisdictional defects, mala fides, or violate fundamental rights under Article 10-A of the Constitution. (...) Ombudsperson, vested with exclusive jurisdiction under the Act of 2010, remains the competent authority to adjudicate harassment claims.
v) The Constitution of the Islamic Republic of Pakistan, 1973, enshrines the dignity of person as an inviolable right under Article 14, which lies at the core of all civilized legal systems. The Protection against Harassment of Women at the Workplace Act, 2010, was specifically enacted to uphold this constitutional guarantee within professional settings
vi) It is well established that, in the exercise of its writ jurisdiction, this Hon'ble Court's power of judicial review over decisions of competent authorities is confined to narrow grounds – specifically, whether the impugned decisions suffer from a clear miscarriage of justice, arbitrariness, or error of law. Absent such grounds, there is no justification for the exercise of discretionary jurisdiction to substitute the judgment of the competent authorities.

Conclusion: i) Failure to specifically deny allegations in legal proceedings is deemed an admission.
ii) Only the competent authority has exclusive discretion to determine punishment, and courts should not interfere.

iii) The President and Governor are the final appellate authorities for representations against Ombudsperson's decisions.
iv) Judicial review is restricted to jurisdictional errors, mala fides, denial of due process, or violation of fundamental rights.
v) The 2010 Act upholds the constitutional right to dignity at workplaces as protected under Article 14.
vi) Courts may only exercise writ jurisdiction where legal errors, injustice, or arbitrariness are clearly demonstrated.

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30. **Lahore High Court**
Ali Hassan and three others v. The State and another
Crl. Appeal No.78438 of 2022
Justice Farooq Haider
https://sys.lhc.gov.pk/appjudgments/2025LHC4352.pdf

Facts: This appeal has been filed by appellants against the judgment passed by learned Additional Sessions Judge/trial court whereby in case arising out of F.I.R. No.1148/2019 registered under Sections: 324, 379 PPC (subsequently, offences under Sections: 452, 148, 149 PPC were added and then Section 302 PPC was also added whereas offence under Section 379 PPC was deleted, appellants have been convicted and sentenced.

Issues **i**) Is First Information Report to be recorded promptly after the occurrence?
ii) Is prosecution is duty bound to explain delay in reporting the incident to the police?
iii) What is evidentiary value of chance witness in case of failure to establish his presence at the place of occurrence?
iv) What is effect of dishonest improvement in the statement of witness before the court?
v) Is medical evidence is supportive/confirmatory evidence?
vi) What is time period in which human blood disintegrate?
vii) Can motive alone be made basis for sustaining a conviction?

Analysis: **i)** By now it is well settled that First Information Report (Crime report) is the cornerstone 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 also 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… hence, First Information Report in this case has lost its legal efficacy and is of no help to the case of prosecution.
iii) No material is available on record to establish presence of the complainant at the time and place of occurrence, hence, his testimony is "suspect" evidence and cannot be accepted without pinch of salt.

iv) By now it is well settled that witnesses who introduce dishonest improvement or omission for strengthening the case, cannot be relied.
v) 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.
vi) By now it is well settled that human blood disintegrates within three weeks, therefore, report of the Punjab Forensic Science Agency, Lahore (Exh.PBB) regarding availability of human blood on the said brickbat is of no avail to the prosecution.
vii) When substantive evidence in the form of ocular account has not been found as confidence inspiring, then motive on the one hand cannot cure said defect of the case of prosecution whereas on the other hand, it loses its significance because as alone, it cannot be made basis for sustaining the conviction. It is also relevant to mention here that motive is neither substantive nor direct or corroborative piece of evidence rather only circumstance leading to the offence. In this regard case of "AKBAR ALI versus THE STATE" (2007 S C M R 486) can be referred. Furthermore, it is trite law that motive is the double-edged weapon and can cut both sides and also could be equal reason for false implication of the accused and in this regard case of "MUHAMMAD ASHRAF alias ACCHU versus The STATE" (2019 S C M R 652) can safely be referred.

Conclusion: i) If First Information Report 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 also well settled that when there is delay in reporting the incident to the police, then prosecution is under obligation to explain such delay.
iii) His testimony is "suspect" evidence and cannot be accepted without pinch of salt.
iv)Witnesses who introduce dishonest improvement or omission for strengthening the case, cannot be relied.
v) Medical evidence is mere supportive/confirmatory type of evidence.
vi) Human blood disintegrates within three weeks.
vii) It cannot be made basis for sustaining the conviction.

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31. **Lahore High Court**
Kiran Ehsan v. The State, etc.
Criminal Appeal No. 16811 of 2021
Mr. Justice Muhammad Waheed Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC4162.pdf

Facts: Appellant challenged the conviction and sentence of life imprisonment along with a direction to pay compensation to the legal heirs of the deceased in pursuant to a private complaint filed by the complainant alleging the intentional murder of her

relative; complainant also filed a criminal revision seeking enhancement of the sentence.

Issues: i) Whether dying declarations under Article 46(1) QSO are excluded from the scope of Section 162 Cr.P.C. per Lahore High Court Rules?
ii) Whether the scope of Section 161 Cr.P.C. is limited to contradict the witness in the manner provided by Article 140 of QSO?
iii) Whether Medical Officers and Police Officers are legally bound to intimate a Magistrate and record the injured person's statement regarding circumstances of injuries?

Analysis: i) A statement (Dying Declaration) attributed to the deceased, which is allegedly made before the witnesses and when those witnesses depose about such declaration before Investigating Agency or in the Court, their evidence is relevant qua the circumstances which resulted into the death of the deceased, however, it is immaterial whether the declarant was or was not under expectation of death, when such declaration was made. Then there is a provision in Volume III of Rules and Orders of the Lahore High Court, Lahore (Rules). Rule 8 of Chapter 12 of the Rules ibid, highlights another rule to the effect that dying declarations under Article 46(1) of QSO, are excluded from the scope of section 162 Cr.P.C.
ii) The Investigating Officer, conducting the investigation in a criminal case, was directed that if during the course of investigation, he records the statement of any witness u/s 161 Cr.P.C. that statement shall not be singed by the person making it, nor such statement be used for any purpose during any inquiry or trial in respect of any offence as guided under the 'proviso' attached with this provision of law (section 162 Cr.P.C.). Under the afore referred proviso, any such statement, if duly proved, may be used to contradict the maker of the same (witness) in the manner provided by Article 140 of QSO.
iii) The Medical Officer before whom the patient is brought or if such incident is reported to the Officer-in-Charge Police Station, both the Medical Officer on duty and the Officer-in-Charge Police Station, are bound down to give the intimation in this regard to a nearest Magistrate and at the same time, the Medical Officer shall record the statement of the injured person immediately on arrival, so as to ascertain the circumstances and cause of his injuries and on arrival of the Magistrate, if the patient is still in a position to make a statement, will also record his statement.

Conclusion: i) Dying Declarations under Article 46(1) of QSO, are excluded from the scope of section 162 Cr.P.C per Lahore High Court Rules.
ii) The scope of Section 161 Cr.P.C. is limited to contradict the witness in the manner provided by Article 140 of QSO.
iii) Medical Officers and Police Officers are legally bound to intimate a Magistrate and record the injured person's statement regarding circumstances of injuries.

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32. **Lahore High Court**
Mst. Bakhan, etc. v. Pir Bakhsh, etc.
Review Application No.3 of 2015.
In R.S.A. No.59 of 1989
Mr. Justice Ahmad Nadeem Arshad, Mr. Justice Malik Javid Iqbal Wains
https://sys.lhc.gov.pk/appjudgments/2025LHC4210.pdf

Facts: The applicants' predecessor filed a suit for declaration against the respondents, which was initially dismissed by the Trial Court. Following this, the predecessor appealed, and the lower Appellate Court ruled in her favor, decreeing the suit. Dissatisfied, the respondents filed a Regular Second Appeal, which was granted by a learned Single Judge in Chamber. The learned Judge dismissed the suit, stating that the plaintiff had not met a court-imposed condition, as her previous suit was withdrawn with permission to file a new one only upon payment of costs. The applicants are now seeking a review of this judgment and decree that led to the dismissal of their predecessor's suit.

Issues: i) What would be the consequence if any of the terms on which permission to withdraw with liberty to institute a fresh suit was given is not fulfilled?
ii) What are the consequences of non-compliance of a condition, regarding the order granting permission to withdraw a suit, in different situations?
iii) Whether "Review" is merely a matter of procedure?
iv) What is the main aim of exercising the power of review?
v) Whether an application of review is maintainable when the court has not applied correct law?
vi) What are the different situations that also amount to an error floating on the surface of the record?
vii) What is the specific purpose for which the power to review can be exercised?

Analysis: i) Now the question arises what would be the consequence if any of the terms on which permission to withdraw with liberty to institute a fresh suit was given is not fulfilled. The answer can only be that unless the condition is complied with there is no proper suit before the Court. In such a case, the defendant is entitled and the Court has the power to demand that if the plaintiff wishes to proceed with the suit he must comply with the terms on which permission to withdraw was given. Unless the plaintiff satisfy the Court that the terms on which he had received the permission have been satisfied, there is no proper plaint before the Court, with the result that no proceedings on the plaint can be taken. However, the order of dismissal of the suit can, therefore, be passed only after it is found that the plaintiff, on an objection taken, is not willing to comply with the terms on which he was permitted to withdraw the suit with liberty to institute a fresh suit.
ii) Non-compliance of a condition could result in the following result:-

i. Where the permission is subject to payment within a time fixed by the court, a fresh suit cannot be instituted if the costs are not paid within the time fixed. However, this time can be extended in terms of Section 148 of the Code of Civil Procedure, 1908.

ii. Where the permission is conditional on payment being made to the defendant prior to the filing of a fresh suit, the second suit will be deemed to have been instituted when such payment is made.
iii. Where the order is conditional but no time for payment is specific, payment can be affected during pendency of the fresh suit.
iv. Where conditions have been imposed the court has inherent power to condone bona fide delay, omissions, etc.
v. Where payment of costs is not a condition precedent, non-payment will not affect competency of the subsequent suit

iii) Review is creation of the statute. The right to claim review of any decision of the court of law, is substantive right and not a mere matter of procedure.
iv) It is abundantly clear that power of review can be exercised to correct the errors and the main aim is to prevent injustice being done by a Court to correct error or mistake which is manifestly floating on face of record, which is patent that if it allowed to remain intact, would perpetuate illegality and gross injustice
v) Every Court of law is under obligation to apply the correct law and if it is established that same had not been applied by Court, then, a review application in this regard is maintainable. Similarly, where by some inadvertence an important statutory provision has escaped notice which, if had been noticed, might materially have affected the judgment of the Court.
vi) The misconstruction of law, misreading of evidence and also non consideration of pleas raised before a Court, would also amount to an error floating on the surface of the record.
vii) The power to review could only be exercised for the specific purpose of "correcting any error or supplying any omission" which appears on the surface of the record and could be detected without further elaborate inquiry or investigation. This might apply to accidental or arithmetical mistake due to some forgetfulness not involving a mental process of reasoning or the appreciation of any law or the facts already proved or admitted. Any other view would eliminate the real distinction between the exercise of powers on appeal where the entire subject matter is open to re-assessment and re-decision by the higher authority and on review where the matter has already been finally decided and cannot be re-opened but for the very narrow object of correcting some errors which have occurred in respect of intention to the contrary.

Conclusion: i) Unless the condition is complied with there is no proper suit before the Court.
ii) See above analysis no.ii
iii)Review is a substantive right and not more matter of procedure.
iv) The main aim of exercising the power of review is to prevent injustice and correct errors or mistakes that are manifestly evident on the face of the record, which, if left uncorrected, would perpetuate illegality and gross injustice
v) If it is established that correct law has not been applied by Court, then, a review application in this regard is maintainable.
vi)See above analysis no.vi
vii) The power to review can only be exercised for the specific purpose of

"correcting any error or supplying any omission" that appears on the surface of the record and can be detected without further elaborate inquiry or investigation.

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33. **Lahore High Court**
The State v. Ali Raza and other connected matters
Murder Reference No. 34 of 2022 etc.
Mr. Justice Muhammad Tariq Nadeem, Mr. Justice Raja Ghazanfar Ali Khan.
https://sys.lhc.gov.pk/appjudgments/2025LHC3913.pdf

Facts: The accused was convicted for murder and sentenced to death, while a co-accused was acquitted. Appeals were filed against the conviction and acquittal, and a murder reference was submitted for confirmation of the death sentence.

Issues: i) Can the testimony of related or chance witnesses be considered reliable without corroborative evidence?
ii) Does non-participation in medico-legal formalities affect the credibility of eyewitnesses?
iii) Is sequential firing by multiple accused, resulting in localized injuries, a credible account?
iv) Can recovery of weapon from an open place serve as reliable evidence?
v) Is abscondence sufficient to infer guilt in the absence of trustworthy evidence?
vi) Can motive alone support a conviction when ocular account is disbelieved?

Analysis: i) we have no hesitation to hold that the PWs have failed to establish their presence at the spot at the relevant time rather they are related and chance witnesses and as such their evidence is not reliable…once prosecution witnesses are disbelieved with respect to a co-accused then, they cannot be relied upon with regard to the other co-accused unless they are supported by corroboratory evidence coming from independent source and shall be unimpeachable in nature but that is not available in the present case.
ii) The witnesses of ocular account… if they were present at the scene of the occurrence at the relevant time, they must have been the witnesses of inquest report. Similarly, they should have escorted the dead body to the hospital being brother and relative of Tahir Murtaza (deceased) and their names should have been incorporated in the post mortem report in the column of identification of the dead body. These facts have also constrained us to hold that they were not present at the time and place of occurrence.
iii) We have no hesitation to hold that a man cannot remain static after receipt of single pistol fire shot on the left side of his chest and as such other eight entry wounds at the same locale are not possible, this fact also makes the prosecution story highly doubtful in nature.
iv) The same was recovered from an open place and secondly, the report of Punjab Forensic Science Agency, Lahore… is confined only to the working condition of pistol 30 bore allegedly recovered at the instance of the appellant. In this way, this piece of evidence is inconsequential.

v) The law is by now well settled that the abscondence alone is not sufficient to record conviction on a capital charge and it can be used only as a corroboratory and confirmatory in support of ocular account but in the present case, substantive piece of evidence in the shape of ocular account has been disbelieved, therefore, no conviction can be based on abscondence alone.
vi) We have already disbelieved the statements of eye witnesses account, therefore, there is no need to dilate upon the motive part of the occurrence, even otherwise, it is by now well settled principle of law that such like motive is a double-edged weapon, which, at one edge, may be the reason for the assailant to commit the offence, but at the same time, it could equally be considered a reason for false implication of appellant on account of previous ill-will

Conclusion: i) No, the testimony of related or chance witnesses cannot be considered reliable without corroborative and unimpeachable evidence.
ii) Yes, non-participation in medico-legal formalities affect the credibility of eyewitnesses.
iii) No, sequential firing by multiple accused resulting in localized injuries is not a credible account.
iv) No, recovery of a weapon from an open place does not serve as reliable evidence.
v) No, abscondence alone is insufficient to infer guilt in the absence of trustworthy evidence.
vi) No, motive alone cannot support a conviction when the ocular account is disbelieved.

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34. **Lahore High Court**
Saeed Khan v. Omar Farooq, etc
Criminal Appeal No.325 of 2023
Mr. Justice Muhammad Amjad Rafiq
https://sys.lhc.gov.pk/appjudgments/2025LHC4271.pdf

Facts: The petitioner filed this appeal against acquittal of respondents/accused persons by the trial court in a case FIR registered against the accused/respondents for the offences u/s 324/337-D/337F(i)/337F(ii)/34-PPC.

Issues: i) Which parts of human body are included in "*Trunk*"??
ii) What is the extent of *"grade 3 injury to kidney"*?
iii) Whether an outside injury causing an impact on an organ inside the body would attract offence of Jurah Jaifa?
iv) Whether conviction could be recorded on sole testimony of an injured witness?

Analysis: i) The torso also known as the trunk is the central part of the human body that lies between the neck and the pelvis. It serves as the primary axis of the body and houses major organs within the thoracic and abdominal cavities, including the heart, lungs, digestive organs, and reproductive structures. The torso includes the chest, back abdomen and pelvis providing structural support and attachment points for the limbs.
ii) A grade 3 injury to kidney, according to the American Association for the

Surgery of Trauma (AAST) scale, involves a laceration deeper than 1 cm that does not involve the urinary collecting system (no urine leakage). It may also include vascular injury or active bleeding confined within the perirenal fascia (the tissue surrounding the kidney). These injuries are more severe than grades 1 and 2 and may require closer monitoring and potentially interventions depending on the patient's condition.

iii) Any hurt which leaves a mark of the wound whether temporary or permanent if extends to the body cavity of the trunk would be labelled as Jurah Jaifa. In this case prosecution has not brought on record link of injury on left kidney with iliac crest through a mark of wound; therefore, mere impact of any injury or due to any other reasons like falling on the ground if produced any internal injury can be characterized with "other hurt" but not as Jurah Jaifa.

iv) It is trite that when complainant-injured himself was present and no fabrication of injuries was observed by the doctor, no other corroboration is required and mere on the sole testimony of an injured witness, conviction can be recorded, subject to availability of medical evidence.

Conclusion: i) The trunk lies between the neck and the pelvis and includes the chest, back abdomen and pelvis providing structural support and attachment points for the limbs.

ii) According to the American Association for the Surgery of Trauma (AAST) scale, a laceration deeper than 1 cm does not involve urinary collecting system. It may include vascular injury or active bleeding confined within the perirenal fascia (the tissue surrounding the kidney).

iii) Any hurt leaving temporary or permanent mark extending to body cavity of trunk would be labled as Jurah Jaifa, any other internal injury can be characterized with "other hurt" but not Jurah Jaifa.

iv) Subject to availability of medical evidence conviction can be recorded on the sole testimony of an injured witness.

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35. **Lahore High Court**
Dr. Tehsin Mazhar Sheikh Versus Additional District Judge etc.
Writ Petition No. 77145/2019
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC4309.pdf

Facts: Trial court had dismissed application of petitioner filed under Order VII Rule 11 of the Civil Procedure Code, 1908 and the order was upheld by Revisional Court. High Court allowed writ petition, set aside orders of the Courts below and rejected plaint of the suit.

Issues: i) If plaintiff omits to claim a relief arising from a cause of action, whether he can institute new suit for claiming the same by concealing earlier litigation?

ii) Whether a party can institute a fresh suit on the same cause of action after electing and abandoning earlier remedies?

Analysis: i) It is a settled proposition that where a plaintiff omits to sue for relief arising from the same cause of action in an earlier suit, he is barred from instituting a subsequent suit in respect thereof. In the present case, the respondent/plaintiff not only had the opportunity but did in fact claim monetary relief on two earlier occasions, ... Moreover, the failure to disclose prior litigation also constitutes material suppression and undermines the plaintiff's bona fides.

ii) Moreover, it is an established principle of law that a party cannot be permitted to agitate the same cause of action repeatedly through successive and piecemeal litigation, thereby frustrating the settled norms of judicial discipline.... This pattern of conduct— electing one remedy, abandoning it after adverse consequences, then shifting to the arbitration without proper recourse, and finally returning to file a third suit without compliance with the mandatory legal provisions—is precisely what the doctrine of election, the bar contained in Order II Rule 2 CPC, and the scheme of the Act, 1940 aim to prevent. If such litigation is allowed to proceed without scrutiny under Order VII Rule 11 CPC, it would set a dangerous precedent whereby a litigant could perpetually avoid finality by alternating between forums and/or remedies, without accountability. The law does not permit a party to keep the adversary entangled in an unending chain of litigation by withholding material facts, disowning procedural consequences, and reviving stale claims under the guise of a fresh suit.

Conclusion: i) Plaintiff cannot institute new suit for claiming relief, arising from same cause of action, which he has omitted to claim in earlier litigation.

ii) Fresh suit cannot be instituted, on the same cause of action, after electing and abandoning earlier remedies.

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36. **Lahore High Court**
Muhammad Rafique, etc. v. Mst. Jamshed Bibi, etc.
RSA No.50 of 2014
Mr. Justice Anwaar Hussain
https://sys.lhc.gov.pk/appjudgments/2025LHC4314.pdf

Facts: The case involves competing claims for specific performance of two agreements to sell the same immovable property. The plaintiffs relied on a later agreement supported by vendor's admission and possession, while the defendants claimed under a prior agreement.

Issues: i) Whether the execution of an agreement to sell can be deemed unproved, merely, for non-production of both attesting witnesses, when the vendor admitted the execution of the agreement and delivery of possession, before the Trial Court, keeping in view import of Article 79 read with Article 113 of the Qanun-e-Shahadat Order, 1984 ("QSO")?

ii) Whether the Appellate Court below misdirected itself in law by reversing the Trial Court's decree on technical grounds, without properly analyzing the vendor's admission coupled with the appellants' possession, while ignoring the legal burden upon the respondents No.1 & 2 to prove their prior agreement?

Analysis: i) There is no cavil to the proposition that under Article 79 of the QSO, a document required by law to be attested must be proved by at least two attesting witnesses, if available. However, the effect of an unequivocal admission by the executant of the document, more importantly, when recorded before the Court of competent jurisdiction, must be read harmoniously with Article 113, of the QSO, which provides that facts admitted need not be proved but the Court is vested with the discretion to require the proof of even admitted facts. When the executant admits execution of an agreement coupled with delivery of possession, the rigors of Article 17 read with Article 79 of the QSO become inapplicable and the requirement of producing two attesting witnesses loses significance… Therefore, in the instant case, the non-production of the attesting witnesses of the agreement to sell in favour of the appellants did not render the agreement of the appellants unproved. The Appellate Court below reversed the Trial Court's findings primarily on two counts—non-examination of both marginal witnesses and purported suspicion regarding the conceding statement of respondent No.3, while failing to evaluate factual matrix and the over-all evidentiary resume of the case.

ii) It was incumbent upon the Appellate Court below to have firmly concluded that the agreement to sell in favour of respondents No. 1 and 2 had been genuinely executed prior in time, without relying on the fact that the appellants did not produce marginal witnesses of the agreement, which was admitted by respondent No.3 while appearing before the Trial Court and affixing her signatures and thumb impression on the order sheet… It is obligatory on a vendee claiming under a prior agreement to prove that the said agreement in fact was executed prior in time which could only be substantiated by producing mere vendor or related register, which could have corroborated whether the document used for the execution of the prior agreement was in fact obtained on the relevant date and thereafter executed by respondent No.3 herself. The absence of such corroborative evidence weakens the claim of respondents No. 1 and 2 asserting and claiming under a prior agreement… Therefore, approach of the Appellate Court below highlighting weakness of the appellants' case and in ignoring the complete lack of biometric endorsement by the vendor (respondent No.3) as also the comparison of signatures indicates that the impugned judgment is legally flawed and contrary to the established principles of proof and authentication and the principle that civil cases are to be decided on the basis of preponderance of evidence.

Conclusion: i) The execution of the agreement cannot be deemed unproved solely due to non-production of attesting witnesses when the vendor has admitted execution and possession has been delivered.

ii) Appellate Court misdirected itself by reversing the Trial Court's decree on technical grounds without properly appreciating the vendor's admission and the respondents' failure to substantiate the prior agreement.

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37. **Lahore High Court**
Asad Abbas alias Achoo v. The State
Crl. Appeal No.10141-J/2022 & Murder Reference No.16/2022
Mr. Justice Farooq Haider & Mr. Justice Ali Zia Bajwa
https://sys.lhc.gov.pk/appjudgments/2025LHC4326.pdf

Facts: The convict appellant was tried in a private complaint and sentenced to death on two accounts in the charge of two murders under S. 302(b) PPC. The trial court sent murder reference, the convict/appellant filed appeal from jail and a separate appeal was also filed by the complainant/appellant before the High Court.

Issues: i) What is the effect of material contradiction arises between the ocular account and the medical evidence?
ii) If a set of witnesses is disbelieved to the extent of some accused, whether it can be believed to the extent of rest of the accused?
iii) What is the value of weapon recovered in absence of recovery of crime empties?
iv) Who can undertake the process of declaring an accused a proclaimed offender?
v) What are the grounds for issuance of warrant of arrest of an accused?
vi) To whom the warrant of arrest is directed for its execution?
vii) What is the nature of a warrant of arrest under the law i.e perpetual or temporary?
viii) What is the purpose and status of a proclamation?
ix) What are the pre-requisites for issuance of proclamation?
x) Whether the modes of publication are conjunctive or disjunctive in nature?
xi) Whether additional method for communication, besides the prescribed methods, can be adopted for the process of publication of proclamation?
xii) What does term 'conclusive evidence' denotes?
xiii) Whether the warrant of arrest should be addressed generally or to some specific officer for execution?
xiv) Whether abscondence, by itself, is a proof of guilt of the accused?
xv) Whether an accused can be convicted if reasonable doubt occurs in the case of prosecution?

Analysis: i) It is a well-settled principle of criminal law that where a material contradiction arises between the ocular account and the medical evidence, and such discrepancy cannot be reconciled, the benefit of the doubt must be afforded to the accused.
ii) It is a well-settled law by now that if a set of witnesses is disbelieved to the extent of some accused, it cannot be believed to the extent of the rest of the accused facing the same trial without their being any independent and strong corroboration.
iii) However, in the absence of any crime empties recovered from the place of occurrence, this recovery becomes wholly inconsequential and fails to advance the prosecution case.
iv) The statutory framework unequivocally establishes that the investigating agency is not empowered to undertake this process on its own. This legislative construct reflects a conscious intent to safeguard fundamental rights, recognizing that the issuance of warrant of arrest and the declaration of abscondence carry serious legal

consequences. Judicial control is, therefore, imperative to prevent arbitrary or unlawful infringement upon such rights.

v) Where a warrant of arrest is sought by the investigating agency, the request must be supported by cogent material demonstrating reasonable cause for the issuance of such warrant. It must reflect that the accused is deliberately evading arrest and that the police have made bona fide and diligent efforts to secure his apprehension through less coercive means before invoking the authority of the Court to issue a warrant of arrest. This requirement ensures that the process is not invoked mechanically, but only upon a justified showing of necessity, in line with the principles of fairness and due process.

vi) A warrant of arrest is normally directed to one or more police officers, but if urgent execution is required and no police officer is available, the court may authorize any other person to execute it.

vii) Under Section 75(2) of the Code, a warrant of arrest is always perpetual in nature, meaning it remains in force indefinitely until it is either executed or cancelled by the Court that issued it. It does not lapse with time and continues to be legally enforceable unless withdrawn by judicial order.

viii) A proclamation is a judicially sanctioned public notice issued by a Court when an accused, against whom a warrant of arrest has been issued, is found to be absconding or concealing himself to evade arrest. Through this proclamation, the person is formally required to appear before the Court at a specified place and time.

ix) Under Section 87 of the Code, this means that before the Court issues a proclamation against an accused, it must examine the relevant material, such as statements of the witnesses, police reports, or affidavits, to ensure that genuine and reasonable efforts were made to execute the warrant of arrest, but the accused is absconding and deliberately concealing himself to evade arrest. Only after considering this evidence can the Court lawfully issue the proclamation. This requirement ensures that the Court acts fairly and follows proper legal procedure, protecting the rights of the accused.

x) Notably, the three prescribed modes of publication are conjunctive, not disjunctive, meaning all must be complied with collectively. The use of the imperative term ‘shall’ highlights the mandatory nature of this requirement, thereby leaving no room for selective or partial compliance by the executing authority entrusted with the duty to publish the proclamation.

xi) In the present era, where modes of communication have significantly evolved, it is imperative that these traditional methods be harmonized with modern means of dissemination, such as electronic media, print media, and social media platforms.

xii) The term ‘conclusive evidence’ denotes such evidence which, by its probative force and legal character, precludes contradiction and is regarded by the Court as determinative of the fact in issue.

xiii) It is observed that the warrant of arrest (Ex-CW3/F) was not addressed to any specific police officer for execution, which reflects a violation of a mandatory requirement of law.

xiv) Even otherwise, and irrespective of the foregoing discussion, abscondence, by itself, does not amount to proof of the guilt of the accused. Although it may arouse

suspicion, such suspicion remains speculative and cannot substitute concrete evidence.
xv) The moment a reasonable doubt arises in the prosecution's case, its benefit must go to the accused, not as a matter of grace, but as a legal right rooted in the fundamental principle that no one can be convicted unless proven guilty beyond a reasonable doubt. It is better for ten guilty persons to be acquitted than for one innocent person to be wrongfully convicted.

Conclusion: i) In material contradiction between the ocular account and the medical evidence, the benefit of the doubt must be afforded to the accused.
ii) If a set of witnesses is disbelieved to the extent of some accused, it cannot be believed to the extent of the rest of the accused.
iii) In the absence of recovery of crime empties, the recovery of weapon of offence becomes wholly inconsequential and fails to advance the prosecution case.
iv) See above analysis No. iv
v) See above analysis No. v
vi) A warrant of arrest is directed to police officer or any other person to execute it.
vii) A warrant of arrest is always perpetual in nature.
viii) See above analysis No. viii
ix) See above analysis No. ix
x) The modes of publication are conjunctive in nature.
xi) See above analysis No. xi
xii) See above analysis No. xii
xiii) See above analysis No. xiii
xiv) See above analysis No. xiv
xv) See above analysis No. xv

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38. **Lahore High Court,**
Fayyaz Ahmed v. Learned Special Judge (Rent) and 2 others
Writ Petition No. 27842 of 2025
Mr. Justice Sultan Tanvir Ahmad
https://sys.lhc.gov.pk/appjudgments/2025LHC4411.pdf

Facts: Respondent filed an objection petition under Order XXI Rule 100 CPC before the Rent Controller, claiming he was wrongly dispossessed from shop No. 986-A in execution of an eviction order meant for shop No. 986 against another person; The Rent Controller allowed his petition and ordered restoration of possession without conducting proper investigation, framing issues, or recording evidence, hence this writ petition.

Issues: i) Whether the amended Order XXI CPC bars a separate suit by a non-judgment-debtor by conferring exclusive jurisdiction on the executing court to conclusively decide all questions of title, right, interest, or possession?
ii) Whether the executing court has exclusive jurisdiction to decide possession claims under Order XXI Rules 100 to 103 CPC by persons other than the judgment-debtor?

Analysis: i) Any party not being judgment-debtor against whom order is made for restoration of possession in terms of Order XXI Rule 101 was permitted to institute a suit to establish rights to claim possession of the property. This position stood changed after the above substitution. Now all the questions arising as to title, right, interest in or possession of immovable property are required to be adjudicated by the learned executing Court. The orders passed, in this regard, become conclusive and no separate suit is permitted. The legislature has used the words "adjudicate upon" and "determined by the Court" besides restricting separate suit.

ii) Any person other than judgment-debtor dispossessed from immovable property by decree holder, can make an application under Order XXI Rule 100 of the Code, which then require investigation in terms of Order XXI Rule 100(2) of the Code. Order XXI rule 100 of the Code is to be read with Rules 101 and 103 of Order XXI of the Code. Order XXI Rule 101 of the Code provides that the Court can make the order when satisfied that the applicant was in possession on his own account or on account of some person other than judgment-debtor. The scheme of law is such that it confers full jurisdiction upon the executing Court to decide the issues involved therein

Conclusion: i) The amended Order XXI CPC bars a separate suit by a non-judgment-debtor by conferring exclusive jurisdiction on the executing court to conclusively decide all questions of title, right, interest, or possession.

ii) The scheme of law is such that it confers full jurisdiction upon the executing Court to decide the issues involved therein.

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39. **Lahore High Court**
Muhammad Irsalan Faraz v. Habib Ul Rehman
Civil Revision No.609 of 2025
Mr. Justice Raheel Kamran
https://sys.lhc.gov.pk/appjudgments/2025LHC4204.pdf

Facts: In a summary suit filed under Order XXXVII of the Civil Procedure Code, 1908 petitioner's application for leave to appear was accepted subject to submission of surety bond. The surety bond so submitted was found bogus and, therefore, the court recalled its order. Hence, Revision Petition before the High Court.

Issues: i) Whether a court can retract an order granting leave to defend in a summary suit under Order XXXVII of the CPC, when the condition precedent attached to that leave has not been fulfilled?

Analysis: i) In order to properly appreciate the scheme of adjudication of summary suits filed on the basis of negotiable instruments, it would be advantageous to reproduce provisions of Order XXXVII of the CPC, which read as follows... Plain reading of Rule 3(2) ibid clearly establishes the court's authority to grant conditional leave. The power of the trial court to grant leave to defend subject to conditions is, thus, a matter of judicial discretion. Implicit in such authority to pass conditional order is the understanding that the fulfillment of the condition is crucial for the leave to

remain effective... Although Rule 3 does not explicitly detail the repercussions of default in complying with the conditions of leave, however, notwithstanding such omission, the effect of refusal of the court to grant leave and failure on the part of defendant to comply with the condition of leave, cannot be any different meaning thereby that such defendant is not entitled to defend the suit on any ground whatsoever and the court would pass a decree in favour of the plaintiff while applying its mind to the facts and documents before it. The rationale here is that the conditional grant of leave is contingent upon the satisfactory fulfillment of the stipulated terms. Failure to meet those terms effectively nullifies the leave granted... Thus, the legal position is clear that when leave to appear and defend a suit is granted subject to a specific condition, the very efficacy of that leave hinges on fulfillment of that condition. If the condition is not met in its true letter and spirit, the order granting conditional leave becomes inoperative.

Conclusion: i) Yes. When leave to appear and defend a suit is granted subject to a specific condition and the condition is not met in its letter and spirit, the order granting conditional leave becomes inoperative.

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40. **Lahore High Court**
Mst. Nayyab Abbas v. Additional District Judge, etc.
W.P. No. 54172/2024
Mr. Justice Hassan Nawaz Makhdoom.
https://sys.lhc.gov.pk/appjudgments/2025LHC4155.pdf

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

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

Analysis: i) There is no cavil to the proposition that adoption is permitted under principle of Islamic Laws but compelling circumstances, under which adoption was imperative, are required to be established.
ii) It is well settled that real parents have a preferential right regarding custody of their child unless exception exists warranting to hold otherwise in respect of welfare of the minor.
iii) The principle that biological parentage, particularly the mother's right to *hizanat*, is to be prioritized in custody disputes unless extremely exceptional circumstances exist.

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

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41. **Lahore High Court**
Muhammad Younis and another v. Chairperson Insurance Tribunal and two others
Regular First Appeal No. 174 of 2024
Mr. Justice Raheel Kamran, Mr. Justice Syed Ahsan Raza Kazmi
https://sys.lhc.gov.pk/appjudgments/2025LHC4368.pdf

Facts: The petitioners/appellants have submitted an Insurance Appeal under Section 124(2) of the Insurance Ordinance, 2000, in conjunction with Section 151 of the Civil Procedure Code (CPC), challenging the decision of the Chairperson of the Insurance Tribunal, which dismissed their petition as not maintainable based on Section 18 of the Federal Ombudsman Institutional Reforms Act, 2013.

Issues: i) Can subsequent litigation on the same subject be initiated in any other forum after the Federal Ombudsman has made a decision, according to Section 18 of Federal Ombudsman Institutional Reforms Act, 2013?
ii) Can a litigant invoke a different remedy after exhausting the first one on the same cause of action?

Analysis: i) A plain reading of Section 18 reveals that once the Federal Ombudsman has initiated proceedings or decided a matter, no court or tribunal shall take cognizance of that matter. The provision clearly bars parallel proceedings or subsequent litigation on the same subject before any other forum.
ii) There is no dispute with the general principle that a litigant may, in certain situations, have multiple remedies available under the law. However, it is equally settled that once a remedy is elected and exhausted, the law does not permit the litigant to invoke a parallel or successive remedy before another forum on the same cause of action. This doctrine not only prevents forum shopping but also ensures finality in litigation. The Supreme Court of Pakistan has consistently held that

multiplicity of proceedings undermines judicial discipline and opens doors to conflicting outcomes.

Conclusion: i) Section 18 of Federal Ombudsman Institutional Reforms Act, 2013 clearly bars parallel proceedings or subsequent litigation on the same subject before any other forum.
ii) Once a litigant has elected and exhausted a remedy, they cannot ordinarily invoke a different remedy for the same cause of action.

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42. **Lahore High Court Lahore**
Government of the Punjab through Chief Executive Officer/District Health Authority, Multan. v. Zia Akram & others
Intra Court Appeal No. 244 of 2024
Mr. Justice Malik Javid Iqbal Wains
https://sys.lhc.gov.pk/appjudgments/2025LHC4069.pdf

Facts: The Secretary, Primary & Secondary Healthcare Department, rejected the respondent's representation, which was challenged by the respondent by filing writ petition and the same was allowed by the learned Single Judge-in-Chambers. The appellant-Department being aggrieved has preferred this intra-court appeal before this Court under Section 3 of the Law Reforms Ordinance, 1972.

Issues: i) What is the effect of a candidate failing to secure the minimum qualifying marks in a recruitment examination?
ii) What is the legal status of recommendations made by an inquiry committee not vested with lawful authority in matters of recruitment?
iii) Can the High Court in its constitutional jurisdiction act as a selection or appointing authority?

Analysis: i) It is a settled principle of law that public employment must be governed by objective standards of eligibility and merit (...) The respondent, having admittedly failed to secure the minimum qualifying marks, cannot claim any right to be considered for appointment.
ii) The Chief Executive Officer (DHA), Multan, neither had any statutory authority to deal with the matter concerning the petitioner nor was vested with the power to constitute an inquiry committee (...) Recommendations made by an unauthorized committee (...) have no binding legal effect
iii) It is a settled law that the High Court, while exercising constitutional jurisdiction under Article 199 (...) is not expected to act as a selection or appointing authority so as to substitute its own assessment for that of the competent body.

Conclusion: i) See analysis i above.
ii) Recommendations made by an unauthorized committee has no binding legal effect.
iii) High Court in its constitutional jurisdiction cannot act as a selection or appointing authority.

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43. **Lahore High Court**
LESCO through its Chief Executive Officer, Lahore etc. v. M/s. Exporient Knitters (Pvt.) Ltd. etc.
W.P. No. 40246 of 2016
Mr. Justice Khalid Ishaq
https://sys.lhc.gov.pk/appjudgments/2025LHC3958.pdf

Facts: Respondent No.1, an industrial consumer was issued a detection bill due to 33% slowness in the metering equipment, identified during an on-site inspection. The consumer challenged the demand before the Electric Inspector, where the meter was rechecked and found to be 33.39% slow. The Electric Inspector passed an order, which was further assailed by the consumer before NEPRA, which modified the decision by limiting the recovery period to six months instead of fifteen, which has been challenged through the present constitutional petition.

Issues: i) What is the effect of electricity being a Federal subject on the jurisdiction of the Electric Inspector in billing and metering disputes?
ii**) How is a general law defined in relation to classes of persons or entities?**
iii) What does a special law relate to in terms of class of persons or things?
iv) **What makes the Electricity Act and NEPRA Act special laws despite having features of general law?**
v) What is the cardinal principle of interpretation used to avoid conflict between statutory provisions?
vi) What is the rule of interpretation when provisions of two enactments are irreconcilable?
vii) What is the legal implication of the legislature intentionally omitting words from a statute?
viii) What is the effect of a conflict between the NEPRA Act and the Electricity Act, and how is the omission of the 90-day timeline treated?

Analysis: i) As is evident, the 'Electricity' is now exclusively a Federal subject, therefore, as a natural corollary, the jurisdiction, which was previously exercised by the Electric Inspector, at least to the extent of disputes of metering, billing and collection of tariffs etc., is now dealt with by 'POI' as mandated by section 38(1)(a) of the NEPRA Act and not under the Electricity Act.
ii) A law is a general one when it relates to persons, entities or things as a class, or operates equally or alike upon all of a class omitting no person, entity, or thing belonging to a class.
iii) The special act relates to a particular class of person or things of a class.
iv) Considering the foregoing the Electricity Act and NEPRA Act, though both have trappings of general law but since the subject being dealt with under these enactments is exclusively that of Electricity, Consumers and Generation/Distribution Companies, therefore, the consensus which emerges is that both these laws are special laws.

v) It is one of the cardinal principles of interpretation that a statute should be interpreted in such a manner which may avoid collision with other provisions or statutes.
vi) If the provisions of the two enactments are irreconcilable to each other, the rule is that the last must prevail.
vii) It is well settled that the omission of words from a statute must be considered intentional on the part of the legislature.
viii) The upshot of the above discussion is that the provisions contained in the NEPRA Act will subside the conflicting provisions of Electricity Act, whenever there is a conflict in the two and both cannot be harmoniously construed, as is the case in hand; the elision of 90 days statutory timeline to decide a representation is a conscious and deliberate omission by the legislature, therefore, the same is not relevant any more.

Conclusion: i) Jurisdiction over metering, billing, and tariff disputes now lies with POI under the NEPRA Act, as electricity is a Federal subject.
ii) See above analysis No. ii).
iii) See above analysis No. iii).
iv) Despite having features of general law, the Electricity Act and NEPRA Act are deemed special laws as they exclusively govern electricity-related matters.
v) A statute must be interpreted to avoid conflict with other provisions or statutes.
vi) When two enactments are irreconcilable, the later law prevails.
vii) Omission of words from a statute is presumed to be intentional by the legislature.
viii) See above analysis No. viii)

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44. **Lahore High Court**
Muhammad Bakhsh, etc v. Member (Consolidation) Punjab Board of Revenue Lahore, etc.
W.P. No. 2535 of 2015
Mr. Justice Ch. Sultan Mahmood
https://sys.lhc.gov.pk/appjudgments/2025LHC4147.pdf

Facts: The petitioners filed the present writ petition challenging the final order of the Member (Consolidation), Punjab Board of Revenue, affirming the distribution of Shamilat land under the sanctioned consolidation scheme. Their grievance is that they were unlawfully denied rightful allotments in Shamilat despite being landholders or purchasers in the estate.

Issues: i) Whether petitioners can claim entitlement in Shamilat Deh without specifying their right or placing supporting documents?
ii) Whether a purchaser of land is entitled to Shamilat share without express mention, in light of Section 3 of the Punjab Land Dispositions (Saving of Shamilat) Ordinance, 1959?
iii) Whether constitutional jurisdiction can be invoked to challenge land allocation in consolidation proceedings?

Analysis: i) As far as the question of Shamilat Deh is concerned, the petitioners have not specified any right nor area nor have placed any document to in support of their allegation that Shamilat Deh has been wrongly allocated to the land holders who were not entitled to such allotment. Therefore, I do not find any substance in the argument that Shamilat Deh has wrongly been distributed.

ii) This court consistently held that the rights of proprietors in Shamilat of a village are not a mere accessory to the land separately held by them and the onus lies on a purchaser of proprietary land to show that a sale to him included also a share in the Shamilat1. But this remained a general rule and exceptions were afforded as Privy Council while deciding an appeal arising from a village Harnuali of District Mianwali, ...So to say this right was recognized and was open to exception only when there was some demonstrable legal reason to do so.After independence first legislative intervention in this regard was made in Indian Punjab with promulgation of the East Punjab Land Alienation (Saving of Shamilat) Act, XIX of 1948. The Section 3 of this instrument was passed to the effect as noted by the High Court3, that unless an intention to convey such share is admitted by the alienor before such Court or authority or can be inferred from his conduct or if the contract in writing is apparent on the face of it. This legal position got statutory backing, even the general rule as noted above which was open to exceptions was solidified and exceptions were weeded out through legislative edict, with the promulgation of the Punjab Land Dispositions (Saving of Shamilat) Ordinance 1959,…. The purpose and effect of section 3 of the Ordinance I of 1959 was to avoid conveyance of Shamilat land, unless specifically provided for in the sale-deed…. The Legislature was well aware of the nature of Shamilat land. It was held in common for the benefit of all shareholders and possession of one was on behalf of all others. Therefore, when the Legislature provided that with the sale of land holding share in Shamilat is not to be deemed to be conveyed, it was taken that the erstwhile landlord would still be a sharer in the Shamilat and he can sue for his share in the Shamilat. The purpose and effect of the Ordinance would be frustrated if a landlord who sells his land is deprived of his share in the Shamilat as well.

iii) Finally, the petitioners have come to this Court and have invoked its constitutional jurisdiction, which has very limited scope and no reappraisal of facts can be made. Even otherwise, as noted above, grievances regarding allocation of land in consolidation proceedings cannot ordinarily be agitated before this Court in its constitutional jurisdiction. No extraordinary circumstances have been demonstrated before this Court that may warrant interference by this Court.

Conclusion: i) Petitioners cannot claim entitlement in Shamilat Deh without specifying rights or submitting supporting documents.

ii) A purchaser is not entitled to share in Shamilat unless expressly conveyed in the sale deed, as mandated by Section 3 of the Punjab Land Dispositions (Saving of Shamilat) Ordinance, 1959.

iii) Constitutional jurisdiction cannot be invoked to challenge land allocation in consolidation proceedings without extraordinary circumstances.

45. **Lahore High Court Lahore**
The State through Deputy Prosecutor General Punjab, Multan. v. Senior Civil Judge and another.
Writ Petition No. 14839 of 2024
Mr. Justice Tanveer Ahmad Sheikh
https://sys.lhc.gov.pk/appjudgments/2025LHC4418.pdf

Facts: Through this petition under Article 199 of Constitution of Islamic Republic of Pakistan, 1973, an order passed by learned Senior Civil Judge, (Criminal Division), was assailed by State through Deputy Prosecutor General, Punjab whereby he ordered the Challan/report under Section 173 of Cr.P.C. submitted in the case registered for offence under Section 462-I of PPC to be returned to District Public Prosecutor mainly on the ground that it was not accompanied by complaint of an officer not below Grade 17, which was required as condition precedent under Section 462-O of PPC.

Issue: What is the legal duty of the Magistrate when a report under Section 173 Cr.P.C. is submitted in an offence under Section 462-I PPC, but the complaint required under Section 462-O PPC is not attached?

Analysis: Offence under Section 462-I of PPC is triable by Court of Sessions. When report under Section 173 of Cr.P.C. regarding the said offence is submitted before the Magistrate under Section 190 of Cr.P.C. he is supposed to send the case to the Court of Sessions without recording any evidence under Section 190 (2) of Cr.P.C. If the Magistrate finds that report under Section 173 of Cr.P.C. is not accompanied by complaint, as required by Section 462-O of PPC, he is supposed to ask the prosecution to procure the said complaint from concerned officer not below the rank of Grade 17 and then to forward the report to the learned trial court (Sessions Court) alongwith above complaint.

Conclusion: The Magistrate is not empowered to return the police report under Section 173 Cr.P.C. merely due to the absence of a complaint under Section 462-O PPC. Instead, the Magistrate must direct the prosecution to obtain the requisite complaint from an officer not below Grade-17 and then forward the case to the Sessions Court.

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46. **Lahore High Court**
Muhammad Iqbal, etc. v. The State etc.
Criminal Revision No.41 of 2014
Mrs. Justice Abher Gul Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC4254.pdf

Facts: A group of individuals, including the petitioners, allegedly entered the premises of the complainant armed with clubs and hatchets and inflicted injuries upon his head. The Magistrate convicted the petitioners and sentenced them accordingly. The petitioner's appeal against the conviction was dismissed by the Appellate Court who further enhanced the sentence of one petitioner on revision filed by the State. Hence; this Criminal Revision.

Issues: i) What is the effect of delay in reporting the FIR to the police?
ii) Can the FIR be used as corroborative evidence if its maker is not cross-examined?
iii) What is the legal implication when eyewitnesses are disbelieved to the extent of co-accused who are acquitted, and the prosecution does not challenge such acquittal?
iv) What is the credibility of a witness who has made dishonest improvements in testimony?
v) What is the legal effect of a contradiction between the identity of the injured person in the FIR and the individual named in the medical evidence produced at trial?
vi) What is the standard for granting benefit of doubt in a criminal trial?

Analysis: i) The delay of about 30-hours in lodging the FIR (…) is significant and persuades the Court to take a cautious approach while evaluating the prosecution evidence.
ii) Even otherwise, Ameer Muhammad (complainant) died prior to recording of his statement and FIR was exhibited as Exh.PA and thus he was not cross-examined in order to prove its contents. In such eventuality, according to Articles 40 & 153 of Qanun-e-Shahadat Order, 1984, FIR (Exh.PA) cannot be used as a corroborative piece of evidence
iii) the eyewitnesses were disbelieved to the extent of the accused other than the petitioners and all of them were acquitted by the trial court. Surprisingly, the prosecution opted not to assail the acquittal of the afore-mentioned three assailants and did not file any appeal in this regard. In these circumstances, it would not be safe to hold the petitioners responsible for the commission of offence.
iv) In such circumstances, Muhammad Aslam made dishonest improvement just in order to give some weight to the frail prosecution case. The afore-said improvement made by Muhammad Aslam rendered him unworthy of any credence.
v) It is also important to note here that the name of complainant as per FIR is Muhammad Ameer s/o Chiragh Din who was almost 70 years old at the time of occurrence but it is crystal clear from the evidence of Dr. Muhammad Hassan that he conducted medical examination of Muhammad Amin who was aged about 30 years. In the light of glaring contradiction in the statement of doctor and the medical examination (…) on the basis of which FIR was registered, the same cannot be read as MLC of Muhammad Ameer(…) In such a way, the medical evidence brought on record is of no help to the prosecution case.
vi) Needless to mention here that for extending benefit of doubt in favour of an accused, so many circumstances are not required, rather one circumstance which creates reasonable dent in the veracity of the prosecution case, can be taken into consideration for the purpose not as a matter of grace rather as a matter of right.

Conclusion: i) Delay of 30 hours in lodging FIR weakens the prosecution's credibility.
ii) If FIR is not proved through the testimony and cross-examination of its maker, same cannot be treated as corroborative evidence.

iii) Acquittal of co-accused on the same evidence, left unchallenged by the prosecution, renders the conviction of remaining accused legally questionable.
iv) Testimonies containing dishonest improvements are untrustworthy and insufficient for sustaining a conviction.
v) Contradictory medical evidence on mismatched identity and age of accused vitiates the prosecution's case.
vi) A single credible doubt in the prosecution's case is sufficient to grant benefit of doubt to the accused as a matter of right.

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47. **Lahore High Court**
Muhammad Iqbal & another v. The State & another.
Criminal Revision No. 1107 of 2015
Mrs. Justice Abher Gul Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC4262.pdf

Facts: The petitioners were convicted for allegedly causing firearm injuries to two persons during an altercation. Their appeal was dismissed, and the conviction upheld despite inconsistencies in prosecution evidence, hence, instant criminal revision.

Issues: i) Whether the delay in lodging the FIR casts doubt on the prosecution's case?
ii) Whether conviction can rest solely on the testimony of an injured eyewitness in a case involving several co-accused?
iii) Whether the absence of corroborative evidence affects the credibility of the prosecution's version regarding the place of occurrence?
iv) Whether the prosecution's reliance on motive without independent corroboration affects the credibility of its case?

Analysis: i) The omission of the complainant and other PWs for non-reporting the crime at the spot also leads this Court to the conclusion that the time was consumed to concoct a false story so as to grill both the petitioners in this case. In this view of the matter, the delay of about four hours in lodging the FIR in the peculiar circumstances of the case is significant and persuades the Court to take a cautious approach while evaluating the prosecution evidence in arriving at a just decision.
ii) Needless to mention here that the receipt of grievous hurt by an eyewitness though is a factor which reflects positively an assumption of his presence at the spot but it is not a conclusive proof about the truth of his deposition. 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 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 an injured witness, without subjecting it to strict test of scrutiny for adjudging his credibility.
iii) This Court has also observed that after the receipt of injuries both the injured PWs would have received stains of blood on their clothes but the same were not secured during investigation.(...) SI (PW.8) who investigated the case during cross-

examination admitted that neither any crime empty was secured from spot inspection nor blood stained clothes were produced before him.(...) Similarly, no blood stained earth was secured from the spot for which site plan was also prepared. Thus, there is no corroborative piece of evidence on the record to establish that both the injured PWs received injuries at the place canvassed by the prosecution. In the light of the lacunas and omissions hinted at above, the testimonies of four eyewitnesses cannot be made basis for maintaining the conviction and sentence of the petitioners.

iv) In this view of the matter, filing of three suits against (…) (petitioner) by the complainant-side can also be considered a factor for his false implication in the instant case. Needless to mention here that the motive on occasions provides corroboration to the case of prosecution and often becomes a root cause for the false implication of an accused and for this reason is always considered as a double-edged weapon.

Conclusion: i) The delay in lodging the FIR casts doubt on the prosecution's case.

ii) Conviction cannot rest solely on the testimony of an injured eyewitness in a case involving several co-accused without strict scrutiny.

iii) The absence of corroborative evidence renders the prosecution's version regarding the place of occurrence unreliable.

iv) The prosecution's reliance on motive without independent corroboration affects the credibility of its case.

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48. **Lahore High Court**
Mian Sohaib ul Rehman v. Muhammad Bashir through L.Rs
Criminal Revision No.10045 of 2019
Justice Abher Gul Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC4075.pdf

Facts: Through this criminal revision petition filed under section 439 read with section 561-A Cr.P.C., the petitioner has sought setting aside the order passed by the Learned Addl. Sessions Judge, who dismissed the application for restoration of possession of plot filed by the petitioner.

Issues i) Whether an application for restoration of possession could be filed before the criminal court during pendency of suit as the criminal court has become functus officio after the decision of complaint under Illegal Dispossession Act, 2005**?**

Analysis: i) During the pendency of suit for cancellation of document the petitioner was not entitled to ask criminal court for the restoration of possession and once complaint was decided which resulted into acquittal vide order dated 20.07.2011 the trial court become functus officio and was not empowered to decide the grievance of the petitioner who get his application decided in the year 2019 and approached this Court with the considerable delay. Reference in this regard can be made to the case reported as ALI KULI AMIN UD DIN vs MUHAMMAD ZAFAR and others (2012 P Cr. LJ 1136) wherein hon'ble court held as under;

> S.369. Court not to alter judgment. Scope. Court becomes functus officio after it passes and signs any order. No court including High Court can review its order passed in criminal jurisdiction.

Similar view was taken in the case reported as IQBAL vs THE STATE and another (2001 P Cr. LJ 1634). The relevant portion is reproduced below for reference sake:-

> No Court when it had signed its judgment, would alter or review the same, except to correct a clerical error. High Court could not review its own order passed in the criminal jurisdiction as the Court would become functus officio after it had passed and signed the order.

Conclusion: i) During the pendency of suit for cancellation of document the petitioner was not entitled to ask criminal court for the restoration of possession

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49. **Lahore High Court**
Muhammad Imran. v. The State & another
Criminal Revision No. 91 of 2015
Justice Abher Gul Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC4231.pdf

Facts: The petitioner preferred an appeal against the judgment of learned ASJ; wherein, he maintained the conviction and sentence of appellant recorded by the judicial Magistrate

Issues: i) What is the effect of an unexplained delay in the registration of FIR on the prosecution's case?
ii) What is the legal effect of delay in recording witness and injured person's statements by the Investigating Officer?
iii) What is the impact of inconsistency between medical and ocular evidence?
iv) What is the evidentiary value of a recovery when it is not supported by forensic or corroborative evidence?
v) Can a conviction be sustained against one accused when co-accused are acquitted on the same evidence?

Analysis: i) Perusal of record reveals that regarding the occurrence which took place on 14.01.2013 at about 01.00 p.m., F.I.R. was got registered on 15.01.2013 at 06.20 p.m. It is noted that the distance between the place of occurrence and Police Station is of 03-kilometers. Therefore, immediately after the incident the matter could conveniently be reported to the police by the complainant but no such effort was made in this regard. Even from the date of occurrence i.e. 14.01.2013 to 15.01.2013 neither complainant appeared before the investigating officer nor made any application for the registration of F.I.R. It is also not proved from record that investigating officer received any information about the occurrence from wireless or any source. I feel no hesitation in holding that the information regarding the incident was imparted to the police by the complainant after a considerable delay and that too after due consultation and deliberation.

ii) Another blatant lacuna in this case noticed is to the effect that witnesses did not record their statements immediately after the registration of F.I.R. which was registered on 15.01.2013 and as per statement of investigating officer the witnesses got recorded their statements on 20.01.2013 and prior to that they did not appear before him in proof of allegations leveled by the complainant. The injured got recorded his first statement on 31.01.2013 i.e. with the further delay of 11 days from the date of recording the statements of PWs and 15 days after the date of registration of F.I.R. for which no cogent explanation was offered by prosecution.
iii) The above-mentioned portion is crystal clear of the fact that the injury was not caused through a .30 bore pistol rather it would be caused through a different weapon containing cartridges and the aforementioned conflict between medical evidence and ocular testimony was so severe that it traveled to the roots of the matter and knocked the bottom of the prosecution's case against the accused.
iv) So far as recovery of .30 bore pistol is concerned, no doubt .30 bore pistol along with two live bullets was allegedly recovered at the time of arrest of the petitioner but there is no report of the Forensic Science Laboratory, that the weapon had matched with the crime empties because no crime empty was recovered from the place of occurrence which could be matched with the weapon recovered. Similarly, no blood-stained earth was taken into possession to prove the place of occurrence.
v) It is also crystal clear from record that though four accused were nominated in the occurrence, out of which three accused namely were acquitted by the trial court and their acquittal order was not challenged by the complainant at any forum and only petitioner was convicted on the basis of similar set of witnesses disbelieved to the extent of remaining accused. Under such circumstances, it would not be safe to hold him alone responsible for the commission of offence.

Conclusion: i) unexplained delay in registration of FIR would be considered as the result of due consultation and deliration
ii) a delay in recording statements of witnesses, without cogent expiation, would be fatal to the prosecution.
iii) The variation in the medical and ocular account totally mars the case of the prosecution.
iv) Recovery is inconsequential in circumstances where it is not supported by any other corroborative evidence.
v) A conviction cannot sustain against one accused when co-accused are acquitted on the same evidence.

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50. **Lahore High Court**
Muhammad Nadeem Aslam v. The State & another
Criminal Appeal No.8752 of 2022
The State v. Muhammad Nadeem Aslam
Murder Reference No.26 of 2022
Ms Justice Aalia Neelum (The Chief Justice), Mrs. Justice Abher Gul Khan
https://sys.lhc.gov.pk/appjudgments/2025LHC4238.pdf

Facts: A child aged 3½ years went missing. Relatives reported seeing him with the accused on a motorcycle. The accused was arrested the next day and led police to the recovery of the child's dead body. Medical evidence indicated sodomy and homicidal disposal. The accused was convicted and sentenced, including death under Section 302(b) PPC. The accused while challenging the conviction filed an appeal and the trial court sent a murder reference for confirmation.

Issues: i) Whether a conviction on a capital charge can be sustained solely on the basis of circumstantial evidence?
ii) Whether the probative value of last seen evidence depends on the proximity between the time and place of event of last sighting and the victim's death?
iii) Whether minor omissions in the testimony of a witness recorded years after the incident affect the credibility of their evidence?
iv) Whether information disclosed by an accused in police custody is admissible if it leads to the discovery of a previously unknown fact?
v) Whether the burden of proof lies on the accused when a specific defence plea is raised?
vi) Whether a forensic report stating that DNA analysis was not conducted can weaken the prosecution's case?
vii) Whether failure to prove motive justifies the awarding of life imprisonment instead of the death penalty?

Analysis: i) The conviction of an accused even on capital charge can be maintained while basing the circumstantial evidence if the same eliminates all hypotheses qua his innocence. Furthermore, the needful towards the acceptance of such evidence ought to be done with significant care and attention, and there should be only a single conclusion that no reasonable alternative exists other than the accused's guilt. The prosecution is also obliged to establish each factor individually, as these are interconnected in a continuous chain that can only lead to the inference of the guilt of the accused. Reliance is placed upon case reported as Munawar Hussain and 2 others v. Imran Waseem and another [2013 PSC (Crl.) 156]
ii) The evidence of last seen qualifies for acceptance if it fits into the criteria of proximity of time and distance, according to which the time and distance between the event of last seen and death of deceased must not be too long. The lesser is the duration and distance between the event of last seen and homicidal death of the victim, stronger is such evidence. The logic behind evaluating the evidence of last seen on the touchstone of proximity of time and distance lies behind the theory that longer duration and distance between the two events gives rise to the hypotheses that after having been seen in the company of accused, the deceased might have parted his way and joined the company of some other.
iii) It will also be not out of context to observe that with the passage of time a normal person cannot retain the memory regarding an event like a machine. If a person is asked to give detail regarding an event having taken place 3/4 years before and asked probing questions the occurring of omissions pointed out by the defence during the cross-examination of afore-said witnesses would be natural.

iv) It is further noticed that though the disclosures were made by the appellant in police custody even then discovery of any fact on the information of accused in custody of police is admissible in the eye of law and under Article 40 of Qanun-e-Shahadat Order, 1984, thus we are leaned to give it due weight keeping in view the new facts brought on record. Needless to observe here that in order to attract the provision of Article 40 of Qanun-e-Shahadat Order, 1984 the prosecution was obliged to prove that the information given by the accused led to the recovery of a fact, which was not previously known to anybody.

v) In terms of Article 121 of Qanun-e-Shahadat Order, 1984 if an accused takes up a specific plea then burden to prove the same would shift upon him.

vi) PFSA has issued a compromised report (Exh.PDD) wherein it is crystal clear that "No analysis was conducted on item #1 and 2"….No doubt DNA is a powerful investigative tool because with the exception of identical twins, no two people shall have the same DNA, therefore, DNA evidence collected can be linked to a suspect or can eliminate a suspect from suspicion. Nevertheless, Exh.PDD cannot be considered as negative report because by non-performing DNA analysis it did not eliminate the suspect from suspicion.

vii) It is settled principle that failure to prove motive itself warrants the Court to have resort to the alternate sentence of imprisonment for life. The guidance in this respect can be sought from the case reported as Zeeshan Afzal alias Shani v. The State and another (2013 SCMR 1602)…Moreover, the failure to prove motive is an acknowledged extenuating circumstance. In this respect, reference can also be made to the cases reported as Hasil Khan v. The State (2012 SCMR 1936) and Noor Muhammad v. The State and another (2010 SCMR 97).

Conclusion: i) The conviction of an accused even on capital charge can be maintained while basing the circumstantial evidence.

ii) See above analysis No ii.

iii) If a person is asked to give detail regarding an event having taken place 3/4 years before, occurring of omissions during the cross-examination would be natural.

iv) Discovery of any fact on the information of accused in custody of police is admissible in the eye of law and under Article 40 of Qanun-e-Shahadat Order, 1984.

v) If an accused takes up a specific plea then burden to prove the same would shift upon him.

vi) By non-performing DNA analysis did not eliminate the suspect from suspicion.

vii) Failure to prove motive itself warrants the Court to have resort to the alternate sentence of imprisonment for life.

LATEST LEGISLATION/AMENDMENTS

1. Vide Notification No.AD/E-I/2586/E-I dated 23-05-2025; the amendment is made in sub rule 3 of rule 12.6 of the Police Rules, 1934.

2. Vide Notification No.AD/E-I/2587/E-I dated 23-05-2025; the amendment is made in sub rule 2 of rule 12.6 of the Police Rules, 1934.
3. Vide Notification No.1-7/2011(PX)(VOL-VI) dated 20-05-2025; amendments are made in Punjab Motor Vehicles Rules 1969.
4. Vide Official Gazette of Pakistan dated 11-06-2025; The Grid (Captive Power Plants) Levy Act, 2025 is promulgated to impose an off the grid levy on natural gas based captive power plants.
5. Vide The Civil Courts (Amendment) Act, 2025 dated 11-06-2025; an amendment is made in section 18 of the Civil Courts Ordinance 1962.
6. Vide The Naturalization (Amendment) Act, 2025 dated 11-06-2025; amendments are made at sections 3 to 9, 11 & 12 of the Naturalization Act, 1926.
7. Vide The Explosives (Amendment) Act, 2025 dated 11-06-2025; amendments are made in sections 4, 5, 6, 6A, 6B, 8 and insertion of sections 5A, 5B, 9C and general amendment of the words "Chief Inspector of Explosives in Pakistan" in the Explosives Act, 1884.
8. Vide The Trade Organizations (second Amendment) Act, 2025 dated 11-06-2025; amendment is made in section 11 of the Trade Organization Act, 2013
9. Vide Notification S.R.O.1050 (1)/2025 dated 11-06-2025; the expression "354" is omitted from the Anti-Rape (Investigation and Trial) Act, 2021.
10. Vide The Lahore Leads University (Amendment) Act, 2025 dated 13-06-2025; amendments are made in section 2, 4, 6, 10, 17, 18, 25, 26, schedule alongwith omission of section 28 and substitution of section 29 in the Lahore Leads University Act, 2011.

SELECTED ARTICLES

1. HARVARD LAW REVIEW

https://harvardlawreview.org/print/vol-138/federal-tort-liability-after-egbert-v-boule-the-case-for-restoring-the-officer-suit-at-common-law/

Federal Tort Liability After Egbert v. Boule: The Case for Restoring the Officer Suit at Common Law by James E. P fander, Rex N. Alley

Throughout the nineteenth century and much of the twentieth, remedies for federal government misconduct were often predicated on rights to sue conferred by such common law forms as trespass, assumpsit, and ejectment. But Erie, the law-equity merger, and other factors pushed those common law forms to the side. In 1946, Congress adopted the Federal Tort Claims Act (FTCA), imposing vicarious liability on the federal government for many of the torts of its officers and employees. Then, in the 1970s, the Supreme Court recognized federal common law rights to sue federal officers for certain constitutional torts under the Bivens doctrine. Yet these expanded remedies, available in theory, often fail in practice. For example, in Hernández v. Mesa (2020) the Court refused to recognize a right to sue under the Bivens doctrine while, at the same time, assuming that the FTCA barred the

victim's family from pursuing tort-based redress at common law for a cross-border shooting. Egbert v. Boule (2022) confirms that the Bivens doctrine, lacking a textual foundation, has no growing power. Invoking the history of nineteenth-century tort-based redress and channeling the textualism of Egbert v. Boule, this Article argues that current law, correctly interpreted, permits victims to pursue a wide range of tort claims against the federal government and its employees at common law. The Article first shows the many ways common law modes of redress can contribute to a remedial system for government wrongdoing that is now crowded with statutes and constitutional remedies. Turning to the text of the FTCA, the Article demonstrates that Congress preserved the right of individuals to sue in tort, either by naming the government in claims within its vicarious liability or by naming the responsible officer for tort-based wrongs to which the FTCA does not extend. A concluding section sketches the many ways tort litigation, brought against the official at common law, can supplement the current system of government accountability as the sun sets on the Bivens doctrine.

2. HARVARD LAW REVIEW

https://harvardlawreview.org/print/vol-138/waste-property-and-useless-things/

Waste, Property, and Useless Things by Meredith M. Render

How should the law respond to intentionally useless objects that are constructed from scarce materials and thrust into an overcrowded world? Approximately sixty million tons of electronic waste, or "e-waste" — for example, discarded iPhones, refrigerators, desktop computers — is produced each year. This annual pile of electronic rubbish represents sixty-two billion dollars' worth of tangible raw materials (such as gold and other scarce metals) that has been rendered useless. In addition to wasting raw materials, e-waste clogs our landfills, poisons the groundwater, and taxes our capacity to store it. Worst of all, much of this waste is intentionally created by electronics manufacturers through the profit-maximizing strategy of planned obsolescence.Planned obsolescence is a strategy by which manufacturers intentionally limit the utility of their products so that consumers are forced to discard them and buy new products. Planned obsolescence creates intentionally useless objects and imposes significant social costs. While some of the costs of planned obsolescence are felt within the manufacturer-purchaser transaction (a purchaser must consider whether a product will last long enough to justify its price), the most significant social costs of the strategy remain external to that transaction.This Article offers three principal contributions. First, a normative thesis: More of the social costs of intentionally useless objects should be borne by the manufacturers that profit from the strategy. Second, a theoretical insight: Avoiding waste is a central commitment of property law. In fact, many of the rules of property law are rendered more coherent when they are understood as a series of instantiations of an antiwaste imperative. Often confused with an efficiency principle, property law's antiwaste commitment best explains doctrinal choices that otherwise would seem inconsistent. Finally, a doctrinal analysis: The antiwaste imperative (when applied to the existing rules of property) disallows the conveyance of a fee simple in an intentionally useless object. Recognizing an antiwaste imperative in this context would mean that manufacturers can only convey a defeasible interest in the object,

retaining a reversionary interest that serves to correct some of the negative externalities associated with the strategy of planned obsolescence.

3. **Lawyers Club India**
https://www.lawyersclubindia.com/articles/muslim-wife-has-absolute-right-to-divorce-by-khula-sans-husband-s-consent-telangana-hc-17798.asp

Muslim Wife Has Absolute Right To Divorce By Khula Sans Husband's Consent: Telangana HC by Adv. Sanjeev Sirohi

It would be vital to note that in a very significant move with far reaching consequences, the Telangana High Court in a most learned, laudable, landmark, logical and latest judgment titled Mohammed Arif Ali vs Smt Afsarunnisa and Another in Family Court Appeal No. 75 of 2024 that was pronounced most recently on 24.06.2025 has minced absolutely just no words to hold in no uncertain terms that a Muslim wife possesses absolute right to annul her marriage through khula, and the husband's consent is not a prerequisite for its validity. It must be mentioned here that the Telangana High Court was dealing with an appeal that had been moved by a Muslim man who was divorced by his wife. It must be noted that the Muslim man had moved the Court while challenging a Family Court's decision to reject his petition for a declaration against a divorce certificate that had been issued to him by Sada-E-Haq Sharai Council which is an NGO for resolution of marital disputes.

4. **MANUPATRA**
https://articles.manupatra.com/article-details/Piercing-the-Veil-of-Cinema-Glitz-to-Ensure-Fair-Competition-Antitrust-and-Competition-Law-in-the-Audio-Visual-Media-Industry

Piercing the Veil of Cinema Glitz to Ensure Fair Competition: Antitrust and Competition Law in the Audio-Visual Media Industry by Kushagra Mishra

"All's fair in love and war" — ever since these ignorant words have sounded the walls of theatres alike, people have had their own way of interpreting and mimicking them, perhaps for the feeling of quick wit that comes with it. Nonetheless, it seems that the showbiz industry is having its own way with the catchphrase, finding itself in more anticompetitive cases and issues. It continues to be a growing concern for the industry amid an already turbulent phase of downward trends and a brewing distaste among the masses. The Indian entertainment industry, with Bollywood as its crown jewel, has been the epitomic confluence of creativity, commerce, and cultural influence for decades. Yet, beneath this glitz lies a deep-rooted cobweb of market power & dominance; alliances, and gatekeeping that often escapes public scrutiny. The intersection of antitrust and competition law with the broader audio-visual media sector is not merely a legal curiosity — it is a battleground where the principles of fair play, innovation, and consumer choice are constantly tested. This article dissects the nuanced application of competition law in the entertainment industry, focusing on both Indian and international contexts, and offers a critical analysis of past precedents, ongoing disputes, and imminent challenges.

5. **Lawyers Club India**
https://www.lawyersclubindia.com/articles/supreme-court-reinstates-title-based-on-gift-deed-despite-absence-of-sale-deed-cancellation-17796.asp

Supreme Court Reinstates Title Based on Gift Deed Despite Absence of Sale Deed Cancellation by Sankalp Tiwari

The Supreme Court ruling in Hussain Ahmed Choudhury & Ors. v. Habibur Rahman (Dead) Through LRs & Ors., Civil Appeal No. 5470 of 2025, provides a seminal precedent in declaratory jurisprudence under the Specific Relief Act. The nub of the controversy was whether the legal owner of a property illegally dispossessed under a subsequent void transaction is also required to pray for the rescission of that transaction to recover title and possession. This case runs through questions of validity of gift deeds in Muslim law, possession requirements, bar of limitation under Article 59 of the Limitation Act, and most importantly, interpretation of Sections 31 and 34 of the Specific Relief Act—separating when a plaintiff needs cancellation of an instrument and when a declaration will be adequate.